

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Clarendon County

Honorable Edgar W. Dickson, Circuit Court Judge

MICHAEL TERRANCE LAWYER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-000558

APPENDIX

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STATE OF SOUTH CAROLINA) **TRANSCRIPT OF RECORD**
COUNTY OF CLARENDON) CASE NO.:2020-GS-14-0283
ORIGINAL - PLEA

November 29, 2021

BEFORE: The Honorable Kristi Curtis

STATE OF SOUTH CAROLINA,

Plaintiff,

vs.

MICHAEL TERRANCE LAWYER,

Defendant.

APPEARANCES:

Darla Pierce, Esq.
Appearing for the Plaintiff/State.

Lewis King Cutter, Esq.
Appearing for the Defendant.

Official Court Reporter
Natalie Dahl, RPR

1 NOTE: Pursuant to Rule 607 (h)(1)(B), SCACR "A COURT
2 REPORTER SHALL RECEIVE THE FEE OF \$1.00 PER PAGE FOR
3 FURNISHING A COPY OF A PREVIOUSLY PREPARED TRANSCRIPT."

4 All requests for a copy of the enclosed transcript
5 shall be sent to: Natalie Dahl, RPR

6 P.O. Box 762

7 Conway, SC 29526

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

9 MS. PIERCE: State versus Michael Terrence Lawyer
10 on Indictment 2020-GS-14-0283. Mr. Lawyer is indicted
11 for criminal sexual conduct third-degree. He is
12 represented by King Cutter. He wishes to plead
13 guilty. There is no recommendations or negotiations.
14 We ask that we go ahead and enter his guilty plea and
15 defer sentencing until after December.

16 EXAMINATION

17 BY THE COURT:

18 Q Mr. Lawyer, I'm Judge Curtis. I understand you
19 are here to plead guilty to criminal sexual conduct in
20 the third-degree, that carries up to ten years; is that
21 your understanding?

22 A Yes, ma'am.

23 Q Have you had a chance to discuss this with
24 Mr. Cutter?

25 A Yes, ma'am.

Q Are you satisfied with what your attorney has
done for you?

A Yes, ma'am.

1 Q You are not under the influence of any drugs or
2 alcohol today?

3 A No, ma'am.

4 Q Are you taking any prescription medication?

5 A No, ma'am.

6 Q Are you being seen for any mental health issues?

7 A No, ma'am.

8 Q Is there anything that is keeping you from making
9 a good decision today?

10 A No, ma'am.

11 Q Has anyone promised you anything to try to get
12 you to plead guilty?

13 A No, ma'am.

14 Q Has anyone forced you, threatened you, coerced
15 you in any way?

16 A No, ma'am.

17 Q You are waiving a number of rights when you enter
18 this plea. You have a Constitutional right to remain
19 silent; that means if your case went to trial, no one
20 could force you to testify. If you chose not to
21 testify, no one can hold that against you; it is a
22 Constitution right. The trial judge would instruct the
23 jury that they cannot hold that against you if you
24 chose not to testify; they can't even discuss it during
25 their deliberations. When you plead guilty, you are

1 waiving that Constitutional right to remain silent; you
2 understand that?

3 A Yes, ma'am.

4 Q You have a Constitutional right to a trial by
5 jury to let 12 citizens come into the courtroom, let
6 them hear the State's evidence and have them decide
7 whether you are guilty or not guilty. When you enter a
8 guilty plea, you are waiving that right for a jury
9 trial as well; you understand that?

10 A Yes, ma'am.

11 Q When you have a trial, it is the State's burden
12 to prove you guilty beyond a reasonable doubt. That
13 beyond a reasonable doubt standard is the highest
14 standard we have in law. All 12 jurors have to vote
15 guilty for you to be convicted; it has to be an
16 unanimous verdict. Again, you waive those rights when
17 you enter this plea; you understand that?

18 A Yes, ma'am.

19 Q When you have a trial you have a chance to
20 confront witnesses for the State. Each witness
21 testifies in open court. Mr. Cutter gets to ask the
22 witnesses questions on cross-examination. He gets to
23 present a defense on your behalf. He would have the
24 authority to subpoena your witnesses and compel them to
25 come to court and testify. Again, you waive those

1 rights today when you enter this plea; you know that?

2 A Yes, ma'am.

3 THE COURT: Is this an offense that requires
4 registration?

5 MS. PIERCE: He's already on the registry, Your
6 Honor.

7 THE COURT: Is it an offense that triggers the
8 sexually violent predator?

9 MS. PEARCE: Yes, ma'am.

10 THE COURT: Have you discussed that with him?

11 MR. CUTTER: Yes, Your Honor.

12 Q (BY THE COURT) Mr. Lawyer, you are aware this is
13 considered a sexually violent offense; what that means
14 is that if you are incarcerated, at the end of your
15 incarceration, the State can institute a separate
16 proceeding to have you declared as a sexually violent
17 predator, if a judge found there was probable cause.
18 That would then trigger a hearing, mental evaluations,
19 et cetera, to determine whether or not you could be
20 held past the date of your incarceration and mental
21 health facility; are you aware of that?

22 A Yes, ma'am.

23 Q Knowing all of your rights, are you pleading
24 guilty or not guilty?

25 A I plead guilty.

1 MS. PIERCE: On June 8, 2019, officers with the
2 Clarendon County Sheriff's Office responded to the
3 corner of West Boise Street and Edgeworth Drive in
4 Clarendon County. There was a civil disturbance.
5 Quite frankly, I believe Mr. Lawyer was being beat up.
6 At that time, officers talked to Ms. H [REDACTED]; she is
7 the victim and present in the courtroom. She stated
8 that the night before that she had people at her
9 residence, [REDACTED] Fleming Circle. They were watching
10 the basketball game. She fell asleep. Sometime in
11 the middle of the night, she woke up and found that
12 her shorts were pulled down to her ankles and that
13 Mr. Lawyer was performing cunnlilgus on her. It was
14 not consensual. There was a witness to the event. At
15 that time, that is when I believe there was going to
16 be civil justice when the deputies arrived.

17 Mr. Lawyer confessed. He stated he messed up.
18 He never denied it. Like I said, my victim is here.
19 She is aware that he's pleading guilty and we're
20 deferring sentencing. She asks that there is no
21 victim contact in the interim. He is already on the
22 sex offender registry. He had a criminal sexual
23 conduct with a minor back in 2000; that was a
24 conviction. Then he had another conviction for a lewd
25 act on a child in 2006.

1 Ms. H informed our office that this is
2 something I think that Mr. Lawyer has done to other
3 people as well, not just her.

4 Q (BY THE COURT) Mr. Lawyer, are the facts true
5 about what happened on June 8, 2019?

6 A Ma'am?

7 Q Are those facts true --

8 A Yes, ma'am.

9 THE COURT: I find there is a sufficient factual
10 basis for this plea. It is made freely, voluntarily,
11 knowingly and intelligently and after the advice of a
12 very competent attorney. You have ten days from
13 today's date if you want to appeal -- well, I guess
14 we're going to defer the sentencing, so your time to
15 appeal doesn't run until after sentencing.

