

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Lexington County

Honorable George M. McFaddin, Circuit Court Judge

BOBBY GEORGE SIGHTLER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-000482

APPENDIX

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ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

COURT OF GENERAL SESSIONS

STATE	)	
	)	
	)	TRANSCRIPT OF RECORD
V.	)	2019-GS-32-02713
	)	2019-GS-32-02714
BOBBY GEORGE SIGHTLER	)	
	)	
<u>DEFENDANT.</u>	)	

JULY 24, 2019
LEXINGTON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE WALTON J. MCLEOD, IV, JUDGE.

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

SUTANIA FULLER, ASSISTANT SOLICITOR
ATTORNEY FOR THE STATE

DEREK MOBLEY, ESQUIRE
ATTORNEY FOR THE DEFENDANT

BETHANIE K. CREPPON
CIRCUIT COURT REPORTER

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

2 * * *

3 THE CLERK: Indictment 2019-GS-32-02714, State
4 vs. Bobby George Sightler, indicted for failure to
5 stop for blue light. He's pleading to the same;
6 he's waiving presentment to the grand jury.

7 Indictment 2019-GS-32-02713, State vs. Bobby
8 George Sightler, indicted for attempted armed
9 robbery. He's pleading to the same, waiving
10 presentment to the grand jury. He is represented by
11 Mr. Mobley.

12 MR. MOBLEY: Good afternoon, Your Honor.

13 THE COURT: How are you, sir?

14 MR. MOBLEY: I'm well. And yourself?

15 BOBBY GEORGE SIGHTLER

16 being first duly sworn, testified as follows:

17 THE DEFENDANT: Yes, ma'am.

18 MS. FULLER: Your Honor, the negotiations, for
19 the record -- Your Honor, the defendant was
20 originally charged with armed robbery -- he is
21 waiving presentment on the attempted armed
22 robbery -- kidnapping, possession of a weapon,
23 conspiracy, grand larceny, assault and battery first
24 degree, possession of stolen vehicle, receiving
25 stolen goods, as well as failure to stop for blue

1 light. The State is dismissing companion charges.
2 There is a negotiated range of seven to 15 years on
3 this.

4 THE COURT: All right.

5 Mr. Mobley, good afternoon.

6 MR. MOBLEY: Good afternoon, Your Honor.

7 THE COURT: Have you had the opportunity to
8 meet with Mr. Sightler?

9 MR. MOBLEY: I have, Your Honor.

10 THE COURT: Have you advised him of the nature
11 of the charges, the elements of the charges that are
12 pending against him, as well as the possible
13 punishments?

14 MR. MOBLEY: I have, Your Honor.

15 THE COURT: Have you explained to him the risks
16 he faces of future sentencing enhancements, should
17 he receive additional convictions?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: The solicitor just put the plea
20 negotiations on the record. Mr. Mobley, do you
21 believe there's a factual basis to support the plea
22 today?

23 MR. MOBLEY: I do.

24 THE COURT: Do you believe that it's in his
25 best interest to do this today?

1 MR. MOBLEY: Yes.

2 THE COURT: Mr. Sightler, what type of work do
3 you do, sir?

4 THE DEFENDANT: Mechanic, sir.

5 THE COURT: Where did you go to school?

6 THE DEFENDANT: Swansea High School.

7 THE COURT: As you heard earlier, there are
8 negotiations in this case. Before I even get to the
9 charges and your rights, you understand that if we
10 go through with the plea today, you'll be facing a
11 range of anywhere from seven to 15 years?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You understand that?

14 THE DEFENDANT: Yes, sir, I do.

15 THE COURT: It could be as low as seven; it
16 could be as high as 15. You understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: You understand that, on the charge
19 of failure to stop for blue light, that sentence
20 carries a potential sentence of up to three years in
21 prison? Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Ordinarily, attempted armed robbery
24 carries a potential sentence of up to 20 years in
25 prison, subject to the negotiations we've already

1 discussed. Do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: You also understand you have a
4 right to remain silent, but you're giving that up
5 that right to remain silent; you're giving up your
6 right to say nothing at all because, in order to
7 plead guilty today, you'll have to say you're
8 guilty? Do you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You also understand that you have a
11 right to a jury trial where your attorney could
12 assert defenses on your behalf and confront the
13 State's witnesses? And the State would have to
14 prove their case against you beyond a reasonable
15 doubt. You'd be entitled to the presumption of
16 innocence throughout the entire process.

17 By entering a plea of guilty here today, you'll
18 be giving up your right to you jury trial; you'll be
19 giving up your right to assert defenses; and you'll
20 be giving up your right to confront the State's
21 witnesses. Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: As to -- well, do you realize you
24 have a right to have both of these indictments
25 presented to the Lexington County Grand Jury? By

1 entering a plea of guilty here today, you'll be
2 waiving presentment; that is, you'll be giving up
3 your right to have the indictments presented to the
4 grand jury. You understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: On the attempted armed robbery, do
7 you understand that that offense is a violent and
8 most-serious offense? You understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You understand that it's an
11 85-percent offense?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You understand it's a no-parole
14 offense?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Okay. You understand that in the
17 future, after whatever active sentence you complete,
18 if you were to be -- enter a plea of guilty or be
19 convicted by a jury of another most-serious offense,
20 you could be facing life in prison without the
21 possibility of parole? You understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. Knowing all that, you
24 still want to proceed forward; is that correct?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you want a jury trial?

2 THE DEFENDANT: No, sir.

3 THE COURT: Have you had the opportunity to
4 meet with your attorney?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Has he answered all of your
7 questions?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you have any additional
10 questions for him now?

11 THE DEFENDANT: No, sir.

12 THE COURT: Are you satisfied with your
13 lawyer's services?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: On the charge of failure to stop
16 for blue light -- Indictment 2019-GS-32-2714,
17 failure to stop for blue light, first offense, how
18 do you plead?

19 THE DEFENDANT: Guilty.

20 THE COURT: As to Indictment 2019-GS-32-2713,
21 attempted armed robbery, how do you plead?

22 THE DEFENDANT: Guilty.

23 THE COURT: As to both charges, are you
24 pleading guilty of your own free will?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Are you doing so freely and
2 voluntarily?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Knowingly and intelligently?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Has anyone forced you, threatened
7 you, or coerced you into pleading guilty today?

8 THE DEFENDANT: No, sir.

9 THE COURT: Other than the negotiated range of
10 sentencing, has anyone offered or promised you
11 anything in order to get you to plead guilty today
12 in exchange for this plea?

13 THE DEFENDANT: No, sir.

14 THE COURT: All right. But you're pleading
15 guilty to both of the charges because you are
16 guilty; is that correct?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. You have ten days from
19 today to appeal this plea to a higher court, but you
20 must do so in writing to this Court; do you
21 understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Madam Solicitor?

24 MS. FULLER: Thank you, Your Honor.

25 Back on August 9th of 2018, at America's Best

1 Value in West Columbia, Your Honor, in Lexington
2 County, the victim in this case, who is present in
3 this courtroom, Mr. David Maples -- he doesn't want
4 to address the Court, but wanted you to be aware
5 that he's here and he's been involved in every step
6 of the way; he and his wife.

7 Your Honor, both sets of charges revolve around
8 the vehicle that was stolen in this armed robbery.
9 Back on that day, the victim was set up, basically,
10 to be robbed by a co-defendant, Ms. Register. Three
11 people were charged in this: Sightler, Register,
12 and Lyons. Register set him up; Sightler is the one
13 that actually held the gun and robbed him; and
14 Lyons' role dealt with driving Register away.

15 Your Honor, on this particular day, Mr. Maples
16 was contacted by a cousin of an ex-girlfriend, which
17 is Register, about getting a hotel room. And, Your
18 Honor, I'll be candid, there was drugs involved.

19 Your Honor, once he -- he had to leave to go
20 get funds for a construction job. But when he came
21 back, he felt like something was off. And, next
22 thing you know, a man comes out -- came out around
23 the corner of the room and put a gun to the back of
24 his head. He was scratched while -- by that firearm
25 while it was placed on his head, and demands were

1 made.

2 He indicated to law enforcement that the
3 defendant demanded his keys, his phone, and his
4 wallet, or he would blow his brains out. He held
5 the gun there throughout the entire robbery. He
6 said that the man ended up -- he pointed that his
7 items were on the floor. And he said he only ended
8 up taking the keys to his vehicle, and he ran out.

9 He said -- he said Register told him not to go
10 outside because people could still be out there.
11 But surveillance video also captured Register
12 leaving. She gathered her belongings and she got
13 into that other vehicle that was driven by that
14 other co-defendant.

15 So, Your Honor, it's clear indication that's
16 captured on video surveillance that this was a
17 planned robbery, and the defendant stole the
18 victim's vehicle once he got his car keys.

19 Fast forward five days later, on August 14,
20 2018, deputies with -- a deputy with Lexington
21 County Sheriff's Department spotted that vehicle --
22 this was a 2015 Dodge Ram, Your Honor -- travelling
23 on Fish Hatchery Road. He -- towards Highway 6. He
24 engaged the vehicle and pursued, lights and sirens.

25 This failure to stop lasted several miles.

1 Speeds got in excess of 110 miles per hour and
2 finally resulted in the defendant wrecking the
3 vehicle at the intersection of Pooles Mill Road and
4 Wofford Road, Your Honor. He was -- he indicated he
5 was in pain and suffered injuries from the result of
6 totalling that vehicle. And the vehicle was
7 totalled in this case.

8 I believe the victim's wife did submit a
9 request for restitution in this case, but we're not
10 seeking that since the State is asking for a prison
11 sentence in this case. And I was candid with
12 defense counsel, letting him know that I'll be
13 asking for the top of that range of the 15 -- at
14 that 15-year sentence, Your Honor, in this
15 negotiated range. And, of course, counsel is going
16 to be asking for the bottom.

17 Your Honor, I want you to be aware of the
18 defendant's behavior in this case as well. So,
19 after the failure to stop, West Columbia was still
20 investigating the first -- the robbery. So he was
21 arrested on the failure to stop, possession of a
22 stolen vehicle, not realizing the two agencies said
23 it was connected.

24 So he was arrested. Bond was set. There was a
25 bondsman. He was out on parole and, I think, maybe

1 probation. But I think it's just parole. And, at
2 that point, knowing what he had done, he left and
3 went to Texas.

4 I spoke with the Fugitive Team earlier. We had
5 a bond hearing. And since -- while he was in Texas,
6 he picked up new charges. He has a felony for
7 fraud, as well as a drug and gun charge out there.
8 And they did lodge a detainer, so after he finishes
9 his prison sentence here, Texas is interested in him
10 as well. So he picked that all up on bond. And his
11 bond was revoked based on his conduct. While he was
12 out on bond just for those few days after bonding
13 out and a failure to stop, and then the armed
14 robbery warrants came.

15 The defendant's prior record, Your Honor, he
16 has a 2011 DUS; in 2014, he was originally charged
17 with attempted murder and manufacturing meth. He
18 was allowed to plead to accessory after the fact of
19 that attempted murder, and he received an eight-year
20 sentence. He was released from custody in June of
21 2017, and this occurred 14 months later.

22 And he is the -- in my mind, the primary, most
23 culpable individual in this group. And he is the
24 first one to plead guilty, Your Honor. I don't
25 believe the victim has anything else to add; just

1 wanted you to know that he was here.

2 THE COURT: Okay. Mr. Sightler, did you hear
3 the State's allegations?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Did you understand them?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And, as to the general nature of
8 the allegations regarding the crimes themselves, do
9 you agree with them?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All right. I'll accept the plea,
12 find there's a substantial factual basis for the
13 plea. The defendant's decision to plead guilty has
14 been freely, voluntarily, knowingly, and
15 intelligently made. The defendant has had the
16 advice and counsel of a competent attorney with whom
17 which he's satisfied.

18 Mr. Mobley?

19 MR. MOBLEY: Thank you, Your Honor. May it
20 please the Court?

21 THE COURT: Yes, sir.

22 MR. MOBLEY: Mr. Sightler has spent a total of
23 240 days at the Lexington County Detention Center
24 between the initial arrest, bonding out, and then
25 getting re-arrested November 28th when he was

1 transported back here from Texas.

2 Your Honor, he's 25 years of age, which is a
3 relatively young age at this particular point. He
4 does have a GED where he went to the 9th grade, and
5 then he completed his GED studies. He does have one
6 child who is six years of age, Your Honor. He has
7 worked, in the past, as a mechanic.

8 Your Honor, he stands up here remorseful,
9 accountable, fully responsible for his actions. We
10 don't have any excuses. We do have an explanation
11 about how this happened, because when he was
12 released from prison, he had purchased a home; he
13 was living with a young lady at that particular
14 time; he was working, gainfully employed.

15 Then, July the 4th of 2018 -- now, this
16 incident occurs August the 12th of 2018 -- they were
17 riding together. She was pregnant; she was driving.
18 They had an accident, and both of them were ejected.
19 She died at the scene while he was holding her in
20 his arms. Okay?

21 From there, a little more than a month after
22 that, that's when this plethora of charges occur.
23 He delved into an actual daily --

24 THE COURT: What year was this accident?

25 MR. MOBLEY: 2018, last year.

1 THE COURT: Okay.

2 MR. MOBLEY: Yes, sir.

3 He delved into a daily usage of hard drugs to
4 the point where -- now, we understand that that's no
5 excuse, and it's not a defense or anything of that
6 nature. But he had basically given up seeing his
7 girlfriend, who was pregnant with his child -- who
8 was carrying a pregnancy for him, died within his
9 arms. He had kind of given up.

10 He couldn't see himself turning himself in as
11 well on the prior warrants at that particular point
12 either. What ended up happening is he fled to
13 Texas. He did not want to face that prospect. And
14 then, he was subsequently charged down there with
15 some additional charges as well.

16 Now, I don't know the background of those; I
17 don't know what those charges are. But my
18 understanding is that the co-defendant has already
19 received an eight-year sentence. And Mr. Sightler
20 is anticipating receiving a healthy sentence as well
21 because of whatever it was. Now, I don't know the
22 allegations; I don't know all --

23 THE COURT: You're talking about Texas?

24 MR. MOBLEY: In Texas, Your Honor.

25 So he's taking responsibility for it. He

1 realized he was spiraling out of control. He had
2 already did a prison sentence for something that he
3 was involved that was based around meth at the time,
4 and drugs -- heavy drug usage at that time; paroled
5 out, and then was able to do the same thing again.

6 Okay?

7 So he's accepting his responsibility. He
8 stands here and he knows he's going to get a
9 sentence. It's not that we're asking for him to get
10 out. We realize that. But we would like for the
11 Court to take note of what occurred at and around
12 this time, and take into consideration that the
13 moment he gets out, he's going to have to go to
14 Texas and, more than likely, have to do additional
15 time.

16 So we would respectfully ask for, if not the
17 lower end, somewhere in the middle, so that, you
18 know, once he gets transported to Texas, he can
19 serve that time as well. So we're placing ourself
20 upon the mercy of the Court.

21 PROBATION AGENT: Your Honor, he's on parole
22 out of our Orangeburg office for the accessory after
23 the fact and distribution of methamphetamine. And
24 they've issued a warrant for him, and that's
25 pending -- that warrant is pending. So Orangeburg

1 will have to handle that through the Parole Board.

2 MR. MOBLEY: Has it been served yet?

3 MS. FULLER: It has been.

4 MR. MOBLEY: It has?

5 MS. FULLER: The parole warrant is what they
6 were able to use to go extradite him in November --

7 MR. MOBLEY: Got you.

8 MS. FULLER: -- the Fugitive Team.

9 MR. MOBLEY: Yes.

10 THE COURT: Before I allow your client to
11 speak, I want to hear from the State, if they have
12 anything to add on sentencing.

13 MS. FULLER: No, Your Honor. Just asking for
14 the maximum of that range.

15 THE COURT: Mr. Sightly -- Sightler. Excuse
16 me.

17 THE DEFENDANT: It's okay.

18 THE COURT: Anything you want to tell me?

19 THE DEFENDANT: Yes, sir, I do. I want to
20 apologize the victim. And I just want to thank you
21 for your time and the court's time for addressing my
22 situation. God bless you always.

23 THE COURT: The charge here was -- he's
24 pleading to attempted armed robbery. Maybe I didn't
25 hear the facts correctly or the allegations, but

1 there was a gun to the head, wasn't there? Did he
2 take something from --

3 MS. FULLER: Yes, Your Honor. He actually --
4 the vehicle. He took the keys to the vehicle. Yes,
5 Your Honor, the charge is some -- what we do, just
6 for negotiation purposes.

7 THE COURT: Okay. I understand. Well, just to
8 be clear, it was, for all intents --

9 MS. FULLER: It was clear. And the language of
10 the indictment indicates that the item was removed.
11 But this is something we do in terms of plea
12 negotiations.

