

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Appeal from Spartanburg County

J. Derham Cole, Circuit Court Judge

---

RECEIVED

SEP 19 2013

S.C. Supreme Court

MICHAEL ODOM,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2013-000242

---

APPENDIX

---

WANDA H. CARTER  
Deputy Chief Appellate Defender

ALAN WILSON  
Attorney General

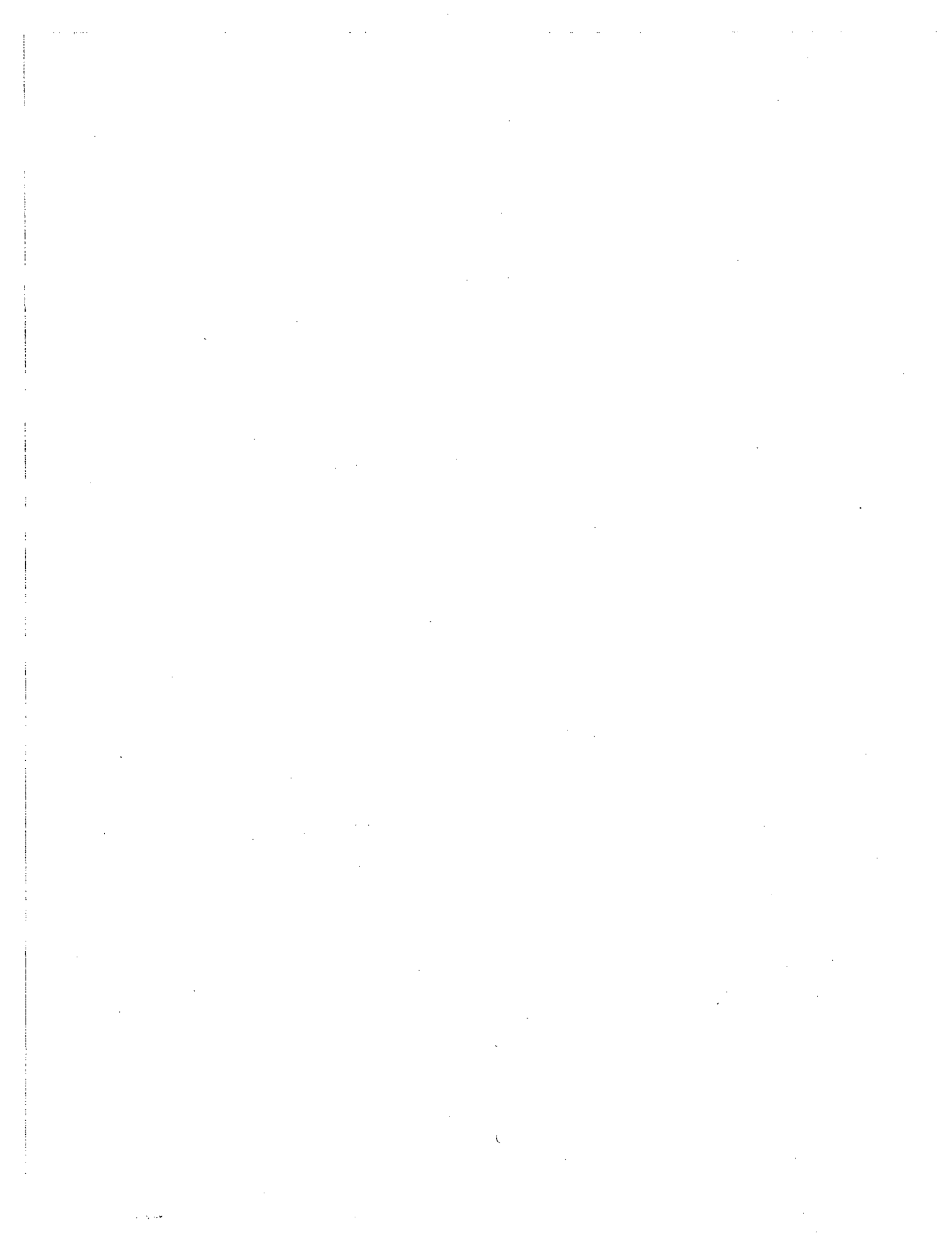
South Carolina Commission on Indigent  
Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589

SUZANNE H. WHITE  
Assistant Attorney General

P. O. Box 11549  
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT



INDEX

INDEX .....i

GUILTY PLEA TRANSCRIPT DATED APRIL 14, 2011..... 1

APPLICATION FOR POST-CONVICTION RELIEF .....20

RETURN .....27

POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED SEPTEMBER 6, 2012 .....31

ORDER OF DISMISSAL .....54

INDICTMENTS .....60

1 State of South Carolina )  
 2 COUNTY OF SPARTANBURG ) COURT OF GENERAL SESSIONS  
 3 ) 2009-GS-42-3767  
 4 )  
 4 State of South Carolina ) TRANSCRIPT OF RECORD  
 5 vs )  
 6 Michael Odom )  
 7 )

8 April 14, 2011  
 8 Spartanburg, South Carolina

9 B E F O R E:

10 THE HONORABLE MARK HAYES, Judge

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

12 Jenny Moore, Esquire  
 13 Assistant Solicitor  
 13 Attorney for the State

14 Rob Usry, Esquire  
 15 Frank Adams, Esquire  
 15 Attorney for the Defendant

17 Caroline Hiskell  
 18 Circuit Court Reporter

22 RECEIVED

23 MAR - 5 2012

24 Referred to S. White d.s

25 Answered \_\_\_\_\_

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

I N D E X

(No witnesses or exhibits presented).

## State versus Michael Odom

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

2 THE COURT: We have James Dodson, Carmeron  
3 Falkenberry, Scott Plumley, Josh Reid, Bobby Joe  
4 Wilkinson, Michael Odom, Christopher Glynn, Ashley  
5 Ledford, Tina Norris.

6 Please raise your right hand and repeat  
7 outloud when she ask you to do so.

8 THE CLERK: Do you solemnly swear or affirm  
9 that the testimony you are about to give is the truth, the  
10 whole truth and nothing but the truth.

11 (Defendants collective reply.)

12 THE COURT: Here are the questions I need you  
13 to now listen to. During the last 24 hours, have you  
14 consumed any type of substance that is adversely affect  
15 your ability to understand what we're doing here today?  
16 If you have taken something, then I need for you to please  
17 stand at this time.

18 (No reply).

19 If you have ever received any type of  
20 substance abuse treatment for drugs, alcohol abuse, I need  
21 for you to please stand at this time.

22 (Falkenberry, Dodson respond).

23 And what's your name, sir?

24 DEFENDANT ODOM: Michael Odom.

25 THE COURT: Mr. Odom, did you receive

## State versus Michael Odom

1 treatment for drugs, alcohol or both?

2 DEFENDANT ODOM: Both.

3 THE COURT: Do you remember where you  
4 received that last treatment?

5 DEFENDANT ODOM: Yes, sir. (Inaudible) 1988.

6 THE COURT: Was it successful at the time?

7 DEFENDANT ODOM: Yes, sir.

8 THE COURT: Thank you, sir.

9 If you are satisfied with the work that that  
10 lawyer has done for you, I need you to stand at this time  
11 if you're satisfied with the work your lawyer has done.

12 Let the record reflect that everyone has  
13 stood. Thank you, very much, you may be seated.

14 If you have been threatened in any way or you  
15 have been made any promises in order to get you to make  
16 the decision to enter the plea, I need for you to please  
17 stand at this time? If the decision to enter the plea is  
18 a free and voluntary on your part, I need for you to stand  
19 at this time.

20 Let the record reflect that everyone stood.  
21 Thank you, very much, you may be seated.

22 I need you to understand that under the law  
23 you are presumed innocent of any and every charge that's  
24 presently against you and you are entitled to have a jury  
25 trial on any or all of the charges that are presently

## State versus Michael Odom

1 against you.

2 In order to enter a plea, however, you have  
3 to give up your right to that jury trial. At any jury  
4 trial that would take place, the State is the one that  
5 would have the burden of proof and the State would have to  
6 convince all 12 members of the jury that you are in fact  
7 guilty beyond a reasonable doubt.

