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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Berkeley County

Honorable Kristi F. Curtis, Circuit Court Judge

CASEY FICKLING,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-001943

APPENDIX

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ATTORNEYS FOR RESPONDENT

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1 STATE OF SOUTH CAROLINA

2 GENERAL SESSIONS

3 COUNTY OF BERKELEY

4 -----x

5 STATE OF SOUTH CAROLINA,)

6 Plaintiff,)

7 vs.)

Transcript of Record

8)

2018-GS-08-00685

9 CASEY WILLIAM FICKLING,)

10 Defendant.)

2018-GS-08-00686

2018-GS-08-00687

11 -----x

12 August 9, 2018

13 B E F O R E:

14 The Honorable Jennifer McCoy, Presiding Judge

15

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

17 Mr. Williams, Esq.
Attorney for the State

18 Deborah Littlejohn, Esq.
Attorney for the Defendant

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23 Court Reporter: Bonnie Kelly (Retired)

24 Transcribed by Bobbi Fisher, RPR, CET

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I N D E X

PAGE

Proceedings

3

E X H I B I T S

(No exhibits.)

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

2 (Whereupon, the following proceedings commenced as follows:)

3 THE CLERK: Sir, raise your right hand.

4 CASEY FICKLING,

5 after having been duly sworn, was examined and testified
6 to as follows:

7 THE CLERK: Please state your full name for the record.

8 THE DEFENDANT: Casey William Fickling.

9 THE COURT: You're Mr. Fickling?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: I have got several sentencing sheets in front
12 of me on you, sir. Let's go over each one of them. One of
13 them is domestic violence of a high and aggravated nature,
14 which carries up to 20 years in the state penitentiary. The
15 next one is unlawful conduct towards a child, which carries up
16 to ten years. And, finally, we have resisting arrest with a
17 deadly weapon, which carries a minimum of two, maximum of ten
18 years. You're facing a total of 40 years today as a result of
19 the guilty plea. Do you understand that?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: I also have in front of me what's been handed
22 to me as a probation violation report. Apparently, you were
23 on probation from Judge Young, suspended YOA. Is that
24 correct?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Do you agree that, by being here today, you
2 violated the terms of that probation? Talk to your attorney
3 for a minute.

4 MS. LITTLEJOHN: He hasn't been served with any
5 sentencing --

6 THE COURT: Okay.

7 UNIDENTIFIED SPEAKER: We can step this down.

8 THE COURT: Okay. Thank you.

9 (Pause in the proceedings until the case was recalled as
10 follows:)

11 THE COURT: Casey Fickling, we're back.

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Defense ready to go forward at this point?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: No, no, I'm sorry. Ms. Littlejohn, are you
16 ready to go forward?

17 MS. LITTLEJOHN: Yes, Your Honor.

18 THE COURT: All right, Mr. Fickling. As you stated
19 earlier, you're here on three charges: Resisting arrest with
20 a deadly weapon, which carries two to ten years; unlawful
21 conduct towards a child, which carries up to ten years; and
22 domestic violence of a high and aggravated nature, which
23 carries up to 20 years.

24 Do you understand all the charges and the possible
25 sentences that they carry?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: You're represented today by Ms. Littlejohn;
3 is that correct?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Have you had time to discuss this plea with
6 her?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Do you need any more time with her?

9 THE DEFENDANT: No, ma'am.

10 THE COURT: When you plead guilty, you give up several
11 rights; that includes the right to a jury trial, right to
12 confront the witnesses against you, and your right to remain
13 silent. Do you wish to give up all those rights and plead
14 guilty today?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: How far did you go in school?

17 THE DEFENDANT: Finished -- finished grade? Probably 8th
18 grade.

19 THE COURT: Okay.

20 THE DEFENDANT: 8th grade, yes, ma'am.

21 THE COURT: All right. Ms. Littlejohn, do you believe he
22 understands what he's doing?

23 MS. LITTLEJOHN: Yes, Your Honor.

24 THE COURT: Do you agree with his decision to plea?

25 MS. LITTLEJOHN: I do, Your Honor.

1 THE COURT: Mr. Fickling, other than the negotiation,
2 which is a cap of 15 years, has anyone promised you anything
3 or threatened you in any way to get you to plead guilty today?

4 THE DEFENDANT: No, ma'am.

5 THE COURT: Do you -- well, do you understand, with a
6 negotiated sentence, while this one does leave me some room, I
7 can either accept it or reject it, but I can't change it past
8 that cap of 15. Do you understand that?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Okay. All right. I want you to listen
11 carefully to the State. But before we get to that, actually,
12 now I have been handed this probation report, which is what
13 stopped us earlier, indicating that, by virtue of you pleading
14 guilty today, you're violating the terms of the previous
15 probation that Judge Young had put you on. Do you understand
16 that?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Do you agree that this is a willful violation
19 of that probation?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: All right. I do find a willful violation has
22 occurred.

23 I'm happy to hear from Ms. Williams on the facts of the
24 underlying charges here.

25 MS. WILLIAMS: And, Your Honor, just for clarification,

1 Ms. Littlejohn knows that, from the beginning, we are asking
2 for 15 years. We are asking for the maximum of 10 years each
3 on the resisting arrest with a deadly weapon and the unlawful
4 conduct towards a child, and 15 years on the domestic violence
5 of a high and aggravated nature. And, also, I don't think
6 there's any objection to a permanent restraining order in this
7 case against the victim of the domestic violence charge, which
8 is **Victim - S.B.**.

9 Your Honor, these events occurred -- and also, Your
10 Honor, at the appropriate time, **Victim - S.B.** is here to
11 address Your Honor on sentencing. Also, Officer Edward
12 Pumphrey or Deputy Edward Pumphrey, who was the victim of the
13 resisting.

14 THE COURT: Okay.

15 MS. WILLIAMS: Your Honor, these events occurred November
16 1st, 2017. Officers responded to [REDACTED] in
17 Summerville, South Carolina, in reference to an assault. They
18 made contact with Victim No. 1, who was **Victim - S.B.**, in the
19 front yard. She had visible injuries. Cuts, bruises. She
20 had blood all over her face. She had red marks all over her
21 throat that looked like she had been strangled. She was
22 holding Victim No. 2, who was a six-month-old daughter of her
23 and the defendant. She detailed repeatedly being punched in
24 the face by the defendant while she held the baby. He became
25 angry with her while she was holding the baby. He then

1 grabbed the baby, put the baby on the floor, and proceeded to
2 choke **Victim - S.B.**, restricting her airway to where she passed
3 out.

4 **Victim - S.B.** began to scream for her mother, who was in
5 the next room, but was unable at first to get her attention.
6 The baby began to cry, so the defendant grabbed the baby,
7 covered her mouth with his hand to silence her. The baby just
8 became more hysterical.

9 **Victim - S.B.**'s mother -- **Victim - S.B.** mother finally came
10 out of the room and saw her daughter hysterical and covered in
11 blood. He also assaulted her, but she didn't want to go
12 forward with charges. When I say "her," I mean **Victim - S.B.**'s
13 mother.

14 The defendant again began to pick up the child and try to
15 silence her but eventually gave the child back. Once he gave
16 the child back, he pushed **Victim - S.B.** into the wall while she
17 was holding the baby.

18 The defendant next went to his grandfather's house at
19 **[REDACTED]**, where law enforcement encountered her --
20 encountered him. He was told repeatedly to take his hands out
21 of his pockets. He refused. He was tazed several times, with
22 no effect. He assaulted two officers, and toward the end of
23 that altercation, he had both hands on Officer Pumphrey's
24 weapon, had control of his service weapon, and it wasn't until
25 another officer had his gun to the defendant's head that he

1 finally dropped the weapon. It came very close to him being
2 shot and to one of the officers possibly being shot.

3 The defendant was, obviously, eventually apprehended.

4 He has two counts of financial transaction card fraud on
5 his record and use of a vehicle without permission, a petite
6 larceny, which is the subject of the YOA, an assault and
7 battery third. We show a conviction for burglary on his
8 record, burglary second, but he disputes that. I don't know
9 if that's a conviction. I know that probation doesn't show it
10 either, so we give him the benefit of the doubt that he wasn't
11 convicted of that charge.

12 I am told that he wasn't telling probation regularly
13 about different address changes. He had one dirty drug test
14 back in 2016. We would, again, ask, based on the fact that
15 these are the most dangerous cases for officers to respond to,
16 that this case was exactly why these are the most dangerous
17 cases, and that this came so close to an officer losing his
18 life that the Court consider that and give him the maximum.

19 He is already reaping a benefit from his plea. We are
20 dismissing an assault and battery of a high and aggravated
21 nature. We are dismissing another charge of assault on an
22 officer while resisting arrest. And given the facts of this
23 case and the fact that he was already on YOA probation, we
24 would ask the Court to impose a 15-year sentence, 15 years on
25 the domestic violence of a high and aggravated nature and 10

1 each on the other two charges.

2 And as I said, Your Honor, at the appropriate time, the
3 victims would like to address Your Honor.

4 THE COURT: I'm happy to hear from them at this time.

5 MS. WILLIAMS: Would you like them to stand?

6 THE COURT: Whatever they're most comfortable is fine.

7 MS. WILLIAMS: The first is **Victim - S.B.**.

8 **Victim - S.B.**.

9 **S. B.** Okay. My name is **Victim - S.B.**.

10 **Victim - S.B.** So the physical and mental abuse I sustained
11 from Mr. Fickling over the two years we were together still
12 haunts me to this day. I have constant nightmares of the
13 things he has done to me and nightmares of him in my house,
14 coming to hurt me again. I have hearing loss in my right ear
15 from him constantly hitting me in my head. I have been
16 mentally, physically, and sexually abused by Mr. Fickling more
17 times than I can count, but I still remember every single
18 fight, every sleepless night and bruise, and that's something
19 I'll always remember.

20 I couldn't tell anyone because of the fear I had and
21 still have of him until my daughter was hurt by him. Our
22 daughter we have in common was only six months old when he
23 choked her, leaving a bruise on her neck and collarbone and
24 placing his entire hand over her face, trying to suffocate
25 her.

1 That night, I felt like I failed as a mother, not being
2 able to protect her. My daughter is 15 months old and she
3 still has nightmares of that night where she wakes up
4 screaming, crying, and throwing her hands around because of
5 what he did to her.

6 To this day, she still cries and screams when she hears
7 loud noises, and she's never been like that until this
8 happened. I hope and pray he gets 15 years for what he has
9 done to not only me and my daughter but what he has put both
10 of our families through. I would greatly appreciate a lot of
11 time order of protection for my and me daughter to help keep
12 us safe. Thank you for your time.

13 THE COURT: Thank you.

14 Yes, sir. Tell me your name.

15 DEP. PUMPHREY: Edward Pumphrey, deputy with the Berkley
16 County Sheriff's Office. I was one of four deputies that
17 responded to arrest Mr. Fickling at that address. Upon
18 immediately confronting the subject, he became aggressive
19 towards us and defiant. Within seconds, we began fighting
20 with him.

21 During the fight, we ended up falling through a door
22 jamb, where we became wedged. While on the ground, the
23 subject continued to fight. It was a brawl, if you will.
24 During the brawl, he ended up with both of his hands on my
25 service weapon, and he compromised the first level of safety

1 on my holster. And only by chance did he not compromise the
2 second level and was able to draw my firearm.

3 It's only a luck of the draw that my family or the family
4 of the three other deputies that were there with me are not
5 here instead of me being here by myself. The threat that he
6 caused that day was very real, both to himself, coming
7 millimeters away from ending his own life or ending one of
8 ours. Thank you.

9 THE COURT: Well said. Thank you for being here.
10 Anybody else wish to speak on behalf of the State?

11 MS. WILLIAMS: Nothing further, Your Honor.

12 THE COURT: Okay. We'll switch it over to
13 Ms. [REDACTED] lejohn. Well, I mean, talk to your client first.

14 Mr. Fickling, you heard the facts about the arrest on
15 these charges. Are they accurate?

16 (The defendant confers with counsel.)

17 THE COURT: Are the facts substantially true that you
18 heard from the State regarding the -- what led up to your
19 arrest on these charges?

20 (The defendant confers with counsel.)

21 THE DEFENDANT: I disagree with the sexual assault and
22 (inaudible). And for the fire weapon, for the police
23 officer --

24 MS. LITTLEJOHN: We did that.

25 THE DEFENDANT: Okay. Okay. No, ma'am, I disagree. I

1 disagree with all the State's (inaudible).