13 THE COURT: Well, for starters, you know, your
14 attorney and the State have frankly -- armed
15 robbery, ordinarily, ten to 30, correct?

16 MS. FULLER: Has that mandatory ten.

17 THE COURT: All right. So the fact that they
18 negotiated this range for you was gracious, under
19 the facts. I think you understand that.

20 THE DEFENDANT: Yes, sir.

21 MR. MOBLEY: He's appreciative, Your Honor.
22 And we'd like to thank the solicitor herself for
23 allowing us to negotiate.

24 THE COURT: I also -- I realize you have other
25 matters in Texas that may or -- I don't know the

1 status of those, and it's not my job to know.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: I can only worry about the state of
4 South Carolina and the offenses that occur here
5 right now. And whatever active sentence you get, if
6 Texas is still around, they'll deal with it then. I
7 think they'll be around.

8 MR. MOBLEY: Your Honor, one last thing: My
9 client was able to successfully complete LRADAC at
10 the jail. He wanted me to inform the Court of that.

11 THE COURT: Okay. Obviously, this is a tough
12 situation. I really am very sorry for your loss of
13 your loved one. You do have my condolences. I'm
14 very sorry that occurred. And I appreciate you
15 giving that to me in the mitigation phase.

16 However, I really think the mitigation in this
17 case is in the range itself. Under the facts of the
18 robbery itself and, you know, the police chase that
19 occurred afterwards, you know, it's just
20 unfortunate. It's an unfortunate history of, not
21 only putting yourself in danger, but putting the
22 public in danger, which, you know, I have to try to
23 address that as best I can here.

24 So you'll be sentenced to the department of
25 corrections for 15 years. Good luck, sir.

1 (Brief pause in the proceedings.)

2 THE COURT: Madam Court Reporter, on the
3 previous case regarding Bobby George Sightler where
4 he received a 15-year sentence, that is concurrent.
5 His failure to stop is a concurrent three-year
6 sentence.

7 MR. MOBLEY: Thank you, Your Honor.

8 THE COURT: Yes, sir.

9 -- END OF TRANSCRIPT OF RECORD --

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C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Criminal Court for Lexington County, South Carolina, on the 24th of July, 2019.

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

February 26, 2021

s/ *Bethanie K. Creppon*Bethanie K. Creppon
Circuit Court Reporter

ORIGINALFORM 5
FILED

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

2020 DEC -7 AM 11:02

IN THE COURT OF COMMON PLEAS

BOBBY SIGHTLER #360696
Full name and prison number (if any) of ApplicantLISA M. COMER
CLERK OF COURT
LEXINGTON SC

2020CP3204043

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Lee Correctional Inst., 990 Wisacky Hwy., Bishopville, SC 29010
2. Name and location of Court which imposed sentence Lexington County General Sessions Court, 205 E Main St Ste 423, Lexington, SC 29072
3. Name(s) of co-defendant(s) (if any) Joseph Lyons, Laklyn Register
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 19-GS-32-2714 - Fail to Stop for Officer
 - (b) 19-GS-32-2713 - Attempted Armed Robbery
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) July 24, 2019 - 3 years - concurrent

Revised 3/2003

A TRUE COPY

1

Lex. Co. C.C.C.P., G.S. & F.C.

- (b) July 24, 2019 - 15 years
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty X
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

A TRUE COPY

[Signature]
Lex. Co. C.C.C.P., G.S. & F.O.

- (a) Ineffective Assistance of Counsel
 - (b) Involuntary guilty plea
 - (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See attached Appendix
 - (b) _____
 - (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? No
 - (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
 - (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
 - (d) any other petitions, motions or applications in this or any other Court? yes
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
 - i. Motion for Reconsideration
 - ii. _____
 - iii. _____
 - iv. _____
 - (b) the name and location of the Court in which each was filed:
 - i. Lexington County Court of General Sessions
 - ii. _____
 - iii. _____
 - iv. _____
 - (c) the disposition thereof:
 - i. Denied
 - ii. _____
 - iii. _____

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iv. _____

(d) the date of each such disposition:

i. January 27, 2020

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

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

no

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

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

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

(a) _____

(b) _____

(c) _____

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

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- (a) your arraignment and plea? yes
 - (b) your trial, if any?
 - (c) your sentencing? yes
 - (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
 - (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____
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. Derrick Mobley, Esq., 203 W. Main Street, Suite F-5, Lexington, SC 29072
 - ii. _____
 - iii. _____
 - (b) the proceedings at which each such attorney represented you:
 - i. plea and sentencing
 - ii. _____
 - iii. _____
19. State clearly the relief you seek in filing this application:
New Trial
20. Are you now under sentence from any other court that you have not challenged?
no



STATE OF SOUTH CAROLINA)
)
County of Lee)

VERIFICATION

I, Bobby Sightler, 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.

Bobby G. Sightler

SWORN to and subscribed before me this 23rd
day of Nov, 2020.
[Signature] (L.S.)
Notary Public

My Commission Expires: 09/04/2029

FILED
2020 DEC -7 AM 11:03
LISA M. COMER
CLERK OF COURT
LEXINGTON SC

A TRUE COPY

Lex. Co. C.C.C.P., G.S. & F.C.

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

I, Bobby Sightler, 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.

Bobby G. Sightler
Applicant

SWORN or affirmed to and subscribed before me this
23rd day of NOV., 2020

[Signature]
Notary Public

My Commission Expires: 09/04/2029

FILED

2020 DEC -7 AM 11:03

LISA M. COMER
CLERK OF COURT
LEXINGTON SC

A TRUE COPY

Lex. Co. C.C.C.P., G.S. & F.C.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	FOR THE ELEVENTH JUDICIAL CIRCUIT
	)	
	)	
Bobby George Sightler, SCDC #360696,	)	Case No. 2020-CP-32-4043
	)	
Applicant,	)	
	)	
v.	)	RETURN AND MOTION FOR A
	)	MORE DEFINITE STATEMENT
	)	(Counsel Retained)
State of South Carolina,	)	
	)	
Respondent.	)	
	)	
	)	

In response to the post-conviction relief (PCR) action commenced by Bobby George Sightler (Applicant) on December 7, 2020, the State makes this return:

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Lexington County Clerk of Court. Applicant was arrested on August 3, 2018, following an investigation into an armed robbery involving Applicant and two co-defendants, Laklyn Register and Joseph Lyons.

On July 24, 2019, Applicant appeared before the Honorable Walton J. McLeod, IV, waived presentment to the grand jury, and pleaded guilty to attempted armed robbery (2019-GS-32-2713) and failure to stop for a blue light (2019-GS-32-2714).¹ Derek Mobley, Esquire (Counsel) represented Applicant and Assistant Solicitor Sutania Fuller prosecuted the case.

¹ Applicant was originally charged with armed robbery, kidnapping, criminal conspiracy, grand larceny, first-degree assault and battery, possession of a stolen vehicle, possession of a weapon during the commission of a violent crime, receiving stolen goods, and failure to stop for a blue light. (Plea Tr. 4–5). The companion charges were *nolle prossed* in exchange for Applicant's plea. (Plea Tr. 5).

In accordance with the negotiated sentencing range of seven to fifteen years, Judge McLeod sentenced Applicant to concurrent terms of fifteen years' imprisonment for armed robbery and three years for failure to stop for a blue light. Applicant did not appeal his plea or sentences.

II. STATEMENT OF FACTS

On August 9, 2018, David Maples called 911 to report he had been robbed at America's Best Value Inn in West Columbia. (Plea Tr. 10–11). He stated that his cousin's ex-girlfriend, Laklyn Register, contacted him about getting a hotel room. (Plea Tr. 11). He told her he could get a room and that he already had some drugs with him. (Plea Tr. 12).

At some point, Maples had to leave the motel to withdraw funds for a construction job. (Plea Tr. 11). When he returned to the room, a man who was later identified as Applicant came around the corner and put a gun to the back of his head. (Plea Tr. 11–12). Applicant demanded Maples give him his keys, phone, and wallet, or he would blow his brains out. (Plea Tr. 12). Applicant ended up only taking Maples' keys before fleeing. (Plea Tr. 12). Once Applicant ran out of the room, Register told Maples not to go after him because he could still be outside. (Plea Tr. 12). However, the surveillance footage shows Register gathering her belongings and getting into the vehicle driven by Lyons. (Plea Tr. 12).

Applicant was apprehended several days later after engaging in a high-speed police chase with law enforcement. (Plea Tr. 12–13). They reached speeds in excess of 110 miles per hour. (Plea Tr. 13). The chase ended when Applicant wrecked the vehicle at the intersection of Pooles Mill Road and Wofford Road. (Plea Tr. 13).

At the time of his arrest, Applicant was on parole for accessory after the fact and distribution of methamphetamine charges out of Orangeburg County. (Plea Tr. 13, 18). Shortly

after being released on bond for the Lexington charges, Applicant fled to Texas. (Plea Tr. 13–14). While in Texas, he picked up new felony charges. (Plea Tr. 13).

III. CURRENT APPLICATION

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

1. Ineffective assistance of counsel
2. Involuntary guilty plea

Applicant requests relief in the form of a new trial.

Attached to this return and incorporated by reference are the Lexington County Clerk of Court records regarding the subject convictions, Applicant’s records from the South Carolina Department of Corrections, the plea transcript, and the records of the current PCR action. The State reserves the right to amend this return upon receipt of any relevant materials.

IV. MOTION FOR A MORE DEFINITE STATEMENT

The State submits Applicant’s claims of ineffective assistance of counsel are without merit. However, it is impossible for the State to adequately respond to these allegations because Applicant wholly failed to set forth facts to “support each ground” or to explain with specificity the facts upon which his claims are based. S.C. Code Ann. § 17-27-50 (requiring an applicant to “specifically set forth the grounds upon which the application is based”); *Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application “alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the [PCR] court”); *see also Welch v. MacDougall*, 246 S.C. 258, 260, 143 S.E.2d 455, 456 (1965) (stating it is incumbent upon an applicant to make at least a *prima facie* showing entitling him to relief before an evidentiary hearing will be scheduled and held); Rule 8(a)(2), SCRCF (requiring all civil pleadings to include “a short and plain

statement of the facts showing that the pleader is entitled to relief”); Rule 71.1(d), SCRCPP (“Counsel shall insure that all available grounds for relief are included in the application and shall amend the application if necessary.”). Accordingly, the State moves for Applicant, through counsel, to amend his application to provide a more definite statement of his allegations pursuant to Rule 12(e), SCRCPP and the Post-Conviction Procedure Act.

V. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF COUNSEL

A. Ineffective Assistance of Plea Counsel, Generally

Applicant’s claims of ineffective assistance of counsel are without merit. The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant—like all other defendants—the right to “assistance by an attorney, whether retained or appointed, who plays the role necessary to ensure that the trial is fair.” *Strickland v. Washington*, 466 U.S. 668, 685 (1984). Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. *See generally* S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right, and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRCPP; *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in *Strickland* to determine whether counsel’s conduct “was so ineffective as to require reversal” of the applicant’s conviction. 466 U.S. at 687. To obtain relief, a PCR applicant must prove (1) counsel’s performance fell below

an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Id.* at 687–88; *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. *Strickland*, 466 U.S. at 700; *see also Bell v. Cone*, 535 U.S. 685, 695 (2002) (explaining that “[w]ithout proof of both deficient performance and prejudice to the defense, . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable” (citation and internal quotation marks omitted)).

As aforementioned, the applicant has the burden of establishing both deficiency and prejudice in order to be entitled to relief. *Hughes v. State*, 346 S.C. 554, 558, 552 S.E.2d 315, 317 (2001); Rule 71.1(e), SCRPC. To prove deficient performance, the applicant must establish that, in light of all the circumstances, the acts or omissions complained of “were outside the wide range of competence” demanded of attorneys in criminal cases. *Strickland*, 466 U.S. at 688. To prove prejudice, the applicant must establish that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Id.* at 694. A reasonable probability is a probability “sufficient to undermine confidence in the outcome.” *Id.* Significantly, “the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged.” *Id.* at 696.

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, *Hill v. Lockhart*, 474 U.S. 52 (1985), extended the two-part *Strickland* test to challenge guilty pleas based on ineffective assistance of counsel. *See Padilla v. Kentucky*, 559 U.S. 356, 373 (2010) (recognizing that the guilty plea process is a “critical phase of litigation” for purposes of the Sixth Amendment right to effective assistance of counsel). When reviewing a guilty plea, the analysis of counsel’s performance under the first prong of *Strickland* remains unchanged—the applicant

must show that counsel's representation fell below an objective standard of reasonableness demanded of attorneys in criminal cases. *Hill*, 474 U.S. at 58–59; accord *Thompson v. State*, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice to plead guilty was not “within the competence demanded of attorneys in criminal cases.” *Hill*, 474 U.S. at 56. The second, or “prejudice” prong, however, “focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process.” *Id.* at 58–59. Specifically, when an applicant claims counsel's deficient performance caused him to accept a plea, the applicant “must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial.” *Id.* at 59.

This inquiry “focuses on a defendant's decisionmaking” and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. *Lee v. United States*, 137 S. Ct. 1958, 1966 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. *Padilla*, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—not whether counsel would have still advised him or her to plead guilty. *Turner v. State*, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999).

B. Involuntary Guilty Plea

“[I]t is the prerogative of any person to waive his rights, confess, and plead guilty, under judicially defined safeguards, which are adequately enforced.” *Reed v. Becka*, 333 S.C. 676, 685, 511 S.E.2d 396, 401 (Ct. App. 1999). Accordingly, because a criminal defendant waives several constitutional rights by pleading guilty, the Due Process Clause requires that guilty pleas are

entered into voluntarily, knowingly, and intelligently. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Pittman v. State*, 337 S.C. 597, 524 S.E.2d 623 (1999). To be intelligent, a plea must be made by a mentally competent defendant who understands both the charges against him and the consequences of his plea. *Brady v. United States*, 397 U.S. 742, 748 (1970). To be voluntary, a plea must be free of threats or other coercion that would impermissibly distort the defendant's choice. *Id.* at 755; *see also United States v. Smith*, 440 F.2d 521, 528–529 (7th Cir. 1971) (Stevens, J., dissenting) (explaining that voluntariness relates to the trustworthiness of the admission of guilt and binding character of the waiver of the constitutional protections which would be available to the accused if he elected to stand trial).

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

35, 405 S.E.2d 391, 392 (1991). However, the plea judge “does not have to direct the defendant’s attention to every consequence of his plea provided the record reveals affirmative awareness of the consequences of a guilty plea.” *Carter v. State*, 329 S.C. 355, 362, 495 S.E.2d 773, 776 (1998).

The test for determining the validity of a guilty plea is “whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant.” *North Carolina v. Alford*, 400 U.S. 25, 31 (1970). It is “well established that a guilty plea is not rendered invalid because it represents a compromise by defendant, thrusts a difficult judgment upon him, or is motivated by fear of greater punishment.” *United States v. Cox*, 464 F.2d 937, 942 (6th Cir. 1972) (citing *Brady*, 397 U.S. 742). The State may properly encourage guilty pleas either by being more lenient to those who enter such pleas, *Brady*, 397 U.S. at 750–53, or by increasing the risks of punishment on those who do not. *Alford*, 400 U.S. at 37.

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

his lawyer, and the prosecutor at a guilty plea hearing, as well as any findings made by the judge accepting the plea, constitute a “formidable barrier in any subsequent collateral proceedings”).

The voluntariness of a guilty plea, however, “is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing.” *Harres v. Leeke*, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984). An applicant who enters a plea on the advice of counsel may “only attack voluntary, knowing and intelligent character of the plea by showing that plea counsel’s representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel’s errors, the [applicant] would not have pled guilty, but would have insisted on going to trial.” *Roscoe*, 345 S.C. at 20, 546 S.E.2d at 419. In evaluating an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing. *Wolfe*, 326 S.C. at 165, 458 S.E.2d at 370; *cf. Rayford v. State*, 314 S.C. 46, 443 S.E.2d 805 (1994) (finding that, where the transcript of the guilty plea proceeding refuted applicant’s claim that he did not understand the terms of a plea bargain, granting PCR was inappropriate notwithstanding applicant’s claim his lawyer misadvised him).

Surmounting *Strickland*’s high bar is never an easy task, and the strong societal interest in finality has “special force with respect to convictions based on guilty pleas.” *Lee*, 137 S. Ct. at 1967 (internal citations and quotation marks omitted); *cf. Hill*, 474 U.S. at 58 (“[R]equiring a ‘prejudice’ showing from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel ‘will serve the fundamental interest in the finality of guilty pleas.’ ”). Reviewing “[c]ourts should not upset a plea solely because of *post hoc* assertions

from a defendant about how he would have pleaded but for his attorney's deficiencies." *Lee*, 137 S. Ct. at 1967. Rather, judges should "look to contemporaneous evidence to substantiate a defendant's expressed preferences." *Id.* In determining whether a guilty plea was taken in accordance with constitutional standards, the reviewing judge must analyze and consider the entire record, including the transcript of the guilty plea and the evidence presented at the PCR hearing. *Harres*, 282 S.C. at 134, 318 S.E.2d at 361.