16 Mr. Cutter.

17 MR. CUTTER: Your Honor, I'll wait until
18 sentencing.

19 THE COURT: That's the week of January 10th?

20 MS. PIERCE: We have Judge Brown; but, yes,
21 ma'am, we can do that. Or I told Mr. Cutter we could
22 find you in Sumter, if need be.

23 MR. CUTTER: Your Honor, worse case scenario, it
24 would be the week of April 18th when you are back
25 here, but we'll possibly come find you or go from

1 there.

2 THE COURT: I think I'm in Sumter the week of the
3 10th. I think I'm there for a plea week.

4 MR. CUTTER: Okay. If we can get him there, I'll
5 come that way.

6 THE COURT: I'll write on the sentencing sheet
7 that the plea was accepted on today's date and
8 sentencing is deferred until January of 2022.

9 Mr. Lawyer, it's very important that you do not
10 have any contact with Ms. H [REDACTED] in this interim
11 period between the time -- I assume you are already
12 under an order not to have any contact with her, and
13 that remains in effect. It's not going to help your
14 case if you have any contact with her in between the
15 time you are pleading and sentencing. That is a very,
16 very bad move for you to have any contact. So no
17 phone calls, text messages, no e-mails, calls, don't
18 mail her a letter, no contact on any social media,
19 don't go to where she works, lives, don't send anyone
20 else to do any of those things on your behalf. No
21 contact, whatsoever. Either myself or Judge Brown
22 will be back with you in January.

23 (Whereupon, the proceedings concluded.)

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CERTIFICATE OF REPORTER

State of South Carolina)

County of Clarendon)

I, Natalie Dahl, Official Court Reporter for 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 hearing of the captioned case, relative to appeal, in the Court of General Sessions for Clarendon County, South Carolina, on the 29th day of November, 2021.

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

November 18, 2022

Natalie Dahl, RPR

Court Reporter

FORM 5

STATE OF SOUTH CAROLINA)

CASE # 2022-CR14-00486
IN THE COURT OF COMMON PLEAS

County of Clarendon)

Michael Lawyer)

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

v.

**CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE**

State of South Carolina

DATE 11/4/2022

POST-CONVICTION RELIEF

Paula H. Roberts

CLERK OF COURT
CLARENDON COUNTY, SC

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 Clarendon County Detention Center

2. Name and location of Court which imposed sentence Clarendon County Courthouse Manning S.C 29102

3. Name(s) of co-defendant(s) (if any) _____

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2020-GS-14-0283 Criminal
 - (b) Sexual Conduct 3rd

(c) _____

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

(a) 01-05-2022 5yrs, NON-Violent

(b) _____

(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. _____~~

~~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) I didn't know At the time of the SVP Civil Action

(b) I had 524 days Credit with 10 month, at the time a Jury Trial would have been My words against her words with no evidents proving otherwise.

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

- (a) My lawyer failed to address me that based on my criminal
- ~~(b) history and prior SVP commitment it would be likely that the~~
- (c) State would file a SVP civil action, and I was given a lesser included

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

- (a) If I had known that my criminal history / prior SVP commitment
- (b) was a condition, I would have wanted voided a plea deal.
- (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. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

- i. _____
- 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:

- (a) your arraignment and plea? yes
- (b) your trial, if any? yes
- (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. King Cutler "P.O. Box 339 (3w 1/2 Eith St.)
Manning, SC 29102
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. King Cutler Indictment # 2020-GS-14-0283
 - ii. _____
 - iii. _____

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

I want the opportunity to prove my innocence at a Jury Trial

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

No

STATE OF SOUTH CAROLINA)
County of Clarendon)

VERIFICATION

I, Michael Lawyer, 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.

[Signature]

SWORN to and subscribed before me this 28th day of October, 2022.

Donna A. Inesdale (L.S.)
Notary Public

My Commission Expires: March 3, 2031

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

I, Michael Lawger, 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.



 Applicant

SWORN or affirmed to and subscribed before me this 28th day of October, 2022.

Dona A. Inauda
 Notary Public

My Commission Expires: March 3, 2031

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF CLARENDON)	FOR THE THIRD JUDICIAL CIRCUIT
)	
)	
Michael Lawyer,)	Case No. 2022-CP-14-00486
)	
Applicant,)	
)	
v.)	RETURN
)	(COUNSEL APPOINTED)
)	
State of South Carolina,)	
)	
Respondent.)	
)	
)	

In response to the post-conviction relief (PCR) action commenced by Michael Lawyer (Applicant) on November 14, 2022, the State makes this return:

I. FACTS & PROCEDURAL HISTORY

During its October 2020 term, the Clarendon County Grand Jury indicted Applicant for criminal sexual conduct – third degree (2020-GS-14-0283). Applicant was represented by Lewis King Cutter. The case was prosecuted by Assistant Solicitors Darla Pierce and Phillip Little.

On November 29, 2021, Applicant pleaded guilty as indicted before the Honorable Kristi Curtis. Sentencing was deferred until January 5, 2022. Judge Curtis sentenced Applicant to five (5) years for criminal sexual conduct – third degree. Applicant did not file a direct appeal.

Facts

The Solicitor gave the following recitation of the facts during the plea proceeding:

On June 8, 2019, officers with the Clarendon County Sherriff’s Office responded to the corner of West Boise Street and Edgeworth Drive in Clarendon County. There was a civil disturbance. Quite frankly, I believe Mr. Lawyer was being beat up. At that time, officers talked to Ms. Hilton; she is the victim and present in the courtroom. She stated that the night before that she had people at her residence, 1221 Fleming Circle. They were watching the basketball game. She fell asleep. Sometime in the middle of the night, she woke up and found that her shorts were pulled down to her ankles and that Mr. Lawyer

was performing cunnilingus on her. It was not consensual. There was a witness to the event. At that time, that is when I believe there was going to be civil justice when the deputies arrived. Mr. Lawyer confessed. He stated he messed up. He never denied it.

(Gp. Tr. p. 6, ll. 1-18).

II. 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

- a. "My lawyer failed to address me that based on my criminal history and prior SVP commitment it would be likely that the State would file a SVP civil action, and I wasn't given a lesser included offense for my plea. If I had known that my criminal history/prior SVP commitment was a condition, I would have voided a plea deal."

Applicant requests relief as follows:

"I want the opportunity to prove my innocence at a jury trial."

Attached to this return and incorporated by reference are the Clarendon County Clerk of Court records regarding the subject conviction, the guilty plea transcript, the sentencing transcript and the records of the current PCR action. The State reserves the right to amend this return upon receipt of any relevant materials.

III. RESPONSE TO ALLEGATIONS OF INEFFECTIVE ASSISTANCE OF COUNSEL

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). 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), 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 or sentence. 466 U.S. at 687. First, the applicant must show that counsel’s performance was deficient; and second, that the deficient performance prejudiced the applicant. Id. at 668; Butler, 286 S.C. at 442, 334 S.E.2d at 814.