8 If you wish to have a jury trial on any of  
9 the charges against you, that is fine. We will simple  
10 schedule a jury trial for you.

11 Is there anyone who wishes to have a jury  
12 trial on any of the charges against you? If so, please  
13 stand at this time if you wish to have a jury trial.

14 (No response).

15 In addition to having that jury trial, there  
16 are other very important Constitutional rights that you  
17 are entitled to but that you have to give up in order to  
18 enter a plea. You have to give up your right to confront  
19 and cross-examine the State's witnesses. You also have to  
20 give up your right to present evidence that you and your  
21 lawyer will establish some type of defense to the charge  
22 or charges against you, and you have to give up your right  
23 to subpoena and you have to give up your right to remain  
24 silent.

25 If you wish to give up all those rights and

## State versus Michael Odom

1 go forward in entering the plea at this time, I need for  
2 you to please stand at this time.

3           Let the reflect that everyone stood. Thank  
4 you very much, you may be seated.

5           If ever in this process now or later today if  
6 any of you wish to speak to your lawyer just let me know  
7 and I'll allow you to talk to your lawyer in private.  
8 Those of you who joined us from the gallery, you can  
9 return to your seats at this time.

10           SOLICITOR: May it please the Court, before  
11 you is Ms. Michael Scott Odom. He is before the court  
12 today on four indictments. The first being 2009-GS-  
13 42-5591. Your Honor, that is an indictment for  
14 shoplifting for third or subsequent property offense. It  
15 comes to the court with a recommendation as with all  
16 indictments of a concurrent sentencing and on that  
17 indictment he is represented by Mr. Rob Usry. The second  
18 being 2009-GS-42-5592. Your Honor, that, again, is a True  
19 Bill indictment for shoplifting third for subsequent  
20 property offense with the same recommendation and he is  
21 represented by Mr. Rob Ursy on that indictment.

22           The third indictment being 2009-GS-42-3767.  
23 Your Honor, that is a True Bill indictment for breaking  
24 and entering motor vehicles. It comes before the court  
25 today with the same recommendation of concurrent

## State versus Michael Odom

1 sentencing. He is represented by Mr. Frank Adams.

2 The fourth and final indictment is 2009-GS-  
3 42-3768. That again is a True Bill indictment for a third  
4 or subsequent property offense, the underlying charge  
5 being petty larceny. He is represented by Mr. Frank Adams  
6 and a concurrent recommendation.

7 There is also a restitution matter that comes  
8 with two of the indictments. May I approach?

9 THE COURT: Yes.

10 You are Mr. Odom?

11 DEFENDANT ODOM: Yes, sir.

12 THE COURT: Sir, I need to remind you that  
13 you remain under oath, do you understand that?

14 DEFENDANT ODOM: Yes, sir.

15 THE COURT: Sir, were you able to hear the  
16 solicitor when she announced the charges that are against  
17 you?

18 DEFENDANT ODOM: Yes, sir.

19 THE COURT: The manner in which she announced  
20 those charges is that a consistent and the same as what  
21 you understand you would be pleading here to today?

22 DEFENDANT ODOM: Yes, Your Honor.

23 THE COURT: How old are you, sir?

24 DEFENDANT ODOM: I'm 47, sir.

25 THE COURT: I far did you go in school?

## State versus Michael Odom

1 DEFENDANT ODOM: I graduated Spartanburg  
2 High.

3 THE COURT: Married, single, divorced?

4 DEFENDANT ODOM: My wife was killed in 2005.

5 THE COURT: Do you have children?

6 DEFENDANT ODOM: Yes, sir, I do. My daughter  
7 is 23 and she's in the navy.

8 THE COURT: Do you have a job outside the  
9 home?

10 DEFENDANT ODOM: I do contracting work. I  
11 been working in Hollow Springs.

12 THE COURT: Military?

13 DEFENDANT ODOM: No, sir.

14 THE COURT: On these charges, how long a time  
15 did you spend in jail before you made bond?

16 DEFENDANT ODOM: Eighteen-and-a-half months.

17 MR. ADAMS: Your Honor, if I may, I think we  
18 have time served at 547 days.

19 THE COURT: Thank you.

20 Sir, if you would, please listen to the  
21 solicitor. She is going to provide us with the facts  
22 behind these cases and then I'll have some more cases for  
23 you.

24 SOLICITOR: Thank you, Your Honor.

25 I'll begin with the charges that Mr. Adam

## State versus Michael Odom

1 represents this defendant on. Your Honor, those are the  
2 breaking in a motor vehicle and the petty larceny charge.  
3 That occurred on February the 28th of 2009. Officers  
4 responded to the Bi-Lo at 2199 South Port Road here in  
5 Spartanburg County in reference to a larceny from a  
6 vehicle. The victim in this case says that she was  
7 walking out of the store and she could see the defendant  
8 inside of her car. As she got closer to her car she  
9 yelled at him and she could see that he had in his  
10 possession her Sony digital camera and some bags.

11 Your Honor, when she vocalized that she saw  
12 the defendant and asked him what she was doing in her car,  
13 the victim states that the defendant then threw down the  
14 items stating that he had the wrong car.

15 Your Honor, the victim was able to identify  
16 the defendant later for the officers. She has been  
17 contacted and does not wish to be present. She is not  
18 owed any restitution because the items were left  
19 ultimately in the car.

20 In regards to the charges that Mr. \*\*  
21 represents this defendant on, those would be the two  
22 shoplifting charges. Those both occurred, Your Honor, at  
23 the Walmart in Boiling Springs on Highway 9 here in  
24 Spartanburg County. The incident dates for those are  
25 September 20th and 21st of 2009. Officers actually

## State versus Michael Odom

1 responded on September 21st of 2009 to a shoplifting in  
2 process.

3           The asset protection officer for that  
4 particular Walmart store is name is, ironically, Michael  
5 Odom as well, Your Honor, said that he had detained two  
6 white males that were attempting to deprive the store of a  
7 Samsung Blue Ray disc player valued at \$215. The box for  
8 the Blue Ray player had been cut open by the suspects.  
9 The player was then removed from the packaging and  
10 concealed under the co-defendant Justin Wilson's shirt.

11           Mr. Wilson and Mr. Odom then attempted to  
12 exit the store with the merchandise, however, they were  
13 detained at the exit of the store.

14           Your Honor, after these two defendants had  
15 been detained for the September 21st incident, asset  
16 protection from this Walmart was able to review video  
17 footage from the prior date where they were able to  
18 identify the two suspects as the same individuals who had  
19 stolen a 19-inch LCD television and that is what the  
20 restitution that Your Honor has before him to restore the  
21 value of that item to Walmart, Your Honor.

22           THE COURT: Were you able to hear the  
23 solicitor when she gave me the facts?

24           DEFENDANT ODOM: Yes, sir.

25           THE COURT: Do you believe that as she stated

## State versus Michael Odom

1 the facts that she is substantially correct?

2 DEFENDANT ODOM: I guess, Your Honor.

3 THE COURT: Sir, do you understand that on  
4 the breaking into motor vehicle charge I could sentence  
5 you up to five years today?

6 DEFENDANT ODOM: Yes, sir.

7 THE COURT: Do you also understand that on  
8 the shoplifting third and subsequent shopping offenses, I  
9 could sentence you up to 10 years each on those charges?

10 DEFENDANT ODOM: Yes, sir.

11 THE COURT: And on the petty larceny third  
12 and subsequent property offense, I could sentence you up  
13 to 10 years on that charge as well?

14 DEFENDANT ODOM: Yes, sir.

15 THE COURT: And you still wish to enter those  
16 pleas?

17 DEFENDANT ODOM: Yes, sir.

18 THE COURT: Are you, in fact, guilty of both  
19 of the charges of shoplifting third and subsequent  
20 property offense?