C. Conclusion and Action Requested

The State submits Applicant cannot satisfy either requirement of the *Hill* test. However, as discussed above, the State is presently without sufficient information to fully respond to Applicant's allegations of ineffective assistance of counsel because he failed to set forth facts and circumstances on which his claims are based. Once a more definite statement is provided, the State requests an evidentiary hearing be held on the claims of ineffective assistance of counsel and involuntary guilty plea to fully resolve the issues. *See Sharper*, 279 S.C. at 265, 305 S.E.2d at 248 (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court").

VI. ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY PROCESS

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. 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, SCRCP. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to *Love v. State*, 428 S.C. 231,

834 S.E.2d 196 (2019), or, alternatively, the State will request a continuance in the matter. *Id.* at 245, 834 S.E.2d at 203 (Kittredge, J., dissenting) (“If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.”).

If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, the State reserves the right to move to dismiss this allegation or claim. S.C. Code Ann. §§ 17-27-10 to -160; Rule 71.1, SCRPC. *See also* Rules 15(a)–(b), SCRPC. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State. *See* Rule 15(a), SCRPC.

Pursuant to S.C. Code Ann. § 17-27-150, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. The State reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to the State.

VII. GENERAL DENIAL

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

[Conclusion and signature on following page]

VIII. CONCLUSION

WHEREFORE, the State respectfully requests this Court grant its motion for a more definite statement as set forth in section IV, and thereafter convene an evidentiary hearing on the allegation of ineffective assistance of counsel.

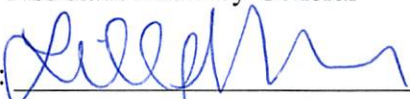
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

LILLIAN L. MEADOWS
Assistant Attorney General

By: 

ATTORNEYS FOR THE STATE
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

June 14, 2021

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	
	)	
	)	2020-CP-32-4043
	)	
BOBBY GEORGE SIGHTLER, #360696	)	
	)	
Applicant,	)	
	)	
vs	)	CERTIFICATE OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
	)	

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

Tommy Arthur Thomas
PO Box 88
Irmo, SC 29063

DATED this 14th day of June, 2021.


 Hannah M. Bradham, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

Bobby Sightler,
Applicant,

Vs.

State of South Carolina,
Respondent.

FILED
2022 OCT 7 13:42
LISA M. COMBS
CLERK OF COURT
LEXINGTON, SC

COURT OF COMMON PLEAS FOR THE
ELEVENTH JUDICIAL CIRCUIT

Case No.: 2020CP3204043

**AMENDMENT TO POST-CONVICTION
RELIEF APPLICATION**

FILED
2022 OCT -7 PM 2:54
LISA M. COMBS
CLERK OF COURT
LEXINGTON, SC

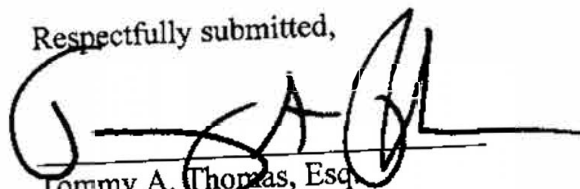
The Applicant above named in the aforementioned matter, through his Attorney, _____

A. Thomas, respectfully re-alleges those allegations as contained in the original Application for Post Conviction Relief and moves to amend his original Post Conviction Relief Application.

That the Applicant believes that Counsel was ineffective and that his plea was involuntarily given for the following reasons:

1. Plea was involuntary. Applicant thought he would receive 8 – 10 years based on Representations of Counsel. Counsel said there was no gun or evidence to support a conviction.
2. Plea Counsel did not adequately or completely investigate the facts of the crime which prejudiced the Applicant at Plea.
 - a. There was lack of evidence of Applicant's involvement.
 - b. Did not investigate fully co-defendant's involvement
 - c. Applicant was indicated at the mastermind of the crime when Lakeland Register set the crime in motion. Ms. Register called the Applicant stating she was being assaulted by the victim and asked for his help. He had no prior knowledge of what was actually happening. Applicant told Plea Counsel about this and was told that he was not going to speak to the investigator about this.
3. The co-defendant Register was offered a plea of 5 years which was later increased to 10 years because she cut her ankle monitor off. The Applicant believes that due to Counsel's not adequately addressing the mastermind issue he received a larger sentence. On pages 11 and 12 of the Plea transcript the Solicitor indicates to the Court that the Applicant was the most culpability without objection of Counsel.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tommy A. Thomas', written over a horizontal line.

Tommy A. Thomas, Esq.
Attorney for Applicant
P.O. Box 88
Irmo, SC 29063

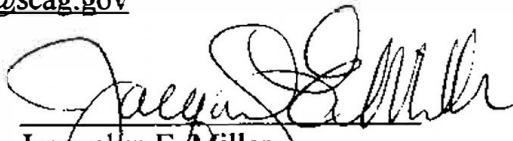
September 29, 2022

STATE OF SOUTH CAROLINA	)	THE COURT OF COMMON PLEAS
	)	
COUNT OF LEXINGTON	)	CASE NO.: 2020-CP-32-4043
	)	
BOBBY G. SIGHTLER #360696,	)	
	)	
Applicant,	)	
	)	CERTIFICATE OF SERVICE
Vs.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

FILED
 2022 OCT -7 PM 2:59
 LISA M. COMER
 CLERK OF COURT
 LEXINGTON SC

I, Jacquelyn E. Miller, paralegal to Tommy A. Thomas, Attorney for the Applicant hereby certify that I placed in the United States Mail and emailed, a copy of an Amendment to Post Conviction Relief Application with postage prepaid and the return address clearly shown on said envelope to Lillian L. Meadows, Esq. of the Attorney General's Office, at:

Lillian L. Meadows, Esq.
 Attorney General's Office
 P.O. Box 11549
 Columbia, SC 29211-1549
lillymeadows@scag.gov


 Jacquelyn E. Miller
 Paralegal to Tommy A. Thomas
 Attorney for Applicant
 P.O. Box 88
 Irmo, SC 29063
 (803) 732-5507

Irmo, SC
 October 3, 2022

State of South Carolina
 County of Lexington

Court of Common Pleas

Bobby Sightler	)	
	)	
Applicant,	)	Transcript of Record
v.	)	2022-CP-32-4043
	)	
State of South Carolina	)	
	)	
<u>Respondent.</u>	)	

October 12, 2022
 Lexington, South Carolina

B E F O R E:

The Honorable George McFaddin, Judge.

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

Tommy A. Thomas, Esquire
 Attorney for the Applicant

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 Attorney for the Respondent

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 Circuit Court Reporter

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

2 * * *

3 MR. SMITH: Your Honor, this is the matter of
4 Bobby Sightler v. State. Case number is
5 22-CP-32-4043. In July of 2019, Mr. Sightler
6 appeared before Judge McLeod; he was represented by
7 Derrick Mobley, and he entered a plea deal with a
8 negotiated sentencing range of seven to 15 years for
9 armed robbery and failure to stop for blue light,
10 and did not appeal.

11 He's since filed his application, which just
12 said that he was alleging ineffective assistance of
13 counsel and a voluntary guilty plea. And Mr. Thomas
14 has since filed an amended application. But I, at
15 the time, did not have a hard copy of it, but I do
16 have a copy of the plea transcript, the State's
17 return, the sentencing sheets that I would like to
18 hand up for Your Honor.

19 MR. THOMAS: And, Your Honor, I don't know --
20 we filed it with the clerks. I don't know if it's
21 made it to the file. But, if not, I have a copy of
22 it which I'd be more than happy to provide to the
23 Court.

24 THE COURT: Copy of?

25 MR. THOMAS: The amended application, your

DIRECT EXAMINATION OF BOBBY SIGHTLER BY MR. THOMAS

5

1 Honor.

2 THE COURT: Is that in here?

3 MR. SMITH: It's not, your Honor. I didn't
4 bring a hard copy. I'm sorry.

5 THE COURT: Thank you, sir.

6 MR. THOMAS: Yes, your Honor. Thank you.

7 MR. SMITH: And, your Honor, other than just
8 asking to make sure we're sticking to the issues in
9 the amended application of today, I think we're
10 ready to move forward.

11 THE COURT: Yes, sir?

12 MR. THOMAS: May it please the Court?

13 THE COURT: Yes, sir.

14 MR. THOMAS: We'd call Mr. Bobby Sightler to
15 the stand.

16 BOBBY SIGHTLER

17 being first duly sworn, testified as follows:

18 THE APPLICANT: Yes, ma'am.

19 DIRECT EXAMINATION

20 BY MR. THOMAS:

21 Q. Mr. Sightler, you are, obviously, serving time
22 in the South Carolina department of corrections?

23 A. Yes, sir.

24 Q. And what are you serving time for?

25 A. Allegedly, attempted armed robbery and failure

1 to stop for blue lights.

2 Q. Okay. And what type of sentence do you have?

3 A. 15-year sentence, 85 percent, violent.

4 Q. All right. And you got 15 on the attempted
5 armed and ten you got three on the failure to stop?

6 A. Yes, sir.

7 Q. But they're running together?

8 A. Yes, sir.

9 Q. All right, sir. And you've filed a
10 postconviction?

11 A. Yes, sir.

12 Q. You understand that in filing your
13 postconviction, you're asking that your sentence be
14 vacated?

15 A. Yes, sir.

16 Q. In other words, that puts you back in the
17 position that you were prior; that you're asking for
18 a new trial or new plea, but your sentence would be
19 vacated?

20 A. Yes, sir.

21 Q. And you and I have talked about that, and we've
22 talked about there's certain risks in filing a
23 postconviction?

24 A. Right. Yes, sir.

25 Q. You understand all that?

DIRECT EXAMINATION OF BOBBY SIGHTLER BY MR. THOMAS

7

1 A. Yes, sir.

2 Q. And based upon that, you wish to go forward
3 today?

4 A. Yes, sir.

5 Q. All right, sir.

6 Now, Mr. Sightler, you were you arrested for an
7 incident that occurred back in August 9th of 2018?

8 A. Yes, sir.

9 Q. And when you were arrested, you were taken to
10 the county detention center?

11 A. Correct, sir.

12 Q. And how long did you stay in the detention
13 center?

14 A. Eight months.

15 Q. All right. And did you make bond?

16 A. Yes, sir. I paid my bond, but I was held for
17 recommendation or recommend bond that was prior to
18 me getting out. So they denied that bond and held
19 me on \$127,000 bond --

20 Q. Okay. So you were rearrested -- you were
21 arrested for something else?

22 A. Yes, sir.

23 Q. Okay. And, now, were you able to speak with
24 your attorney? I mean, if you were in the detention
25 center, did he come see you when you were in the

1 detention center?

2 A. Yes, sir, several times. But we couldn't
3 really get a narrow dynamic. I couldn't never
4 really could get a one-on-one with him to where I
5 could get an understanding or we could go over the
6 paperwork and just get a better enlightenment upon
7 what I'm being charged with, what's going on, what's
8 really going on with the other defendants that's
9 involved in the case. I just --

10 Q. Well, let's talk about that.

11 A. Yes, sir.

12 Q. So you had codefendants?

13 A. Yes, sir.

14 Q. And who were they?

15 A. Lakelyn Register and Joseph -- Joseph --
16 Joseph...

17 Q. That's okay. You don't remember his last name?

18 A. No, sir.

19 Q. All right. And, just briefly, what do they say
20 you allegedly did?

21 A. Allegedly, they say I robbed a guy at gunpoint
22 in the hotel room. Clearly, the evidence supports
23 the -- everything in the evidence, there was never
24 no robbery that was ever committed. I stole a
25 truck. I was getting 15 years for stealing a truck.

1 Q. Okay. And were you contacted by the
2 codefendant?

3 A. Yes, sir.

4 Q. And what did she ask you to do?

5 A. Come to the hotel room because somebody was
6 there, basically, touching on her, doing some type
7 of something to her. So --

8 Q. Okay. So you went there in fear of her safety?

9 A. Yes, sir, me and my friend. That's actually my
10 codefendant. He's home now.

11 Q. All right. And she called you to come over
12 there?

13 A. Yes, sir.

14 Q. Now, as far as Mr. Mobley, was he appointed or
15 did you retain him?

16 A. He was appointed to me.

17 Q. Okay. And was that the only attorney that you
18 had representing you?

19 A. Yes, sir.

20 Q. All right sir. And then you pled on July 24th,
21 2019; is that correct?

22 A. Yes, sir. That's correct, sir.

23 Q. All right, sir. So there was a space of
24 about -- well, about a year between your arrest and
25 your plea?

1 A. Yes, sir.

2 Q. Okay. And what I'm curious about is, during
3 that year, what did you talk to your attorney about?
4 How did you -- what did you discuss with him in
5 regards to preparing your case?

6 A. Well, basically, preparing for it, we were just
7 trying to get the violent conviction off of me. And
8 I told him we could plea to anything that's lesser.
9 But, basically, on my understanding, it was only one
10 plea offer, which was seven to 15 on the 20-year
11 sentence for the allegedly attempted armed robbery.
12 Therefore --

13 Q. All right. Let me slow you down a little bit.
14 You said the plea was seven to 15. Was that a --
15 what type of plea was that?

16 A. I guess an open plea.

17 Q. Okay. So you had a low end and a top end?

18 A. Yes, sir.

19 Q. Okay.

20 A. I guess the 15 was the cap, if I'm not -- like,
21 some kind of sentencing cap.

22 Q. Does a negotiated plea sound right to you?

23 A. Well, no, sir. Negotiated plea, to me, would
24 be meaning as in I know pretty much how much time
25 I'm getting, it's not a blindfold to where I'm

1 getting over-sentenced or --

2 Q. Okay. So you had a range?

3 A. Yes, sir.

4 Q. All right, sir. And were there any other plea
5 offers?

6 A. No, sir.

7 Q. Now, when you met with your attorney, what did
8 y'all talk about?

9 A. Basically, what they had, which was nothing,
10 and the evidence and what crime was committed, what
11 really happened. And that's pretty much that, sir.
12 Like, he didn't -- I didn't really get the proper
13 counseling that I needed, because --

14 Q. Okay. Well, was it your contention that you
15 didn't -- you were not part of the whatever that
16 conspiracy was? In other words, you went over there
17 to assist this young lady?

18 A. Yes, sir. Yes, sir.

19 Q. So you were not involved in the planning of
20 this?

21 A. No, sir. There was never a plan. The plan --
22 there was never a plan. It was specifically what
23 was stated by the evidence -- what she stated, what
24 my defendant knows, like, is what happened, is the
25 guy -- I don't even know the guy that was there with

1 her. I don't know. I came there because she called
2 me.

3 Q. Okay. Now, the allegations in the transcript
4 that was presented by the solicitor was that you had
5 had a pistol and that you held it to the victim and
6 threatened him?

7 A. Correct. That's what was said, sir.

8 Q. Was that true?

9 A. No, sir, that was not true. There was never a
10 gun, because it plainly -- it clearly states in the
11 evidence that the victims put me -- he put me
12 outside the room. He said that I was outside the
13 hotel room with a gun pointed on him.

14 Clearly, on the video footage, there was never
15 nobody outside the room with a gun. You could
16 see -- like, the defendant showed and told, bro, he
17 did not have no gun. When we pulled up there, he
18 did not have no gun on him. There was no gun in the
19 car.

20 Q. All right. Now, Bobby, the reason I ask you
21 these questions is that these things that factually
22 that happened, did you discuss those with
23 Mr. Mobley?

24 A. To an extent. But it was like he wasn't trying
25 to hear me out, because all he was looking at what

1 was being said. Well, you got to think about it
2 like this: You got her saying this, which she never
3 identified me with the gun --

4 Q. Right.

5 A. -- then you got him, which is the victim. He
6 can't even identify a gun because there never was a
7 gun. He wasn't hurt. There wasn't nothing that
8 happened to him. I took a set of car keys off the
9 floor and I stole the truck.

10 Q. But you went into the motel room?

11 A. Yes, sir. But I was let in. It wasn't like I
12 was coming in to do anything, I was coming in on her
13 regards for her safety.

14 Q. Okay.

15 A. And when I got in, that's when he pulled back
16 up and I was just telling her, well, come on; we'll
17 just go; you don't have to be here. Well, when he
18 came in, that's when she was like, just go in the
19 bathroom.

20 It clearly states in the evidence what
21 specifically happened, word for word. So when I wen
22 tin the bathroom, he come in.