2 (The defendant confers with counsel.)

3 THE DEFENDANT: Yes, ma'am, I agree with the State's
4 facts for the charges that I have against me.

5 THE COURT: Ms. Littlejohn, does he understand what he's
6 agreeing to?

7 MS. LITTLEJOHN: Yes, Your Honor. He was referencing
8 what **Victim - S.B.** was saying that was not specific to what the
9 charges were.

10 THE COURT: I understand. I'm just talking about what
11 Ms. Williams said, what the Solicitor said. Mr. Fickling, do
12 you agree with what she said with respect to the facts that
13 gave rise to your arrest?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Okay. All right. I find that --

16 THE DEFENDANT: I do --

17 THE COURT: Go ahead.

18 THE DEFENDANT: I'm sorry. I won't...

19 (The defendant confers with counsel.)

20 THE DEFENDANT: Okay. Yes, ma'am.

21 THE COURT: Are we ready to proceed?

22 THE DEFENDANT: Yes, ma'am. I apologize.

23 THE COURT: That's all right. This is a big day for you.
24 This is an important day. I want to make sure you understand
25 what's going on. If you need time to talk to your attorney,

1 I'm going to give you that opportunity. Okay?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Once again, Ms. Littlejohn, is he aware of
4 what's happening today, and do you believe -- do you agree
5 with his decision to plead guilty?

6 MS. LITTLEJOHN: I do, Your Honor.

7 THE COURT: Do you believe he understands what's going
8 on?

9 MS. LITTLEJOHN: I do, Your Honor.

10 THE COURT: All right. Mr. Fickling, I'll accept your
11 plea. I find you're entering into it voluntarily and with the
12 benefit of counsel with whom you have indicated and you have
13 had time to discuss this with, and I have even given you
14 several opportunities during this plea to further discuss this
15 to make sure you do understand what's going on.

16 Ms. Littlejohn, I'm happy to hear from you at this time.

17 MS. LITTLEJOHN: Your Honor, Casey is 22 years of age,
18 and Your Honor, you have had some interactions with him here.
19 He almost has that innocence about him, which you take that
20 and you compare it to what you hear, and the two don't mesh.
21 And what I see and hear, I have never seen from him. And I
22 have come -- because he's been incarcerated for so long -- 282
23 days -- he and I have gotten to know each other better than
24 most, and I was talking with him about, you know, what led up
25 to so much of this. And he started using meth seven years ago

1 at age 16. He said he didn't like his mother's rules so he
2 left home and he went to Winwood subdivision, and apparently,
3 there is heavy use of drugs there, from what I have been told
4 from other people as well.

5 And as it goes, most people -- a friend, who is really
6 not a friend, and he says that since he's been incarcerated
7 during this time, he and his mother have started making amends
8 on things.

9 He also has a history for suicidal depression and
10 bipolar. Well, after a while, we started talking some more,
11 and I finally got him to come to me about what the depression
12 was about. And it's about how he's burned so many bridges
13 with what he's done, and he doesn't want to be the person that
14 he's been, but he is the person that he's been but he wants to
15 overcome that.

16 I get it. It's kind of like having a bad habit. You
17 don't want to have it anymore.

18 Your Honor, I understand the State's asking for 15, and
19 Casey understands that. He knows he's facing a lot of time
20 with it regardless because he knows it's also a strike, and we
21 have talked about that. But what I want to do is ask the
22 Court to fashion something where, when he walks out, it's not
23 a matter of, well, he's just out and who knows where he is.
24 I'm asking the Court to give him eight years suspended on the
25 service of six -- now, remember, he's going to have serious

1 charges and a strike in here -- followed by two to three years
2 of probation. And in that probation, I want substance abuse
3 counseling. Oh, and ATU while he's in there, but, you know,
4 who knows how that goes. Substance abuse counseling on the
5 outside and anger management on the outside. To my knowledge,
6 they don't have that class on the inside.

7 And whether that anger management goes with mental health
8 or not, I'd like a referral to mental health. I don't think
9 the answer for Casey is to open the doors in Columbia and
10 there he goes, with no supervision whatsoever.

11 I think it helps him, and by helping him and being
12 monitored, it helps the victim to know that he's being
13 monitored. Otherwise, we're just opening the door to let him
14 out, and the victim doesn't know where he is. Nobody has a
15 clue then.

16 I would just like to have that supervision -- I like
17 these split sentences. I like that supervision on them
18 afterwards. And I'm not asking the Court to do something like
19 three years. I told him that's not going to happen. What he
20 did just doesn't cut that kind of muster.

21 THE COURT: Mr. Fickling, now is the time. Do you
22 understand this is a -- this domestic violence of high and
23 aggravated nature is a violent and serious offense? Your
24 attorney touched on the fact that it's a strike but it's also
25 a violent offense, which is going to affect the percentage of

1 time you spend incarcerated. Do you understand that?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Okay. What would you like to tell me at this
4 time? Now is the time. Tell me what you want to tell me.

5 THE DEFENDANT: I'd like to apologize to the State and
6 the victims about charges I committed. I know that -- that
7 I'll probably go to prison next week. I probably have a big
8 idea in my head. I don't -- I don't want to go to prison and
9 come out something worse than I am now. I have sat in jail
10 for about nine months. I'm -- I'm either -- I don't want to
11 say I'm scared, but I'm scared to go up there. I have never
12 been to a Level 3, which I know I'll go to. And things that
13 you'd be seeing on the news, I have -- I have regretted what I
14 have done, and I know that I have done wrong, and I know that
15 I do drugs and I have used drugs, and I want to get some help.
16 I said even if I come home from prison, that I -- I want to
17 get some help, that I want to be watched. I want to be on
18 probation, that I don't want to just come out of prison and
19 just free roam. I do want to have some probation, to have
20 some watch and some scare -- something beating me in my life
21 so I can put on a better path in my life so I can be -- change
22 my life for the better and for my daughter, for my parents and
23 everybody I have disappointed.

24 THE COURT: All right.

25 THE DEFENDANT: That's about it, Your Honor. Thank you

1 for letting me speak.

2 THE COURT: Okay. Anything else from you,
3 Ms. Littlejohn?

4 MS. LITTLEJOHN: Nothing, Your Honor.

5 THE COURT: Anything else from the State?

6 MS. WILLIAMS: No.

7 THE COURT: All right. We have this probation matter to
8 attend to, Mr. Fickling. Do you understand this probation
9 violation may trigger a sentence separate and apart from this
10 negotiated sentence on these three charges? Do you understand
11 that?

12 MS. LITTLEJOHN: Your Honor, I'll just ask that probation
13 be terminated.

14 THE COURT: Okay. What would you like to tell me about
15 the violation report?

16 UNIDENTIFIED SPEAKER: Your Honor, I think you heard most
17 of the details of now what's in the violation report. This
18 matter has been taken to an administrative hearing and
19 probable cause for violation was found. The hearing officer
20 is in a position that he needs to be revoked.

21 As for what that ramification looks like, I'd just ask
22 for the ramification of his suspended sentence and the
23 opportunity to (indiscernible) for his supervision and I'd ask
24 for a separate judgment for what the Court finds
25 (indiscernible).

1 THE COURT: We can convert those to a civil judgment.
2 I'm going to terminate that probation.

3 All right. The sentence of the Court on Indictment
4 28-GS-08-00685, he should be committed to the State Department
5 of Corrections for a term of 15 years. That will run
6 concurrent with the other two charges that carry less time.
7 They carry ten years on the 2018-GS-08-00678, unlawful conduct
8 on a child. Sentence you to ten years concurrent. And on the
9 resisting arrest with a deadly weapon, another ten years,
10 concurrent.

11 Thank you very much. Thank you for the victims for
12 appearing today as well. Good luck.

13 (The above hearing concluded.)

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1 CERTIFICATE OF TRANSCRIBER

2 CASE/NO.: State v. Casey Fickling

3 2018-GS-08-00685

4 DATE OF PROCEEDING: August 9, 2018

5 COURT REPORTER: Bonnie Kelly (Retired)

6

7 I, Bobbi J. Fisher, do hereby certify that the
8 foregoing transcript is a true and correct record of the
9 recorded proceedings; that said proceedings were transcribed
10 to the best of my ability from the audio recording and
11 supporting information; and that I am neither counsel for,
12 related to, nor employed by any of the parties to this case,
13 and I have no interest, financial or otherwise, in its
14 outcome.

15

16



18

19 _____
Bobbi J. Fisher, RPR, CET

20 NCRA Registered Professional Reporter (RPR)

21 AAERT Certified Electronic Transcriber No. CET-1148

22 Prepared: December 3, 2020

23

24

25

AMW/0336204

WITNESSES

S. Stoud

Berkeley County Sheriff's Office

AGENCY CASE NUMBER

2017-11087565

ARREST WARRANT NUMBER

2017A0810401866

DATE OF ARREST

11/02/2017

ACTION OF GRAND JURY

True Bill

Beggy Board
Foreperson of Grand Jury

4/11/18
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-08-00685

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

APRIL TERM 2018

THE STATE

VS.

CASEY WILLIAM FICKLING

W/M DOB: [REDACTED]-1995

Indictment for

**DOMESTIC VIOLENCE OF A HIGH AND
AGGRAVATED NATURE**

SC Code: § 16-25-65(A)
CDR Code: 3814

MAURY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

18 APR 11 PM 1:26

FILED

FILED

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY


INDICTMENT

At a Court of General Sessions, convened April 2018, the Grand Jurors of Berkeley County present upon their oath:

DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE

That in Berkeley County, South Carolina, on or about November 1, 2017, the Defendant, Casey William Fickling, did cause physical harm or injury to S. B. , a household member, or did offer or attempt to cause physical harm or injury to said household member with apparent present ability under circumstances reasonably creating fear of imminent peril. That, in addition, the offense was committed, with or without an accompanying battery, under circumstances manifesting extreme indifference to the value of human life, which would reasonably cause a person to fear imminent great bodily injury or death. This is in violation of Section 16-25-65(A) of the South Carolina Code of Laws (1976) as amended.

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


ANNE M. WILLIAMS
SENIOR ASSISTANT SOLICITOR

AMW/0336204

WITNESSES

S. Stoud

Berkeley County Sheriff's Office

AGENCY CASE NUMBER

2017-11087565

ARREST WARRANT NUMBER

2017A0810401867

DATE OF ARREST

11/02/2017

ACTION OF GRAND JURY

True Bill

Megyn Abould
Foreperson of Grand Jury

4/11/18
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-08-00686

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

APRIL TERM 2018

THE STATE

VS.

CASEY WILLIAM FICKLING

W/M DOB: [REDACTED]

Indictment for

RESISTING ARREST WITH A DEADLY WEAPON

SC Code: § 16-03-0625

CDR Code: 2352

MAIY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

18 APR 11 PM 1:26

FILED

Handwritten mark

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

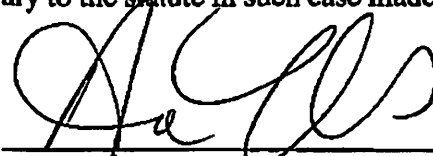
INDICTMENT

At a Court of General Sessions, convened April 2018, the Grand Jurors of Berkeley County present upon their oath:

RESISTING ARREST WITH A DEADLY WEAPON

That in Berkeley County, on or about November 1, 2017, the Defendant, Casey William Fickling, did resist the lawful efforts of Officer Edward Pumphrey, a law enforcement officer, to make an arrest upon the Defendant or another person, and that the Defendant did use or threaten to use a deadly weapon against the officer while the Defendant was in possession of or claimed to be in possession of a deadly weapon; all in violation of Section 16-3-625 of the South Carolina Code of Laws (1976) as amended.

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



ANNE M. WILLIAMS
SENIOR ASSISTANT SOLICITOR

AMW/0336204

WITNESSES

S. Stouard

Berkeley County Sheriff's Office

AGENCY CASE NUMBER

2017-11087565

ARREST WARRANT NUMBER

DATE OF ARREST

11/02/2017

ACTION OF GRAND JURY

True Bill

Megany Akoned
Foreperson of Grand Jury

4/11/18
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-08-00687

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

APRIL TERM 2018

THE STATE

VS.

CASEY WILLIAM FICKLING
W/M DOB: [REDACTED]

Indictment for

**UNLAWFUL CONDUCT TOWARDS A
CHILD**

SC Code: § 63-05-0070
CDR Code: 2481

MARY P. BIRDWIN
CLERK OF COURT
BERKELEY COUNTY, S.C.