21 DEFENDANT ODOM: Yes, sir.

22 THE COURT: And are you also guilty of the  
23 petty larceny third and subsequent property offense  
24 charge?

25 DEFENDANT ODOM: Yes, sir.

## State versus Michael Odom

1 THE COURT: And are you also guilty of the  
2 breaking into motor vehicle charge?

3 DEFENDANT ODOM: Yes, sir.

4 THE COURT: Have you been able to hear all of  
5 my questions?

6 DEFENDANT ODOM: Yes, sir.

7 THE COURT: Have all of my questions been  
8 truthful and honest?

9 DEFENDANT ODOM: Yes, Your Honor.

10 THE COURT: Has discovery been shared with  
11 the defense?

12 SOLICITOR: It has, Your Honor.

13 THE COURT: Prior record.

14 SOLICITOR: 1982 reckless driving; 1984  
15 simple possession of marijuana; 1985 a violation of the  
16 pistol act and two counts of possession of marijuana; 1986  
17 two counts of DUI first; 1987, 9 counts of fraudulent  
18 check and unlawful possession of a pistol and possession  
19 of marijuana; 1988 open container; 1989 for counts of DUI,  
20 possession of marijuana and another violation of the  
21 pistol act; 1990 shoplifting, armed robbery, two counts of  
22 simple possession of marijuana, receiving stolen goods and  
23 three counts of DUI; 1991 DUI third, habitual traffic  
24 offender; 1994 DUI third, common law robbery, habitual  
25 traffic offender and a DUI fourth; 1996 two counts of

## State versus Michael Odom

1 attempted armed robbery and two counts of common law  
2 robbery; 2000 driving under suspension, burglary second  
3 degree, grand larceny and common law robbery; 2001  
4 obtaining property under false pretenses and receiving  
5 stolen goods; 2002 burglary second, grand larceny and  
6 petty larceny; 2004, possession of marijuana, possession  
7 of cocaine; 2005 possession of cocaine and 2008 two counts  
8 of third or subsequent property offenses.

9 THE COURT: We have \$188.68 to Walmart.

10 Anything else from either of the victims?

11 SOLICITOR: No, sir, Your Honor. I will  
12 inform the Court that one of the indictments was actually  
13 on the trial docket for this week, Your Honor. We have  
14 agreed to a group plea and resolve everything at one time.

15 THE COURT: Anything else from the State?

16 SOLICITOR: No, sir.

17 THE COURT: Sir.

18 MR. USRY: Your Honor, I'm John Usry here for  
19 Mr. Odom on the charges involving Walmart. To get you a  
20 little bit of background on the man's work history, he  
21 came out of high school and worked for Stouffers for five  
22 years and then worked as a floor coverer for Cherokee  
23 Floor and Tile for 12 years. He was essentially self-  
24 employed after that.

25 As it relates to the crimes alleged at

## State versus Michael Odom

1 Walmart, in mitigation, Mr. Odom did not personally remove  
2 either of the items from the store. He played a roll in  
3 the crime, no doubt about it. He was with his  
4 co-defendant who actually removed the items and was  
5 showing on the video taking the tv out and was caught in  
6 the store with the open DVD player in his possession.  
7 That co-defendant to inform the Court got five years,  
8 suspended to one year, with three years probation and the  
9 first year of probation being intensive and a restitution  
10 order. If the Court's interested, I do have the  
11 co-defendant's sentencing sheet.

12 By way of explanation, never and excuse, you  
13 could tell from his prior record Michael struggles with  
14 drugs for a long time. He's struggled with drugs since  
15 the '80s. There was a period of time in 2000 when he was  
16 doing well and that was because he was married. His wife  
17 was tragically killed in a car wreck and that began  
18 another downward spiral for him in 2005. At the time of  
19 these charges, he was high on crack. He was using cocaine  
20 and he's been off and off this his entire adult life.

21 His prior record, we understand there are  
22 serious consequences for serious crimes, and we understand  
23 that they have to be served, but the passage of time as it  
24 relates to the worse allegations against him is important.  
25 The burglary second which is the most serious crime he's

## State versus Michael Odom

1 been convicted of most recently was a decade ago. The  
2 robbery stretched from 14 years to two decades ago.

3 I think it's important for the Court to know  
4 what Michael did when he was released from the Detention  
5 Center regarding all four of these charges. He got out in  
6 February 2011 about two months ago. He could have fled,  
7 he didn't, he stayed here. He came here today of his own  
8 free will to appear before the Court and take whatever  
9 punishment the Court deems proper to what he has admitted  
10 to and confesses today.

11 In those two months, he found a job. He  
12 helped essentially to remodel a home in Holly Springs. He  
13 was very productive. He built a deck, built some steps on  
14 that deck on the back porch, he remodeled the kitchen  
15 floor. He remodeled two bathroom floors. He made a good  
16 faith attempt to get himself straightened out form his  
17 drug problem by getting on the waiting list at Faith  
18 Homes.

19 Unfortunately Faith Homes took him off the  
20 waiting list because he didn't call one day and in all  
21 candor I feel like that was a bit harsh but it got him off  
22 the waiting list in those two months and he wasn't able to  
23 get back in. Just one day he didn't call because he got  
24 too busy or it slipped his mind and he was unable to get  
25 into Faith Homes for treatment.



## State versus Michael Odom

1 Mr. Usry said, I would just ask the Court, again, to  
2 consider the recommendation of the State and to accept it  
3 and to give him credit for the full 547 days.

4 THE COURT: Mr. Odom, do you agree with the  
5 statements that were made by your lawyers?

6 DEFENDANT ODOM: Yes, sir, I do.

7 THE COURT: Is there anything that you would  
8 like to say or would like for me to know or to consider?

9 DEFENDANT ODOM: I'm no sorry for everything  
10 that I've done and I'm standing here today hoping for  
11 mercy from the Court.

12 THE COURT: Thank you, sir.

13 DEFENDANT ODOM: I find that there's a  
14 substantial factual basis for the plea. I find that the  
15 defendant's decision to enter the plea has been made  
16 freely, voluntarily, knowingly and intelligently by him.  
17 I find that he has received the services from very  
18 competent and able legal counsel whose services he has  
19 indicated he is satisfied with and has relied on in  
20 reaching the decisions that he's made, therefore I will  
21 accept the plea.

22 On the third and subsequent property  
23 offenses, those charges will be a 10 year sentence. He  
24 will receive credit for the 547 days that run concurrent  
25 with each other. I've indicated on the sentencing sheet

## State versus Michael Odom

1 that my desire is that he receive ATU while he's in the  
2 Department of Corrections. They'll be a five-year  
3 sentence on the breaking into motor vehicles. That will  
4 also run concurrent with the other charges in ATU while  
5 he's in the Department of Corrections.

6 Restitution has been ordered as indicated by  
7 the executed restitution order on the charges where that's  
8 applicable. Good luck to you, sir.

9 SOLICITOR: Thank you.

10 ---END OF TRANSCRIPT RECORD---

11

12

13

14

15

16

17

18

19

20

21

22

23

24

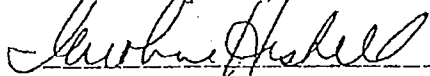
25

## State versus Michael Odom

1 I, the undersigned Caroline Hiskell, Official  
2 Court Reporter for the Thirteenth Judicial Circuit of the  
3 State of South Carolina, do hereby certify that the  
4 foregoing is a true, accurate, and complete transcript of  
5 record of all the proceedings had and evidence introduced  
6 in the trial of the captioned case, relative to appeal, in  
7 the Circuit Court of Spartanburg County, South Carolina on  
8 the 11h day of April, 2011.