23 Q. Okay. Now, you know what the discovery is?

24 A. Yes, sir.

25 Q. Did you have an opportunity to go over with

1 your attorney the discovery --

2 A. No, sir.

3 Q. -- what the State's evidence was against you?

4 A. No, sir, I didn't.

5 Q. Okay. And what investigation do you know that
6 your attorney may have done in regards to what you
7 were telling him about what happened?

8 A. Honestly, he's a good lawyer, I will say that,
9 to an extent. But I do feel like, personally, he
10 could have looked more into the defendant's actions
11 involved with what was going on instead of making it
12 seem like --

13 Q. You're taking about your codefendant?

14 A. Yes, sir.

15 Q. The female?

16 A. That's the only thing in regards to -- I
17 wouldn't have got my sentence. I wouldn't have
18 gotten 15 years for something I didn't even -- like,
19 no. I can understand failure to stop for blue
20 lights, yes, sir. I'll take that three years. I
21 did run from the police, I was wrong for that.

22 But armed robbery, there was no armed robbery.
23 You got guys that run in banks with guns and get ten
24 years and rob bank tellers. It was nowhere in the
25 severity of that crime. I didn't have no gun.

DIRECT EXAMINATION OF BOBBY SIGHTLER BY MR. THOMAS

15

1 Q. Right.

2 A. I never got to speak. I never got the truth
3 told. It was never put in the courtroom.

4 Q. What was going on in your life during that
5 period of time, Bobby?

6 A. My fiancée got killed coming from -- we was
7 coming from Georgia. She was pregnant, and she died
8 a couple months prior to --

9 Q. Right. Was that in a traffic accident or
10 something?

11 A. Uh-huh.

12 Q. Okay. And you kind of spiraled out of control
13 after that?

14 A. Yes, sir.

15 Q. Okay. And -- so did you tell your attorney
16 that?

17 A. Yes, sir, I did.

18 Q. Okay. All right.

19 Now, that kind of leads to my next question I
20 wan to ask you about, plea or trial. You know you
21 had the right, of course, to take this case to
22 trial?

23 A. Well, technically, no, sir, because -- well, I
24 did. Yes, sir, I did.

25 Q. Okay.

1 A. Because when Mr. Mobley come to me, he said --
2 specifically, he said, all right, Sightler, look,
3 this is what I'm going to do. And I just felt like
4 he didn't wan to help me. He wasn't trying to help
5 me.

6 Q. Okay. Well, you had to go through some sort of
7 process to decide whether or not you wanted to
8 accept this plea or take this case to trial. How
9 did you do that?

10 A. Technically, when he said the only offer
11 Sutania said was, basically, this is the best I can
12 do for you, this was the only offer, the only thing
13 that he could figure out for me was a
14 seven-to-15-year range on a 20-year sentence. And,
15 if we didn't take that, then we were probably more
16 than likely going to trial. Less than eight months,
17 he come and tell me this.

18 When you got guys that sit in the county for
19 two and a half, three years waiting to go to trial
20 and have four or five offers, you're telling me that
21 this is my first offer?

22 You're telling me, based off of the evidence
23 and everything that is going on -- I have defendants
24 that's willing to come and testify on my behalf to
25 say there was no gun involved, to say it's not what

1 was said, and I got to take this? I don't get no
2 negotiated sentence? I can't get an equal
3 sentencing? I can't get -- I had to take it.
4 That's --

5 Q. Why did you think you were entitled to
6 something less than what you got?

7 A. Because that -- I mean, it's equality. Like, I
8 just felt like I'm due for a better sentencing
9 because I feel like I'm over-sentenced for the crime
10 and what happened.

11 Q. And you think that was because of your
12 attorney's not presenting your evidence properly?

13 A. Yes, sir.

14 Q. Okay. In mitigation -- you understand what
15 that means?

16 A. In mitigation?

17 Q. Yeah. To show your involvement in this crime.

18 A. Correct. Correct, sir.

19 Q. Okay. And did the -- did your attorney make
20 any representations to you about what he thought
21 about the weakness or the strength of your case was?

22 A. To an extent, he did. But I believe Mr. Mobley
23 had a lot of other things as well on his plate, so
24 when we'd get my lawyer visit, I feel like what was
25 there, what they had, I just didn't get full

1 representation to what I needed, honestly. I mean,
2 I honestly feel like that.

3 I mean, Mr. Mobley could have looked more into
4 what was going on. Okay, Mr. Sightler, this is
5 what's going on, this is what I'm telling him, but
6 he's saying this, so are you going to wait it out or
7 you want to take this plea?

8 Well, what do you suggest? You're my attorney;
9 you're representing me, so I want to do what you
10 think suggests -- like, what's for me? Like, do I
11 have to take this plea? If I didn't take it and I
12 go to trial, what's the chances of me getting found
13 guilty?

14 And he was like, well, you -- you'd better just
15 take the plea or, you know, I can recommend for the
16 low end, which seven. Well, I'm thinking why can't
17 we get a negotiated sentence --

18 Q. Right.

19 A. -- like something negotiated? Why can't I get
20 that? And he was like, I can take to the solicitor,
21 but I can't promise you anything. So when we got to
22 court, that's when they went for the max, 15.

23 Q. But you don't -- but you're saying that you
24 don't think that he used the information that he
25 had --

1 A. Correct.

2 Q. -- properly?

3 A. Yes, sir.

4 Q. Now, what were your expectations? You talked
5 with your attorney. When you stood in front of the
6 Court to enter into this plea, what were your
7 expectations?

8 A. As far as expectations, I admitted to my wrong.
9 I did what I did. But I did tell the Judge that
10 there was no gun involved. I never got to speak the
11 truth of what happened. I just agreed to the plea
12 and took what was presented because I felt like that
13 was the only thing that I was entitled to. I felt
14 like that my lawyer was basically -- that was the
15 only thing he was going to be able to do for me.

16 Q. Okay. Now, Ms. Register, your codefendant, did
17 she plead before you or after you?

18 A. If I'm not mistaken, she pled before. No, sir,
19 I apologize. I think she got out on the ankle
20 monitor when they offered her ten years. That's
21 when she cut her monitor off and ran. So when they
22 come to her and offered, I guess, her that, if I'm
23 not mistaken, she pled after -- not after -- right
24 before I was sentenced, sir.

25 Q. Okay. And she was the one that kind of was

1 like the mastermind?

2 A. Yes, sir.

3 Q. Is that an appropriate word?

4 A. Yes, most definitely, because it shows
5 everything within the evidence, everything within
6 the defendant Lyons -- Joseph Lyons. Him, as in my
7 codefendant, him and me were called there to the
8 room for her. She called us there because of him.
9 There was no robbery that was ever -- there was
10 never a robbery. The guy made it up, because the
11 victim had drugs all over the room.

12 So when the police got there, he made it look
13 like it was a robbery, this, that, so he wouldn't
14 get arrested. When they found all the drugs in the
15 room, they didn't even arrest him. They let him go
16 and then put warrants on me and the defendant when
17 he was in the wrong as well.

18 I feel like, honestly -- I can understand -- it
19 wasn't even a strong arm robbery. I never robbed
20 him. I never -- like, I took keys off the floor and
21 I took a truck.

22 Q. Okay. Now, did your attorney make any comments
23 or representations to you about the gun, the weapon?
24 Did y'all talk about that?

25 A. No, sir.

DIRECT EXAMINATION OF BOBBY SIGHTLER BY MR. THOMAS

21

1 Q. Did he say that -- what did he say about the
2 gun?

3 A. They say -- or she said he said that,
4 basically, when the guy knocked on the door outside
5 the room, he pulled the gun. Clearly, there's never
6 a guy outside the room knocking on the door with a
7 gun. There was never a guy knocking on the door
8 outside the room ever because, before the guy left,
9 Lakelyn let us in the room. She let me in the room.
10 It was never -- he contradicted himself, his
11 statement, the victim did, because if you look in
12 the black-and-white, which is Rule 5 motion to
13 discovery, it's three to four different things that
14 he say that don't add up. Each one of them are
15 different --

16 Q. Right.

17 MR. SMITH: Objection to hearsay and best
18 evidence rule.

19 THE COURT: Any response, sir?

20 MR. THOMAS: Your Honor, I think he's -- I'm
21 not sure that it is hearsay. But I'll move on.

22 THE COURT: I'll sustain that respectfully,
23 sir.

24 MR. THOMAS: All right. Thank you, your Honor.

25 THE COURT: Proceed.

1 BY MR. THOMAS:

2 Q. Now, Bobby, you were -- there was a picture
3 that was painted of you by the State --

4 A. Yes, sir.

5 Q. -- in regards that you were just nothing but
6 trouble?

7 A. Correct, sir.

8 Q. Yeah. And you feel -- or do you feel like that
9 had some influence on the Court in regards to the
10 15?

11 A. Yes, sir, I do. Actually, because -- I say yes
12 because, during my sentencing, the only thing --
13 after everything was presented, the only thing that
14 was spoke upon was, oh, Your Honor, he's on parole.
15 My parole was terminated. I did great my whole year
16 home. I did -- also, my work, I got my own tow
17 service; we worked out of my grandmother's shop.

18 Like, I stayed out of trouble; I stayed off
19 drugs; I stayed -- I passed my drug tests; I showed
20 up every time; I paid my \$50 fee; I reported,
21 everything. Like, when my fiancée died pregnant,
22 when she died that July 4th, that morning, I
23 crashed; like, I spiraled out of control.

24 Q. Okay.

25 A. And that's not an excuse, it's not. There's

1 not an excuse for anybody's actions. But I
2 understand what I did wasn't right, but I'm not what
3 they portrayed me to be, because the only thing they
4 kept speaking on was, well, he's on parole and he
5 had charges from Texas. Those charges aren't even
6 pending on me anymore. The charges --

7 Q. Let's take this one by one. Okay?

8 A. Yes, sir.

9 Q. Kind of summarize it.

10 MR. THOMAS: Your Honor, just for the Court's
11 information, I normally will quote the pages in the
12 transcript. I'll give you those pages.

13 THE COURT: Yes, sir.

14 MR. THOMAS: It doesn't mean we won't stop and
15 read it, but I'll just -- for the Court's
16 convenience.

17 THE COURT: Yes, sir.

18 MR. THOMAS: In Texas -- and, Your Honor, this
19 is page 13, lines 17 through 18.

20 THE COURT: Yes, sir.

21 BY MR. THOMAS:

22 Q. The solicitor quoted that your behavior should
23 be considered by the Court; is that correct?

24 A. Yes, sir.

25 Q. Okay. And then she says on page 13, line 24,

1 that you were out on parole; is that correct?

2 A. Yes, sir, I was on parole.

3 Q. Okay. And were you in violation of parole or
4 what was going on?

5 A. Well, technically, I had probably a month left
6 until I completed my parole.

7 Q. Okay.

8 A. And that's when she -- Cassie died. When she
9 died that morning, I didn't go report on purpose.
10 That next month, on my birthday, I didn't go report.
11 I told my parole officer that I was going through a
12 lot at the time and I wasn't showing up.

13 Q. Okay. So it wasn't because you had
14 committed -- well, you had this crime pending, but
15 it wasn't because you committed another crime?

16 A. It was after the fact. The reason why I wasn't
17 reporting -- I didn't report because of that. I
18 called my --

19 Q. Because your girlfriend had been killed?

20 A. Yes, sir.

21 Q. All right.

22 A. And they -- when I, later on, got detained
23 there, my parole officer, they terminated
24 everything, like -- and she understood; she was
25 like, I just wish you would have come in and talked

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25

1 to me and didn't run, didn't spiral out the way you
2 did. If you'd have just called me --

3 MR. SMITH: Objection, Your Honor; hearsay.

4 THE COURT: Sustained.

5 BY MR. THOMAS:

6 Q. All right. Just tell us from your own
7 knowledge, not what somebody said to you. Okay?

8 A. Yes, sir.

9 Q. Okay. Now, also, you went to Texas?

10 A. Yes, sir.

11 MR. THOMAS: Your Honor, that's page 14, lines
12 2 through 3.

13 Q. Why did you go to Texas?

14 A. I went to Texas because I felt like that that
15 was better of a place for me to get away, peace of
16 mind. My mom is from Texas, so I went down there to
17 get away from everything that was going on --

18 Q. Right.

19 A. -- within the death of my fiancée being
20 pregnant, I was going to get some --

21 Q. All right. And, also, the solicitor points out
22 that you had new charges in Texas, page 14, lines 5
23 through 7. What happened in Texas? Did you get new
24 charges?

25 A. It was a traffic stop. Yes, sir. And I was

1 pulled over with my friend right outside of Houston
2 in there -- I was detained. And there was a gun in
3 the truck, which it was her gun.

4 And what they charged me with is failure to
5 comply. They gave me -- what was it -- unlawful
6 carrying. And it was one more charge, fraudulent
7 charge. But the detainer, she wrote the affidavit;
8 it was her gun. She's serving an eight-year
9 sentence now. And they brought that up in court.

10 That was, oh, well, he did this and he did --
11 but not knowing the true meanings. When I got
12 arrested there and detained, she already was saying
13 what was hers, that's not his, that's mine. She's
14 serving her eight-year sentence in Texas TDC now as
15 we speak.

16 Q. Okay. Do you have a detainer from Texas?

17 A. I don't know. I called my lawyer. Basically,
18 they're supposed to re -- take it off of me from
19 headquarters or something. I'm not sure.

20 Q. Okay.

21 A. But if it's still on me, then it hasn't been
22 resolved. But as far as the solicitor or whoever
23 there -- like, once I'm done here, all they do is
24 call there and they see that, okay, the affidavit,
25 everything has been pushed through on their end; all

1 we have to do is update our computer system here in
2 South Carolina; we don't want the charge; her is
3 what's left; he don't have no pending charges here.

4 Q. All right. And the solicitor makes a comment,
5 page 14 lines 22 to 23, that you were the most
6 culpable in the group. And you discussed this
7 factor with your attorney?

8 A. I'm sorry.

9 Q. That you were the mastermind of this.

10 A. No, sir.

11 Q. All right. And also on page 11, lines 11
12 through 14, that you held a gun to the victim and
13 robbed him and -- so did you discuss that with your
14 attorney?

15 A. No, sir.

16 Q. You didn't talk to him about the --

17 A. The first time -- maybe our first or second.
18 But he knows, like I knew, there was never a gun, it
19 was never a robbery.

20 Q. Okay.

21 A. And before that, like, it contradicts the
22 saying, like, the mastermind when Lakelyn admits
23 she's the mastermind. She wrote statements. She
24 verbally told the investigators and told the
25 solicitor that she was the mastermind. She said she

1 was the one who --

2 MR. SMITH: Objection to hearsay.

3 THE COURT: Sustained.

4 BY MR. THOMAS:

5 Q. Don't tell us anything anybody told you. Okay?

6 A. No. It's in the paperwork, Mr. Thomas.

7 Q. Well, let me ask you this: In summary -- and I
8 wanted to point out because you and I have spent
9 quite some time because these issues were important
10 to you.

11 A. Yes, sir.

12 Q. And you feel like that your attorney could have
13 been better prepared to address these issues in
14 front of the Court; is that correct?

15 A. Correct.

16 Q. And you felt like by not doing that, it
17 resulted in you getting something more -- well, you
18 did, you got the 15.

19 A. Yes, sir. Yes, sir.

20 MR. THOMAS: Your Honor, if I can beg the
21 Court's indulgence just for a second.

22 THE COURT: Yes, sir.

23 BY MR. THOMAS:

24 Q. Bobby, you feel like that your attorney was
25 ineffective?

1 A. Yes, sir, I do.

2 Q. And you and I talked about this as well:

3 You've been waiting a long time for this day to be
4 in court.

5 A. Uh-huh.

6 Q. I'm not saying that I have forgotten something,
7 but is there anything else that you would like to
8 bring to the attention of the Court; anything that
9 I've forgotten or anything I've failed to bring to
10 the Court's attention?

11 A. Pretty much, Mr. Thomas, that's overall
12 summary. Final perpetation [sic] for everything
13 we've been discussing. But that's pretty much
14 everything, Mr. Thomas.

15 Besides that, I would like to say -- just ask
16 it be granted so I can get an equal sentencing, get
17 the right assistance by counsel, that I can somebody
18 that's actually going to take the initiative to sit
19 down and listen and understand and put the energy
20 into what's really going on and what's in the crime,
21 what happened, look more into who's all involved --

22 Q. To listen to you?

23 A. Yes, sir.

24 Q. You understand you're here for postconviction?
25 The only thing the Court can grant is a vacation of

1 your sentence, set your sentence aside.