The first prong—constitutional deficiency—is “necessarily linked to the practice and expectations of the legal community.” Padilla v. Kentucky, 559 U.S. 356, 366 (2010). In order to prove deficient performance, the applicant must show counsel’s representation fell below an objective standard of “reasonableness under prevailing professional norms.” Cherry v. State, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814.

Strickland, however, “does not guarantee perfect representation[—]only a ‘reasonably competent attorney.’” Harrington v. Richter, 562 U.S. 86, 110 (2011) (quoting Strickland, 466 U.S. at 687). Representation is constitutionally ineffective only if counsel’s conduct “so undermined the proper functioning of the adversarial process” that the defendant was denied a fair proceeding. Strickland, 466 U.S. at 686. Just as there is “no expectation that competent counsel will be a flawless strategist or tactician, an attorney may not be faulted for a reasonable

miscalculation or lack of foresight or for failing to prepare for what appear to be remote possibilities.” Harrington, 562 U.S. at 110.

Accordingly, “[j]udicial scrutiny of counsel’s performance must be highly deferential, as it is all too tempting for a defendant to second-guess counsel’s assistance after conviction or an adverse sentence, and it is all too easy for a court, examining counsel’s defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable.” Strickland, 466 U.S. at 689; see also Yarborough v. Gentry, 540 U.S. 1, 6 (2003) (“The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.”). Thus, the question is whether an attorney’s representation amounted to incompetence under “prevailing professional norms,” not whether it deviated from best practices or most common custom. Id. (quoting Strickland, 466 U.S. at 690).

Thus, a fair assessment of attorney performance requires every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel’s challenged conduct, and to evaluate the conduct from counsel’s perspective at the time. Id. Because of the difficulties inherent in making such an evaluation, the reviewing court must indulge in a “strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance.” Butler, 286 S.C. at 445, 334 S.E.2d at 816. The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625.

Reviewing courts “must judge the reasonableness of counsel’s challenged conduct on the facts of the particular case, viewed at the time of counsel’s conduct.” Strickland, 466 U.S. at 690. An applicant making a claim of ineffective assistance “must identify the acts or omissions of counsel that are alleged not to have been the result of reasonable professional judgment.” Id. The reviewing court must then “determine whether, in light of all the circumstances, the identified

acts or omissions were outside the wide range of professionally competent assistance.” Id.

The Strickland standard must be applied with scrupulous care, lest “intrusive post-trial inquiry” threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689-690; see also Harrington, 562 U.S. at 105 (cautioning that an ineffective assistance of counsel claim could potentially function as a way to escape rules of waiver and forfeiture and raise issues not presented at trial). Even under *de novo* review, the standard for judging counsel’s representation is a most deferential one. Harrington, 562 U.S. at 105. Unlike a later reviewing court, the attorney observed the relevant proceedings; knew of materials outside the record; and interacted with the client, opposing counsel, and the judge. Thus, the question is whether an attorney’s representation amounted to incompetence under “prevailing professional norms,” not whether it deviated from best practices or most common custom. Id. (quoting Strickland, 466 U.S. at 690) (emphasis added).

The second, or “prejudice” prong of Strickland is rooted in the very purpose of the Sixth Amendment guarantee of counsel—to ensure a defendant has the assistance necessary to justify reliance on the outcome of the proceeding. Id. at 691–92. In order to prove prejudice, an applicant must demonstrate counsel’s deficient performance 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.” Strickland, 466 U.S. at 694. Thus, it is not enough “to show the errors had some conceivable effect” on the outcome of the proceeding—counsel’s errors must be “so serious as to deprive the defendant of a fair trial.” Id. at 687 (emphasis added).

Because the Sixth Amendment right to counsel also applies to a defendant entering a

guilty plea, Hill v. Lockhart extended the two-part Strickland test to challenge guilty pleas based on ineffective assistance of counsel.” Hill, 474 U.S. 52; cf. Padilla, 559 U.S. at 373 (recognizing the guilty plea process is a “critical phase of litigation” for purposes of the Sixth Amendment right to effective assistance of counsel). A claim of ineffective assistance of guilty plea counsel requires the applicant present evidence satisfying two prongs: first, evidence that counsel’s performance was deficient; and second, evidence that counsel’s deficient performance prejudiced the defendant by causing him to plead guilty rather than go to trial. Hill, 474 U.S. 52.

The analysis of counsel’s performance under the first prong of Strickland remains unchanged—the applicant must show counsel’s representation fell below the 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 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. ___, 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).

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, 582 U.S. ___, 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, 582 U.S. ___, 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 plea and the evidence presented at the PCR hearing. Harres v. Leeke, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

The performance and prejudice standards, however, “do not establish mechanical rules; [t]he ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged.” Strickland at 696. Moreover, “there is no reason for a court deciding an ineffective assistance claim to approach the inquiry in the same order or even to address both components of the inquiry if the defendant makes an insufficient showing on one.” Strickland at 697. The court “need not determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. Id. If it

is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, the court may evaluate the prejudice prong only. *Id.*

The State submits Applicant's allegation that trial counsel failed to advise Applicant that the State could pursue a sexually violent predator civil action is refuted by the record. Applicant's counsel informed the plea court he discussed with Applicant that the offense could trigger sexually violent predator proceedings. (Gp. Tr. p. 5, ll. 10-11). Furthermore, the Plea Court thoroughly advised Applicant the State could institute a separate proceeding based on his charges. When asked by the Plea Court if Applicant understood this, he responded affirmatively, as evinced below:

Q: Mr. Lawyer, you are aware this is considered a sexually violent offense; what that means is that if you are incarcerated, at the end of your incarceration, the State can institute a separate proceeding to have you declared as a sexually violent predator, if a judge found there were probable cause. That would then trigger a hearing, mental evaluations, et cetera, to determine whether or not you could be held past the date of your incarceration and mental health facility; are you aware of that?

A: Yes, ma'am.

(Gp. Tr. P. 5, ll. 12 – 22).

For the above-reasons, Applicant cannot satisfy either requirement of *Strickland*. To the extent Applicant's allegations are not conclusively refuted by the record, the State requests and evidentiary hearing be held to fully resolve those issues. *See 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 lower court").

IV. 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, SCRCP; see also Rules 15(a)-(b), SCRCP. 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), SCRCP.

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.

V. GENERAL DENIAL

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

VI. CONCLUSION

WHEREFORE, the State respectfully requests an evidentiary hearing be held on the claims 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

T. CRUISE MITCHELL
Assistant Attorney General

By: 

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

January 10, 2023

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CLARENON)
)
 MICHAEL TERRANCE LAWYER)
)
 Applicant,)
))
 vs)
))
 STATE OF SOUTH CAROLINA,)
))
 Respondent,)
 _____)

IN THE COURT OF COMMON PLEAS

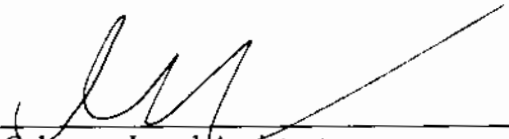
2022-CP-14-486

CERTIFICATE OF SERVICE BY MAIL

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 to the Application for Post-Conviction Relief in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Mr. Timothy Lee Griffith, Esquire
2338 Mount Vernon Drive
Sumter, South Carolina 29154

DATED this 10th day of January, 2023.