HH
FILED
18 APR 11 PM 1:26

HH

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

INDICTMENT

At a Court of General Sessions, convened April 2018, the Grand Jurors of Berkeley County present upon their oath:

UNLAWFUL CONDUCT TOWARDS A CHILD

That in Berkeley County, South Carolina, on or about on or about November 1, 2017, the Defendant, Casey William Fickling, while having charge or custody, or being the parent or guardian, or being responsible for the welfare of the minor child, **Minor Victim**, did (1) unlawfully place the minor victim at unreasonable risk of harm affecting the child's life, physical or mental health or safety; or (2) unlawfully and maliciously do, or cause to be done, bodily harm to the child so that the life or the health of the child was endangered or likely to be endangered; or (3) willfully abandon the child. This is in violation of Section 63-5-70, 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.



ANNE M. WILLIAMS
SENIOR ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

STATE VS.

CASEY WILLIAM FICKLING

AKA: Casey Fickling, Casey Rejact Fickling

Race: White Non-Latino/Caucasian

Sex: M

DOB: 1995

SS#: [REDACTED]

Address: Jennifer Drive

City, State, Zip: Summerville, SC 29486

DL# [REDACTED]

SID# SC02123151

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was

TO: Domestic Violence of a High and Aggravated Nature

In violation of § 16-25-65(A) of the S.C. Code of Laws, bearing CDR Code # 3814

NON-VIOLENT

VIOLENT

SERIOUS

MOST SERIOUS

Mandatory GPS

§17-25-45

The charge is: As indicted, Lesser Included Offense,

The plea is: Without Negotiations or Recommendation,

ATTEST:

Anne M. Williams 76463
Anne M. Williams, Senior Assistant Solicitor SC Bar #

[Signature]
Defendant

Defendant Waives Presentation to Grand Jury. _____ (def.'s initials)

Negotiated Sentence, cap of 15

Recommendation by the State.

[Signature] 14323
Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,

for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing

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

Payment Terms: _____

Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Probation) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ 3.75

TOTAL \$ 128.75

Clerk of Court/Deputy Clerk: A. Howell

Court Reporter: Bonnie Kelly

IN THE COURT OF GENERAL SESSIONS

0-27
possible
person
O of P

INDICTMENT/CASE# 2018-GS-08-00685

A/W: 2017A0810401866

Date of Offense: 11/01/2017

S.C. Code §: 16-25-65(A)

CDR Code #: 3814

282 days

SENTENCE SHEET

CONVICTED OF or

PLEADS

Defendant Waives Presentation to Grand Jury. _____ (def.'s initials)

Without Negotiations or Recommendation,

ATTEST:

Anne M. Williams 76463
Anne M. Williams, Senior Assistant Solicitor SC Bar #

[Signature]
Defendant

Defendant Waives Presentation to Grand Jury. _____ (def.'s initials)

Negotiated Sentence, cap of 15

Recommendation by the State.

[Signature] 14323
Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,

for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing

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

Payment Terms: _____

Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Probation) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

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TOTAL \$ 128.75

Clerk of Court/Deputy Clerk: A. Howell

Court Reporter: Bonnie Kelly

IN THE COURT OF GENERAL SESSIONS

0-27
possible
person
O of P

INDICTMENT/CASE# 2018-GS-08-00685

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282 days

SENTENCE SHEET

CONVICTED OF or

PLEADS

Defendant Waives Presentation to Grand Jury. _____ (def.'s initials)

Without Negotiations or Recommendation,

ATTEST:

Anne M. Williams 76463
Anne M. Williams, Senior Assistant Solicitor SC Bar #

[Signature]
Defendant

Defendant Waives Presentation to Grand Jury. _____ (def.'s initials)

Negotiated Sentence, cap of 15

Recommendation by the State.

[Signature] 14323
Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,

for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing

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

Payment Terms: _____

Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

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§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

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TOTAL \$ 128.75

Clerk of Court/Deputy Clerk: A. Howell

Court Reporter: Bonnie Kelly

IN THE COURT OF GENERAL SESSIONS

0-27
possible
person
O of P

INDICTMENT/CASE# 2018-GS-08-00685

A/W: 2017A0810401866

Date of Offense: 11/01/2017

S.C. Code §: 16-25-65(A)

CDR Code #: 3814

282 days

SENTENCE SHEET

CONVICTED OF or

PLEADS

Defendant Waives Presentation to Grand Jury. _____ (def.'s initials)

Without Negotiations or Recommendation,

ATTEST:

Anne M. Williams 76463
Anne M. Williams, Senior Assistant Solicitor SC Bar #

[Signature]
Defendant

Defendant Waives Presentation to Grand Jury. _____ (def.'s initials)

Negotiated Sentence, cap of 15

Recommendation by the State.

[Signature] 14323
Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,

for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing

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

Payment Terms: _____

Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

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§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ 3.75

TOTAL \$ 128.75

Clerk of Court/Deputy Clerk: A. Howell

Court Reporter: Bonnie Kelly

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

STATE VS.

CASEY WILLIAM FICKLING

AKA: Casey Fickling, Casey Relect Fickling

Race: White Non-Latino/Caucasian Sex: M

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Summerville, SC

DL# [REDACTED] SID# SC02123151

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was

TO: Resisting Arrest With A Deadly Weapon

In violation of § 16-03-0625 of the S.C. Code of Laws, bearing CDR Code # 2352

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: [Signature] 76463 XOWFA [Signature] 14323
Anne M. Williams, Senior Assistant Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED

Set by SCDPPPS _____ Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____ May serve W/E beginning AUG - 9 2018

*Fine: _____ \$ _____ Substance Abuse Counseling CASE NO [Signature]
Random Drug/Alcohol Testing MARY P BROWN CLERK OF COURT
Fine may be pd. in equal consecutive weekly/monthly _____
BERKELEY COUNTY, SC

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

IN THE COURT OF GENERAL SESSIONS

2-10 yrs
cannot susp
6 Mo. 5

INDICTMENT/CASE#: 2018-GS-08-00686

A/W: 2017A0810401867

Date of Offense: 11/01/2017

S.C. Code §: 16-03-0625

CDR Code #: 2352

2822EP

SENTENCE SHEET

CONVICTED OF or PLEADS

FILED

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning AUG - 9 2018

Substance Abuse Counseling CASE NO [Signature]

Random Drug/Alcohol Testing MARY P BROWN CLERK OF COURT

Fine may be pd. in equal consecutive weekly/monthly _____

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before any other fees.

Presiding Judge: [Signature]

Judge Code: 27104

Sentence Date: 8/9/18

[Handwritten signature]

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

29
0-70y5

COUNTY OF BERKELEY
STATE VS.

INDICTMENT/CASE#: 2018-GS-08-00687
A/W:
Date of Offense: 11/01/2017
S.C. Code §: 63-05-0070
CDR Code #: 2481

CASEY WILLIAM FICKLING
AKA: Casey Fickling, Casey Rejeet Fickling
Race: White Non-Latino/Caucasian Sex: M
DOB: [REDACTED] SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: Summerville, SC [REDACTED]
DL# [REDACTED] SID# SC02123151

282 day SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Unlawful Conduct Towards a Child
In violation of § 63-05-0070 of the S.C. Code of Laws, bearing CDR Code # 2481

CONVICTED OF or PLEADS

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: [Signature] 76463 X CWF [Signature] 14323
Anne M. Williams, Senior Assistant Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 0 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED

Set by SCDPPPS _____ Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____	
*Fine: _____	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100 <u>\$100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§56-1-286 (DUI Breath Test)	\$25 \$ _____
Proviso (Public Def/Probation)	\$500 \$ _____
§14-1-212 (Law Enforce. Funding)	\$25 <u>\$25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150 \$ _____
§50-21-114 (BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	\$ <u>\$3.75</u>
TOTAL	<u>\$128.75</u>

May serve W/E beginning FILED

Substance Abuse Counseling

Random Drug/Alcohol Testing AUG - 9 2018 AMH

Fine may be pd. in equal consecutive weekly/monthly Nov
pmts. of \$ _____ Beginning MARY P BROWN CLERK OF COURT
\$ _____ Paid to Public Defender Fund BERKELEY COUNTY, SC

Other: _____

Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before any other fees.

Clerk of Court [Signature]
Court Reporter: Bonnie Kelly

Presiding Judge: [Signature]
Judge Code: 2764
Sentence Date: 8/9/18

[Signature]

STATE OF SOUTH CAROLINA

County of BERKLEY

In the Court of Common Pleas

20 19-CP-08-1682

CASEY WILLIAM FICKLING ^{SEC#} 863960
Full name and prison number (if any) of Applicant,

vs.

STATE OF SOUTH CAROLINA
Name of Respondent.

APPLICATION FOR
POST-CONVICTION RELIEF

FILED
19 JUL -2 PM 12:11
CLERK OF COURT
BERKLEY COUNTY

INSTRUCTIONS — READ CAREFULLY

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

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

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

1. Place of detention BROAD RIVER CORRECTIONAL INSTITUTION
4460 BROAD RIVER RD. COLUMBIA, S.C. 29210
2. Name and location of Court which imposed sentence BERKLEY COUNTY COURTHOUSE
300 CALIFORNIA AVE MORRIS CORNER SOUTH
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) Indictment number 2018-GS-08-00685
 - (b) Indictment number 2018-GS-08-00687
 - (c) Indictment number 2018-GS-08-00686
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) Indictment # 2018-GS-08-00685 sentence date 8-9-18 15 years violent
 - (b) Indictment # 2018-GS-08-687 sentence date 8-9-18 10 years non-violent
 - (c) Indictment # 2018-GS-08-686 sentence date 8-9-18 10 years non-violent

5. Check whether a finding of guilty was made

(a) after a plea of guilty YES

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

NO

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

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

i. N/A

ii. N/A

iii. N/A

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

i. N/A

ii. N/A

iii. N/A

(c) the date of each such result:

i. N/A

ii. N/A

iii. N/A

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

i. N/A

ii. N/A

iii. N/A

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

(a) I WAS NOT MADE AWARE BY TRIAL COUNCIL THAT I COULD APPEAL

(b) _____

(c) _____

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

(a) I WAS INEFFECTIVELY REPRESENTED BY TRIAL COUNCIL

(b) I WAS NOT MENTALLY EVALUATED PRIOR TO MY GUILTY PLEA

(c) _____

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

(a) MY TRIAL COUNCIL NEVER MADE ME AWARE OF BEING ABLE TO PLEA TO A LESSER OFFENSE

(b) MY TRIAL COUNCIL NEVER HAD ME MENTALLY EVALUATED PRIOR TO PLEA KNOWING I HAVE MENTAL ISSUES

(c) _____

11. Prior to this application have you filed with respect to this conviction
- (a) any petition in a State Court under South Carolina Law? N/A
 - (b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? N/A
 - (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? N/A
 - (d) any other petitions, motions or applications in this or any other Court? N/A

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

(a) the specific nature thereof:

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

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

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

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

NO

14. If you answered "yes" to (3), identify:

(a) which grounds have been presented:

i. N/A

ii. N/A

iii. N/A

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

i. N/A

ii. N/A

iii. N/A

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

(a) I did not know that I could appeal for ineffective trial counsel.

(b) I did not know that my mental state at time of offense should have been explored.

(c) _____

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

(a) your arraignment and plea? yes

(b) your trial, if any? N/A

(c) your sentencing? yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? N/A

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

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

i. Deborah Littlejohn, S.C. State BAR # 14323
219 N. Hwy. 52, Suite E P.O. Box 1687 Moncks Corner, SC 29967

ii. _____

iii. _____

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

i. preliminary hearing

ii. negotiations with prosecutor

iii. plea agreement

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

I seek that my case be reverse and remanded for re sentencing, and or a modification of sentence taken into consideration my mental state at time of offense.

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

NO

STATE OF SOUTH CAROLINA

County of RICHLAND

VERIFICATION

I, Casey William Fickling, 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.