2 A. Yes, sir.

3 Q. Do you understand that?

4 A. Yes, sir, I do.

5 Q. Okay.

6 MR. THOMAS: Your Honor, I have no further
7 questions.

8 THE COURT: Thank you, sir.

9 State?

10 CROSS-EXAMINATION

11 BY MR. SMITH:

12 Q. Mr. Sightler, you were already charged with
13 armed robbery, right?

14 A. Yes, sir.

15 Q. Kidnapping, right?

16 A. Uh-huh.

17 Q. And that's a yes?

18 A. Yes, sir.

19 Q. Okay. Possession of weapon during the
20 commission of a violent crime, right?

21 A. Correct.

22 Q. Conspiracy, right?

23 A. Yes.

24 Q. Grand larceny?

25 A. Yes, sir.

1 Q. Assault and battery in the first degree?

2 A. Uh-huh.

3 Q. Possession of a stolen vehicle?

4 A. Yes, sir.

5 Q. Receiving stolen goods?

6 A. Yes, sir.

7 Q. And failure to stop?

8 A. Yes, sir.

9 Q. Okay. And you know that those were all

10 dismissed as part of your plea deal, right?

11 A. Yes, sir. I understand that, sir.

12 Q. And so you, ultimately, were allowed to plead

13 down to attempted armed robbery, right?

14 A. Yes, sir.

15 Q. Okay. And the Judge went through all that with

16 you at the hearing. Didn't he go over and say,

17 here's what the sentencing range is: It's seven to

18 15. You can get as low as seven or as high as 15,

19 right?

20 A. Correct, sir.

21 Q. So you understood that your years were going to

22 be somewhere between those two numbers?

23 A. Yes, sir.

24 Q. Okay. So you testified earlier that it wasn't

25 a robbery, you just went over there to steal the

1 truck and then you took the keys. How is that not a
2 robbery?

3 A. I never went to steal his truck.

4 Q. That's what you testified earlier.

5 A. We went in -- she was calling us there because
6 she was telling us that this guy was touching her in
7 a bad form of manner. And I was going there,
8 basically, to protect her, to get her out of there,
9 or to try to resolve the situation.

10 Q. But, today, at the very least, you admit you
11 took the truck?

12 A. I did take the truck. Yes, sir, I did.

13 Q. Okay. But if you had nothing to do with this
14 armed robbery, you didn't have a weapon, why did you
15 tell Judge McLeod that you agreed with Sutania
16 Fuller when she said you held a gun to the guy's
17 head?

18 A. I never agreed with that, sir.

19 Q. You didn't agree to that?

20 A. No, sir.

21 Q. Okay.

22 A. I never held a gun to -- there was never a gun
23 involved, sir.

24 Q. So you testified earlier about discussing the
25 case with Mr. Mobley. What did he tell you about

1 the strength of the State's case?

2 A. I mean, really, they didn't have nothing.

3 Q. He told you they didn't have anything?

4 A. As far as evidence, no, sir.

5 Q. Okay. And you testified earlier that at your
6 guilty plea hearing, you said you never had a gun.

7 A. To my extent -- yes, sir, I didn't. I don't
8 think I got -- the only thing I spoke to the Judge
9 was -- I don't think I testified that I didn't have
10 a gun sir, to be actually precise. I don't think I
11 did during my sentencing. No, sir, I don't think I
12 did.

13 Q. Well, heres the thing: If you didn't do any
14 armed robbery, why would you plead guilty to
15 attempted armed robbery?

16 A. Basically, I felt like that was the only thing
17 that was best for me because of my attorney telling
18 me, well, this is the best it's going to get.
19 That's the exact words that he used: That's the
20 best it's going to get. You either take this or we
21 go to trial.

22 How long will trial be?

23 Well, at least another year, two years.

24 Q. But you were testifying a minute ago you
25 thought you were rushed into it. Why would that

1 matter if you had to wait another year for trial?

2 A. Rushing to what? Trial?

3 Q. Complaining that other people get to sit in
4 jail for two, three years before they go to trial.

5 A. No, sir. I was just speaking --

6 Q. What would be one more year if you could go to
7 trial and make your case?

8 A. Yes, sir. I was speaking in for of plea
9 offers. People sit two to three years on robberies,
10 waiting to go to trial, and they get several offers.
11 I never received but one. I didn't even get an
12 offer. Like, the only thing that on the table was
13 either take it or nothing. I couldn't even get a
14 negotiated sentence like --

15 Q. You could have turned it down, right?

16 A. Yes, sir. But my understanding, if I turned it
17 down, from what Mr. Mobley was telling me, it would
18 be trial and I'd have to sit another year or two
19 years.

20 Q. Why did you apologize to the victim at your
21 guilty plea hearing if you're innocent?

22 A. Because I stole his truck.

23 Q. So you were only apologizing for stealing the
24 truck?

25 A. Yes, sir.

1 Q. Even though you just pled guilty to attempted
2 armed robbery?

3 A. I admitted my wrong. I said what I did.
4 That's pretty much that, sir.

5 Q. All right.

6 MR. SMITH: No more question, Judge.

7 THE COURT: Mr. Thomas?

8 MR. THOMAS: Thank you, your Honor. May it
9 please the Court?

10 REDIRECT EXAMINATION

11 BY MR. THOMAS:

12 Q. Bobby --

13 A. Yes, sir?

14 Q. -- you remember the plea?

15 A. Yes, sir.

16 Q. Okay. And did you go through with counsel
17 about what you -- not what to say, but what you
18 should say in regards to addressing the Court?

19 A. No, sir.

20 Q. Okay. Didn't go through in regards to what
21 your options were, what your -- I mean, what was
22 available to you to address the Court, you didn't do
23 that?

24 A. No, sir. No, sir.

25 Q. Okay.

1 MR. THOMAS: Your Honor, I have no further
2 questions.

3 THE COURT: Yes, sir.
4 State, recross?

5 RE CROSS-EXAMINATION

6 BY MR. SMITH:

7 Q. Did Mr. Mobley -- is your testimony that
8 Mr. Mobley told you to say you had done all the
9 things that Ms. Fuller said you did, even though
10 you're saying today that you didn't do those things?

11 A. Did he say...

12 Q. Why would you agree that you committed armed
13 robbery and held a gun to someone's head if you're
14 saying today you didn't do that?

15 A. I never agreed to that.

16 Q. You didn't?

17 A. No.

18 Q. Okay. Thank you.

19 MR. THOMAS: Nothing further, your Honor.

20 THE COURT: You may step down, sir. Thank you
21 so very much.

22 MR. THOMAS: Your Honor, if it pleases the
23 Court, that's the Applicant's case. Thank you.

24 THE COURT: All right. And from the State?

25 MR. SMITH: We'd call Mr. Mobley, your Honor.

DIRECT EXAMINATION OF DERRICK MOBLEY BY MR. SMITH

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1 DERRICK MOBLEY

2 being first duly sworn, testified as follows:

3 THE WITNESS: I do.

4 THE CLERK: Thank you. Please be seated in the
5 witness stand.

6 DIRECT EXAMINATION

7 BY MR. SMITH:

8 Q. Mr. Mobley, can you tell us when you were
9 admitted to practice law in South Carolina?

10 A. July 2007.

11 Q. And can you summarize your legal experience?

12 A. Oh, man. So my first job was I was a law clerk
13 with the Department of Labor, License, and
14 Regulations, then I was Judge Lee's law clerk
15 when she -- while she was a circuit court judge. I
16 moved to the Solicitor's Office and worked there
17 until approximately 2010, here at the Lexington
18 County Solicitor's Office.

19 I subsequently went out into private practice
20 at Richard Breibart's law firm. I opened up a law
21 office here in Lexington in 2010. In 2014, I became
22 a municipal court judge in the city of Mauldin. I
23 don't think I missed anything.

24 Q. Okay. How did you come to be involved in
25 Mr. Sightler's case?

1 A. I was appointed to Mr. Sightler's case under a
2 608 SCCID case. I'm a contract attorney with them.

3 Q. Okay. What is your understanding of the facts
4 of the case, as best as you remember them?

5 A. So my understanding is that a young lady was
6 friends with a gentleman. The gentleman was
7 Mr. Maples who is the truck owner.

8 At some point, she had came in contact -- and I
9 don't know the relationship with Mr. Sightler and
10 Ms. Register. But at some point, Mr. Sightler had
11 seen a truck and communicated to Ms. Register he
12 likes that truck and he wants it. Then, some
13 communication occurred between those two in regards
14 to going to a hotel.

15 Once the -- once she was at the hotel with
16 Mr. Maples, Mr. Sightler was brought there by the
17 other codefendant, Mr. Lyons; let out of the car,
18 which is captured on the surveillance video; he's
19 dressed in all black; he goes to the hotel room.

20 Mr. Maples is not there at the time.
21 Mr. Sightler, who is supposedly inside of the all
22 black in the room; Mr. Maples comes into the room;
23 Mr. Sightler comes out the bathroom, holds a gun to
24 Mr. Maples -- back of his head, that's what the
25 facts were alleging, and that's when the keys are

1 taken.

2 At that time, Mr. Sightler leaves with
3 Mr. Lyons in the truck which is Mr. Maples' truck.
4 Mr. Lyons gets out of his car, gets into the
5 passenger seat of the truck -- Mr. Maples' truck.
6 The truck is subsequently involved -- a few days
7 later, involved in a high-speed chase.

8 A wreck occurs in that truck where Mr. Sightler
9 and, I think, someone else is in the truck. I can't
10 recall correctly. Mr. Sightler initially denies
11 driving the vehicle. He's arrested for that. And
12 that's kind of synopsis of what the facts --

13 Q. Okay. So like a setup to steal this guy's
14 truck or whatever else?

15 A. That's what they alleged and that's what law
16 enforcement was able to uncover. What they ended up
17 doing was subpoenaing Facebook records. And
18 Facebook records, during the subpoena time, shows
19 communication between Ms. Register as well as
20 Mr. Sightler within those Facebook records. And
21 they identify from Facebook and the text messages
22 between those two individuals.

23 Ms. Register is the female, obviously. But
24 there's several communications between "come to the
25 hotel," "this is the room number." Then they

1 reference the truck and is going -- what happens
2 after the event occurred, things of that nature.

3 Q. Okay. I guess I'll come back to that a little
4 bit in a minute. When you were representing him,
5 how many times did you meet with Mr. Sightler?

6 A. Let's see. So at LCDC, we have January 22nd,
7 2019.

8 Q. And that's the Lexington County jail?

9 A. Yes.

10 Q. Okay.

11 A. We have March 27th, 2019; we have April 11th,
12 2019; we have May 1st, 2019; we have July 18th,
13 2019; then we have July 19th, 2019, before the plea
14 on the 24th. So there's one, two, three, four,
15 five, six.

16 Q. Okay.

17 A. And that doesn't include -- well, that's with
18 just Mr. Sightler.

19 Q. Okay. Did you communicate with him by phone,
20 mail, or e-mail outside of those meetings?

21 A. I don't think so.

22 Q. Okay. So it was mostly face-to-face?

23 A. Face-to-face. I prefer face-to-face
24 communications with clients because I want to be
25 able to convey -- I feel it makes them more

1 comfortable if they know that you're there.

2 Q. Okay.

3 A. Because at the time, they feel like no one is
4 there for them at all. So I want to make sure that
5 I visit my clients and not just talking to them over
6 the phone or emails or anything of that nature.

7 Q. Okay. And you talked a minute ago about the
8 discovery. Did you review the discovery with
9 Mr. Sightler?

10 A. Yes. On May the 1st, 2019, I printed the
11 discovery and provided it to the client. I had my
12 copy, he had his copy. We discussed the evidence
13 that we had shown there, the printed discovery,
14 while I was there visiting him.

15 That's when I also informed him that there was
16 no plea offer -- well, about the plea offer from the
17 solicitor. So, yes, I did.

18 Q. Okay.

19 A. So I provided him his own copy; my own copy, we
20 went over what we could at that time. I allowed him
21 to keep and retain his copy and then, you know, we
22 could continue to discuss every time I come back,
23 about the discovery.

24 Q. Did you have any evidence like photographs or
25 videos in this case?

1 A. Surveillance. There was surveillance video. I
2 turned that over to Mr. Thomas for this PCR. But
3 that is what we have there.

4 Now, there were photos. There were copies of
5 the messages between Ms. Register and Mr. Sightler
6 that was included in the discovery that was provided
7 to Mr. Sightler as well.

8 Q. Okay. So surveillance -- surveillance of what?

9 A. Outside of the hotel.

10 Q. Okay. Did you either show it to Mr. Sightler
11 or discuss it with him?

12 A. Yeah. There are still pictures that were
13 provided in the discovery as well. I provided that
14 to Mr. Sightler at the time. So there were still
15 pictures from the surveillance itself that are still
16 included within the discovery.

17 Q. Okay. Did the codefendants give any statements
18 in this case?

19 A. Oh, yes. So Ms. Sightler -- excuse me,
20 Ms. Register and Mr. Lyons both provided detailed
21 statements at their time of arrest that detail how
22 everything occurred. And they both pointed to
23 Mr. Sightler as the one who robbed Mr. Maples.

24 Q. When you said the one who robbed, you mean the
25 one holding the gun?

1 A. Holding the gun, yeah.

2 Q. Okay. Did you discuss that with Mr. Sightler,
3 the statements?

4 A. I did. We had to discuss that at length
5 because, if we were to go to trial, that would be an
6 issue. And it became an issue because on July -- on
7 July 18th, when I went to visit a client at
8 Lexington County Detention Center, just prior to
9 this, the assistant solicitor, Sutania Fuller, had
10 advised me that Ms. Register was willing to testify
11 against Mr. Sightler.

12 Q. Okay.

13 A. Now, she indicated one of them at that time.
14 And I don't have notes saying -- saying about the
15 other one. But he had already provided a statement
16 as well. So --

17 Q. Okay. Did you discuss the fact that at least
18 one of the codefendants would testify against
19 Mr. Sightler at trial with him?

20 A. Yes.

21 Q. Okay. What was his response to that?

22 A. I don't recall exactly what was response was.
23 But it was concerning to me, as a defense attorney
24 trying to represent my client, that if you have
25 codefendants that are willing to get on the stand

1 and testify, admit their part of the actual event
2 and then testify against my client, I thought that
3 would be difficult in front of a jury.

4 Q. Okay. So when you were thinking over this
5 case, deciding how strong of a case the State had,
6 what was your preview of what you thought would be
7 the hard points for the defense at trial?

8 A. These are our issues.

9 Q. Okay.

10 A. We have communication before the event between
11 Ms. Register and Mr. Sightler that is documented and
12 tracked through -- well, excuse me, through a search
13 warrant for Facebook as well as text messages at the
14 time, establishing a time, date, and location
15 between the two.

16 We have the event. Now, we have the alleged
17 event that occurs. The text messages corroborate
18 how the event occurred that's captured on
19 surveillance and still photos at the time. Then, we
20 have -- now, those text messages and Facebook
21 messages are not obtained until after the event
22 occurs.

23 Then we have Ms. Register and Mr. Lyons both
24 provide and admit their part of this, and provide
25 statements implicating my client as the one who had

1 the gun and facilitated the actual event. Those
2 were difficult.

3 Furthermore, the truck that was alleged to have
4 been stolen was in my client's possession during a
5 high-speed chase, then there were black clothing
6 that was found that matches the description that was
7 provided on surveillance by the victim saying he was
8 dressed in all black that was found in the truck
9 with Mr. Sightler.

10 Those are very concerning. Those are the tough
11 parts of the case. Even if I bring out during the
12 trial, well, my client -- whoever was in the room,
13 if they were wearing all black, you can't identify
14 this person, can you, Mr. Maples? No, I can't.

15 Circumstantially, the two codefendants are
16 going to identify my client as the one who was
17 dressed in that all black, and then the all black
18 was found in the truck when it's wrecked during the
19 high-speed chase.

20 So those were some tough issues to over come
21 going to trial. Now, I love going to trial, but
22 some evidence you can't change.

23 Q. So other than reviewing the discovery the State
24 provided, did you do any sort of investigation
25 outside of that?

1 A. The investigation had almost all been completed
2 by law enforcement. Everything had literally been
3 given to them either by way of surveillance video,
4 Facebook messages and/or text messages, and two
5 full-blown statements. What I needed to watch out
6 here for is would one of those codefendants be
7 willing to testify against my client?

8 Q. Did Mr. Sightler give you any leads or other
9 things he wanted you to follow up on?

10 A. No.

11 Q. Okay. So when you sitting with Mr. Sightler
12 and telling him your advice about the chance of
13 success at trial for the defense, what did you tell
14 him?

15 A. There's always a chance, but those are some
16 issues that would be difficult to overcome. Okay?
17 You're either going to the gusto, not guilty on all
18 charges, and we've been able to overcome that
19 before. But are you able willing to live with the
20 sentence that comes along with being convicted and
21 possibly getting the max? Or would you want to go
22 ahead and limit your exposure so we know at least
23 where a range could be? Okay.