 Joshua Osborne, Legal Assistant
 For Respondent

STATE of SOUTH CAROLINA } IN THE COURT of COMMON PLEAS
COUNTY of Clarendon } THIRD JUDICIAL CIRCUIT
Michael Lawyer } Case # 2022-CP-14-0048
Vs. }
State of South Carolina } PETITION for DISMISSAL and RELEASE

I, Michael Lawyer proceeding pro se Pursuant to SC CODE of Law, I here petition for dismissal and release from confinement. The Legislature intended the ninety day time limit be mandatory. I am now being deprived of my liberty as a result of the delay and has suffered prejudice. I've been confined since NOV. 1st, 2022 after a probable cause hearing held Oct. 27th, 2022. A sixty day continuance was requested to complete the evaluation, which was completed mid Feb. 2023. The State has an expired its due date for trial and I move for Dismissal and Immediate Release - Supporting arguments - In RE the detention of ALAN C. FOWLER 784, Reason for delay (there is none) STATE V. NELSON 598, missing a deadline STATE V. SASSMAN 206, the issue cannot be resurrected by a motion after the facts DOLAN V. BROWN COUNTY 870, any remedy other than dismissal would render a time limitation, trial meaningless STATE V. JOHNSON 217, petitioner should be entitled an expeditious trial because of my liberty being infringed SWANSON V. CITI COMMIT UNIT for SEX OFFENDERS 737(300), and avoiding problems with Due Process STATE V. MILLER 637.

I hold that the ninety days time limit is mandatory and because the State fail to bring me to trial within ninety days and did not request another continuance nor provide a showing of good cause, the case must be dismissed and (I) the Defendant Immediately Release. Since NOV. 1st, 2022 my status cease being that of an "Incarcerated Criminal" and instead became that of an "accused" SVI held in jail without bond, therefore, the State was unable to meet its burden and I

[Signature]
Applicant's Signature

STATE of SOUTH CAROLINA
COUNTY of Clarendon

I, Michael Lawson being duly sworn upon oath, depose
and say that the matter and petition
Therein are true.

SWORN to subscribed before me this 05
day of July, 2023

* Foster L. Lupton, Jr.
Notary Public

06/16/2030
My Commission Expires



[Signature]
Petitioner's Signature

1 STATE OF SOUTH CAROLINA) IN THE COMMON PLEAS COURT OF
) THE THIRD JUDICIAL CIRCUIT
 2) 2022-CP-14-00486
)
 3 COUNTY OF CLARENDON)

4
 5 MICHAEL T. LAWYER,)
)
 6)
 Applicant,)
 7)
) TRANSCRIPT OF RECORD
 8 vs.)
)
 9 STATE OF SOUTH CAROLINA,)
)
 10 Respondent,)

11
 12 March 1, 2023

13 Sumter, South Carolina

14
 15 B E F O R E:

HONORABLE EDGAR W. DICKSON, JUDGE

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

18 Timothy L. Griffith, Esquire
 Attorney for the Applicant

19 Travis Cruise Mitchell, Esquire
 Attorney for the State

20
 21
 22
 23 Lisa G. Amick
 Official Court Reporter
 24
 25

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INDEX OF WITNESSES

(SW) - Denotes State's witness
(DW) - Denotes Defense witness

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Cross examination by Mr. Mitchell: 7
Redirect examination by Mr. Griffith: 10

(DW) Mr. Cutter

Direct examination by Mr. Griffith: 12
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EXHIBITS

(NO EXHIBITS INTRODUCED.)

1 THE COURT: Alright. This is a Clarendon County
2 case. Case number 2022-CP-14-00486, Michael Lawyer, Applicant
3 versus State of South Carolina, Respondent, is that correct?

4 MR. MITCHELL: Yes, sir.

5 THE COURT: Okay. And Mr. Mitchell, what you got for
6 me?

7 MR. MITCHELL: May it please the Court?

8 THE COURT: Yes, sir.

9 MR. MITCHELL: This is the post-conviction relief
10 matter of Michael Lawyer v. State, case number 2022-CP-14-00486
11 out of Clarendon County. Cruise Mitchell on behalf of the
12 State of South Carolina. Applicant is present and represented
13 by counsel, Timothy Griffith. Applicant was indicted at the
14 October 20th, 2020 term of the Clarendon County Grand Jury for
15 criminal sexual conduct third degree, case number 2020-GS-14-
16 00283. Applicant was represented by Lewis King Cutter, the
17 State was represented by Assistant Solicitors, Darla Pierce and
18 Phillip Little. On November 29th, 2021 Applicant pleaded
19 guilty as indicted before the Honorable Kristi Curtis,
20 sentencing was deferred until January 5th, 2022. Judge Curtis
21 sentenced Applicant to five years for criminal sexual conduct
22 third degree. Applicant did not file a direct appeal.
23 Applicant timely commenced this PCR action on November 14th,
24 2022. And with that, I'll hand the case over to Mr. Griffith.

25 THE COURT: Alright. Mr. Griffith.

1 MR. GRIFFITH: May it please the Court, Your Honor.
2 We would like to call Mr. Michael Lawyer.

3 THE COURT: Alright. Mr. Lawyer.

4 BAILIFF: Place your left hand on the Bible, raise
5 your right hand. State your name.

6 MR. LAWYER: Michael Lawyer.

7 BAILIFF: Do you solemnly swear or affirm your
8 testimony to the Court shall be the truth, the whole truth, and
9 nothing but the truth so help you God?

10 MR. LAWYER: So help me God.

11 BAILIFF: Thank you. Step around, please. What I'd
12 like for you to do is state your name for the record and spell
13 your last name, please.

14 MR. LAWYER: Michael Lawyer, L-a-w-y-e-r.

15 THE COURT: Alright. Mr. Griffith, he's your
16 witness.

17 MR. GRIFFITH: May it please the Court, Your Honor?

18 THE COURT: Yes, sir.

19 **DIRECT EXAMINATION**

20 BY MR. GRIFFITH:

21 Q Mr. Lawyer ---

22 A Yes, sir.

23 Q --- where are you currently incarcerated?

24 A Clarendon County Detention Center.

25 Q Okay. And what did you plead to?

1 A Criminal sexual conduct third degree, nonviolent offense.

2 Q Now, you say, nonviolent ---

3 A Yes, sir.

4 Q --- is that correct?

5 A Yes.

6 Q And that was what you were sentenced to, and you are
7 serving nonviolent ---

8 A Right.

9 Q --- am I correct?

10 A Yes, sir.

11 Q Okay. And so you were sentenced to how many years?

12 A Five years.

13 Q Okay. And under that, after you were starting your
14 incarceration, you learned that, you learned something about
15 your case? What's going to happen with your case?

16 A That it was referred to the multi-disciplinary team for
17 review for the sexually violent predators' program.

18 Q So the sexually violent predators, SVP ---

19 A Yes.

20 Q --- you were referred to that even though your sentence
21 was nonviolent?

22 A Yes, sir.

23 Q Okay. I just wanted to point that out. And so were you
24 made aware before you were sentenced that you could be subject
25 to SVP?