Casey William Fickling
Applicant

SWORN to and subscribed before me this 4th day of June, 2019

Jennifer Wash (L.S.)
Notary Public

My Commission Expires: March 8, 2023

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

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

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

Casey William Fickling
Applicant

SWORN or affirmed to and subscribed before me this 4th day of June, 2019

Jennifer Wash
Notary Public

My Commission Expires March 8, 2023

<p>State of South Carolina Berkeley County</p> <p>Casey William Fickling #363960</p> <p>v.</p> <p>State of South Carolina</p>	<p>In the Court of Common Pleas For The Ninth Judicial Circuit</p> <p>Case No(s): 2019CP0801682 (PCR Application)</p> <p>AMENDMENT TO APPLICATION FOR POST-CONVICTION RELIEF</p>
--	---

COMES NOW the Applicant, by and through undersigned Counsel, and hereby submits this Amendment to his PCR Application, originally filed in this Court on July 2, 2019. Applicant hereby amends his Application as follows:

- Plea counsel was constitutionally ineffective pursuant to Strickland v. Washington by failing to adequately prepare the case and advise Applicant, as follows:
 - a. By failing to discuss Applicant’s trial rights with him, and failing to adequately advise Applicant of his right to a jury trial;
 - b. By failing to discuss the evidence and possible defenses with Applicant.
- Counsel’s deficient performance was prejudicial and rendered Applicant’s subsequent guilty plea involuntary. Boykin v. Alabama, 395 U.S. 238 (1969); Dover v. State, 304 S.C. 433 (1991).

On this day, February 28, 2022 it is
RESPECTFULLY SUBMITTED,



Christopher R. Geel
Geel Law Firm, LLC
P.O. Box 21771
Charleston, SC 29413
843-277-5080

LEAH GUERRY DUPRE
CLERK OF COURT
BERKELEY COUNTY, SC

2022 MAR -4 PM 3:29

FILED

CERTIFICATE OF SERVICE: I hereby certify that I have served a copy of this document upon the Attorney General’s Office via US Mail as well as E-mail, on this day, February 28, 2022.

Emailed to C.R. Geel

SCANNED

STATE OF SOUTH CAROLINA)
 COUNTY OF BERKELEY)
)
)
 Casey Fickling (#363960),)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS
 NINTH JUDICIAL CIRCUIT

Case No.: 2019-CP-⁰⁸~~10~~-1682

**RETURN AND MOTION
 FOR MORE DEFINITE STATEMENT**

FILED
 21 FEB 17 PM 3:24
 LEAH GUERRAY JUDGE
 CLERK OF COURT
 BERKELEY COUNTY, SC

The State (Respondent), making its Return to the application for Post-Conviction Relief ("PCR") filed on July 2, 2019, would respectfully show this Court:

I. Procedural History

In April 2018, the Berkeley County Grand Jury indicted Applicant for Unlawful Conduct Towards a Child (2018-GS-08-00687) and Resisting Arrest with a Deadly Weapon (2018-GS-08-00686). Applicant was also indicted for Domestic Violence of a High and Aggravated Nature (2018-GS-08-00685). Applicant is currently confined in the Broad River Detention Center. Assistant Public Defender Debora Littlejohn represented Applicant at his plea. Assistant Solicitor Williams prosecuted the case. On August 9, 2018, Applicant plead guilty before the Honorable Jennifer McCoy. Judge McCoy sentenced Applicant to imprisonment for fifteen years for Domestic Violence of a High and Aggravated Nature and ten years for both the Unlawful Conduct Towards a Child and Resisting Arrest with a Deadly Weapon. The sentences were to run concurrently. Applicant did not appeal his conviction.

Attached to this Return and incorporated by reference are the records of the Berkeley County Clerk of Court regarding the subject convictions, the plea transcript, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II. Current Application

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

1. "I was not made aware by trial counsel that I could appeal"
2. "My trial counsel never made me aware of being able to plea to a lesser offense"
3. "My trial counsel never had me mentally evaluated prior to plea knowing I have mental issues"

III. Failure to File an Appeal

Applicant alleges that trial counsel failed to inform of him of his right to appeal. Counsel has a constitutionally-imposed duty to consult with defendant about appeal when there is reason to think either (1) that rational defendant would want to appeal, or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. Roe v. Flores-Ortega, 528 U.S. 470, 120 S. Ct. 1029, 145 L. Ed. 2d 985 (2000). Although not determinative, a highly relevant factor in this inquiry will be whether the conviction follows a trial or a guilty plea, both because a guilty plea reduces the scope of potentially appealable issues and because such a plea may indicate that the defendant seeks an end to judicial proceedings. Id. 528 U.S. at 480, 120 S. Ct. at 1036. To show prejudice in these circumstances, a defendant must demonstrate that there is a reasonable probability that, but for counsel's deficient failure to consult with him about an appeal, he would have timely appealed. Id. 528 U.S. at 484, 120 S. Ct. at 1038.

In White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974), the South Carolina Supreme Court held that even if the post-conviction relief court finds that the Applicant never voluntarily and intelligently abandoned his appeal, the court has no jurisdiction to grant a belated appeal. Therefore, where an accused establishes in a post-conviction relief hearing that he was unconstitutionally deprived of his statutory right to a direct appeal, the South Carolina Supreme

Court, upon an appeal of the post-conviction relief decision, will review the trial record and pass upon all issues properly raised and argued as if the direct appeal has been perfected.

Respondent submits that this allegation is without merit and demands strict proof thereof. Nevertheless, the allegation raises a question of fact which cannot be conclusively refuted by the record and, therefore, requires that an evidentiary hearing be held. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983); Delaney v. State, 269 S.C. 555, 238 S.E.2d 679 (1977).

IV. Response to Allegations of Ineffective Assistance of Counsel

Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, Applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing

Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V. Involuntary Guilty Plea

Applicant also asserts his plea was involuntary. In PCR cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (2000) (citations omitted). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56 (1985). Further, "[t]hat a guilty plea must be intelligently made is not a requirement that all advice offered by the defendant's lawyer withstand retrospective examination in a post-conviction hearing." McMann v. Richardson, 397 U.S. 759, 770 (1970). Rather, "whether a plea of guilty is unintelligent . . . depends as an initial matter, not on whether a court would retrospectively consider

counsel's advice to be right or wrong, but on whether that advice was within the range of competence demanded of attorneys in criminal cases.” Id. at 771.

The record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Dalton v. State, 376 S.C. 130, 138, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Boykin v. Alabama, 395 U.S. 238, 242 (1969)). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and “may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both.” Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). Further, “[a] guilty plea is a solemn, judicial admission of the truth of the charges” against the applicant; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton, at 137–38, 654 S.E.2d at 874 (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, admissions “made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements.” Id. (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)). “In considering an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing.” Id. at 138–39, 654 S.E.2d at 874 (citing Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997)).

Respondent submits the record fully supports the knowing and voluntary nature of Applicant’s plea. However, allegations regarding the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247

(1983).

VI. Motion for More Definite Statement

Respondent also hereby moves for a more definite statement. Applicant has failed to set forth any facts to "support each ground" or to explain with any specificity whatsoever the facts upon which his claims are based. The Uniform Post-Conviction Procedure Act requires the Applicant to "*specifically set forth the grounds upon which the application is based.*" S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Respondent respectfully submits that it is incumbent upon Applicant, through counsel, to amend his application to set forth specific facts upon which his allegations are based so that Respondent may adequately prepare for an evidentiary hearing. Therefore, Respondent requests that Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

VII. Any Future Amendments

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRPC. 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, SCRPC. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRPC.

VIII. Response to Any and All Other Allegations

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

IX. Request for Evidentiary Hearing

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

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

BENJAMIN LIMBAUGH
Assistant Attorney General

By: s/ Benjamin Limbaugh
ATTORNEYS FOR RESPONDENT

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

February 4, 2021

STATE OF SOUTH CAROLINA)
 COUNTY OF CHARLESTON)
)
 Casey Fickling, #363960)
)
 Applicant,)
)
 v.)
)
 State of South Carolina)
)
 Respondent,)
)
 _____)

IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2019-CP-10-1682

Certificate of Service by

LEAH QUERRY DUPREE
 CLERK OF COURT
 BERKELEY COUNTY, SC

21 FEB 17 PM 3:24

FILED

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** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Christopher R. Geel, Esquire
Geel Law Firm, LLC
Post Office Box 21771
Charleston, SC 29413

DATED this 4th day of February 2021.

Jennifer Jennison

 Jennifer Jennison, Administrative Coordinator
 For Respondent

STATE OF SOUTH CAROLINA)	THE COURT OF COMMON PLEAS
)	
COUNTY OF BERKELEY)	DOCKET NO. 2019-CP-08-1682
)	
)	
CASEY FICKLING)	
)	
Applicant)	
)	
vs.)	
)	
STATE OF SOUTH CAROLINA)	
)	
Respondent)	
)	
)	
)	
)	
_____)	TRANSCRIPT OF RECORD

June 20, 2022
Moncks Corner, S. Carolina

B E F O R E:

THE HONORABLE KRISTI F. CURTIS, JUDGE

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

CHRISTOPHER R. GEEL, ESQ.
Attorney for the Applicant

SAMATHA J. WEIDAUER, ESQ.
Attorney for the Respondent

JOYCE C. RUEGER,
Certified Verbatim Reporter-Master
Circuit Court Reporter

[Certified Transcript Provided to: SCCID, Appellate Defense]

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Casey Fickling v State of South Carolina
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June 20, 2022

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PROCEEDINGS

THE COURT: Okay. For the record we are here on Casey Fickling v the State. It's a petition for post-conviction relief. Mr. Fickling, I am Judge Curtis. At the outset I need to go over a few things with you before we move forward.

MR. FICKLING: Yes, ma'am.

THE COURT: So I'm showing that you entered a guilty plea in front of Judge McCoy for three offenses; for domestic violence high and aggravated, for unlawful conduct toward a child, and for resisting arrest with a deadly weapon.

The sentencing range for the domestic violence high and aggravated was up to 20 years. The sentencing range for the unlawful conduct toward a child was up to 10 years. The sentencing range for resisting arrest with a deadly weapon was two to 10 years.

First of all let me ask were those the original charges or was the...

MS. WEIDAUER: I believe they were, Your Honor.

THE COURT: In other words did he plead to a lesser...

MR. GEEL: Your Honor, I do not believe he pled to a lesser. He pled to those three charges that you just mentioned and they dropped an ABHAN pursuant to the plea

Casey Fickling v State of South Carolina
Post-Conviction Relief Hearing
June 20, 2022

1 so.

2 THE COURT: Okay.

3 MR. GEEL: I believe he pled straight up to the
4 remaining charges.

5 THE COURT: And the ABHAN was dismissed as a result
6 of this plea, correct?

7 MR. GEEL: Correct.

8 THE COURT: So for the charges that you pled guilty
9 to you could have received a maximum of 40 years; do you
10 understand that?

11 MR. FICKLING: Yes, ma'am.

12 THE COURT: Judge McCoy's sentence as to the
13 domestic violence was 15 years, is that right?

14 MR. GEEL: Correct.

15 THE COURT: And then a concurrent sentence of 10 on
16 the unlawful conduct and on the resisting arrest. So
17 because she gave you a concurrent sentence it means you
18 in essence got a 15 year sentence and the dismissal of
19 the assault and battery high and aggravated which carries
20 up to?

21 MR. GEEL: Twenty.

22 THE COURT: Okay.

23 MR. GEEL: Its zero to 20; there is no minimum.

24 THE COURT: Got you. So you understand that if you
25 are successful and I granted your petition it means you

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June 20, 2022

1 would go back and have the opportunity to have a trial on
2 those charges in which case you are now facing up to 40
3 years in addition to the ABHAN charge ---

4 MR. FICKLING: --- yes ma'am, I do understand that.

5 THE COURT: And so knowing that do you still want
6 to go forward with your petition today?

7 MR. FICKLING: Yes, ma'am.

8 THE COURT: Okay. And again you understand that
9 that would subject to you a possible sentence of 40 years
10 on the three charges that you pled guilty to and then an
11 additional exposure of up to 20 years on the assault and
12 battery of a high and aggravated nature.

13 MR. FICKLING: Yes, ma'am.

14 THE COURT: And Mr. Geel; am I pronouncing that
15 correctly?

16 MR. GEEL: Geel, yes.

17 THE COURT: You've discussed that with him as well?

18 MR. GEEL: Yes, Your Honor, I have.

19 THE COURT: And again it's your understanding that
20 he understands that and wants to go forward today?

21 MR. GEEL: Yes, ma'am.

22 THE COURT: Okay. So, I'll hear from you first Mr.
23 Geel and then Ms. Weidauer I'll hear from you on behalf
24 of the State.

25 MR. GEEL: Did you just want opening remarks, Your

Casey Fickling v State of South Carolina
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1 Honor? We only have Mr. Fickling as far as evidence is
2 concerned.

3 THE COURT: Okay.

4 MR. GEEL: So I guess I'll just summarize what we
5 anticipate Mr. Fickling's testimony is going to be. We
6 have filed an amendment; I don't know if the Court has a
7 copy of it. I suspect it's probably in the packet that
8 the Attorney General submitted.