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

11  
12  
13 February 29, 2012

14 

15 Caroline Hiskell  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

7900

FORM 5

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

County of Spartanburg )

Michael Odom #280968 )

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

v. )

State of South Carolina )

APPLICATION FOR  
POST-CONVICTION RELIEF

4/63

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 LIVESAY - A - Corr. Inst.
2. Name and location of Court which imposed sentence General Sessions Court of Spartanburg S.C.
3. Name(s) of co-defendant(s) (if any) Justin Wilson
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2009 GS 4203768 / 2009 GS 4205592
  - (b) 2009 GS 4205591 / 2009 GS 4203767

M. HOPE BRACKLEY  
CLERK OF COURT  
SEP 29 PM 3:01  
COUNTY

(c) \_\_\_\_\_

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

(a) April 14<sup>th</sup> 2011 - imposed

(b) terms - 10 years + restitution

(c) \_\_\_\_\_

6. Check whether a finding of guilty was made:

(a)  after a plea of guilty ✓

(b) after a plea of not guilty \_\_\_\_\_

(c) after a plea of nolo contendere \_\_\_\_\_

7. Did you appeal from the judgment of conviction or the imposition of sentence?  
NO

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

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

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

i. \_\_\_\_\_

ii. N/A

iii. \_\_\_\_\_

(c) the date of each such result:

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

COURT REPORTER  
 M. HOPE BLACKLEY  
 4011 SEP 29 PM 3:01  
 2011 SEP 29 PM 3:01  
 2011 SEP 29 PM 3:01

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

(a) I plead Guilty on my own

(b) \_\_\_\_\_

(e) \_\_\_\_\_

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

(a) ineffective assistance of counsel

(b) \_\_\_\_\_

(c) \_\_\_\_\_

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

(a) when it came time for sentencing ou

(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? NO

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

(a) the specific nature thereof:

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

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

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

RECEIVED  
U.S. DISTRICT COURT  
SOUTH CAROLINA  
SEP 29 PM 3:01  
MURPHY BLACKLEY

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

No

COURT REPORTER  
 M. HOPE BLACKLEY  
 2011 SEP 29 PM 3:51  
 COUNTY

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

(a) which grounds have been presented:

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

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

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

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

- (a) This is my first time filing P.C.R. on the
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

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

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

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

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

- i. (A) Robert [REDACTED] USRY  
101 W. St. John Street - Suite 206  
Spartanburg S.C. 29306
  - ii. \_\_\_\_\_
  - iii. (B) Frank Adam  
Boiling Springs S.C.
- (b) the proceedings at which each such attorney represented you:
- i. In General Sessions Court  
of Sctby, SC
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

SEP 29 PM 3:01  
 CLERK OF COURT  
 SPARTANBURG COUNTY

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

I wish to be re-sentenced after my record is "correctly" read to the Judge

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

NO

STATE OF SOUTH CAROLINA )

County of Spartanburg )

VERIFICATION

I, Michael Scott Odom, 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.

Michael S. Odom

#280968

SWORN to and subscribed before me this 28 day of Sept., 2011.

Conni C. Davis (L.S.)  
Notary Public

My Commission Expires: 8/29/15

CLERK OF COURT  
M. HOPE BLACKLEY  
2011 SEP 29 PM 3:01  
CLERK OF COURT

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

I, Michael Scott Odom, 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.

Michael S. Odom #28096  
Applicant

SWORN or affirmed to and subscribed before me this  
28 day of Sept., 2011.

Corrie C. Smith  
Notary Public

My Commission Expires: 8/29/11

CLERK OF COURT  
3rd JUDICIAL CIRCUIT  
M. HOPE BLACKLEY  
2011 SEP 29 PM 3:02

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF SPARTANBURG )  
 )  
 Michael Odom, #280968 )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 SEVENTH JUDICIAL CIRCUIT

2011-CP-42-4163

RETURN

The Respondent, making its Return to the application for post conviction relief (PCR) filed October 28, 2011, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted at the July and October 2009 terms of the Spartanburg County Grand Jury for breaking into motor vehicle (09-GS-42-3767), petit larceny (09-GS-42-3768), and two counts of shoplifting - \$1,000 or less (09-GS-42-5591, -5592). He was represented by Robert T. Usry, Esquire, and S. Frank Adams, Esquire. On April 14, 2011, the Applicant pled guilty to all charges. He was sentenced by The Honorable J. Mark Hayes II to concurrent terms of ten years on each charge of shoplifting and petit larceny, five years for breaking into a motor vehicle, and restitution. The Applicant did not appeal his convictions or sentences.

Attached herewith and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, and the guilty plea transcript. The Respondent reserves the

FILED  
 CLERK OF COURT  
 SPARTANBURG COUNTY  
 2011 JUL 19 AM 11:03

right to amend this Return upon receipt of any relevant materials or submit an amended Return to reflect any amended allegations and/or to provide a more detailed procedural history.

II.

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

- I. Ineffective assistance of counsel, in that;
  - a. Counsel failed to ensure his past record was properly presented to the court for consideration prior to sentencing.

III.

The Respondent contends that the Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

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

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

FILED  
 CLERK OF COURT  
 2022 APR 19 AM 11:49  
 STATE OF MISSISSIPPI  
 JEFFERSON COUNTY

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

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

IV.

Each and every allegation contained within the application not herein before either expressly admitted, qualified or explained is hereby denied. The Respondent therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as matter of law.

V.

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

FILED  
CLERK OF COURT  
JUL 19 AM 11:38  
M. J. [unclear]

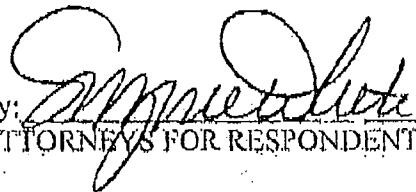
Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY W. ELLIOTT  
Senior Assistant Deputy Attorney General

SUZANNE H. WHITE  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

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

July 17, 2012.

FILED  
CLERK OF COURT  
2012 JUL 19 8:11:43  
M. HOWE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG ) COURT OF COMMON PLEAS NONJURY

MICHAEL ODOM, ) TRANSCRIPT  
APPLICANT, ) OF  
vs. ) RECORD  
STATE OF SOUTH CAROLINA, ) 11-GS-42-4163  
RESPONDENT. )

September 6<sup>th</sup>, 2012  
Spartanburg, South Carolina

B E F O R E:

THE HONORABLE J. DERHAM COLE, Judge.

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

RICHARD ALLEN  
ESQ.  
Attorney for the Applicant

SUZANNE H. WHITE  
ASSISTANT ATTORNEY GENERAL  
Attorney for the Defendant

PAMELA E. GREEN  
Circuit Court Reporter  
Seventh Judicial Circuit

	<u>I N D E X</u>	
	<u>WITNESSES</u>	<u>PAGE</u>
1		
2		
3		
4	MICHAEL ODOM	
5	Direct examination by Mr. Allen	6
6	Cross-examination by Ms. white	11
7	Redirect examination by Mr. Allen	15
8	ROB USRY	
9	Direct examination by Mr. Allen	16
10	Cross-examination by Ms. white	20
11		
12	Certificate	23
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

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

1  
2  
3 MS. WHITE: Your Honor, this is Michael Odom versus the  
4 State. It's Case Number 2011-CP-42-4163. He's represented  
5 today by Mr. Richard Allen.

6 Mr. Odom was indicted in July and October of '09 for  
7 breaking into a motor vehicle and petty larceny. He was  
8 represented at a plea by Frank Adams on those charges. He  
9 also pled the same time to two shoplifting under a thousand  
10 dollars. He was represented by Rob Usry at those charges,  
11 Your Honor. He received five years for breaking into a  
12 motor vehicle, ten for petty larceny, and ten for each of  
13 the shopliftings. All run concurrent.

14 He has filed this application alleging ineffective  
15 assistance of counsel in that counsel failed to ensure that  
16 his past record was properly presented to the Court for  
17 consideration prior to sentencing, and at this point I'll  
18 turn it over to Mr. Richard Allen.

19 MR. ALLEN: Thank you.

20 Your Honor, I'd like to call Mr. Odom.

21 THE COURT: All right. Before you do that, tell me  
22 again specifically, he's alleging ineffective assistance of  
23 counsel and in what particulars?

24 MR. ALLEN: Your Honor, at the time of his entering a  
25 guilty plea, his, and it's a rather extensive record dating

1 back to 1982, was read into the record. There are several  
2 charges that we've been back through that are actually  
3 duplicates or there was only one and there were two read.  
4 Specifically the 1996, they were read in the record there  
5 were two counts of attempted armed robbery and two counts of  
6 common law robbery.

7 According to our review of his record there's only one  
8 attempted armed robbery, one common law robbery, which is  
9 '96. There was another previous to that or was after that.

10 THE COURT: Well, let me ask you this.

11 So, one of the grounds is that the lawyers failed to  
12 object to an incorrect recitation of the criminal history?

13 MR. ALLEN: Yes, Your Honor.

14 THE COURT: All right. Do you have any other grounds?

15 MR. ALLEN: I was just informed this morning actually  
16 that the other ground would be that he wasn't properly  
17 informed of his right to appeal.