1 A No, I was not.

2 Q Okay. Well, had you known that you would be subject to
3 SVP, would you have pled guilty?

4 A No, I would not have pled guilty. I would have
5 renegotiated my plea at least for a lesser included offense or
6 take it to trial.

7 Q So you would have been willing to go to trial?

8 A Yes, I would have.

9 Q Okay. And who was your attorney?

10 A Mr. King Cutter.

11 Q Okay. Do you recall Mr. King Cutter talking to you about
12 SVP?

13 A No, sir.

14 MR. GRIFFITH: I have no further questions.

15 THE COURT: Alright. Any questions of this witness,
16 Mr. Mitchell?

17 MR. MITCHELL: Yes, Your Honor.

18 THE COURT: Okay.

19 **CROSS EXAMINATION**

20 BY MR. MITCHELL:

21 Q Mr. Lawyer, do you recall at your plea hearing the Judge
22 going over the potential for sexual violent predator
23 commitment?

24 A Yes, the Judge, yes.

25 Q The Judge did, so ---

1 A Yes, the Judge did, yes. That was after I had already
2 pled. That was just before sentencing.

3 Q That was just before you pled guilty?

4 A No. I pled guilty in October, and I was sentenced in
5 January in Bishopville, it was mentioned then when I was in
6 Bishopville.

7 Q Would you mind taking a look at the guilty plea transcript

8 ---

9 A Sure.

10 Q --- on November 29th, 2021?

11 MR. MITHCELL: My I approach the witness, Your Honor?

12 THE COURT: You may.

13 Q This is from your plea hearing in front of Judge Curtis.

14 And then in it she ---

15 THE COURT: What page are you referring to?

16 MR. MITCHELL: I'm on page 5, Your Honor.

17 THE COURT: Okay. I'm sorry.

18 MR. MITCHELL: Line 12.

19 THE COURT: Okay.

20 MR. MITHCELL: Of the November 29th, 2021 transcript.

21 THE COURT: Alright.

22 Q And the Court asks you, Mr. Lawyer, you are aware that
23 this is considered a sexually violent offense. What that means
24 is that if you are incarcerated, at the end of your
25 incarceration, the State could institute a separate proceeding

1 to have you declared as a sexually violent predator. If a
2 Judge found there was probable cause, that would then trigger a
3 hearing, mental evaluation, etcetera, to determine whether or
4 not you could be held past the date of your incarceration in a
5 mental health facility. Are you aware of this, and you
6 responded?

7 A Yes, ma'am. But that was ---

8 Q And then ---

9 A She asked me that on January the 5th.

10 Q This is the November 29th, 2021 transcript.

11 A That's true, that's what the paper says, but that's what
12 she asked me ---

13 Q Would you like to look at the transcript?

14 THE COURT: Let him look at the transcript.

15 MR. MITCHELL: Okay.

16 MR. LAWYER: Judge, I see, yes, I remember asking her
17 that question, but that was after she sentenced me in
18 Bishopville.

19 THE COURT: Mr. Lawyer?

20 MR. LAWYER: Yes, sir.

21 THE COURT: Do you, Mr. Mitchell, do you mind showing
22 him the front page of that?

23 MR. MITCHELL: Yes, Your Honor.

24 THE COURT: Okay. This is from the November
25 hearing, Mr. Lawyer. That's why I wanted to make sure

1 you understand ---

2 MR. LAWYER: Sir, I don't ---

3 THE COURT: Do you need to look at that?

4 MR. LAWYER: --- I don't recall that, if I did, I
5 did, but I don't recall it. I remember asking her and she
6 repeated it again at January the 5th, I mean, yeah, January the
7 5th on a Wednesday.

8 THE COURT: Okay.

9 MR. LAWYER: But since it was a nonviolent offense,
10 it was not a big...

11 Q And then after that, she said knowing all of your rights,
12 are pleading guilty or not guilty?

13 A Yes, I pled guilty.

14 MR. MITCHELL: No further questions, Your Honor.

15 THE COURT: Alright. Anything on redirect?

16 MR. GRIFFITH: Yes, Your Honor.

17 **REDIRECT EXAMINATION**

18 BY MR. GRIFFITH:

19 Q Mr. Lawyer ---

20 A Yes.

21 Q --- when you pled guilty and were sentenced, were you
22 sentenced to a violent crime?

23 A No, I was not.

24 Q So did you have any reason to believe that when
25 she begins here saying that it is a sexually violent offense,

1 did you think that applied to you?

2 A No, I did not.

3 Q Okay. And so hadn't realized that applied to you, even
4 though you were sentenced under a nonviolent, would you have
5 still gone to trial?

6 A I mean, I would have gone to trial, yes.

7 Q Okay.

8 MR. GRIFFITH: I have no further questions, Your
9 Honor.

10 THE COURT: Alright. Anything on recross?

11 MR. MITCHELL: No, Your Honor.

12 THE COURT: Alright. You can step down, Mr. Lawyer,
13 thank you.

14 MR. LAWYER: Thank you, Your Honor.

15 THE COURT: Alright. Anything further from the
16 State?

17 MR. MITCHELL: Yes, Your Honor, but ---

18 THE COURT: Oh, Mr. Griffith, I'm sorry, anything
19 further from the Petitioner, excuse me, I'm sorry.

20 MR. GRIFFITH: That's okay, Your Honor. I'd like to
21 call Mr. King Cutter, please.

22 THE COURT: Alright.

23 MR. GRIFFITH: Attorney King Cutter.

24 BAILIFF: Place your left hand on the Bible, raise
25 your right. State your name.

1 MR. CUTTER: Lewis King Cutter.

2 BAILIFF: Do you solemnly swear or affirm your
3 testimony to the Court shall be the truth, the whole truth, and
4 nothing but the truth so help you God?

5 MR. CUTTER: I do.

6 BAILIFF: Thank you, sir. Step around, please.
7 State your name for the record, and spell your last name,
8 please.

9 MR. CUTTER: Lewis King Cutter, C-u-t-t-e-r. I go by
10 King.

11 MR. GRIFFITH: Please the Court, Your Honor?

12 THE COURT: Yes, sir.

13 **DIRECT EXAMINATION**

14 BY MR. GRIFFITH:

15 Q Mr. Cutter, where are you, are you employed or are you a
16 solo practitioner, what's...

17 A I work for the Third Circuit Public Defender's Office in
18 Clarendon County.

19 Q Okay. So then you were appointed to Mr. Lawyer?

20 A I was.

21 Q Okay. During the time you represented Mr. Lawyer, I'm
22 sure you represent a lot of clients?

23 A Yes.

24 Q How many attorneys are there over there full-time?

25 A In the public defender's office?

1 Q Public defender's office.

2 A There's two full-time.

3 Q Two full-time. I don't think there are any part-time, are
4 there?

5 A No.

6 Q Okay.

7 A But there's some that, 608 that are part-time in other
8 counties.

9 Q Alright. But when you represented Mr. Lawyer, do you
10 remember working on a deal for him for five years as nonviolent
11 criminal sexual conduct third degree?