24 So I told him, you know the chances are -- they
25 minimize when you have codefendants and then this

1 tangible evidence that a jury can look at during a
2 jury trial whether you'd be successful or not. But,
3 ultimately, it's his decision.

4 Q. So tell me about the plea offer in this case.

5 A. Yes. So when me and Mr. Sightler met, we
6 talked about the case, the evidence, the charges, so
7 and so forth, he initially wanted a strong armed
8 robbery. I went back to the solicitor. The
9 solicitor said, no, it's too violent, I'm not giving
10 a strong armed robbery on this.

11 I went back to the client and advised him that
12 she would not provide a strong arm robbery on this
13 case. That's when she come back with a
14 counter-offer of a recommended 15 to seven year --
15 well seven to 15 years on an attempted armed
16 robbery.

17 I went back to my client and advised him of
18 that, but I also, doing my due diligence and
19 ethically had to advise him, the Judge does not have
20 to stick with that; the Judge can go outside of that
21 range and go to the max and run things consecutive
22 as well.

23 So I went back to her, and I convinced her to
24 do a negotiated seven to 15 in an attempted armed
25 robbery, reducing the armed robbery down from the

1 mandatory minimum of ten, up to 30, down to an
2 attempted armed robbery and give me a chance of
3 trying to get the seven, and it's between seven and
4 15. A Judge can't go between it -- go outside of
5 that range itself because it's a negotiated.

6 Q. Okay. And that's the deal Mr. Sightler
7 ultimately accepted?

8 A. Yes.

9 Q. And part of that was is all those other charges
10 outside of failure to stop and attempted armed
11 robbery would be dismissed?

12 A. Yes, including the kidnapping, grand larceny,
13 criminal conspiracy. There's a plethora of charges.

14 Q. So essentially -- I mean, just in -- if
15 sentences had been run consecutively and he had been
16 convicted of everything in trial, he could have been
17 looking at, basically, a sentence that would have
18 amounted to the rest of his life --

19 A. Yes.

20 Q. -- and down to the negotiated seven to 15
21 range?

22 A. Yes. Just looking at the maximum on it, got an
23 armed robbery ten to 30; got a grand larceny up to
24 ten on that particular grand larceny; got an assault
25 and battery first degree, so that's maximum 30,

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1 maximum ten, another maximum ten. So that's 40, 50;
2 kidnapping up to 30, that's 80; possession of a
3 weapon during a violent crime, another five
4 consecutive; and then criminal conspiracy, another
5 five.

6 Q. Okay. So when you explained it, did you try to
7 make sure Mr. Sightler understood that if the Judge
8 accepted that deal, that he would spend between
9 seven and fifteen years in prison?

10 A. Yes.

11 Q. Okay. Did he give you any reason to believe he
12 didn't understand that that would be locked in?

13 A. No. He's very intelligent.

14 Q. Did you make sort of promises that something
15 outside of that range could happen?

16 A. No.

17 Q. Okay.

18 A. I knew something outside of that range of seven
19 to 15 couldn't happen; either the Judge is going to
20 reject the plea or he's going to sentence within
21 that range.

22 Q. Okay. So I want to talk now about the plea
23 hearing. Have you been able to look at the
24 transcript?

25 A. This morning.

1 Q. Okay. You see in there where Ms. Fuller, the
2 solicitor, said she thinks, in her opinion, that
3 Mr. Sightler was the most culpable of the
4 co-defendants?

5 A. I do.

6 Q. Okay. Did she say that he was the mastermind
7 or just the most culpable?

8 A. If I recall correctly, I think it's most
9 culpable.

10 Q. Okay. At the time, did you see any reason to
11 say that's incorrect, I object to that, or anything
12 like that?

13 A. Well, that's going to be their opinion. Okay?
14 That's their opinion. How do you rebut that during
15 a plea hearing when, during the hearing, it's
16 intimated to the Court that he is the one with a
17 gun?

18 So I didn't know if it would serve any purpose
19 of, Your Honor, I object to that. And the State,
20 all they'd have to say, that's may opinion, that's
21 how we would have presented the case if it were to
22 go to trial.

23 Q. And, you know, if you've read it, would you
24 agree with me that Mr. Sightler, after hearing the
25 solicitor's recitation of facts, which included an

1 allegation that he was the one holding the gun, he
2 agreed that her facts were correct, generally?

3 A. Yes.

4 Q. . Okay. Did you think there could be any
5 pitfalls in, you know, pushing back against the
6 State's allegations at a plea hearing like that?

7 A. I didn't see where it would help us. I didn't
8 truly see where it would help us at that point,
9 because I wanted to concentrate on -- so wanted to
10 concentrate on getting sympathy from the Court and
11 try to help the Judge to understand, how did we get
12 here?

13 . And we got here because of the events,
14 traumatic events, that happened to my client just
15 prior to these -- all three incidents; the two --
16 well, the armed robbery, the failure to stop for a
17 blue light, and the Texas event as well. And that's
18 what I detailed during my mitigation at the time to
19 try to help the Court to understand what is going on
20 at this time.

21 Q. Okay. Will you look at page 20 of the plea
22 transcript with me. And if you see about on line
23 17, would you agree with me there that Judge McLeod
24 made a comment that the fact that they'd dropped the
25 charges and had a -- I'm sorry, that this was a

1 negotiated range, was gracious, considering the
2 facts of the case?

3 A. Yes. The Court, during the hearing, I see it
4 here in the transcript, is basically saying that,
5 you know, the Solicitor's Office gave us a range
6 that was favorable to the client, considering the
7 facts.

8 Q. Okay. And then beginning on line 24 there and
9 continuing on to about line 7 of page 21, would you
10 agree that Judge McLeod essentially says he's not
11 going to concern himself with anything that happened
12 in Texas?

13 A. That's correct.

14 Q. All right.

15 A. Now, ironically, what I was trying to do when
16 they brought that up -- we could have attempted to
17 use that as a way to get on the lower end of the
18 sentence itself. The Court already indicated they
19 weren't going to consider anything out of Texas.
20 Because I've seen before -- if I had a client and he
21 got a pending charge in another state, then the
22 judge is just going to, okay, I'm going to give him
23 a lower sentence.

24 But every judge is different. There's no
25 playbook as to how a judge is going to interpret

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1 anything at all regarding any plea hearing or
2 matters outside of their jurisdiction itself.

3 MR. SMITH: Okay. All right. Just one moment,
4 please.

5 Okay. Thank you. No more questions.

6 THE COURT: All right, sir.

7 Cross?

8 MR. THOMAS: Your Honor, may I beg the Court's
9 indulgence just for a second or two?

10 THE COURT: Yes, sir.

11 MR. THOMAS: Your Honor, I apologize. Just a
12 second.

13 THE COURT: Take your time. Take your time.

14 MR. THOMAS: Thank you.

15 Your Honor, I've just got a couple questions.

16 CROSS-EXAMINATION

17 BY MR. THOMAS:

18 Q. Counsel, I appreciate you being here today.

19 Thank you. Just a couple of questions.

20 A. Yes, sir.

21 Q. In -- you said in negotiating the plea offer
22 that Bobby kept wanting a strong arm.

23 A. Yes.

24 Q. Hearing his testimony today, you think that was
25 because he didn't have a gun? I mean, were you

1 ever -- I guess -- I'll ask you that question first
2 before I ask you the follow-up.

3 A. I didn't think that was the reason for
4 requesting the strong arm.

5 Q. Right?

6 A. The reason for the strong arm is because of
7 parole. That's what we discussed. He didn't want
8 one that would have an 85 percent time that he has
9 to serve in SCDC. It wasn't because of the gun.

10 Q. So you don't think it was because he was
11 alleging that he didn't have a weapon?

12 A. No.

13 Q. Okay.

14 A. Not during the time of when we were discussing.
15 It was because of -- he is familiar with the SCDC
16 system and the statutes that go along with it. I
17 also had to advise him about these are most violent,
18 most serious crimes. Any time you get on them would
19 be 85 percent of the crime. But he's aware, common
20 law strong arm robbery is a parolable offense.

21 Q. Right.

22 A. So that was my understanding at the time.

23 MR. THOMAS: Your Honor.

24 Q. So were you ever able to conclusively determine
25 whether or not he had a gun or not?

1 A. The only thing that I can base it off of would
2 be what the -- what -- the alleged victim, as well
3 as Ms. Register, who was in the room, she gave a
4 detailed statement about it.

5 Q. Right. And you took into consideration, of
6 course, Ms. Register's vested interest in saying
7 that Bobby had the gun and Bobby set everything up?

8 A. Yes.

9 Q. All right. Did you investigate at all into the
10 situation of -- that they were called to come over
11 because she was in some sort of distress?

12 A. No. I could not interview her, because she
13 was --

14 Q. No. But I mean -- but you didn't see any other
15 evidence from law enforcement's investigation or
16 anything?

17 A. No. There was nothing to indicate that --
18 because everything -- once she provided a statement
19 that corroborated with her messages and Facebook
20 messages between or saying between her and
21 Mr. Sightler, then any of that theory at that time
22 was gone out the window.

23 The only investigation I would be able to do,
24 if there was an allegation, is place my client on
25 the stand at trial. But we'd have to go to trial;

1 we'd have to forego and turn down a plea offer that
2 was favorable to my client when he's facing, in
3 excess, around ninety years. We'd have to go to
4 trial in order for my client to get on the stand to
5 say this is my theory of what happened; this is why
6 I went --

7 Q. Tell his story.

8 A. Tell his story. That exposes my client then to
9 being cross-examined by a prosecutor who would then
10 be able to bring up didn't you just come from prison
11 on accessory after attempted murder? And it opened
12 up a Pandora's box.

13 So I'm having to weigh all of those things when
14 looking at what to chase down, as far as
15 investigation, and what to hone in. I need to limit
16 my client's exposure. I didn't want him to do a lot
17 of time at all. I didn't want him to do any time.

18 Q. Right.

19 A. But I have to be realistic in my assessment of
20 a trial because not all wins, as a defense attorney,
21 through all my years of practice at this point,
22 involve someone walking out of a courtroom.
23 Sometimes you have to mitigate it and reduce the
24 amount of time they're at least facing.

25 Q. Right, right. All right. And I think the

1 Court does indicate that, you know, in what the
2 attorney general pointed out about the gracious --
3 that this offer was gracious under the facts.
4 Clearly, the court was considering everything
5 including the Texas situation, the parole situation,
6 all of that?

7 A. By that statement, yes, if you're taking it
8 without the other statement that the Court states
9 that they're not considering what --

10 Q. Considering Texas.

11 A. Yes, sir.

12 Q. I don't know the answer to this question, so
13 I'll ask you.

14 A. Yes, sir.

15 Q. There are two sides to this story. One of them
16 is that, of course, Bobby did everything they said
17 he did, and the other one is that Ms. Register is
18 kind of the -- one of the villains in this case and
19 used Bobby and set him up.

20 The only way to have gotten that factual
21 situation into -- in front of the Court for the
22 Judge to consider in sentencing would have been
23 probably, what, an Alford plea?

24 A. Well, Alford plea is not admitting to the
25 facts; it's saying there's sufficient evidence that,

1 if it were to go to trial, a jury would more than
2 likely convict me of this.

3 Q. And my concern is that, you know, Bobby is
4 saying, and he's said all along to me during the
5 representation, that I didn't have a gun, I didn't
6 do this, she set me up, blah, blah, blah. If you
7 had presented that in court, then it's possible that
8 you'd have had to stand down, because the Court
9 would have said you're not admitting that you're
10 guilty to this crime?

11 A. Yes, that's correct.

12 Q. Did you or could you have considered an Alford
13 plea where you could have gotten that information in
14 to the Court that there's another side to this story
15 under Alford saying that, I'm not guilty of the
16 armed robbery, but I'm afraid that if I go to trial,
17 I'll be convicted?

18 A. I guess that was a possibility.

19 Q. Okay.

20 A. Yes, sir.

21 Q. All right.

22 A. I don't know if it would have made a difference
23 in sentencing though.

24 Q. Yeah.

25 A. Yeah. Maybe it could. And it's important --

REDIRECT EXAMINATION OF DERRICK MOBLEY BY MR. SMITH

59

1 and I realize that because I'm a big advocate for my
2 clients and anyone who is arrested. It's important
3 for people to be able to tell their side of the
4 story.

5 Q. Yes, sir. Yes, sir.

6 A. And that's important. And I never want to
7 denigrate that or belittle it at all. And that's
8 with Mr. Sightler as well. I don't think it would
9 have made a difference in the hearing, but possibly.

10 Q. All right.

11 Your Honor, I have no further questions.

12 THE COURT: Redirect, sir?

13 MR. SMITH: Just a few questions, your Honor.

14 REDIRECT EXAMINATION

15 BY MR. SMITH:

16 Q. Mr. Mobley, did the victim give a statement to
17 the police, too?

18 A. Yes.

19 Q. Okay. Did that statement indicate that someone
20 had put a gun to his head?

21 A. If I recall the -- I haven't looked at that
22 statement in years at this point. But something
23 hard was pressed against his head. Ms. Register
24 goes on later and makes the statement that Bobby had
25 a gun.

1 Because I don't think that the victim -- one,
2 he would not have been able to identify Mr. Sightler
3 or anyone, any -- whoever the perpetrator was as
4 being the person dressed in all black.

5 He wouldn't have been able to identify
6 positively on the stand, because I was going to have
7 to attack him on the stand.

8 You don't know what was pressed on the back of
9 your head, do you? That would have been one of my
10 questions. He's going to say, no.

11 You're just assuming that was a gun, correct?

12 Yes.

13 You couldn't identify that person because they
14 were dressed in all black, correct?

15 Yes.

16 Then, if the State places up their witness:
17 Ms. Lyons, you were there, correct? Didn't you take
18 participation in this?

19 Yes.

20 Did you arrange this with Mr. Sightler?

21 Yes.

22 Are these your text messages and your Facebook
23 messages with Mr. Sightler?

24 Yes.

25 Did you show up at the hotel?

1 Yes.

2 Did you tell him to go ahead and come into the
3 room?

4 Yes.

5 What -- who was all dressed in all black and
6 what was pressed against their head? Boom.

7 Q. Well, don't you run into the situation too of
8 if, you know, the average person has something
9 pressed into the back of their head during a
10 robbery, they assume that's a gun?

11 A. Yes.

12 Q. And probably seems like even if it's not a gun,
13 the person pressing it to the back of your head
14 wants you to take it that way?

15 A. Would want you to take it that way.

16 Q. Okay. So you have no idea what the solicitor
17 would have thought about an Alford plea issue,
18 right?

19 A. No.

20 Q. Okay. And I'm looking here at page 17 of the
21 plea transcript. Would you agree with me that part
22 of your mitigation was that Mr. Sightler was taking
23 responsibility in asking for mercy of the Court?

24 A. Yes.

25 Q. Okay. Thank you.

1 A. We make sure we intimated that to the Court at
2 the time. I wanted to make Mr. Sightler as soft as
3 possible in front of the Court and remorseful
4 because, most of the time, the Judges respond
5 favorably to that.

6 Honestly, I'll be very candid, I think if we
7 had not have had that cap on this incident, he would
8 have gotten more than 15 years. I think the cap
9 negotiated stopped the Judge from going further.
10 When I'm looking back at the transcript and the
11 feeling that I feel after reading it, like, oh,
12 yeah, I remember, I left out of there saying I'm
13 glad we got a cap on this.

14 Q. And if I look on page 21, lines 16 through 23,
15 would you agree with me there that the Judge says,
16 because of the facts of the robbery and the police
17 chase, that he thinks Mr. Sightler is a danger to
18 the public?

19 A. What line is that?

20 Q. 16 through 23 of page 21.

21 A. Oh, yes.

22 Q. Okay.

23 A. He's basically saying that the mitigation in
24 itself was the range.

25 Q. Thank you. No more questions.

1 THE COURT: Mr. Thomas?

2 MR. THOMAS: Nothing further, your Honor.

3 THE COURT: Anything else from the State?

4 MR. SMITH: The State rests.

5 THE COURT: All right, y'all. Let's take a
6 break while he returns to out of the room. Out of
7 the room, I want to read the plea transcript. I
8 would like to rule on this one here shortly. Just
9 bear with me for a few minutes, please. Thank you
10 so much.

11 MR. THOMAS: Thank you, your Honor.

12 (Court in recess 11:12 AM - 11:29 AM.)

13 THE COURT: Thank you very much. I've had a
14 chance to review my notes. I commend both lawyers
15 for being prepared and concise, not being redundant
16 and, most of all, for being civil to each other.

17 And, Mr. Sightler, I find you to be an
18 intelligent man. You engaged in the questioning
19 process, listened carefully, and you, too, were very
20 civil and descent. And I appreciate that.