18 THE COURT: Was that alleged in his application?

19 MR. ALLEN: No, Your Honor. I didn't actually know  
20 about that until this morning. So, I don't know that he's  
21 given notice to the State to go forward on that ground.

22 THE COURT: Okay.

23 MS. WHITE: We, we did not have notice, Your Honor,  
24 and -- but, at this point, I can -- we can take some  
25 testimony and --.

1 THE COURT: You don't object to having that allegation  
2 heard?

3 MS. WHITE: Well, we would normally object to an  
4 allegation raised and amended at the hearing, Your Honor,  
5 yes, we would object to it.

6 THE COURT: Well, Mr. Allen, do you, do you have some  
7 grounds that you believe are meritorious that you would  
8 assert in an appeal from this guilty plea?

9 MR. ALLEN: Your Honor, quite, quite likely I think,  
10 had he appealed, they would of been kicked out on a  
11 preservation of error ground because it wasn't objected to  
12 at the time of the hearing.

13 THE COURT: Exactly.

14 MR. ALLEN: But that, that would be the ground for  
15 appeal. But, again, I think he would of lost on appeal.

16 THE COURT: Okay. Well, are you gonna address some  
17 issues that his lawyers failed to preserve at the time of  
18 the appeal --

19 MR. ALLEN: That was part of---

20 THE COURT: -- time of trial?

21 MR. ALLEN: ---part of what I was gonna do with the  
22 presentation of the record, the fact that it wasn't objected  
23 to, and, therefore, wasn't preserved for error. That was my  
24 take on it.

25 THE COURT: But that's the only allegation that you,

1 still the only allegation that you have---

2 MR. ALLEN: That's correct.

3 THE COURT: ---that you would assert?

4 MR. ALLEN: Yes, Your Honor.

5 THE COURT: All right. You can proceed with those.

6 MS. WHITE: Thank you, Your Honor.

7 MR. ALLEN: Like to call Michael Odom to the stand,  
8 Your Honor.

9 THE COURT: All right. Mr. Odom, come around and take  
10 the witness stand.

11 MICHAEL ODOM, having been first  
12 duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. ALLEN:

15 Q Mr. Odom, could you state your name for the record  
16 please?

17 A Michael Odom.

18 Q And your, your -- you filed this PCR application by  
19 yourself, is that correct?

20 A Yes, sir, I did.

21 Q Okay. And what ground did you file based on?

22 A I filed because I felt my record was read incorrectly  
23 in Court. It was. I feel that that had a basis on the  
24 amount of time that I received.

25 Q How much time did you receive for---

Michael Odom - Direct examination  
by Mr. Allen

1 A I received ten years, sir.

2 Q And did you get any credit for time served on the  
3 charges?

4 A Yes, sir, I was in Spartanburg County for 18 and a half  
5 months at the time when I went to Court.

6 Q Okay. You got 547 days at the time you were sentenced,  
7 is that correct?

8 A Yes, sir, that sounds right.

9 MR. ALLEN: Okay. Your Honor, may I approach the  
10 witness?

11 THE COURT: (Nods affirmatively.)

12 Q Sir, I have here the record as it reflected to your or  
13 is this the record as it was read into the, to the judge at  
14 the time of your hearing.

15 Can you go through and tell me which charges on this,  
16 it's Page 12 here, right here, which charges were read in  
17 the record which were not your charges or they were  
18 incorrect?

19 Start right there and please go down if they are not  
20 correct.

21 A Sir, the armed robbery.

22 Q Which year armed robbery?

23 A Looks like it says 1990, sir.

24 Q Okay.

25 A I've never had -- I've never been convicted of armed

Michael Odom - Direct examination  
by Mr. Allen

1 robbery---

2 Q Okay. Can you---

3 A ---and I feel that when the judge heard that I was an  
4 armed robbery, I mean I was convicted of armed robbery, I  
5 feel like that had a basis on what he sentenced me to.

6 Q Any other charges in there?

7 A The common law robbery.

8 Q What year?

9 A '94 and '96 are the same charges, sir.

10 Q Okay. And did you---

11 A I had a suspended sentence and I did -- and they were  
12 the same, when I, when I had a probation violation, and I  
13 had to go back for a few months in prison. It was listed  
14 again as two -- it was -- it's listed twice instead of once.  
15 It's the same charge, but it's, it's listed twice, sir.

16 Q Okay. What about the '96 charges, were those one or  
17 two counts?

18 A Two counts of attempted armed robbery. I've never,  
19 I've never been convicted of attempted armed robbery or  
20 armed robbery, sir.

21 Q So -- and then what are the two counts of common law  
22 robbery?

23 A Those were duplicates of the '94 and '96. It's the  
24 same.

25 Q Okay. Any others?

Michael Odom - Direct examination  
by Mr. Allen

1 A I believe the rest will be correct, sir.

2 Q Okay. At the time your record was read into the record  
3 or your record was read into the record, did you tell your  
4 attorney it was incorrect?

5 A Yes, I did. When it was time for my record to be read,  
6 I was standing beside my attorney, and I nudged him and said  
7 I've never been convicted of armed robbery, that's not  
8 correct. At that particular time he told me that it, it  
9 wasn't -- it didn't look good to argue with the solicitor in  
10 front of the judge.

11 Q Okay. So, you asked him, you asked him to object and  
12 he did not?

13 A Yes, sir.

14 Q Okay.

15 MS. WHITE: If I -- Your Honor, if I could just  
16 clarify. Again, he was represented by two attorneys. So,  
17 when he says he, and asked his attorney and was getting a  
18 response---

19 A Mr. Usry was standing beside me, Rob, and I told him  
20 that my record was incorrect and I asked him to address it,  
21 you know. I would rather have it cleared up then then now,  
22 and he said that it didn't look good to argue with the  
23 solicitor in front of the judge and that --.

24 Q Did he tell you anything else about how you can address  
25 it?

Michael Odom - Direct examination  
by Mr. Allen

1 A That, that, that would give me grounds for PCR in the  
2 future --

3 Q Okay.

4 A -- and not that I wanted to go through with that, but  
5 --.

6 Q Okay. And then after your sentence, did you ask, did  
7 you ask Mr. Usry or Mr. Adams about your right to appeal?

8 A From that point on things were kind of a blur. I, I  
9 wasn't expecting ten years. I was told that I couldn't do  
10 a, some kind of appeal cause I pled guilty. I'm not exactly  
11 sure. I'm not, wouldn't, couldn't be a hundred percent  
12 positive.

13 Q If you had understood your right to appeal, would you  
14 have appealed that sentence?

15 A Yes, I would have.

16 Q Okay. So, just to clarify and make sure we're right,  
17 you believe your counsel was ineffective because he did not  
18 object, and, therefore, preserve -- one, addressing it up  
19 here, and, two, preserving that for you to appeal?

20 A Yes, sir.

21 Q Okay. Any other complaints about your lawyers at the  
22 time?

23 A No, sir.

24 MR. ALLEN: Okay. Nothing further, Your Honor.

25 MS. WHITE: Just briefly.

Michael Odom - Cross-examination  
by Ms. White

1 CROSS-EXAMINATION

2 BY MS. WHITE:

3 Q So, at the time that all the record was read to the  
4 Court, the armed robbery and attempted armed robbery and  
5 common law robbery are the ones that you say are incorrect  
6 pretty much?

7 A Yes, ma'am, the armed robberies and attempted armed  
8 robberies, I've never been convicted of any of that.

9 Q Okay. But you have been convicted of fraudulent  
10 checks, shoplifting, the burglary second, grand larceny,  
11 obtaining property under false pretense, and receiving  
12 stolen goods?

13 A Yes, ma'am.

14 Q Okay. And did you realize that those, those also  
15 counted as property crimes and could enhance your sentence?

16 A Yes, ma'am; I did. At the time though, when my record  
17 was read, when the judge heard the armed robberies, he  
18 started writing. It was like he got very upset with that,  
19 that like influenced him. His face turned kind of pink and  
20 I mean red in the face like this man's been convicted of  
21 armed robbery and here he's standing in my courtroom is kind  
22 of the way I, I took it.