9 What we are alleging is that plea counsel was
10 ineffective pursuant to Strickland v Washington in two
11 respects; first by failing to discuss the Applicant's
12 trial rights with him and failing to adequately advise
13 him of his right to a jury trial, and second by failing
14 to discuss the evidence and possible defenses with the
15 Applicant.

16 As Your Honor has heard this was a guilty plea case.
17 And our position is that Mr. Fickling's plea wasn't
18 knowing and voluntary based on trial counsel's or plea
19 counsel's failure to fully review the facts of the case,
20 the discovery and so forth which of course we'll get into
21 in more detail during Mr. Fickling's testimony. So those
22 are our two grounds for relief so.

23 THE COURT: Okay.

24 MR. GEEL: As far as evidence like I said we only
25 have Mr. Fickling when the Court is ready. Thank you.

Casey Fickling v State of South Carolina
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1 THE COURT: Ms. Weidauer?

2 MS. WEIDAUER: And as far as opening goes I can
3 read the procedural history if you would like but that is
4 reflected in the Return. So, I'll go ahead and let Mr.
5 Geel call Mr. Fickling as a witness.

6 THE COURT: Okay.

7 MR. GEEL: Your Honor, before we begin just one
8 more housekeeping matter. I believe we have a stipulated
9 exhibit. It's the State's document. It's a letter from
10 trial counsel, plea counsel that I believe we are
11 stipulating to that being admissible.

12 MS. WEIDAUER: Your Honor, may I approach?

13 [Whereupon, Ms. Weidauer proffers documents to the
14 Court]

15 [Whereupon, State's exhibit number 1 is marked by
16 the court reporter]

17 THE COURT: Okay. And the State is calling Mr.
18 Fickling?

19 MR. GEEL: We're calling Mr. Fickling, Your Honor.

20 THE COURT: Okay.

21 [Whereupon, Mr. Fickling comes forward to the
22 witness stand]

23 [Whereupon, the witness is duly sworn by the Clerk
24 of Court]

25 THE CLERK OF COURT: State your full name for the

Casey Fickling v State of South Carolina
Post-Conviction Relief Hearing-Casey Fickling-Direct Examination by Mr. Geel
June 20, 2022

1 record and please spell your last name.

2 THE WITNESS: Casey William Fickling, F-I-C-K-L-I-
3 N-G.

4 - - - - -

5 CASEY FICKLING,

6 Having been first duly sworn,

7 Was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. GEEL:

10 Q. Good morning, Mr. Fickling. Are you able to hear me
11 all right?

12 A. Yes, sir.

13 Q. Just speak clearly into the microphone when you're
14 answering your questions and if you have any difficulty
15 hearing my questions just let me know, okay?

16 A. Yes, sir.

17 Q. And be sure to speak slowly okay so the court
18 reporter can take down everything you say.

19 Mr. Fickling, let's go back to the very beginning of
20 this case when you were arrested for these charges. Did
21 you -- were you held in custody or did you bond out while
22 you were waiting to go to Court?

23 A. I was held in custody.

24 Q. Okay. Now I believe there is some indication in
25 these documents that you were housed at Charleston

Casey Fickling v State of South Carolina
Post-Conviction Relief Hearing-Casey Fickling-Direct Examination by Mr. Geel
June 20, 2022

1 County. Could you tell the Court a little bit about why
2 that was?

3 A. The night I got arrested I was, I got into an
4 altercation with the police and due to that I was
5 medically -- Berkeley County couldn't medically afford to
6 take care of me so they shipped me to Charleston County
7 so they could medically take care of me.

8 Q. And were you in Charleston County for the whole
9 duration of this case or did you go back and forth do you
10 remember ---

11 A. --- back and forth.

12 Q. Okay. Do you have a clear memory of what dates you
13 were in Berkeley County and when you were in Charleston?

14 A. No, sir. I was probably in Berkeley County for about
15 two to three months and they shipped me to Charleston and
16 I was there the rest of the period.

17 Q. Okay.

18 A. For nine -- I was in County for a total of nine
19 months. So I would say 6 months I was in Charleston
20 County.

21 Q. All right. Now let's talk about the first time you
22 met your lawyer Ms. Littlejohn. Do you remember when
23 that was or what the circumstances of that first meeting
24 were?

25 A. Not entirely. I remember she come into Berkeley

Casey Fickling v State of South Carolina
Post-Conviction Relief Hearing-Casey Fickling-Direct Examination by Mr. Geel
June 20, 2022

1 County for this meeting, you know what I'm saying, just
2 to get to know who her client was I guess you know what
3 I'm saying and that was about it.

4 Q. How long after your initial arrest was that? What
5 was the gap in time between your arrest and that first
6 visit ballpark?

7 A. About a month and a half.

8 Q. Okay. Do you have a sense in the timeline of when
9 it was you were arrested?

10 A. November 1, 2017.

11 Q. I'm sorry; November 1st?

12 A. Yes, sir.

13 Q. So this would have been in -- this first meeting
14 with Ms. Littlejohn would have been in December?

15 A. December.

16 Q. 2017? Okay. Tell the Court a little bit about what
17 happened at that meeting?

18 A. She asked what my charges were and I told her. She
19 asked me if I did them, I told her. Basically, if this
20 round about things that I did and what they were charging
21 me with and that was it. The meeting was no longer than
22 ten minutes.

23 Q. Ten minutes you said?

24 A. Yeah.

25 Q. And did you say that this was in Berkeley County,

Casey Fickling v State of South Carolina
Post-Conviction Relief Hearing-Casey Fickling-Direct Examination by Mr. Geel
June 20, 2022

1 this was here?

2 A. Yes, sir.

3 Q. So you hadn't been moved to Charleston County yet at
4 that point?

5 A. No, sir.

6 Q. Okay. Did you discuss the evidence in this, in your
7 case?

8 A. No, sir.

9 Q. Did you discuss any other options, things about bond
10 modification or anything along those lines?

11 A. No, sir.

12 Q. Any discussion about expectations, what to expect in
13 terms of timeline or what was going to happen next?

14 A. No, sir.

15 Q. Did she indicate to you when the next time you were
16 going to see her would be?

17 A. Not -- no, no sir.

18 Q. And you said that meeting was about ten minutes
19 total?

20 A. [Indicates]

21 Q. And at that point ---

22 THE COURT REPORTER: --- was that yes?

23 A. Yes ma'am, I'm sorry; yes.

24 Q. [Mr. Geel] At that point did you have copies of
25 discovery materials or anything like that? Did you have

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- 1 the evidence in your case?
- 2 A. No sir, not yet; not a bit.
- 3 Q. Okay. And did you, at that point I would imagine
4 you would have had warrants and some kind of paperwork so
5 you were aware of the charges.
- 6 A. Yes, sir.
- 7 Q. But you didn't have your discovery?
- 8 A. No, no, sir.
- 9 Q. When I use the term discovery do you now know what
10 that means?
- 11 A. Is that Rule 5?
- 12 Q. Yes.
- 13 A. Yes, sir. No, I did not obtain that at all.
- 14 Q. Okay. Did y'all talk about that at that point do
15 you remember?
- 16 A. No, sir. That conversation did not occur until I
17 was in Charleston County.
- 18 Q. Okay. At that time do you recall whether you knew
19 what Rule 5 was or discovery ---
- 20 A. --- no, I did not.
- 21 Q. So you only learned about that term later on?
- 22 A. Later on. Yes, sir.
- 23 Q. Okay.
- 24 A. Actually until I came to prison.
- 25 Q. Okay. Let's talk about the next meeting that you

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1 had with Ms. Littlejohn. So everything we just discussed
2 was in that December 2017 meeting. But when was the next
3 meeting with Ms. Littlejohn?

4 A. I was already in Charleston County by then. It was
5 over the video conference call. I think that was the
6 time when I asked about a bond modification or something
7 like that because there was already -- I had no bond and
8 it was past the six months. I remember that.

9 And I know that after six months without a bond
10 you're supposed to go up for a bond modification; you
11 can. And you can go up for a bond modification and she
12 just told me you need to hire yourself a lawyer and just
13 hung up the video call. I said okay.

14 Q. So just to get the timeline as accurate as we can
15 you said you were incarcerated for about six months ---

16 A. --- before that ---

17 Q. --- around the time of that meeting so would that
18 have been about April of 2018 then?

19 A. Yes, sir.

20 Q. Okay. You were arrested in November?

21 A. Yes, sir.

22 Q. So if you had to guess you'd say it was in April?

23 A. April, April-ish; yes sir.

24 Q. Okay. Go into a little bit more detail if you could
25 about what was discussed during that meeting. First of

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1 all let's start with the discovery. At this point did
2 you have the discovery materials?

3 A. No, sir.

4 Q. Okay. What discussions did you have with Ms.
5 Littlejohn over the video call?

6 A. The evidence they had against me she showed me a
7 disk and it was supposed to have photos on it supposedly.
8 She said she had an investigator investigating some
9 things.

10 I can't really recap everything that was said but it
11 was around that general area. She said she was just
12 looking into some things and they had some evidence
13 against me.

14 But I never got to see the evidence. It was just a
15 picture of a C.D. so I was like okay. And that was
16 basically it.

17 Q. Let's pause for a second on that. So when you say
18 she showed you a disk do you mean she literally
19 physically showed you a disk ---

20 A. --- showed me a disk, yes.

21 Q. So not the contents of the disk but just that there
22 was a disk?

23 A. Yes. Yes, sir.

24 Q. Okay. Do you recall asking her at that point
25 whether you were going to get copies of those materials

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1 or anything along those lines?

2 A. I don't, I don't recall. I don't remember.

3 Q. Okay. Now, as far as the bond modification issue
4 did you have any further discussion about that? The
5 meeting ended --

6 A. [Indicates]

7 THE COURT REPORTER: Is that no?

8 A. No, sir.

9 Q. [Mr. Geel] Okay. And how long was this meeting
10 again total like if you had to estimate?

11 A. Like 15 to 20 minutes.

12 Q. Okay. Now during that meeting did you have
13 discussions about sort of the strength of the evidence or
14 taking the case to trial or options or anything along
15 those lines?

16 A. No, sir.

17 Q. At that point did you have any discussions about
18 like a roadmap, like what to expect coming up or anything
19 along those lines?

20 A. Not then. At that then at a later time it was said
21 to be like five years, five years probation. That's what
22 was like the goal was.

23 But that was never when Court came and nothing was
24 you know what I'm saying it was just sign this and sign
25 that and I would step into the courtroom as a zero to 15

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1 plea and they gave me 15 years.

2 Q. Let's back up. So when you say it was five years
3 with probation do you mean that that's what you were
4 trying to obtain or that's what ---

5 A. --- that's what I was told.

6 Q. By who? Who told you that?

7 A. Ms. Littlejohn.

8 Q. Okay. Be very; be as detailed as you can. She told
9 you that what with respect to five years? What did she
10 exactly tell you?

11 A. She said that it, what we were going for was five --
12 was ten years; five years, five years probation. That's
13 what she told me.

14 Q. So five years in prison followed by five years of
15 probation?

16 A. Yes, sir.

17 Q. That's what she told you?

18 A. Yes, sir.

19 Q. And so when you say 10 years you mean those two ---

20 A. --- two, yes sir.

21 Q. Combined?

22 A. Yes, sir.

23 Q. Okay. Now she told you that's what she was trying
24 to get you at that point?

25 A. That's what was supposed to happen.

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1 Q. Okay.

2 A. I don't want to say try to get me. It was just like
3 this is what's going to happen and I signed it. And
4 that's not what happened.

5 Q. Okay. Now what we're talking about here with the
6 five years was this during the April meeting?

7 A. No, this was later on.

8 Q. Okay. Let's stick on the April meeting then.

9 A. Okay.

10 Q. Did this issue with the five years, ten years did
11 that come up in the April meeting or only later?

12 A. Later.

13 Q. Okay. Let's stick on the April meeting. What else
14 was discussed during that April meeting if you recall?

15 A. I don't know.

16 Q. Okay. At that point were there any discussions
17 about possibly going to trial pleading not guilty?

18 A. No, sir.

19 Q. At that time were you aware that that was an option?
20 Had you discussed that?

21 A. No, sir.

22 Q. Okay. Is there anything else that stands out in
23 your mind about that April meeting with Ms. Littlejohn?

24 A. Not entirely.

25 Q. Okay. So let's skip forward to the next time that

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1 you spoke with Ms. Littlejohn. First of all how long was
2 it until you spoke with her again? Can you estimate?