21 My job is to hear cases and make rulings
22 without favoring or disfavoring any party, and
23 that's what I've done here in my opinion. The
24 burden of proof in a PCR, as we all know, is beyond
25 the preponderance of the evidence. Regrettably,

1 Mr. Sightler, I don't find that you met your burden
2 of proof today. I don't mean that in a bad way.
3 But I find most of all, if not all, of your
4 allegations were conclusory in nature, which means
5 they didn't contain information to support the
6 consequence that you complain about.

7 There was an allegation, Mr. Sightler, about
8 not enough time to talk with my lawyer; we never had
9 good one-on-one time. We have testimony from your
10 lawyer that you met at least six times before the
11 plea date and then on that date.

12 There was that urge by you, Mr. Sightler, and I
13 don't blame you, to basically kind of try your case
14 today and tell me why the evidence wasn't what it
15 was presented at court. Well, we don't do that at
16 the PCR hearing today. I've heard there was
17 evidence of a codefendant's statement against you, a
18 victim's statement against you; being found in the
19 truck and possession of a weapon which, I'll give
20 you credit, you didn't contest the truck part or the
21 failure to stop for blue light.

22 Then we come to the guilty plea in the
23 courtroom, which is 14 pages long, several pages
24 devoted to the description of the event where,
25 Mr. Sightler, at the very end, I marked it down,

1 sir, I know you've read it many, many times
2 yourself, sir -- I left it on the desk -- but where
3 the Judge asked you, essentially, is this correct,
4 generally correct, and your answer was, yes, yes it
5 was.

6 That was the crucial time, probably the most
7 crucial time, if not the last chance, to say, no,
8 that's not correct, I did not have a weapon, I did
9 not have the gun.

10 As far as the ineffective assistance of counsel
11 in the broad description, I find that the defense
12 attorney's answers heavily supported what we call
13 trial strategy, trying to fashion the best outcome
14 for you, Mr. Sightler.

15 I counted nine charges against you initially,
16 which all had been addressed with guilty pleas at a
17 trial. I got 90 years, I think, written down here.
18 And you could have been consecutive 90 years. They
19 ended up being two charges that you -- the ones you
20 did all the pleas to.

21 I find that, overall, your attorney did secure
22 the best outcome he could. And he made a very
23 notable comment in his testimony. And I think he's
24 right, to a degree, that winning in a criminal case
25 is a relative term. Sometimes winning means that

1 your client was prevented or kept from getting the
2 harshest sentence possible. We often say that about
3 family court: There are no winners in family court,
4 you just get the best outcome you can.

5 So, for those reasons, I do, Mr. Sightler, with
6 all respect to you, deny your application for a new
7 trial or to vacate your sentence; not because of
8 anything you did wrong today, not because of
9 anything that was cited in your plea. I'm not here
10 to judge any of that today. My focus today is very
11 limited. Your lawyer did a good job, and the
12 State's lawyer did a good job.

13 I'll ask the State to please prepare an order.
14 And in that order, if I amiss explicitly stating a
15 ruling or a finding today, sir, you may place it in
16 the order; and when I read it, if I find it's
17 supported by what we heard today, I may or may not
18 adopt that. And please have a copy provided to
19 opposing counsel. And I thank all of you for your
20 patience very much.

21 Mr. Sightler, I wish you the best, sir.

22 MR. THOMAS: Thank you, your Honor.

23 MR. SMITH: May I say one more thing, your
24 Honor?

25 THE COURT: Yes, sir.

1 MR. SMITH: Your Honor mentioned that he read
2 the plea transcript and said it was 14 pages. I
3 just wanted it clear for the record that it's 23.
4 I'm sure that it was a misstatement, but I didn't
5 want any --

6 THE COURT: You're right. The plea portion was
7 14 pages. You're right. I didn't mean to mislead
8 you on that. Thank you very much.

9 MR. SMITH: All right.

10 -- END OF TRANSCRIPT OF RECORD --

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1 C E R T I F I C A T E

2

3 STATE OF SOUTH CAROLINA

4 COUNTY OF LEXINGTON

5

6 I, the undersigned, Bethanie K. Creppon, Circuit
7 Court Reporter for the Second Judicial Circuit of
8 the State of South Carolina, do hereby certify that
9 the foregoing is a true, accurate and complete
10 transcript of record of all the proceedings had and
11 the evidence introduced in the hearing of the
12 captioned cause, relative to appeal in the Circuit
13 Court for Lexington County, South Carolina, on the
14 12th of October, 2022.

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

17

18

June 6, 2024

19

s/Bethanie K. Creppon

20

21

Bethanie K. Creppon
Circuit Court Reporter

22

23

24

25

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

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

)
) Bobby George Sightler, SCDC #360696,
)

) Case No. 2020-CP-32-4043
)

) Applicant,
)

) v.
)

) **ORDER OF DISMISSAL**
)

) State of South Carolina,
)

) Respondent.
)
)

FILED
2024 MAR 14 AM 9:06
LISA M. CONER
CLERK OF COURT
LEXINGTON, SC

This matter comes before this Court by way of Applicant Bobby George Sightler's Application for Post-Conviction Relief and Amendment to Application for Post-Conviction Relief filed December 7, 2020 and September 29, 2022, challenging his decision to plead guilty to attempted armed robbery and failure to stop for an officer in Lexington County, South Carolina. Applicant's Application and Amended Application allege "involuntary guilty plea" and "ineffective assistance of counsel" as the grounds for the Applications. An evidentiary hearing on this action was convened October 12, 2022 before this Court. Applicant appeared at the proceeding with his counsel, Tommy A. Thomas. Respondent State of South Carolina was represented by Taylor Smith of the South Carolina Attorney General's Office. Applicant proceeded forward on the claims raised in his Application and Amended Application. This Court heard testimony from Applicant and his former trial counsel, Derrick Mobley ("Counsel").

Following a review of the record, including the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant has failed to establish any constitutional violations or deprivations entitling him to relief and, accordingly, denies and dismisses this action with prejudice. Specific findings of fact and conclusions of law as required pursuant to S.C. Code Ann. § 17-27-80 are set forth below:

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Lexington County Clerk of Court. Applicant was arrested on August 3, 2018, following an investigation into an armed robbery involving Applicant and two co-defendants, Laklyn Register and Joseph Lyons. On July 24, 2019, Applicant appeared before the Honorable Walton J. McLeod, IV, waived presentment to the grand jury, and pleaded guilty to attempted armed robbery (2019-GS-32-2713) and failure to stop for a blue light (2019-GS-32-2714).¹ Derek Mobley, Esquire (“Counsel”) represented Applicant and Assistant Solicitor Sutania Fuller prosecuted the case. In accordance with the negotiated sentencing range of seven to fifteen years, Judge McLeod sentenced Applicant to concurrent terms of fifteen years’ imprisonment for armed robbery and three years for failure to stop for a blue light. Applicant did not appeal his plea or sentences.

II. FACTUAL HISTORY

On August 9, 2018, David Maples (“Victim”) called 911 to report he had been robbed at America’s Best Value Inn in West Columbia. (Plea Transcript (hereafter “Tr.”), pp. 10–11). He stated that his cousin’s ex-girlfriend, Laklyn Register, contacted him about getting a hotel room. (Tr. p. 11). He told her he could get a room and that he already had some drugs with him. (Tr. p. 12). At some point, the Victim had to leave the motel to withdraw funds for a construction job. (Tr. p. 11). When he returned to the room, a man who was later identified as Applicant came around the corner and put a gun to the back of his head. (Tr. pp. 11–12). Applicant demanded the

¹ Applicant was originally charged with armed robbery, kidnapping, criminal conspiracy, grand larceny, first-degree assault and battery, possession of a stolen vehicle, possession of a weapon during the commission of a violent crime, receiving stolen goods, and failure to stop for a blue light. (Tr. pp. 4–5). The companion charges were *nolle prossed* in exchange for Applicant’s plea. (Tr. p. 5).

Victim give him his keys, phone, and wallet, or he would blow his brains out. (Tr. p. 12). Applicant ended up only taking the Victim's keys before fleeing. (Tr. p. 12).

Applicant was apprehended several days later after engaging in a high-speed police chase with law enforcement, where speeds reached were in excess of 110 miles per hour. (Tr. pp. 12-13). The chase ended when Applicant wrecked the Victim's vehicle at the intersection of Pooles Mill Road and Wofford Road. (Tr. p. 13).

At the time of his arrest, Applicant was on parole for accessory after the fact and distribution of methamphetamine charges out of Orangeburg County. (Tr. pp. 13, 18). Shortly after being released on bond for the Lexington charges, Applicant fled to Texas. (Tr. pp. 13-14). While in Texas, he picked up new felony charges. (Tr. p. 13). Defendant's prior record includes a 2011 DUS and a 2014 plea to accessory after the fact of an attempted murder. Applicant was released from custody in June of 2017, and the incident he was charged with in this proceeding occurred 14 months later. (Tr. p. 14.)

III. ALLEGATIONS BEFORE THE COURT

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

1. Ineffective assistance of counsel
2. Involuntary guilty plea

Applicant requests relief in the form of a new trial. On June 14, 2021, Respondent filed a return and motion for a more definite statement. Subsequently, an "Amendment to Application for Post Conviction Relief" was filed on Applicant's behalf. The Amendment adopted the grounds of Applicant's original filing and further alleged as additional grounds regarding his claim of ineffective assistance of counsel that:

- (1) The plea was involuntary;

- (2) Counsel failed to adequately investigate the facts of the crime, which prejudiced Applicant at the plea; and
- (3) Counsel failed to adequately address the issue of culpability, resulting in Applicant getting a larger sentence than a co-defendant.

(Amendment to Application for Post Conviction Relief, 9/29/2022.)

An evidentiary hearing was held on October 12, 2022, before this Court. Findings have been made on each of the points argued at the hearing.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Standard of Review:

Ineffective Assistance of Counsel and Guilty Pleas generally

The grounds for relief upon which Applicant proceeded at the evidentiary hearing pertain to alleged ineffective assistance of counsel and involuntary guilty plea. The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to effective assistance of counsel. Strickland v. Washington, 466 U.S. 668 (1984); Taylor v. State, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). It is common that post-conviction relief allegations are centered upon an allegation that the applicant did not receive effective assistance of counsel guaranteed by the Sixth Amendment. The allegation of denial of such representation raises a question of fact that can only be determined by an evidentiary hearing. Rogers v. State, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief hearing, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(c), SCRCP; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland to determine whether counsel’s conduct “was so ineffective as to require reversal” of the applicant’s conviction.



Strickland, 466 U.S. at 687. To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. Id. at 687–88; Cherry v. State, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. Strickland, 466 U.S. at 700; see also Bell v. Cone, 535 U.S. 685, 695 (2002) (explaining that “[w]ithout proof of both deficient performance and prejudice to the defense, . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable” (citation and internal quotation marks omitted)).

As aforementioned, the Applicant has the burden of establishing both deficiency and prejudice in order to be entitled to relief. Hughes v. State, 346 S.C. 554, 558, 552 S.E.2d 315, 317 (2001); Rule 71.1(e), SCRPC. To prove deficient performance, the applicant must establish that, in light of all the circumstances, the acts or omissions complained of “were outside the wide range of competence” demanded of attorneys in criminal cases. Strickland, 466 U.S. at 688. To prove prejudice, the applicant must establish that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Id. at 694. A reasonable probability is a probability “sufficient to undermine confidence in the outcome.” Id. Significantly, “the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged.” Id. at 696.

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, Hill v. Lockhart, 474 U.S. 52 (1985), extended the two-part Strickland test to challenge guilty pleas based on ineffective assistance of counsel. See Padilla v. Kentucky, 559 U.S. 356, 373 (2010) (recognizing that the guilty plea process is a “critical phase of litigation” for purposes of the Sixth Amendment right to effective assistance of counsel). When reviewing a guilty plea, the analysis



of counsel's performance under the first prong of Strickland remains unchanged—the applicant must show that counsel's representation fell below an objective standard of reasonableness demanded of attorneys in criminal cases. Hill, 474 U.S. at 58–59; accord Thompson v. State, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice to plead guilty was not “within the competence demanded of attorneys in criminal cases.” Hill, 474 U.S. at 56. The second, or “prejudice” prong, however, “focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process.” Id. at 58–59. Specifically, when an applicant claims counsel's deficient performance caused him to accept a plea, the applicant “must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial.” Id. at 59.

This inquiry “focuses on a defendant's decision-making” and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. Lee v. United States, 582 U.S. 357, 364–365, 137 S. Ct. 1958, 1966 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. Padilla, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—*not* whether counsel would have still advised him or her to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999).

Involuntary Guilty Plea

“[I]t is the prerogative of any person to waive his rights, confess, and plead guilty, under judicially defined safeguards, which are adequately enforced.” Reed v. Becka, 333 S.C. 676, 685, 511 S.E.2d 396, 401 (Ct. App. 1999). Accordingly, because a criminal defendant waives several

constitutional rights by pleading guilty, the Due Process Clause requires that guilty pleas are entered into voluntarily, knowingly, and intelligently. Boykin v. Alabama, 395 U.S. 238 (1969); Pittman v. State, 337 S.C. 597, 524 S.E.2d 623 (1999). To be intelligent, a plea must be made by a mentally competent defendant who understands both the charges against him and the consequences of his plea. Brady v. United States, 397 U.S. 742, 748 (1970). To be voluntary, a plea must be free of threats or other coercion that would impermissibly distort the defendant's choice. Id. at 755; see also United States v. Smith, 440 F.2d 521, 528–529 (7th Cir. 1971) (Stevens, J., dissenting) (explaining that voluntariness relates to the trustworthiness of the admission of guilt and binding character of the waiver of the constitutional protections which would be available to the accused if he elected to stand trial).

Before a court can accept a guilty plea, the defendant must be advised of the constitutional rights he or she is waiving; the right to a jury trial, the right to confront one's accusers, and the privilege against self-incrimination. Boykin, 395 U.S. at 243. Additionally, the defendant "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman, 337 S.C. at 599, 524 S.E.2d at 624. The defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993); see generally Wolfe, 326 S.C. 158, 485 S.E.2d 367 (guilty plea not involuntary where the colloquy demonstrated the trial judge asked defendant twice whether he understood there were no promises and that no sentencing recommendations were binding on the judge). To ensure the defendant understands the consequences of his guilty plea, the plea judge "usually questions the defendant about the facts



surrounding the crime and punishment that could be imposed.” Dover v. State, 304 S.C. 433, 434–35, 405 S.E.2d 391, 392 (1991). However, the plea judge “does not have to direct the defendant’s attention to every consequence of his plea provided the record reveals affirmative awareness of the consequences of a guilty plea.” Carter v. State, 329 S.C. 355, 362, 495 S.E.2d 773, 776 (1998).

The test for determining the validity of a guilty plea is “whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant.” North Carolina v. Alford, 400 U.S. 25, 31 (1970). It is “well established that a guilty plea is not rendered invalid because it represents a compromise by defendant, thrusts a difficult judgment upon him, or is motivated by fear of greater punishment.” United States v. Cox, 464 F.2d 937, 942 (6th Cir. 1972) (citing Brady, 397 U.S. 742). The State may properly encourage guilty pleas either by being more lenient to those who enter such pleas, Brady, 397 U.S. at 750–53, or by increasing the risks of punishment on those who do not. Alford, 400 U.S. at 37.

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



his lawyer, and the prosecutor at a guilty plea hearing, as well as any findings made by the judge accepting the plea, constitute a “formidable barrier in any subsequent collateral proceedings”).

The voluntariness of a guilty plea, however, “is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing.” Harres v. Leeke, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984). An applicant who enters a plea on the advice of counsel may “only attack voluntary, knowing and intelligent character of the plea by showing that plea counsel’s representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel’s errors, the [applicant] would not have pled guilty, but would have insisted on going to trial.” Roscoe, 345 S.C. at 20, 546 S.E.2d at 419. In evaluating an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing. Wolfe, 326 S.C. at 165, 458 S.E.2d at 370; cf. Rayford v. State, 314 S.C. 46, 443 S.E.2d 805 (1994) (finding that, where the transcript of the guilty plea proceeding refuted applicant’s claim that he did not understand the terms of a plea bargain, granting PCR was inappropriate notwithstanding applicant’s claim his lawyer misadvised him).

Surmounting Strickland’s high bar is never an easy task, and the strong societal interest in finality has “special force with respect to convictions based on guilty pleas.” Lee, 137 S. Ct. at 1967 (internal citations and quotation marks omitted); cf. Hill, 474 U.S. at 58 (“[R]equiring a ‘prejudice’ showing from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel ‘will serve the fundamental interest in the finality of guilty pleas.’”). Reviewing “[c]ourts should not upset a plea solely because of post hoc assertions



from a defendant about how he would have pleaded but for his attorney's deficiencies." Lee, 137 S. Ct. at 1967. Rather, judges should "look to contemporaneous evidence to substantiate a defendant's expressed preferences." Id. In determining whether a guilty plea was taken in accordance with constitutional standards, the reviewing judge must analyze and consider the entire record, including the transcript of the guilty plea and the evidence presented at the PCR hearing. Harres v. Leeke, 282 S.C. at 134, 318 S.E.2d at 361.