12 A We, I don't believe there was a recommendation at the time
13 for five years. I believe that we worked out a deal for him to
14 plead guilty to criminal sexual conduct third degree, it was a
15 nonviolent offense.

16 Q Okay. So in other words, you did work out a deal for
17 nonviolent third degree criminal sexual conduct and then the
18 Judge decided on the years or something?

19 A Yes. He was going to plead guilty to criminal sexual
20 conduct third degree which is a nonviolent offense.

21 Q Okay. And did you talk to him at all prior to his
22 pleading about sexually violent predator statute, SVP?

23 A Yes, I did. So Mr. Lawyer had been through sexually
24 violent, he had a trial, actually, in 2008 on the SVP actions,
25 he had been through it before. And I told him that, you know,

1 a plea to this would likely trigger that, but that would be up
2 to, you know, a later date with a different attorney, and then
3 he would, you know, he would have an opportunity to defend
4 himself against accusations there. But he was, it was a chance
5 that the SVP would be going forward, sexually violent predator.

6 Q And you actually did talk to him about that?

7 A Yes. We talked about it several times because one of our
8 other resident Judges, Judge Cothran, was going to hear Mr.
9 Lawyer's plea late in that year as well. He was actually the
10 Judge who did the sexually violent predator action during that
11 trial, so we talked to him then, and then I talked to him prior
12 to the plea about it, that's the times I'm pretty sure of.

13 Q Did you keep any notes on that or..

14 A I don't have them, I looked for them, but I do not have
15 them.

16 Q Okay.

17 MR. GRIFFITH: I have no further questions, Your
18 Honor.

19 THE COURT: Alright. Mr. Mitchell, any questions of
20 this witness?

21 MR. MITCHELL: Yes, Your Honor, just one.

22 THE COURT: Okay.

23 **CROSS EXAMINATION**

24 BY MR. MITCHELL:

25 Q Good afternoon, Mr. Cutter.

1 A Hey.

2 Q Do you recall at the plea hearing when Judge Curtis asked
3 you if this is an offense that triggers the sexually violent
4 predator -- and this is on page 5, Your Honor, for your
5 reference.

6 THE COURT: Okay.

7 Q -- and she asked if you discussed that with him, and you
8 responded, yes, ma'am?

9 A Yes. I believe she also asked about registry, and either
10 me or the Solicitor said that he was already on the registry,
11 and so we had discussed that as well.

12 Q So were the SVP proceedings triggered by this conviction,
13 or was it this conviction and his prior convictions?

14 A I don't know. I would assume the prior convictions had
15 something to do with it, you know, I wish, I mean, looking
16 back, I mean, I wish there was a way the Solicitor would have
17 let him plead to assault and battery first, that's what I tried
18 to get the whole time because I, I mean, Mike's a good guy and
19 he just makes mistakes around alcohol, but that offer was not
20 on the table. And the victim in this case was very believable
21 as were the two witnesses, and you kind of had to weigh pros
22 and cons of going to trial versus pleading guilty. And we
23 thought pleading guilty would be the best resolution as I guess
24 the jury trial. And then he could fight the SVP if it were to
25 come up and when it came up, he could fight that then.

1 Q So you did try to get a plea deal for something lesser
2 than criminal sexual conduct?

3 A Absolutely, yeah, yeah.

4 Q And you do not believe he would have been successful at
5 trial?

6 A No. I, he's kind of lucky, the only reason he got caught
7 was because they beat him up, three, I mean, a victim was
8 asleep and woke up to him performing oral sex on her and then
9 the two witnesses woke up and then they, they assaulted the
10 daylight out of Mike. And that's the only reason he got caught
11 was the cops rode by as he was getting beat up. But each of
12 those witnesses gave statements and they were all consistent,
13 and he kind of gave the statement, too, that he said he messed
14 up. Furthermore, the victim in the case was a lesbian and I
15 felt that that would be even stronger for their case. And if
16 he were to take the stand, his history would come in which was
17 not great to begin with. So I thought it had to be resolved by
18 a plea, I was trying to do the best I could, and he got the
19 same amount of years that he got in his previous sexual conduct
20 conviction.

21 Q Thank you, Mr. Cutter.

22 MR. MITCHELL: I have no further questions, Your
23 Honor.

24 THE COURT: Thank you, sir. Anything on redirect?

25 MR. GRIFFITH: Nothing, Your Honor.

1 THE COURT: Mr. Griffith, do you have any other
2 witnesses to call on your client's behalf?

3 MR. GRIFFITH: No, Your Honor, we rest.

4 THE COURT: Okay. Thank you. You may step down, Mr.
5 Cutter, thank you, sir. Any witnesses on behalf of the State?

6 MR. MITCHELL: No, Your Honor.

7 THE COURT: Okay. Alright. Any arguments of counsel
8 or would y'all...

9 MR. GRIFFITH: I have no argument, Your Honor.

10 THE COURT: Okay. Alright.

11 MR. MITCHELL: Your Honor, the State would submit
12 that the record plus Mr. Cutter's testimony would dispute the
13 allegation that he was not advised of the possibility of a
14 civil commitment based on the Sexually Violent Predator Act,
15 therefore, post-conviction relief should be denied.

16 THE COURT: I'm sorry, what's the last thing?

17 MR. MITCHELL: Post-conviction relief should be
18 denied. Thank you, Your Honor.

19 THE COURT: Alright. Thank you. You know, based on
20 the evidence that I have before me, Mr. Mitchell, I do agree
21 with you, PCR is going to be denied. Mr. Lawyer, I'm sorry
22 about the situation you got in, but there's nothing on the
23 record that could make me grant it, so good luck to you, though

24 ---

25 MR. LAWYER: Thank you.

1 THE COURT: --- okay? Alright. Thank you, Mr.
2 Griffith.

3 MR. MITCHELL: Thank you, Your Honor.

4 THE COURT: Okay. And Mr. Mitchell, are you going to
5 do the order?

6 MR. MITCHELL: Yes, Your Honor.

7 THE COURT: Okay.

8 (Whereupon the hearing ended at 2:04 pm.)

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CERTIFICATE OF REPORTER

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STATE OF SOUTH CAROLINA)
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)
COUNTY OF CLARENDON)

I, the undersigned Lisa G. Amick, Official Court Reporter for the Third Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the County of Laurens, South Carolina, on the 1st day of March 2023.

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

July 1, 2024

Lisa G. Amick

Lisa G. Amick

Court Reporter

My commission expires: June 30th, 2025

On November 29, 2021, Applicant pleaded guilty as indicted before the Honorable Kristi Curtis. Sentencing was deferred until January 5, 2022. Judge Curtis sentenced Applicant to five (5) years for criminal sexual conduct – third degree. Applicant did not file a direct appeal.

III. STATEMENT OF FACTS¹

On June 8, 2019, officers with the Clarendon County Sherriff's Office responded to a civil disturbance at the corner of West Boise Street and Edgeworth Drive in Clarendon County. At that time, officers talked to Ms. [REDACTED]. She stated that the night before that she had people over at her residence to watch a basketball game. She fell asleep, and sometime in the middle of the night, she woke up and found that her shorts were pulled down to her ankles and Mr. Lawyer was performing cunnilingus on her. It was not consensual. Applicant confessed to the crime.