3 A. It was about a couple of months; about two to three
4 months.

5 Q. Okay.

6 A. And where was that the next meeting?

7 A. Same, same -- same way through a virtual visit.

8 Q. It was a video conference?

9 A. Yes, sir.

10 Q. So were you still in Charleston at that point?

11 A. Yes, sir.

12 Q. All right. And you say that it was about two to
13 three months after the prior meeting?

14 A. I believe so.

15 Q. June, July 2018 ballpark if you had to guess?

16 A. Yes.

17 Q. Okay. And how long was that meeting if you
18 remember?

19 A. It was just a few minutes. She was just telling me
20 my court date and just things of that sort.

21 Q. Okay. Tell us a little more about that. She was
22 telling you about a court date. What exactly did she
23 tell you about what was coming up?

24 A. That we will be seeing each other in Court on this
25 date. It was supposed to be like August I believe 9th is

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1 when I went to Court I believe so. And that was do I
2 have any questions and stuff like that? And I said no,
3 not really. It wasn't really that long of a video chat.
4 It was maybe like five minutes. It was just kind of
5 notification hey, we're going to Court and that was it.

6 Q. Okay. Did you have any discussions about what was
7 going to happen at Court or what to expect?

8 A. No, sir.

9 Q. Did she indicate to you that it was a guilty plea
10 hearing?

11 A. No, not during that. No, she didn't until the day
12 of Court.

13 Q. So I don't want to -- let's stay on this meeting but
14 just for purposes of this question so when you went to
15 Court on August 9th were you aware of what you were there
16 to do?

17 A. Not until I got there, no.

18 Q. Okay. Let's jump back then to the June and July
19 meeting to make sure we get these things sort of clear.

20 So, what else -- she told you that you were going to
21 be going to Court soon; she gave you your Court date.
22 What else did she tell you about what to expect there?

23 A. Nothing.

24 Q. Okay. At this point did you have your discovery
25 materials, your Rule 5?

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- 1 A. No, sir.
- 2 Q. Okay. Had you discussed the evidence with Ms.
3 Littlejohn; the strength of the case, possible defenses;
4 things along those lines?
- 5 A. No, sir.
- 6 Q. No discussions at all about that?
- 7 A. No, sir.
- 8 Q. Okay. Did the issue of bond modification come up
9 again in that?
- 10 A. No.
- 11 Q. Okay. You didn't ever ---
- 12 A. --- it never came back, no sir.
- 13 Q. Okay. Now let's jump forward. You said that your
14 Court date was August 9th if you recall correctly August
15 9th, 2018?
- 16 A. I do. Yes sir, I do believe so.
- 17 Q. Okay. And so let's start there. When you showed up
18 for Court Ms. Littlejohn had told you you were going to
19 Court so you were aware you were going to be going to
20 Court right; is that fair to say?
- 21 A. Yes, sir.
- 22 Q. Okay. But, I don't want to put words in your mouth
23 but you weren't aware of what you were going to be doing?
- 24 A. No, sir.
- 25 Q. So tell the Judge exactly when you show up to Court

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1 just take us through everything that happened once you
2 got there.

3 A. When I got to court Your Honor I was charged with
4 domestic violence high and aggravated, assault and
5 battery high and aggravated, being arrested with a deadly
6 weapon and assault ---

7 Q. --- slow down.

8 THE COURT REPORTER: Yes, slow down.

9 A. Okay. I'm sorry.

10 Q. [Mr. Geel] That's all right.

11 A. So I was charged with domestic violence high and
12 aggravated, assault and battery high and aggravated,
13 abetting arrest with a deadly weapon and assault wounding
14 a police officer while resisting arrest.

15 They, the day of Court Ms. Littlejohn brought me
16 some paperwork saying that they dropped the assault and
17 battery high and aggravated and the assault wounding a
18 police officer while resisting arrest and gave me -- and
19 instead of the assault and battery high and aggravated
20 they charged me with unlawful conduct towards a child and
21 they just dropped the other charge.

22 And so they were only bringing me three charges.
23 And she said if you sign this paperwork you know it will
24 happen or whatever. I said okay well at least the
25 assault and battery high and aggravated I know that would

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1 be dropped and assault against a police office would be
2 dropped.

3 So I signed the paperwork and we went in there and
4 so she was telling me that and I read the paperwork and
5 it said zero to 15 on the top and they told me that it
6 would be zero to 15 years. I said okay. I just didn't
7 know what I was signing up for. I don't know what else
8 from there.

9 Q. So, let's zero in on your expectations in terms of
10 sentencing. So you saw that it was a zero to 15 is what
11 one of the charges...

12 A. It was just on the top of every page.

13 Q. Okay. And what was your expectation in terms of
14 what your sentence was likely to be or what kind of range
15 you could expect?

16 A. Like five.

17 Q. What caused you to expect five years?

18 A. That's just what she told me.

19 Q. Who is she? Ms. Littlejohn?

20 A. Ms. Littlejohn.

21 Q. Are we talking about the June July meeting ---

22 A. --- yes sir ---

23 Q. --- or are you talking about that day in August?

24 A. Yes.

25 Q. Did she say anything about the sentencing range in

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1 August when you were there in person?

2 A. No, sir. I was sitting in like a meeting office room
3 with a long table. She told me to sign the paperwork and
4 I signed it and she left. And I was looking at the
5 paperwork, she left it on the table and I looked at it.
6 And it said zero to 15 across the papers.

7 And when she came back I asked her about it. She
8 was like don't worry about that, we'll handle that in
9 Court. And we just went into the courtroom and just --
10 it didn't play out as what I thought it would play out to
11 be.

12 Q. Okay. So let's revisit the issue with the
13 discovery. At this point when you're there in Court
14 August 9th, 2018 at that point did you have your
15 discovery materials?

16 A. Yes, I did.

17 Q. When did you get them?

18 A. When I was in the waiting holding cell.

19 Q. So in Court that day; is that what you're
20 testifying?

21 A. Yes, sir.

22 Q. Okay. So you had your discovery materials in hand
23 at your court date but you'd only just received them.

24 A. Yes, sir.

25 Q. Did you have a chance to review them before your

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1 plea?

2 A. No, sir. And now actually since I recall I believe
3 I got them after I got out the courtroom.

4 Q. Okay. So clarify that point. What do you mean you
5 got them after you got out of the courtroom?

6 A. I was already sentenced and everything and when I
7 went back to the holding cells to be whatever I was just
8 done with Court that's when they brought me my paperwork.

9 Q. And who is they? Who brought you your paperwork?

10 A. I have no idea. I don't know; it was some lady.

11 Q. Okay.

12 A. I don't know. It wasn't an officer or anything like
13 that it was just some lady brought me.

14 Q. So you were seated in the back in the holding area
15 outside of the courtroom ---

16 A. --- yes sir ---

17 Q. --- and then someone handed you a packet of
18 paperwork?

19 A. Yes, sir. And I looked at the bottom of it and it
20 said Rule 5 on the bottom of it.

21 Q. Did Ms. Littlejohn ever say anything to you about
22 that to expect to receive those materials or anything?

23 A. I never spoke to her after Court.

24 Q. Okay. And before you went in for Court she didn't
25 say anything about you receiving your discovery

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1 materials?

2 A. No, sir.

3 Q. So just to clarify this point what was your
4 expectation in terms of sentencing? What did you think
5 that you were going to get?

6 A. Eight years.

7 Q. What made you think you were going to get eight
8 years?

9 A. Just talking to other people; I don't know.

10 Q. Other inmates ---

11 A. --- inmates, yes sir.

12 Q. Okay. And when you say talking to them you mean you
13 told them about your case and ---

14 A. --- case and stuff like that, yes sir.

15 Q. And they were just guessing that you would get eight
16 years.

17 A. Yeah. I was on a Y and they terminated my Y and
18 it's a whole ballpark to it. So it's just a roundabout
19 number.

20 Q. Okay. And did you have discussions with Ms.
21 Littlejohn about the eight or what expectation you had
22 there?

23 A. No, sir. That was just a me personal number I
24 thought I would get.

25 Q. Okay. So at this point when you're there for Court

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1 for your guilty plea hearing at that point had you had
2 any discussions with Ms. Littlejohn at any of your prior
3 meetings about going to trial and pleading not guilty;
4 those kinds of things?

5 A. No, sir. Honestly I didn't think I could go to
6 trial. I didn't know trial was an option for me.

7 Q. Okay. Elaborate on that a little bit more. What
8 did you know about jury trials at the time?

9 A. At the time I figured that jury trials were only for
10 capital offenses like murder or kidnapping or things of
11 that sort. I didn't ---

12 Q. --- did you -- I'm sorry; keep going.

13 A. I just never -- every time I've ever heard of a
14 trial it's either something that I've seen on T.V. you
15 know what I'm saying. It wasn't nothing I related myself
16 or you know my life to so I never understood it.

17 Q. Just to make sure we're clear here. You're saying
18 you were not aware that you could go to trial?

19 A. No, sir.

20 Q. Did you ever discuss the subject with Ms.
21 Littlejohn?

22 A. No, sir.

23 Q. Okay. At the time when you were offered this deal
24 that you were in Court to resolve the case what was your
25 mindset in terms of -- were you aware that you could say

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1 no to this?

2 A. No, I did not.

3 Q. Okay. Did you discuss that with Ms. Littlejohn the
4 terms of the offer or anything like that?

5 A. No, sir.

6 Q. Did you discuss the fact that you could say I'm not
7 guilty and demand a jury trial? Did you discuss that?

8 A. No, sir.

9 Q. I'm going to direct your attention to a portion of
10 the transcript. I'm just going to read it to you so just
11 let me know if you have any difficulty hearing.

12 MR. GEEL: And for purposes of the record, Your
13 Honor, I'm reading from page 5 of the sentencing
14 transcript starting at line 10.

15 Q. Mr. Fickling -- the Court says and I'm quoting here,
16 quote [Reading] When you plead guilty you give up
17 several rights. That includes the right to a jury trial,
18 the right to confront witnesses against you, and your
19 right to remain silent. Do you wish to give up all those
20 rights and plead guilty today?

21 And then you answered yes, ma'am. Do you recall
22 that portion of the sentence hearing? Do you have an
23 independent recollection of answering the question that
24 way?

25 A. No, I do not. But I do understand that's usually in

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1 every Court hearing. I was probably just going through
2 the motions at the time. It was just...

3 Q. Let me ask you the question this way. When you told
4 the Court that you were aware of those rights were you
5 actually aware of those rights? Had your lawyer talked
6 about them with you?

7 A. No, not really.

8 Q. Not really?

9 A. No, sir.

10 Q. Okay. So when the Court said you have the right to
11 a jury trial and the right to confront witnesses against
12 you this was the first that you heard that before?

13 A. Yes, sir.

14 Q. Did you understand what the Court was saying when
15 the judge said that?

16 A. When you say it now sir I don't even understand what
17 it means.

18 Q. Okay.

19 A. Honestly.

20 Q. Let's talk a little bit about your background. How
21 far did you go in school?

22 A. I made it to, I completed eighth grade and into the
23 ninth grade.

24 Q. Okay. Did you have any sort of learning issues or
25 anything along those lines when you were in school?

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1 A. Yes, sir.

2 Q. Can you talk a little bit about that?

3 A. I was in Special Ed classes at some points in
4 school. And I've had issues in school; learning
5 disabilities and stuff like that?

6 Q. What kind of difficulties do you have with learning
7 specifically?

8 A. I've got Attention Defiance disorder and it's kind
9 of hard to pay attention sometimes. It's hard to
10 explain.

11 Q. Let me ask you this. Do you have any issues in
12 terms of audio verses reading, like reading material
13 verses hearing things, like being able to process things?

14 A. I do read things better than I do when I listen to
15 people.

16 Q. Can you go into a little bit more detail about that?

17 A. If I read instructions better than if you're telling
18 me how to do something. I can read it and understand it
19 better than if you're trying to tell me how to do
20 something.

21 Q. Okay. And so in your dealings with your attorney
22 did your attorney send you things in writing to sort of
23 explain what was going on? Do you recall receiving
24 letters or any kind of like written instructions from
25 her?

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1 A. No, sir.