V. FINDINGS AS TO CLAIMS RAISED

Applicant has alleged specific claims of ineffective assistance of trial counsel and involuntary plea and asserts that as a result of Counsel's purported errors, he is entitled to have his sentence vacated. (PCR, p. 6, l. 12-20.) This Court finds Applicant has failed to meet his requisite burden of proof to the allegations, each of which is addressed below:

Allegation #1: The Plea was Involuntary.

Applicant first asserts Counsel was constitutionally ineffective because Applicant was not properly advised in connection with his plea. Specifically, Applicant alleges he thought he would receive eight to ten years based on representations of counsel. (See Amendment to PCR Application.) At the PCR hearing, Applicant gave no testimony to support that he had ever been told this and, instead, alleged he thought that is what he should get based on the facts of his case. (PCR, p. 17, l. 5-10.) He testified he felt like he was over-sentenced for his crime. Id.

I find the evidence and proceedings, as contained in the plea transcript, the PCR hearing and Counsel's testimony, do not support any allegation that Applicant was unaware of the amount of time he faced or that he was coerced into pleading by being told he would receive an eight to ten year sentence. At the plea, the crimes Applicant was accused of committing were laid out by the Solicitor, who then indicated what charges would be dismissed as a result of the plea, and who indicated on the

record “There is a negotiated range of seven to fifteen years on this.” (Tr. p. 4, l. 18 – p. 5, l. 3.) Applicant was asked by the Court, “you understand that if you go through with the plea today, you’ll be facing a range anywhere from seven to fifteen years?”, to which Applicant responded “Yes, sir.” (Tr. p. 6, l. 17.) Twice more Applicant was asked if he understood the range was seven to fifteen years, and each time he responded affirmatively. (*Id.*) Even during the PCR proceeding, the Applicant acknowledged that the plea offer that was made to him was seven to fifteen years. PCR Tr.p. 10, l. 6-16. His suggestion in the amended application that it was an 8-10 year expectation is without factual support, other than as a hope. See Holland v. State, 322 S.C. 111, 470 S.E.2d 378 (1996) (holding that where Respondent testified he knew judge was not required to accept recommendation, Respondent could not complain that his guilty pleas were not knowingly and voluntarily made). Cf. Mabry v. Johnson, 467 U.S. 504, 104 S. Ct. 2543, 81 L. Ed. 2d 437 (1984), disapproved of by Puckett v. United States, 556 U.S. 129, 129 S. Ct. 1423, 173 L. Ed. 2d 266 (2009). His additional complaint, in hindsight, is that he did not get equality of sentencing with his co-defendant. PCR Tr.p. 29. His sentence was within the limits of the negotiation and punishment for the crime. His requests for resentencing within the claims must be denied.²

Next, the Court covered the voluntariness of the plea, and that Applicant was pleading guilty freely and voluntarily, knowingly and intelligently, and because he was guilty. (Tr. pp. 7-10.) Applicant indicated each of these statements was correct. (*Id.*) Applicant further indicated he had not

² Applicant seeks to have his sentence set aside and be resentenced to a lesser term. “His contentions in this respect require little comment. It has long been settled that this Court has no jurisdiction on appeal to correct an allegedly excessive sentence, which is within the limits prescribed by law for the discretion of the trial judge and which is not proved to be the result of partiality, prejudice, oppression or corrupt motive. We deem it unnecessary to cite or refer to the many authorities for this well settled proposition. The record here contains no suggestion, let alone evidence, of any partiality, prejudice, oppression or corrupt motive influencing or affecting the sentence.” Clark v. State, 259 S.C. 378, 382–83, 192 S.E.2d 209, 210–11 (1972).

been threatened or coerced to plead guilty. (Id.) Applicant indicated he was fully satisfied with Counsel, had had enough time to meet with Counsel, had had enough time to discuss his case properly with Counsel, had no complaint with his attorney or anyone else that dealt with the case, and was pleading because of a decision made of his own free will. (Tr. pp. 6-10.)

Counsel testified that he met with Applicant multiple times and reviewed the evidence in the case, and that he both believed there was a factual basis for the plea and that it was in Applicant's best interest to accept the plea. (Tr. pp. 5-6; PCR, pp. 38-48.) Counsel believed if Applicant went to trial, there was sufficient evidence to convict him of the crimes. (Id.) Upon conviction, the armed robbery charge alone carried a ten-year minimum, and Applicant was charged with "a plethora" of other crimes as well. (Tr. pp. 4-5; PCR pp. 47-48.) In an effort to lower Applicant's exposure, Counsel testified he had engaged in multiple negotiations with the Solicitor and had, ultimately, gotten what could have been 90 years, had Applicant been convicted on all charges, down to a negotiated seven to fifteen years. (PCR p. 47, l. 4 – p. 49, l. 21; PCR, p. 56, l. 7- p. 57, l. 3.) At the PCR hearing, Counsel testified that he felt that was a good resolution given the possibility of Applicant getting ninety years if he had gone to trial on all charges. (Id.; see also PCR, p. 62, l. 6-8 ("I'll be very candid, I think if we had not had that cap on this incident, he would have gotten more than fifteen years. I think the cap negotiated stopped the judge from going further.")) Counsel's strategy was to lock the State into seven to fifteen, then argue acceptance of responsibility and sympathy in mitigation, in an effort to get the lowest possible sentence in the range. (Tr. pp. 16-18; PCR, p. 61, l. 21-24.)

Ultimately the choice and the decision to plea were Applicant's. He was informed of the sentences he faced and freely, voluntarily, knowingly, and intelligently chose to plead guilty. This Court finds Applicant has not established any deficiency of Counsel regarding his recommendation

to plea, nor any coercion. Applicant also has not shown Counsel's advice to plead guilty was not within the competence demanded of attorneys in criminal cases. Further, I find the Applicant was advised of the potential sentences he could receive. Applicant has not established either an error by Counsel or that, but for the error, there is a reasonable probability that he would not have pled guilty and, instead, would have insisted on going to trial. Accordingly, this Court denies and dismisses this allegation with prejudice.

Allegation #2: Applicant's Counsel was ineffective for failing to adequately or completely investigate the facts of the crime, which prejudiced Applicant at the plea.

Next, Applicant asserts that Counsel was ineffective for allegedly failing to adequately investigate the case. Specifically, Applicant asserted multiple times at the hearing "they say I robbed a guy at gunpoint," but that he didn't have a gun. (PCR, p. 8, l. 21-24; PCR, p. 12, l. 9-17.) On this point Counsel testified knowledgeably about the evidence against Applicant, including Facebook messages between Applicant and a co-conspirator before the event; messages establishing a time, date and location; surveillance and still photos; the victim's testimony; the clothing worn; statements from both co-conspirators implicating Applicant; and the truck that was stolen being found in Applicant's possession following a wreck after a high-speed chase. (PCR, pp. 44-45.) This paints a very different picture from Applicant's recollection, which was "they didn't have anything." (PCR p. 33, l. 1-2.) Counsel also testified he considered the evidence expected to be put up at trial, and the witnesses expected to take the stand, but acknowledged that his client indicated that this would be an issue if they went to trial with the co-defendants versions. (PCR, pp. 38-39; PCR, pp. 41-46.)³ Counsel testified as to his thought process on how the evidence would

³ Counsel testified that he was aware that both the victim and Register would testify at trial, as in their detailed statements, that Applicant had a gun. PCR Tr.p. 54-55. Counsel feared that since he was facing 90 years and the offer presented was gracious, that he the Applicant stated that he did

have affected his strategy had the case gone to trial, and even how it affected his decision to suggest Applicant plead guilty. (PCR, p. 45, l.10- p. 47, l. 3.) Counsel testified Applicant was aware of the evidence against him as they met a number of times and Applicant received his own copy of discovery, which they went through together. (PCR, p. 41, l. 7- p. 43, l. 11.) Following this, at the plea, Applicant indicated he was satisfied with Counsel, and that there was nothing he had asked Counsel to do that he had not done. (Tr. p. 9, l. 3-14.)

Counsel's testimony on this point is credible. Additionally, the Solicitor, in her statement of the facts, noted multiple times the use of a gun during commission of the crime Applicant pled to and clearly put the gun in Applicant's hands. (Tr. pp. 10-15; see also Tr. p. 11, l. 12-13 ("[Applicant] is the one that actually held the gun and robbed him".)) Applicant heard the Solicitor's recitation of the facts and indicated he understood them. (Tr. p. 15, l. 2-10.) He did not take issue with either the Solicitor's statements regarding a gun being present or Applicant being the one holding the gun.

This Court finds Applicant has not shown Counsel's behavior in meeting with Applicant, reviewing discovery, or otherwise adequately reviewing or investigating the facts was not within the competence demanded of attorneys in criminal cases. Applicant has not established an error by Counsel. Applicant, further, has not established any prejudice that would indicate that "there is a reasonable probability that [but for this alleged error of counsel], the result of the proceeding would have been different." Strickland, 466 U.S. at 688. Accordingly, this Court denies and dismisses this allegation with prejudice.

Allegation #3: Applicant's Counsel was ineffective for failing to object to the Solicitor saying Applicant was the most culpable/the mastermind.

not have a gun, as he had been saying all along and tht he was set up, that the court would stand down the plea. PCR Tr.p. 58.

Next, Applicant asserts that Counsel was ineffective for failing to object to the Solicitor saying Applicant was the most culpable/the mastermind. Applicant's support for this statement is given as page 14, lines 22-23 of the plea transcript where, referencing Applicant, the Solicitor noted "And he is the – in my mind, the primary, most culpable individual in this group." (PCR, p. 27, l. 1-6; see also Tr. p. 14, l. 22-24.) The Applicant contends that there was not a gun in his possession at the PCR hearing and asserts this is what he told counsel. PCR 27. Counsel was asked at the PCR hearing why he did not object to this statement. He responded it was his opinion that it would not serve a purpose—that that was the State's opinion, how they would have presented the case if it were to go to trial—and that, after hearing the Solicitor's recitation of the facts, which had Applicant holding the gun and Applicant's agreement that the facts were generally correct, he chose not to. He further testified "I didn't see where it would help us. ... [I] wanted to concentrate on getting sympathy from the Court and try to help the judge understand, how did we get here?" (Tr. p. 50, l. 6 - p. 51, l. 12.)

This Court finds Counsel's testimony on this point credible. This Court further finds Counsel's performance, including in terms of not objecting to the Solicitor's characterization of Applicant, was within an objective standard of reasonableness. Applicant has not established an error by Counsel. Applicant, further, has not established any prejudice that would indicate that "there is a reasonable probability that [but for this alleged error of counsel], the result of the proceeding would have been different." Strickland, 466 U.S. at 688. Accordingly, this Court denies and dismisses this allegation with prejudice.

VI. CONCLUSION

After careful consideration of Applicant's Application and Amended Application for Post-Conviction Relief, the Record of the case, the arguments of Attorneys Thomas and Smith, and the



testimony of witnesses, this Court finds Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief.⁴ To satisfy the two prongs of Strickland, Applicant must show that Counsel was deficient and also show the deficiency resulted in prejudice. Strickland v. Washington, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 L.Ed.2d 674 (1984). Applicant's Counsel was not deficient, but rather, offered "reasonably effective assistance" under "prevailing professional norms." Cherry v. State, 300 S.C. at 317 (1989). Further, I do not find any presumptions of prejudice. See Cronic v. U.S., 446 U.S. 648 (1984); Nance v. Ozmint, 367 S.C. 547 (2006). This case was "fact heavy" and I find Counsel's actions and decisions were based upon strategic decision. See Roseboro v. State, 317 S.C. 292 (1996); see also Solomon v. State, 347 S.C. 635 (2001) regarding strategic trial management. The Applicant has not met this burden on any of the allegations made. Therefore, the Court denies Applicant's requested relief in this matter.

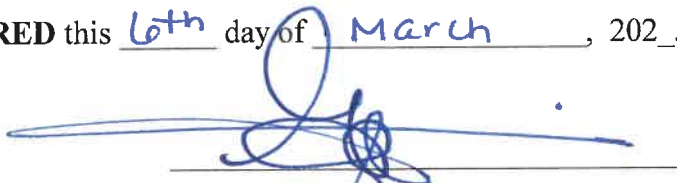
This Court notes if Applicant desires to appeal this Order, he must file and serve a notice of appeal within thirty days from the receipt of this Order through his counsel of record. See Rule 203 and 243, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an applicant has a right to an appellate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

IT IS THEREFORE ORDERED:

⁴ This record includes (and I am incorporating herein by reference), Applicant's records from the South Carolina Department of Corrections, the indictments and records of the proceedings below, including the plea transcript, and all records of the current PCR action.

1. This application for post-conviction relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the State.

AND IT IS SO ORDERED this 6th day of March, 2020.



GEORGE MCFADDIN
Presiding Judge
Eleventh Judicial Circuit

Sumter, South Carolina

WITNESSES

West Columbia Police Department

Matthew W Deas

Law Enforcement Case #: 1822606

SF

ARREST WARRANT NUMBER

2018A3221100558

ACTION OF GRAND JURYForeperson of Grand Jury
Date:VERDICTForeperson of Petit Jury
Date:DOCKET NO. 2019GS3202713**The State of South Carolina**
County of LexingtonCOURT OF GENERAL SESSIONS

AUGUST TERM 2019

THE STATE

vs.

Bobby George Sightler

CDR #: 0026

Indictment for

Attempted Armed Robbery

§ 16-11-0330(B)

S.R. Hubbard III, SOLICITOR

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

Bobby George Sightler
Defendant

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

Attempted Armed RobberyBobby Sightler
Defendant[Signature]
Witness
C.C.C. PLS. and G.S.

A TRUE COPY

Lex. Co. C.C.C.P., G.S. & F.C.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)

INDICTMENT FOR
 Attempted Armed Robbery
 § 16-11-0330(B)

At a Court of General Sessions, convened on August 2019, the Grand Jurors of Lexington County present upon their oath:

That **Bobby George Sightler** did, in Lexington County, South Carolina, on or about August 9, 2018, knowingly and willingly either by action or words, did attempt to commit while armed with a deadly weapon and/or having possession of an object which the victim reasonably believed to be a deadly weapon and alleging by actions or words that he was armed, to wit: a handgun, and did feloniously take from the person or presence of David Maples by means of force, threats, or intimidation goods or monies being described as follows: keys and vehicle, with intent to deprive the owner of the use of such property, in violation of Section 16-11-330 (B) of the Code of Laws of South Carolina (1976, as amended).

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

A TRUE COPY
[Signature]
 Lex. Co. C.C.C.P., G.S. & F.C.

[Signature]
 ASSISTANT SOLICITOR

WITNESSES

Lexington County Sheriffs Department

Tyler H Kennedy

Law Enforcement Case #: 18016337

SF

ARREST WARRANT NUMBER

2018A3210201512

ACTION OF GRAND JURYForeperson of Grand Jury
Date:**VERDICT**Foreperson of Petit Jury
Date:**DOCKET NO. 2019GS3202714****The State of South Carolina**

County of Lexington

COURT OF GENERAL SESSIONS**AUGUST TERM 2019****THE STATE**

vs.

Bobby George Sightler**CDR #: 0065****Indictment for**

Failure to Stop for Blue Light

§ 56-05-0750(B)(1)

S.R. Hubbard III, SOLICITOR

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

Bobby George Sightler
Defendant

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

Failure to Stop for Blue LightBobby Sightler
Defendant[Signature]
Witness
C.C.C. PLS. and G.S.**A TRUE COPY**[Signature]
Lex. Co. C.C.C.P., G.S. & F.C.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)

INDICTMENT FOR
 Failure to Stop for Blue Light
 § 56-05-0750(B)(1)

At a Court of General Sessions, convened on August 2019, the Grand Jurors of Lexington County present upon their oath:

That **Bobby George Sightler** did in Lexington County, South Carolina on or about August 12, 2018, willfully, knowingly and unlawfully fail to stop a motor vehicle, while driving said motor vehicle on a road, street or highway of this State when Deputy Tyler Kennedy, a law enforcement officer with the Lexington County Sheriff's Department, signaled and sounded his siren and/or turned on his flashing blue light, and no great bodily injury or death resulted from said failure to stop, in violation of § 56-5-750 (B) (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.

A TRUE COPY

Lex. Co. C.C.C.P. G.S. & F.C.


 ASSISTANT SOLICITOR