IV. CURRENT APPLICATION

Applicant timely commenced this PCR application on November 4, 2022. In his application Applicant alleged he was entitled to relief based on the following grounds:

1. Ineffective Assistance of Counsel
 - a. "My lawyer failed to address me that based on my criminal history and prior SVP commitment it would be likely that the State would file a SVP civil action, and I wasn't given a lesser included offense for my plea. If I had known that my criminal history/prior SVP commitment was a condition, I would have voided a plea deal."

This is the only allegation Applicant alleged during the PCR hearing.

V. STANDARD OF REVIEW

An applicant may seek PCR upon the following types of allegations:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;

¹ The following factual summary was taken from the Solicitor's recitation of the facts presented during the guilty plea hearing. Gp. Tr. pp. 6 – 7.

2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy[.]

S.C. Code Ann. § 17-27-20(A).

Ordinarily, PCR 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 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).

The reviewing court applies the two-part test outlined in *Strickland v. Washington* to determine whether counsel's conduct "was so ineffective as to require reversal" of the applicant's conviction. 466 U.S. 668, 687 (1984). 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; *accord. 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)).

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), SCRCPP. 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 “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). 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.* 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. The applicant must further convince the court that a decision to reject the plea bargain would have been rational under the circumstances. *Padilla*, 559 U.S. at 372.

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*, 582 U.S. 357, 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).

VI. FINDINGS OF FACT & CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the PCR hearing, observed the witnesses, passed upon their credibility, and weighed their testimony accordingly. After hearing the testimony presented and considering the legal arguments by counsel, as well as the record in this action incorporated by way of the State’s return, this Court finds Applicant’s claim to be without merit. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following *findings of facts and conclusions of law* based upon all of the probative evidence presented.

Failure to Advise Applicant of Potential SVP Commitment Proceedings

Applicant contends Counsel was ineffective for failing to advise Applicant of the possibility of a civil commitment pursuant to the Sexually Violent Predator (SVP) Act. This Court disagrees and finds Counsel properly advised Applicant of this possibility. This Court finds credible and persuasive the testimony of Counsel, who presented well-recalled testimony of the conversations he had with Applicant, including properly informing Applicant of the potential consequence of SVP commitment proceedings. Furthermore, the record from the plea hearing demonstrates Applicant was properly informed of this consequence prior to entering his guilty plea.

1. PCR Testimony

Applicant testified he pleaded guilty to criminal sexual conduct third degree non-violent offense. Applicant testified he was sentenced to five years. Applicant testified he learned shortly after he started serving his sentence that his case was being referred to the alternative disciplinary team for review for the Sexually Violent Predator's program. Applicant testified he was referred to the SVP program despite serving a sentence for a non-violent crime. Applicant testified he was not made aware he could be subject to SVP proceedings prior to his guilty plea. Applicant testified he would not have pleaded guilty had he known this. Applicant testified Counsel never informed him of the SVP program. Applicant testified that when Judge Curtis was informing him of the SVP process during his plea hearing, he did not believe it applied to him because he was pleading guilty to a non-violent offense. Applicant reiterated he would not have pleaded guilty had he known it applied to him.

Counsel testified he is employed at the Clarendon County Public Defender's Office and was appointed to represent Applicant. Counsel testified they negotiated a plea deal for Applicant

to plead guilty to criminal sexual conduct – third degree, non-violent offense. Counsel testified he informed Applicant by pleading guilty it would likely trigger SVP proceedings. Counsel testified they discussed it several times as Applicant had previously been through an SVP action. Counsel testified Judge Cothran Jr. was originally going to preside over Applicant's guilty plea; however, Judge Cothran Jr. was the presiding judge during Applicant's previous SVP proceedings and could not hear Applicant's guilty plea. Counsel testified he discussed this in depth with Applicant.

2. Discussion

This Court finds Counsel ~~is~~ thoroughly advised Applicant regarding the potential consequence of a sexually violent predator commitment action by pleading guilty. Counsel's credible testimony indicates he discussed this several times with Applicant *prior* to the plea. Additionally, Applicant was previously committed pursuant to the Sexually Violent Predator Act and is familiar with the process, so this Court finds it incredible that Applicant would be wholly unaware of this consequence by pleading guilty. Furthermore, the record from Applicant's plea hearing demonstrates he was fully informed of this consequence by the Court, as indicated below:

The Court: Is it an offense that triggers the sexually violent predator?

Ms. Pearce: Yes, ma'am.

The Court: Have you discussed that with him?

Mr. Cutter: Yes, Your Honor.

The Court: Mr. Lawyer, you are aware this is considered a sexually violent offense; what that means is that if you are incarcerated, at the end of your incarceration, the State can institute a separate proceeding to have you declared a sexually violent predator, if a judge found there was probable cause. That would then trigger a hearing, mental evaluations, et cetera, to determine whether or not you could be held past the date of your incarceration and mental health facility; are you aware of that?

Mr. Lawyer: Yes, ma'am.

(Gp. Tr. p. 5).

It is clear Applicant was extensively advised of potential SVP proceedings by both Counsel and the Court at his plea hearing. Applicant's own testimony at his plea hearing demonstrates he was

informed of this by Counsel and understood this potential consequence. Therefore, this Court finds Counsel was **NOT INEFFECTIVE** in advising Applicant of the possibility of a sexually violent predator civil action.

Even supposing Counsel did not inform Applicant of this consequence, this allegation still fails as a matter of law. “A defendant need not be advised of all collateral consequences of his or her plea in order for the plea to withstand Constitutional scrutiny.” *Williams v. State*, 378 S.C. 511, 515, 662 S.E.2d 615, 617 (Ct. App. 2008). A defendant must only be advised of direct consequences of his plea which “have a definite, immediate and largely automatic effect on the range of defendant’s punishment.” *Id.* Commitment pursuant to the Sexually Violent Predator Act is a collateral consequence that a defendant need not be advised prior to pleading guilty, because it “does not automatically flow from the conviction, rather a civil proceeding occurs where the defendant is evaluated before confinement is certain.” *Hamm v. State*, 403 S.C. 461, 465, 744 S.E.2d, 503, 504 (2013). Thus, Counsel could not be found ineffective for failing to advise Applicant he could be subjected to civil proceedings pursuant to the Sexually Violent Predator Act. Accordingly, this Court finds this allegation is **DENIED**.

VII. CONCLUSION

Based on the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. This Court finds Counsel was not deficient in any manner, nor was Applicant prejudiced by Counsel’s representation. This Court finds Applicant freely, knowingly, and voluntarily pleaded guilty. Therefore, this Court denies relief on all allegations and dismisses this PCR action with prejudice.

Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review pursuant to Rule 203, SCACR. Applicant has a right to appellate counsel's assistance in seeking review of the denial of PCR. *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). Rule 71.1(g), SCRPC, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. The application for post-conviction relief be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of the State.