2 MR. GEEL: If I could Your Honor, may I approach
3 the witness?

4 THE COURT: Yes, sir.

5 [Whereupon, Mr. Geel shows document to the witness]

6 Q. [Mr. Geel] I'm handing the witness a copy of State's
7 exhibit 1. Mr. Fickling, would you mind reviewing that
8 document and just when you've had a chance to look it
9 over could you just look up at me.

10 [Whereupon, the witness reviews document]

11 Q. You've had a chance to review that?

12 A. Yes, sir.

13 Q. You would agree that that appears to be a letter
14 from your lawyer dated June, is it June 8th?

15 A. Eighth, yes sir.

16 Q. Have you seen that letter before?

17 A. No, sir.

18 Q. Did you receive that letter from your lawyer?

19 A. No, sir.

20 Q. Now as you can see in the letter it suggests that it
21 also included discovery materials and some discussion
22 about the charges and everything like that. Did you
23 review that letter and have those discussions with your
24 lawyer?

25 A. [Indicates]

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1 Q. Is this the first time ---

2 THE COURT REPORTER: --- is that no?

3 A. No, sir.

4 Q. [Mr. Geel] Is this the first that you've seen that
5 particular document?

6 A. Yes, sir.

7 Q. Do you recall receiving any letters from your lawyer
8 while you were in jail?

9 A. No sir except for one but it was for, about the
10 Court, the Court like going to Court and stuff like that;
11 like my Court date and stuff like that.

12 Q. Okay. Just to be clear it was not the letter that
13 you're holding in your hand ---

14 A. --- it was not this. No, sir.

15 Q. You've never seen that letter?

16 A. No, sir.

17 Q. Okay. Let's jump forward to when you actually pled
18 guilty. You've already indicated that after the plea you
19 got your Rule 5, your discovery materials, correct?

20 A. Yes, sir.

21 Q. When did you actually have the occasion to review
22 those in detail? When was that?

23 A. In Kirkland, R & E.

24 Q. Kirkland Correctional Institution ---

25 A. --- yes sir ---

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- 1 Q. --- in Columbia?
- 2 A. Yes, sir.
- 3 Q. So this is long after your case is that fair to say?
- 4 A. Yes, sir.
- 5 Q. Can you ballpark how long it was after your sentence
- 6 when you actually got around to reviewing your discovery
- 7 for the first time?
- 8 A. It was exactly five days after Court.
- 9 Q. Okay. And did you go through it all in one day, all
- 10 the documents?
- 11 A. I reviewed all of it in one day, yes sir.
- 12 Q. Okay. And just to be clear about this point this is
- 13 the first time that you reviewed those materials?
- 14 A. Yes, sir.
- 15 Q. And you had no occasion previously to review them?
- 16 A. No, sir.
- 17 Q. Your lawyer never brought them physically to you and
- 18 you went through them together; nothing like that ever
- 19 happened?
- 20 A. No, sir.
- 21 Q. Okay. What was your -- so since being incarcerated
- 22 have you learned a little bit more about how this sort of
- 23 system works?
- 24 A. Yes, sir.
- 25 Q. Are you now aware of your jury trial rights and

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1 everything along those lines?

2 A. Yes, sir.

3 Q. And you've reviewed your evidence?

4 A. Yes, sir.

5 Q. And what is your position now in terms of -- now
6 that you know you have the right to a jury trial is that
7 what you want the Court to allow you to do?

8 A. Yes sir, very much.

9 Q. So just to put a fine point on this knowing what you
10 know now would you have rejected this offer that you pled
11 guilty to?

12 A. Absolutely.

13 Q. And demanded a trial?

14 A. Yes, sir.

15 Q. And the reason you didn't do that back then is why?

16 A. Just ignorance. I didn't know half the stuff I know
17 now. I just didn't know.

18 Q. And so when you say you didn't know what you know
19 now are you talking about the way the system works?

20 A. Yes, sir.

21 Q. Your right to a jury trial?

22 A. Right, to a jury trial. I never knew I could say no
23 to the plea; I never knew that. I was just going through
24 the motion with it.

25 Q. And again I'm asking you to estimate a little bit

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1 here but all together how much time would you say you
2 spent with Ms. Littlejohn if you add up the duration of
3 every single meeting you had?

4 A. Maybe two hours.

5 Q. Okay.

6 [Whereupon, Mr. Geel reviews documents]

7 MR. GEEL: Thank you, Your Honor. That's all I
8 have.

9 THE COURT: Ms. Weidauer?

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1 CROSS-EXAMINATION

2 BY MS. WEIDAUER:

3 Q. Good morning, Mr. Fickling.

4 A. Good morning.

5 Q. You pleaded guilty in 2018, correct?

6 A. Yes, ma'am.

7 Q. Okay. And as a result of that plea the State

8 dropped some charges right?

9 A. Yes, ma'am.

10 Q. At the time of that plea did you understand that you

11 were facing a maximum of 17 years?

12 A. [Indicates]

13 THE COURT REPORTER: Is that no?

14 A. No. No, ma'am.

15 Q. [Ms. Weidauer] What was your understanding of what

16 you were facing?

17 A. I thought honestly when all the charges were

18 together and everything like that it was up to like 40

19 years or something like that.

20 Q. Okay. And again you understand if you're here today

21 you can be charged with all those charges again; the ones

22 you were originally ---

23 A. --- yes ma'am ---

24 Q. --- indicted for ---

25 A. --- yes, sir -- yes ma'am ---

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- 1 Q. --- even the ones that were dropped?
- 2 A. Yes, ma'am. Yes, ma'am.
- 3 Q. We went over some of the meetings with your
4 attorney. How many times in total do you think you met
5 with Ms. Littlejohn?
- 6 A. Including the day of Court or no?
- 7 Q. Including the day in Court.
- 8 A. Let's say five times.
- 9 Q. Five times total. And you said that was for a total
10 of about two hours; is that correct?
- 11 A. Yes, ma'am.
- 12 Q. Okay. Can you tell us a little bit about what your
13 understanding was of the State's case? What did you
14 think you were being charged with? Why did you think you
15 could have a possible 40 year sentence?
- 16 A. Well, I guess I got -- I got into an altercation
17 with the mother of my child and the police.
- 18 Q. Okay. And how did you come to know that those were
19 your charges or that was the basis for the charges?
- 20 A. I woke up in a hospital and they told me that's what
21 I was charged with.
- 22 Q. Who did?
- 23 A. The police.
- 24 Q. The police did, okay. And then did you inquire with
25 your attorney about your charges?

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1 A. The day I met her yes, ma'am.

2 Q. The day you met her. And she told you specifically
3 everything that you were being charged with on that day
4 that you met her.

5 A. Yes, ma'am.

6 Q. Okay. Did Ms. Littlejohn go into the elements of
7 each of the charges?

8 A. No.

9 Q. She did not?

10 A. No.

11 Q. Okay. Did she talk about any defenses with you?

12 A. No.

13 Q. Did you talk about any defenses with her?

14 A. No.

15 Q. You didn't? So what did you provide to her for your
16 case?

17 A. At the time I didn't provide anything.

18 Q. Not physically but through your discussions you said
19 you met with her five times. Did she ever ask what
20 actually happened?

21 A. I believe so the day I met her.

22 Q. Okay. And what did you tell her?

23 A. That I couldn't remember.

24 Q. You said you couldn't remember what actually
25 happened, okay. Did you give her any leads or witnesses

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1 to investigate during any of those meeting?

2 A. No. No, ma'am.

3 Q. I believe you testified earlier that she did tell
4 you that she was investigating, correct?

5 A. Yes.

6 Q. In some capacity. Do you know who she was
7 investigating and what she was looking into?

8 A. Supposedly photographs. I don't -- photos.

9 Q. Okay. And what was your understanding of why she as
10 looking into photographs?

11 A. At this time I believed the evidence against me I
12 would believe. At that time I had no idea.

13 Q. She just told you she was investigating on your
14 behalf?

15 A. Yes, ma'am.

16 Q. Okay. Did she tell you that you could challenge the
17 evidence that the State was trying to put up against you?

18 A. No, ma'am.

19 Q. Okay. And you do, and Mr. Geel read earlier from
20 the transcript. Do you recall the judge saying that you
21 had that right to challenge that evidence ---

22 A. --- no, ma'am ---

23 Q. --- or rather...

24 A. I do not recall it.

25 Q. You do not recall it specifically?

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1 A. No, ma'am. But I do know that she probably did say
2 that, yes ma'am.

3 Q. Okay. And at the time would you have any reason to
4 have lied to her?

5 A. No, ma'am.

6 Q. Okay. Seemingly through those discussions with and
7 per your testimony you testified that Ms. Littlejohn
8 didn't go over what would be happening at the plea
9 hearing, correct?

10 A. Yes, ma'am.

11 Q. Okay. So how did you come to know what you should
12 say? You mentioned that you had heard essentially what
13 you needed to say?

14 A. Well, I would say I was in Charleston County and I
15 knew a lot of inmates there from the outside so I sat
16 down and told them about my case and they just gave me
17 general advice of what I should do.

18 Q. Okay. And what did they tell you you should do?

19 A. Get a lawyer.

20 Q. And you had a lawyer, correct?

21 A. Right.

22 Q. Okay. And did you, so that was their advice was to
23 get a lawyer?

24 A. Right.

25 Q. Okay. They didn't tell you how to answer these

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1 questions ---

2 A. --- no, ma'am ---

3 Q. --- to the Court? And would you have had any reason
4 to lie to the Court? Ms. Littlejohn hadn't spoken with
5 you you are saying that inmates had spoken to you about
6 what to expect at this hearing so you would have had no
7 reason to lie to this Court, the guilty plea Court.

8 A. No, ma'am.

9 Q. Okay. Do you recall the Court asking you whether
10 anyone had promised you anything or threatened you in any
11 way to get you to plead guilty?

12 A. Yes, ma'am.

13 Q. Okay.

14 A. I do remember that.

15 Q. You do? And per your testimony I'd like to kind of
16 understand you said five years, you've said eight years.
17 What was your expectation going ---

18 A. --- my expectation was to five years, five years
19 probation. I did not think I would get that but that's
20 what she told me so I just went with it.

21 Q. So why did you think you would get eight years?

22 A. I didn't -- because I was on a YOA probation and I
23 didn't expect them to put me back on probation personally
24 that's why I thought I was not going to get the five
25 years probation.

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1 Q. So you understood that that wasn't something that
2 the Solicitor was offering; that's just something Ms.
3 Littlejohn had told you she was working towards?

4 A. At that time no. I didn't know the difference. I
5 didn't know there was a difference.

6 Q. A difference between what?

7 A. I didn't know there was a Solicitor saying this and
8 she was saying that. I didn't understand that concept
9 until now.

10 Q. So what did you think the Solicitor was saying?

11 A. I didn't, I figured they wanted what was it; 40
12 years.

13 Q. Okay. And so it was your understanding that should
14 you go to trial the Solicitor would be trying to convict
15 you and get the judge to give you the 40 years.

16 A. Right.

17 Q. And knowing that you decided to plea to the lesser
18 amount?

19 A. I just wanted -- I wouldn't say I would have plead
20 to a lesser amount I just figured if I go to court and I
21 have Ms. Littlejohn she's working on something lesser
22 than what if I went to Court without a lawyer I guess if
23 you would say.

24 If I went to Court by myself and I go in there they
25 would give me 40 years I figured. So if I had Ms.

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1 Littlejohn representing me and fighting for my behalf I
2 wouldn't get the whole max.

3 Q. So let me clarify. Are you saying if you went to
4 trial you believed you'd get the 40 years?

5 A. I believe I wouldn't. I believe I wouldn't even get
6 15 years.

7 Q. If you proceeded to trial?

8 A. Yes, ma'am.

9 Q. Okay. And I'd just to clarify for the record what
10 you are trying to tell this Court. Did you try to move
11 to relieve Ms. Littlejohn and proceed on your own behalf
12 at any point? I'm confused on the discussion of with or
13 without an attorney.

14 A. Yes.

15 Q. You did? You made that motion?

16 A. I tried to.

17 Q. What does that mean that you tried to?

18 A. I tried to, I put in the kiosk through Berkeley
19 County stating that I wanted a new public defender and it
20 never went anywhere I guess; I don't know.

21 Q. And had you told Ms. Littlejohn that you were
22 unhappy with her representation at any point?

23 A. [Indicates]

24 THE COURT REPORTER: Is that no?

25 A. No. No, ma'am.

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1 Q. [Ms. Weidauer] And did you tell the plea Court that
2 you weren't happy with Ms. Littlejohn's representation at
3 any point?