23 Q Okay.

24 A He started writing immediately, and I feel like that  
25 influenced him.

Michael Odom - Cross-examination  
by Ms. White

1 Q But the judge didn't say anything about the fact that,  
2 based on that record, that's what he was giving you a  
3 sentence of?

4 A No, ma'am, he didn't say that. But on, on charges like  
5 shoplifting and petty larceny, to receive ten years,  
6 wouldn't you be sentenced prior -- I mean I probably caught  
7 that because of my prior -- I mean my record.

8 MS. WHITE: Okay. And may I approach, Your Honor?

9 THE COURT: (Nods affirmatively.)

10 Q I'm just gonna show you a document and see if you  
11 recall that. If you can look at it and tell me if you  
12 recall signing this document.

13 A Yes, ma'am, that's my signature.

14 Q And it's an acknowledgment of your appeal rights. I  
15 have -- I know I have the right to appeal my guilty plea if  
16 I wish. I understand the notice of appeal requires and  
17 gives you two things. Gives you the ten days and says you  
18 have to do it from ten days of April 14<sup>th</sup>, and you would  
19 need to contact Rob Usry immediately.

20 Do you recall?

21 A No, ma'am.

22 Q But you signed?

23 That is your signature?

24 A Yes, ma'am, it is.

25 MS. WHITE: Okay. Your Honor, I think that's all the

Michael Odom - Cross-examination  
by Ms. White

1 questions I have for the witness, Your Honor.

2 THE COURT: Let me ask you a couple things, Mr. Odom.

3 You're saying that the record that was recited at the  
4 plea is wrong in what respect?

5 The armed robbery you say you've never been convicted  
6 of?

7 WITNESS: No, sir.

8 THE COURT: And what else were you -- you never were  
9 convicted of the common law robbery?

10 WITNESS: Yes, sir.

11 THE COURT: And you have it looks like three counts of  
12 common law robbery?

13 WITNESS: Yes, sir, I think some of those are  
14 duplicated.

15 THE COURT: Well, that's what I'm asking you.

16 WITNESS: Excuse me?

17 THE COURT: You think they are or you don't know?

18 WITNESS: Well, I was sentenced to---

19 THE COURT: How many times have you been convicted of  
20 common law robbery?

21 WITNESS: I think twice, Your Honor.

22 THE COURT: All right. And there were two counts of  
23 attempted armed robbery, and you say you were never  
24 convicted of that?

25 WITNESS: No, sir.

Michael Odom - Cross-examination  
by Ms. White

1 THE COURT: All right. Is everything else accurate?

2 WITNESS: It appears to be, sir.

3 THE COURT: All right. Now, I notice that, after the  
4 State presented your record and after your lawyers addressed  
5 the Court, the Court then turned to you and said is there  
6 anything that you would like to say or would like for me to  
7 know or to consider, and you didn't tell him anything about  
8 your criminal history being inaccurate. You just said that  
9 you were sorry for everything you've done.

10 WITNESS: Yes, sir, I had told my attorney while my  
11 record was being---

12 THE COURT: Well now I heard that, but I'm talking  
13 about -- this is, this is an opportunity the Court gave you  
14 to tell the Court whatever it is you wanted to that would,  
15 you would like for the judge to know or that you like for  
16 the judge to consider in deciding the sentence.

17 Did -- well, why didn't you tell him that you'd never  
18 been convicted of armed robbery or attempted armed robbery?

19 WITNESS: My attorney told me that I wasn't suppose to  
20 argue with the solicitor in front of the judge, that that  
21 didn't look good, and I was following his advice.

22 THE COURT: Well, you wouldn't be arguing with the  
23 solicitor, would you?

24 You'd be telling the judge what you wanted him to know,  
25 which is you'd never been convicted of armed robbery or

Michael Odom - Cross-examination  
by Ms. White

1 attempted armed robbery.

2 I mean how is that arguing with the solicitor?

3 WITNESS: That's what Mr. Usry, that's what Mr. Usry  
4 told me in court, sir.

5 THE COURT: Well, I mean if the solicitor said you  
6 killed somebody when you committed these threats, would you  
7 just let that go?

8 WITNESS: No, sir, that's the reason I---

9 THE COURT: I wouldn't think so. I mean the judge  
10 asked you if there's anything you need to tell him.

11 Would you not have told him that was an incorrect  
12 statement because your lawyer said don't tell me?

13 WITNESS: I wanted to, sir.

14 THE COURT: Okay. All right. Anything else?

15 MR. ALLEN: Just one question, Your Honor.

16 THE COURT: Okay.

17 REDIRECT EXAMINATION

18 BY MR. ALLEN:

19 Q At what point -- the document that the State showed  
20 you, was that signed by you prior to your plea or after your  
21 plea?

22 A It would have to be after my plea. Everything -- I  
23 told you everything -- after that I was, I was -- when I,  
24 when he gave me ten years everything kind of went blurry  
25 from then.

Michael Odom - Redirect examination  
by Mr. Allen

1 Q So, while you acknowledge that's your signature, you  
2 really didn't know what you were signing?

3 A No, sir.

4 MR. ALLEN: Thank you.

5 THE COURT: Okay. You may step down.

6 Okay. Anything else?

7 MR. ALLEN: That's all. Well, I'd obviously like to  
8 put the attorneys on the stand, Your Honor. The State's  
9 gonna do that. So --.

10 THE COURT: Okay.

11 MR. ALLEN: Well, I'll leave it to you or them, either  
12 way.

13 MR. ALLEN: I'll call Rob Usry to the stand.

14 THE COURT: Okay. Mr. Usry, he called you.

15 ROB USRY, having been first duly  
16 sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. ALLEN:

19 Q Mr. Usry, have you had a chance to review the  
20 transcript of the record from the guilty plea?

21 A Yes, sir.

22 Q And have you compared that with his prior record as  
23 presented to you by the State?

24 A Yes, sir.

25 Q And are there inconsistencies?

Rob Usry - Direct examination  
by Mr. Allen

1 A There are some, yes, sir.

2 Q Okay. Would you please tell me which instances, what  
3 the inconsistencies are.

4 A The inconsistencies that I'm able to find, first as it  
5 relates to the robberies, given the record that he had, and  
6 the way, the way that it was printed out on N.C.I.C., it's a  
7 little bit confusing. When we're talking about the 1996  
8 robberies that's in issue here, what I was able to gleam  
9 from his criminal record was that, in 1996, what was read  
10 into the record, was that he had two counts of attempted  
11 armed robbery. I found that he was actually convicted of  
12 one count of attempted armed robbery.

13 The State also read into the record, in 1996, that  
14 there were two counts of common law robbery. What I was  
15 able to gleam from the record, the criminal record is that  
16 there was one count each of strong armed and common law  
17 robbery.

18 Other inconsistencies related to driving offenses.  
19 Inarguably, on Page 12, Line 19, the State referenced four  
20 DUI's in 1989. There were actually two DUI's and two DUS's.

21 On Line 21, the State also referenced two counts of  
22 simple possession of marijuana in 1989. My review gleamed  
23 there was only one on N.C.I.C.

24 In 1991, the State read into the record there was a DUI  
25 third. It was actually a DUS third, and then, in 1991, I'm

Rob Usry - Direct examination  
by Mr. Allen

1 sorry, 1994, the State read into the record a DUI fourth.

2 It was actually a DUS fourth.

3 Q Any other inconsistencies?

4 A No, sir.

5 Q All right. At the time that was read into the record,  
6 did Mr. Odom tell you it was incorrect?

7 A He may have. I truly don't remember.

8 Q Okay. Are you able to determine whether or not you  
9 objected to the record as read?

10 A I did not.

11 Q Okay. Do you appear -- do you typically object to the  
12 record as read when it's incorrect?

13 A It would depend on how bad wrong it is.

14 Q In this particular case would you of objected?

15 A I didn't think that the driving offenses mounted to  
16 much more than a hill of beans, and looking back on the  
17 record about the robberies, had I realized it at that  
18 instant that it had been read in wrong, understanding that  
19 I've got to make a judgment call that's pretty quick in a  
20 case where he's got a ton of property offenses, he's got a  
21 record that is really bad, and I have fought awfully,  
22 awfully hard to get a recommendation of concurrent sentences  
23 on I think it was five property offenses that me and  
24 Mr. Adams handled, which included talking the solicitor out  
25 of revoking the concurrent recommendation that morning, I

Rob Usry - Direct examination  
by Mr. Allen

1 probably would of stayed silent even, even given those  
2 discrepancies because it would of seemed to me, at that  
3 point in time I'm parsing things, and I don't want to  
4 agitate anyone out of rejecting a, a recommendation that  
5 even, as we stood there, I, I recall dreadfully was just  
6 paper thin.