AND IT IS SO ORDERED this 9th day of February, 2024.



EDGAR W. DICKSON
Presiding Judge
Third Judicial Circuit

Orangeburg, South Carolina

WITNESSES

Robert G. Shearer II
Clarendon County Sheriff

DOCKET NO. 2020-GS-14-0283

The State of South Carolina

County of CLARENDON

COURT OF GENERAL SESSIONS

October TERM 2020

THE STATE

vs.

MICHAEL TERRANCE LAWYER

ARREST WARRANT NUMBER

2019A1410200070

Indictment for

Criminal sexual conduct - Third degree

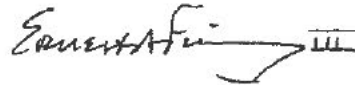
ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

VERDICT



ERNEST A. FINNEY, III, SOLICITOR

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CLARENDON)

INDICTMENT FOR
 Criminal sexual conduct - Third degree

At a Court of General Sessions, convened on October 29, 2020 the Grand Jurors of
 CLARENDON County present upon their oath:

COUNT ONE
CRIMINAL SEXUAL CONDUCT, 3RD DEGREE

That in Clarendon County, South Carolina, on or about June 8, 2019, the Defendant, Michael Terrance Lawyer, did commit a sexual battery upon the victim, **QH** with knowledge or reason to have knowledge that the victim was mentally defective, mentally incapacitated or physically helpless where aggravated force or aggravated coercion was not used. to wit: Defendant pulled the victim's pants down while she was intoxicated and asleep and performed oral sex on her, such being in violation of Section 16-03-654, 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.

Solicitor

Emanuel A. Finley III

**CERTIFIED TRUE COPY
 OF ORIGINAL FILED IN THIS OFFICE**
 DATE 11/4/2022
Beverly H. Roberts
 CLERK OF COURT
 CLARENDON COUNTY, SC

STATE OF SOUTH CAROLINA
 COUNTY OF Clarendon
 STATE _____
 VS.
Michael Terrance Lawyer
 AKA: _____
 Race: Black Sex: M Age: 51
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: Manning, SC 29102
 DL#: _____ SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020-GS-14-0283

AW#: 2019A1410200070
 Date of Offense: 6/8/2019 - 1/1/1753
 S.C. Code § : 16-03-0654
 CDR Code #: 0162

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Sex / Criminal sexual conduct - Third degree not more than 10 years
 in violation of § 16-03-0654 of the S.C. Code of Laws, bearing CDR Code # 0162

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:
Darla F Pierce 77856 SC Bar# Michael Terrance Lawyer Defendant King Cutter Attorney for Defendant SCB100513 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 5 days/months/years Time Served Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____ provided that upon the service of _____ days/months/years/Time Served and or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

The sentence shall run
 CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOP.
90 days/months 574 total days credit (434 on house arrest + 90 days)
 To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20, § 16-25-65
 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

CERTIFIED TRUE COPY
 OF ORIGINAL FILED IN THIS OFFICE
 DATE 11/4/2022
Darla F Pierce
 CLERK OF COURT
 CLARENDON COUNTY, SC

STATE VS. Michael Terrance Lawyer INDICTMENT/CASE#: 2020-GS-14-0283

SPECIAL CONDITIONS:

PTUP after _____ months/years

And Other Terms Listed Below:

- Substance Abuse Counseling
- Attend Voc. Rehab. or Job Corp
- Mental Health Counseling
- Completion of GED
- No Contact with Victim
- May serve W/E beginning: _____
- Random Drug/Alcohol testing
- Domestic Violence Intervention Program

Sex Offender Registry pursuant to S.C. Code § 23-3-430 Public Service Employment 0 _____ days/hours

Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Other: recommended Addiction Treatment Unit.

RESTITUTION: Deferred Def. Waives Hearing Ordered

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

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

*Fine:

	Beginning	\$
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____		
§14-1-206 (Assessments 107.5 %)		\$ _____
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ _____
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$ _____
§56-5-2995 (DUI Assessment)	\$12	\$ _____
§56-1-286 (DUI Breath Test)	\$25	\$ _____
§14-1-212 (Law Enforce. Funding)	\$25	\$ _____
§14-1-213 (Drug Court Surcharge)	\$150	\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$ _____
§50-21-114(BUI Breath Test Fee)	\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
2% to County (if paid in installments)	TBD	\$ _____
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ _____
TOTAL		\$ _____

Clerk of Court/Deputy Clerk: B. Roberts Presiding Judge: Kurt Lantz
 Court Reporter: Natalie Dahl Judge Code: 2762
 Sentence Date: 11/29/2021

SCCA/217 (07/2021) - Plea accepted on 11/29/21
 Sentencing deferred until Jan 2022. Page 2 of 2

* Sentenced on 1-5-22, Defendant may turn himself in before 4pm at the Clarendon Detention Center on Friday, 1-7-22. K-Lantz

ARREST WARRANT

2019A1410200070

STATE OF SOUTH CAROLINA

County/ Municipality of

Clarendon

THE STATE

19-06-10700

against

Michael Terrance Lawyer

Address:

Manning, SC 29102

Phone: SSN:

Sex: M Race: B Height: 5 6 Weight: 220

DL State: SC DL #:

DOB: Agency ORI #: SC0140000

Prosecuting Agency: Clarendon County Sheriff

Prosecuting Officer: Robert G Shearer, II - S00124

Offense: Sex / Criminal sexual conduct - Third degree

Offense Code: 0162

Code/Ordinance Sec: 16-03-0654

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused

is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Michael T. LAWYER

on 6/8/2019 @ 1245pm

R. Jones SGT 1976 Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions Post Office Box 136 3 West Keitt Street Manning, SC 29102

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Clarendon

Personally appeared before me the affiant Robert G Shearer, II

being duly sworn deposes and says that defendant Michael Terrance Lawyer

did within this county and state on or about 6/8/2019

State of South Carolina (or ordinance of County/ Municipality of Clarendon)

in the following particulars:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct - Third degree

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 06/08/2019 at Fleming Circle in Clarendon County, SC, one Michael Terrance Lawyer did commit the offense of criminal sexual conduct 3rd degree. Mr. Lawyer pulled the victims pants down while she was intoxicated and asleep and performed oral sex on her. This incident occurred in front of two witnesses that stopped him before he could penetrate her with his penis. Affiant along with others is witness to prove same. CCSO Case #19-06-10700.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Clarendon

Affiant's Address Post Office Box 1289

Manning, SC 29102-

Affiant's Telephone (803)435-4414

CERTIFIED TRUE COPY OF ORIGINAL FILED IN THE OFFICE DATE 11/4/2022 [Signature] CLERK OF COURT CLARENDON COUNTY, SC

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 6/8/2019 defendant Michael Terrance Lawyer

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Clarendon) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct - Third degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 6/8/2019

Signature of Issuing Judge Phillip Shayne Stephens Judge Code: 7017

(L.S.)

Judge's Address Post Office Box 371

Manning, SC 29102

Judge's Telephone (803)435-8925

Issuing Court: [X] Magistrate [] Municipal [] Circuit

JUN 10 12:58 PM '19

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