7 Q Okay. Had he insisted that you objected would you have  
8 done so?

9 A I probably would have asked to stand down for just a  
10 minute, and taken a few minutes to go over it, and seeing  
11 how bad the discrepancies are or -- yeah, the discrepancies.  
12 But in all honestly I probably would of leaned against  
13 putting up much of a fight.

14 Q Okay. Okay. As far as---

15 A To be honest, if I'd of done anything, if I'd of done  
16 anything, I might, I might of gone over to the solicitor and  
17 said hey, can we, can we just fix this as opposed to arguing  
18 in open Court about the record.

19 Q Do you recall any discussion with him after the fact  
20 about his right to appeal or a PCR based on that ground?

21 A Not based on that ground. I don't recall exactly when  
22 I had him sign the acknowledgment of appeal rights, but I  
23 know that that acknowledgment spells out that your hopes of  
24 an appeal from a guilty plea are now very slim.

25 Q But you do acknowledge that, by failing to object to

Rob Usry - Cross-examination  
by Ms. White

1 the record, you effectively waived his right to appeal on  
2 that ground?

3 A Yes.

4 MR. ALLEN: Okay. I have nothing further, Your Honor.

5 MS. WHITE: Just briefly, Your Honor.

6 CROSS-EXAMINATION

7 BY MS. WHITE:

8 Q Mr. Usry, you were, as you were stating, he was facing  
9 two or three -- two it looks like shoplifting charges, a  
10 petty larceny, and a breaking into a motor vehicle that day,  
11 and you had gotten a concurrent recommendation?

12 A Yes, ma'am, and the, and the shoplifting sentences, not  
13 sentences, but the shoplifting charges had been elevated to  
14 16-3-57, the ten year enhancement for third or subsequent  
15 property offense.

16 Q Right.

17 A So, they weren't shoplifting per se.

18 Q Okay.

19 A It was the basis for zero to ten years.

20 Q The third or subsequent at that point, yes?

21 A On both charges, yes, ma'am.

22 Q Okay. And, in fact, he had just pled, part of his  
23 record was in 2008 he had actually had two counts of third  
24 or subsequent property offenses, do you -- that's---

25 A That's what the record says, yes, ma'am.

Rob Usry - Cross-examination  
by Ms. White

1 Q Yes.

2 And you were aware that he had several, as you've  
3 stated, property offenses on his record --

4 A Yes, ma'am.

5 Q -- or numerous ones?

6 A Yes, ma'am.

7 Q So, in looking at that, whether or not some traffic  
8 charges or maybe there was a duplicate of a common law  
9 robbery or an attempted armed robbery back in the early  
10 90's, you didn't think that that was worth risking the  
11 potential concurrent sentencing he was gonna get?

12 A Essentially, yes. I mean when you're in the heat of  
13 battle you're called to make judgment calls on an instant.

14 Q Right.

15 A And even had those discrepancies jumped out at me at  
16 the time as I testified earlier, I doubt very seriously I  
17 would of done a whole lot to bring to fruition.

18 Q And had you shared with Mr. Odom, he was aware and I  
19 think he stated today, that he faced up to ten years on  
20 these charges because of enhancement?

21 A On the enhancements, yes, ma'am.

22 Q Yes.

23 Okay. And in regards to the appeal, when you, in your  
24 practice, when you have someone sign that, do you try to  
25 just give them a little bit of information about it or do

Rob Usry - Cross-examination  
by Ms. White

1 you just have them sign the paper or do you sit down with  
2 them?

3 what's your normal?

4 A My normal practice is just to sit down with them and  
5 tell them -- this thing is fairly self-explanatory that I'm  
6 here to answer any questions you got, and if you have any  
7 when you sign it.

8 Q Okay. And in your experience, when someone's pled  
9 guilty, is generally maybe an incorrect statement in a, a  
10 past record, is that generally something that appeal has  
11 been granted on or are you aware of any that have been that  
12 way or you just don't know?

13 A I'm not aware. So, I don't know.

14 Q Okay. All right. Thank you.

15 That's all I have, Your Honor.

16 MR. ALLEN: I have no redirect.

17 THE COURT: Step down.

18 MR. ALLEN: That would be all I'd have.

19 THE COURT: Anything further?

20 MS. WHITE: I don't think so, Your Honor, no.

21 THE COURT: I'll review the record and issue an order.

22 MR. ALLEN: Thank you, Your Honor.

23 THE COURT: Okay.

24

25 \* \* \*END OF REQUESTED TRANSCRIPT OF RECORD\* \* \*

C E R T I F I C A T E

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas Nonjury for Spartanburg County, South Carolina, on the 6<sup>th</sup> day of September, 2012.

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

April 10<sup>th</sup>, 2013

*Pamela E. Green*

PAMELA E. GREEN, Court Reporter

Handwritten mark

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF SPARTANBURG )  
 )  
 Michael Odom, #280968, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )  
 )

IN THE COURT OF COMMON PLEAS  
 SEVENTH JUDICIAL CIRCUIT

2011-CP-42-4163

**ORDER OF DISMISSAL**

This matter comes before the Court by way of an Application for Post-Conviction Relief filed October 28, 2011. The Respondent made its Return on or about July 17, 2012. An evidentiary hearing into the matter was convened on September 6, 2012, at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by Richard W. Allen, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. Also testifying was Robert T. Usry, Esquire. This Court also had before it a copy of the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the Return, and the plea transcript.

**PROCEDURAL HISTORY**

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted at the July and October 2009 terms of the Spartanburg County Grand Jury for breaking into motor vehicle (09-GS-42-3767), petit larceny (09-GS-42-3768), and two counts of shoplifting - \$1,000 or less (09-GS-42-5591, -5592). He was represented by Robert T. Usry,

2012 DEC 22 4:59 PM  
 CLERK OF COURT

Esquire, and S. Frank Adams, Esquire. On April 14, 2011, the Applicant pled guilty to all charges. He was sentenced by The Honorable J. Mark Hayes II to concurrent terms of ten years on each charge of shoplifting and petit larceny, five years for breaking into a motor vehicle, and restitution. The Applicant did not appeal his convictions or sentences.

### ALLEGATIONS

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

1. Ineffective assistance of counsel, in that;
  - a. Counsel failed to ensure his past record was properly presented to the court for consideration prior to sentencing.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

#### Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRPC). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State,

286 S.C. 441, 334 S.E.2d 813 (1985).

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

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland).

The Applicant testified that he believes his prior record was incorrect when presented to the judge at his guilty plea and thinks that it might have affected the judge's decision. Applicant testified that Counsel should have objected when the incorrect record was read. Applicant testified that he informed Mr. Usry that the record was incorrect, but Mr. Usry advised him that it was not good to argue with the Solicitor in front of the court. Applicant testified that the Solicitor indicated that he had been convicted of armed robbery in 1990, but he stated that he had never been convicted of armed robbery. Then, Applicant testified that the common law robbery charge in 1996 was a probation violation of the 1994 charge, not a new charge. However, the Applicant acknowledged that the judge did not reference his prior record or any of those charges

in his sentencing.

The Applicant also testified that Counsel was ineffective for failing to advise him of the right to appeal. Applicant testified that he was told that he could not file an appeal because he pled guilty. However, upon review, Applicant acknowledged that he had signed a document on April 14, 2011, advising him of his right to appeal.

Mr. Usry testified that there are inconsistencies between the record that was read by the Solicitor and the Applicant's NCIC report. However, Mr. Usry testified that it appeared that the only incorrect statements were that in 1996 there were two counts of attempted armed robbery and the Applicant was only convicted of one. Additionally, there are some inconsistencies regarding charges regarding driving under the influence, driving under suspension, and a marijuana charge. Mr. Usry testified that the Applicant may have told him during the plea that the record was incorrect, but he testified that he did not think that the driving offenses were anything and in looking at the record as a whole, he did not believe that any inconsistency made a difference. Furthermore, Mr. Usry testified that he would not have wanted to risk the recommendation for concurrent sentencing.

Mr. Usry testified that the Applicant signed the April 14, 2011, document advising him of his right to appeal his plea. Mr. Usry testified that his normal practice is to have a client sign the document and then Mr. Usry briefly reviews their rights with them. Mr. Usry testified that he had no recollection of a conversation with the Applicant about filing an appeal because of the incorrect record.

In Hill v. Lockhart, 474 U.S. 52 (1985), the United States Supreme Court held that the two-part standard adopted in Strickland v. Washington, supra, for evaluating claims of ineffective assistance of counsel applies, as well, to guilty plea challenges based on ineffective

assistance of counsel. To meet the Court's "prejudice" requirement, a criminal defendant must show that there is a reasonable probability that, but for counsel's errors, he would not have pled guilty and would have insisted on going to trial. The Applicant failed to provide any evidence or testimony to support this argument. This Court finds that the Applicant failed to meet his burden of proof as to this claim and it is denied and dismissed.

### Summary

This Court finds in regards to the allegation of ineffective assistance of counsel, Counsel's testimony was credible. This Court further finds Counsel adequately conferred with the Applicant, conducted a proper investigation, were thoroughly competent in their representation, and that Counsels' conduct does not fall below the objective standard of reasonableness.

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

This Court also finds the Applicant has failed to prove the second prong of Strickland that he was prejudiced by Counsels' performance. This Court concludes the Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance. See Frasier supra. Therefore, this allegation is denied.

### CONCLUSION

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

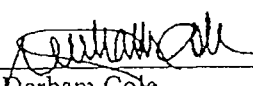
with prejudice.

This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED:**

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

AND IT IS SO ORDERED this 7 day of December, 2012.

  
 \_\_\_\_\_  
 J. Derham Cole  
 Presiding Judge

2012 DEC 12 PM 4:49  
 RECEIVED  
 CLERK OF COURT  
 1110 PLEASANT ST.  
 COLUMBIA, SC 29201

WITNESSES

Sheriff's Office

1. RECEIVED

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

ARREST WARRANT NUMBER

& CHECKED SIGNATURE

7. ASSESSMENT AND FINE CARD MADE  
M089635

8. TRAFFIC VIOLATION COPY

ACTION OF GRAND JURY

*Michael Odom*

*[Signature]*

Foreperson of Grand Jury

Date: 10/23/09

VERDICT

Foreperson of Petit Jury

Date:

09-GS-42-5542

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

OCT 26 2009

TERM

THE STATE  
vs.

Michael Odom

Indictment for  
SHOPLIFTING

SC Code: 16-13-110 (B) (1), 16-01-0057

CDR Code: 2367

Class: FEL/E

MARC KITCHENS  
2009 OCT 28 PM 3:30  
SPARTANBURG COUNTY  
CLERK OF COURT  
FILED

STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG )

INDICTMENT

OCT 23 2009

At a Court of General Sessions, convened on \_\_\_\_\_

Grand Jurors of Spartanburg County present upon their oath:

SHOPLIFTING

That the defendant, Michael Odom, did in Spartanburg County on or about September 21, 2009, take possession of or carry away merchandise displayed, held, stored or offered for sale by any store or other retail mercantile establishment with the intention of depriving the merchant of the possession, use or benefit of the merchandise without paying the full retail value being less than One Thousand Dollars, to-wit: merchandise offered for sale by Walmart. Further, that the Defendant has at least (2) two or more prior convictions for Property Crimes, in violation of §16-13-110 (B) (1), 16-01-0057 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.

  
ASSISTANT SOLICITOR

WITNESSES

Sheriff's Office

1. SENTENCE MADE

3. CARD FILLED

4. INDEXED

ARREST WARRANT NUMBER

7. DOCUMENT AND  
F.P. CARD MADE

M089636

ACTION OF GRAND JURY

Foreperson of Grand Jury  
Date:

VERDICT

Foreperson of Petit Jury  
Date:

09-GS-42-3591

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

OCT 26 2009

TERM

THE STATE  
VS.

Michael Odom

Indictment for  
SHOPLIFTING

SC Code: 16-13-110 (B) (1), 16-01-0057  
CDR Code: 2387  
Class: FELUE

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2009 OCT 28 PM 3:30  
MARC KITCHENS

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SPARTANBURG )

INDICTMENT

At a Court of General Sessions, convened on OCT 23 2009 the

Grand Jurors of Spartanburg County present upon their oath:

SHOPLIFTING

That the defendant, Michael Odom, did in Spartanburg County on or about September 20, 2009, take possession of or carry away merchandise displayed, held, stored or offered for sale by any store or other retail mercantile establishment with the intention of depriving the merchant of the possession, use or benefit of the merchandise without paying the full retail value being less than One Thousand Dollars, to-wit: merchandise offered for sale by Walmart. Further, that the Defendant has at least (2) two or more prior convictions for Property Crimes, in violation of §16-13-110 (B) (1), 16-01-0057 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.

Jimmy D. Moore  
ASSISTANT SOLICITOR

WITNESSES

Spartanburg Public Safety Department

*[Handwritten signature]*

1. SENTENCE MADE

2. REPORT ENDED

**Computer**

3. CARD PULLED

4.  ARREST WARRANT

086410 CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND FINE CARD MADE

**Computer**

ACTION OF GRAND JURY

*Bill*

*[Handwritten signature]*

representative of Grand Jury  
date:

VERDICT

representative of Petit Jury  
date:

09-03-74

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUL 26 2009

TERM

THE STATE  
vs.

Michael Scott Odom

Indictment for  
PETIT LARGENY

SC Code: 16-13-0030 (A), 16-1-57  
COR Code: 2367  
Class MISUNC

CLERK OF COURT  
SPARTANBURG COUNTY  
JUL 27 AM 11:49  
MARC NICHENS

STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG )

INDICTMENT

JUL 17 2009

At a Court of General Sessions, convened on \_\_\_\_\_ the Grand Jurors of Spartanburg County present upon their oath:

PETIT LARCENY

That the defendant, Michael Scott Odom, did in Spartanburg County on or about February 28, 2009, feloniously take and carry away goods belonging to Janet Prasanlack, valued at less than One Thousand Dollars, described as follows: a digital camera, in violation of Section 16-13-30, Code of Laws of South Carolina, (1976), as amended. Further, that the defendant has at least (2) two or more prior convictions for Property Crimes, in violation of 16-1-57, 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.

  
ASSISTANT SOLICITOR

WITNESSES

Spartanburg Public Safety Department

*[Handwritten Signature]*

1. SENTENCE MADE

2. REPORT ENDED

3. CARD FILLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

ARREST WARRANT  
ASSESSMENT AND  
FINE CARD MADE

M086409 7. TRAFFIC VIOLATION COPY

**Computer**  
**Computer**

ACTION OF GRAND JURY

*[Handwritten Signature]*

*[Handwritten Signature]*

Foreperson of Grand Jury

Date: 17 Jul 09

VERDICT

Foreperson of Petit Jury

Date:

09-69-42-5101

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUL 20 2009

TERM

THE STATE

vs.

Michael Scott Odom

Indictment for

BREAKING INTO MOTOR VEHICLE

SC Code: 16-13-0150 (1) (2), (B)

CDR Code: 0258

Class FEL/F

CLERK OF COURT  
JUL 27 2009  
MARC KITCHENS

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF SPARTANBURG )

INDICTMENT

At a Court of General Sessions, convened on           JUL 17 2009          , the  
Grand Jurors of Spartanburg County present upon their oath:

**BREAKING INTO MOTOR VEHICLE**

That the defendant, Michael Scott Odom, did in Spartanburg County on or about February 28, 2009, break into a motor vehicle Janet Prasanlack, with the intent to steal the same or anything of value therefrom, in violation of §16-13-160 (1) (2), (B), *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,

  
ASSISTANT SOLICITOR