4 A. No, ma'am.

5 Q. Okay. So that being said had you changed your mind
6 in any way? Why was that not something that you had
7 brought up the day of your plea?

8 A. Just nervous I guess. At the time I wasn't thinking
9 about it. Just trying to -- I don't know.

10 Q. And at your plea hearing do you remember apologizing
11 to the victims and the State regarding the charges that
12 you had committed is how you phrased it. [Reading] I'd
13 like to apologize to the State and the victims about the
14 charges I committed.

15 Do you remember saying that?

16 A. [Indicates]

17 THE COURT REPORTER: Is that yes?

18 THE COURT: If you'd answer out loud for us please.

19 A. Yes, ma'am. Yes, ma'am.

20 Q. [Ms. Weidauer] Do you also remember stating that you
21 regretted what you have done and that you know you had
22 done wrong?

23 A. Yes, ma'am.

24 Q. You do? Okay. Was that in any way you trying to
25 take responsibility and plead guilty? Why do you believe

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1 that if you had gone to trial you would have been
2 acquitted of these charges?

3 A. The elements of my charges are not correct of the
4 crimes that I committed.

5 Q. Okay. And you think that your defense would show
6 that?

7 A. Yes. I know it would.

8 Q. So why did you ultimately plead?

9 A. Because at the time I didn't know that. Now I do
10 know that.

11 Q. So how did you come to learn that?

12 A. I spent five years in prison studying my case.

13 Q. Okay. Mr. Geel handed you up a letter from Ms.
14 Littlejohn regarding your case. That letter is dated
15 June 8th, 2018. Do you still have that up there?

16 A. Yes, ma'am.

17 Q. Okay. Ms. Littlejohn indicates in this letter that
18 there was a video conference on that date June 8th, 2018.
19 Do you remember having a video conference with her on
20 that date or roughly that date?

21 A. Roughly.

22 Q. You might not remember the specific date because it
23 has been a couple of years but in June of 2018?

24 A. Yes. Yes, ma'am.

25 Q. Okay. And do you remember her stating that the

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1 Solicitor had made an offer in your case?

2 A. I don't recall that, no ma'am.

3 Q. Okay. In State's 1 Ms. Littlejohn states [Reading]
4 As you know from our videoconference today the Solicitor
5 handling your case has made an offer.

6 Do you remember during that videoconference Ms.
7 Littlejohn telling you about an offer the State had made?

8 A. No, ma'am.

9 Q. You do not remember that discussion?

10 A. No, ma'am.

11 Q. Okay. Do you remember -- and you don't remember
12 receiving this at all; that's your testimony?

13 A. No, ma'am.

14 Q. And per this letter it says that she's included
15 discovery. You did not receive that that's your
16 testimony today?

17 A. Yes, ma'am.

18 Q. Okay. She also says that the 911 call which we
19 heard several times and in particular what S.B. told
20 the 911 operator to take a look at that.

21 She says that you've heard it several times. How
22 many times do you think Ms. Littlejohn played that 911
23 tape for you throughout her representation?

24 A. Just once. I remember that. Just once.

25 Q. You do remember her telling you?

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- 1 A. Yes, ma'am.
- 2 Q. So there was more discovery than just a picture of a
3 CD that she had?
- 4 A. Yes, ma'am ---
- 5 Q. --- discussed with you?
- 6 A. Yes, ma'am.
- 7 Q. Okay. Earlier I believe that you testified that you
8 had just seen...
- 9 A. It was just a CD.
- 10 Q. Okay. But now you do remember hearing a 911 call
11 from S.B. ; from the victim?
- 12 A. Yes, ma'am.
- 13 Q. Okay. And Ms. Littlejohn had played that for you.
- 14 A. And can I ask a quick question? Is it allowed? If
15 she played that 911 call and it was never used as
16 evidence inside the courtroom, is it still considered
17 evidence?
- 18 Q. Correct.
- 19 A. Okay.
- 20 Q. The evidence that the State presented at the guilty
21 plea hearing that you pled guilty to that was the
22 evidence that they would have been able to put up at
23 trial.
- 24 A. Okay.
- 25 Q. Do you understand that?

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1 A. Yes, ma'am.

2 Q. And I'd like to go back to you stating that you know
3 you apologized and that you regret that was what you
4 indicated to the plea Court.

5 Though you've testified that you don't believe the
6 State would have been able to meet their burden should
7 you have proceeded to trial what were you apologizing
8 for?

9 A. The simple fact that I had to bring this
10 congregation together for the fact of the crimes that I
11 committed.

12 Q. Okay. In your own words what were the crimes that
13 you committed?

14 A. Domestic violence.

15 Q. And there was an incident with an officer as well
16 correct?

17 A. Yes, ma'am.

18 Q. Okay.

19 MS. WEIDAUER: Beg the Court's indulgence for one
20 moment.

21 THE COURT: Okay.

22 [Whereupon, Ms. Weidauer confers with co-counsel]

23 MS. WEIDAUER: Thank you, Your Honor. Nothing
24 further.

25 THE COURT: Mr. Geel?

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1 MR. GEEL: Nothing further, Your Honor. Thank you.

2 THE COURT: All right. Sir, you can step down.

3 [Whereupon, the witness is excused and exits the
4 witness stand]

5 MR. GEEL: Your Honor, no further evidence from the
6 Applicant at this time.

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1 MS. WEIDAUER: The State would call Ms. Debbie
2 Littlejohn to the stand.

3 [Whereupon, Ms. Littlejohn comes forward to the
4 witness stand]

5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]

7 THE CLERK OF COURT: Please state your full name
8 for the record and spell your last name.

9 THE WITNESS: Debra K. Littlejohn, L-I-T-T-L-E-J-O-
10 H-N.

11 - - - - -

12 DEBRA LITTLEJOHN,

13 Having been first duly sworn,

14 Was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MS. WEIDAUER:

17 Q. Good morning, Ms. Littlejohn.

18 A. Good morning.

19 Q. How long have you been practicing law in the state
20 of South Carolina?

21 A. Since 1990.

22 Q. And how much of that has been criminal law?

23 A. The vast majority.

24 Q. Okay. Over 90 percent?

25 A. I would say so.

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1 Q. Okay. And were you appointed or retained in this
2 case to represent Applicant?

3 A. Appointed.

4 Q. Okay. Do you remember roughly how long after he was
5 arrested you were appointed?

6 A. I don't. And I don't have any notes to that effect.
7 I can just tell you that on average it -- well it varies
8 on average. Let's see.

9 [Whereupon, Ms. Littlejohn reviews notes]

10 A. On the interview sheet he was interviewed on
11 November 7th. And it gets -- it has to go through a
12 process of getting the paperwork the warrants etcetera.
13 They open up a file and then they assign somebody.

14 Normally I'm just going to say at a rough guess 30
15 to 45 days after someone is incarcerated, maybe a longer
16 depending on what warrants they are.

17 Q. So Mr. Fickling has testified here today that he met
18 with you about a month and a half after he was arrested
19 so that timeline would sound correct to you?

20 A. Right. I would say he's absolutely right about
21 that. That would be pretty accurate.

22 Q. Okay. There has been a lot of testimony regarding
23 the times and specifically how many times you met with
24 the Applicant during the course of your representation.
25 How many times ballpark do you remember meeting with him

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1 as it has been a couple of years?

2 A. I honestly have no idea and I am not good at taking
3 notes. I should but I'm not.

4 Q. Okay.

5 A. I mean I know I met with Casey, with Mr. Fickling
6 over on video as well as at Hill Finklea, Berkeley County
7 Detention Center.

8 Q. So though you don't remember the specific number of
9 times but you remember the substance?

10 A. Of the meetings, oh yeah.

11 Q. Discussed at the meetings, okay. During any of
12 those meetings do you recall discussing the Rule 5 or
13 Brady evidence that the State had turned over?

14 A. We did. And for some reason I don't know why I
15 wrote him that letter June 8th that says [Reading] Herein
16 I am going to discuss the offer as well as the discovery
17 all of which were reviewed previously.

18 But sometimes it's best to see it in writing. And I
19 set forth the assault and battery high and aggravated
20 nature, how long it carries, and it's no parole, violent
21 and serious, DV Han, resisting arrest; there were two of
22 those counts on each of the two officers and what they
23 carry.

24 And then I told him that the Solicitor could present
25 each of these to the Grand Jury along with the charge of

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1 unlawful conduct towards a child which carries zero to
2 10. And in that package I included the definition of all
3 the charges and a copy of Section 24-13-100 which
4 includes provides a classification of no parole offenses.

5 And then it says three pages of which the violent
6 classification and then stated -- what it means by
7 violent. There whole letter was geared toward violence.

8 What do we mean by violent and no parole, most
9 serious and serious, and that none of us have any control
10 over it. It's all up to the Legislature how they want to
11 classify things.

12 Then I put down there and I'm going to quote
13 [Reading] I'm going to break down what I've enclosed as
14 part of your discovery package. Please note that the
15 Rule 5/discovery pages are generally marked Rule 5
16 number, parenthesis page number, close parenthesis.

17 And there are some photos from Disk 48 that I've
18 printed that are at the end and they are not numbered
19 that way.

20 Q. So, would you have enclosed that discovery with this
21 or would you have previously provided that discovery to
22 Applicant?

23 A. Well, when I started looking at this I noticed it
24 said -- I'm not going to tell you which way I think this
25 went. I think I would have gone over the discovery with

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1 him before but this is dated June 8th and it says it is
2 hand delivered okay. And then -- give me a second here.

3 [Whereupon, Ms. Littlejohn reviews notes]

4 A. Okay then I have here a letter dated June 11th and I
5 don't know if June 8th may have been a Friday or what
6 because I likely typed up this letter of June 8th I'm
7 guessing. I think that's when I actually personally typed
8 it because on June 11th I have via hand delivery to him
9 at the jail that says:

10 [Reading] By signature below I, Casey W. Fickling
11 acknowledge I received via hand delivery at the Sheriff
12 Al Cannon Detention Center a copy of my discovery
13 materials pages 1 through 80, a copy of color pictures in
14 my case as well as a letter from my attorney, Debra K.
15 Littlejohn, Berkeley County Public Defender's Office on
16 the date below.

17 I didn't know I had written that part [Reading] And
18 I have received it and it is dated, it's signed by him
19 and dated 6/12.

20 Q. Do you mind if I take that document you are
21 referring to?

22 [Whereupon, Ms. Weidauer and Mr. Geel view document]

23 A. I was looking through this while we were back there
24 and I just saw that. What would have, my guess, and this
25 is just my guess is that and I'm doing my guess based on

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1 my habits is that I would have written the letter after
2 having gone over it with him. I would have actually; it
3 looks like I typed it myself.

4 And then I'm guessing -- if you can look at that
5 letter and see if it has A-V-S at the bottom of it where
6 the signature is where my assistant may have given it to
7 one of the investigators to take out there to Mr.
8 Fickling.

9 That's going to be my guess based on habit; but that
10 is merely an assumption based on habit.

11 Q. And through your some 30 years of practice that
12 would be normal for you?

13 A. Right.

14 Q. Is to review discovery with defendant or Applicant
15 and then write them a follow up memo or letter ---

16 A. --- normally I don't write a follow-up memo or
17 letter.

18 Q. Normally you don't? So what made you do that in
19 this case?

20 A. I think I -- I don't know. Usually if I do it means
21 that the client was perhaps having a little bit more
22 difficulty and also because he was in Charleston.

23 As Mr. Fickling said he went back and forth. And I
24 don't know which time he was where but if he's down there
25 in Charleston I don't have as great or ready access to

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1 him as you do just driving across town here. So maybe it
2 was that. Maybe I wanted to spell it out to him in black
3 and white and I want you to see it this way. Some people
4 look at things and can see it better written.

5 Q. And as you mentioned in this letter it says that you
6 had a videoconference.

7 A. Right. I don't have independent recollection but
8 I'm guessing we did since I wrote it.

9 Q. And in this letter you would have referred to things
10 that you discussed in that videoconference?

11 A. Right.

12 Q. Okay. Do you recall following up with him after
13 having this meeting further about any of the discovery?

14 A. I don't have an independent recollection of that.

15 Q. Okay.

16 A. I may have but I don't have an independent
17 recollection.

18 Q. And in this letter it also says the State has
19 offered to dismiss the ABHAN charge and enter a plea of
20 15 years for the remaining charges. Did you have further
21 discussion with him about that, about the plea offer that
22 is?

23 A. It would make logical sense I would to have them
24 even brought up because I think there was like two months
25 difference between this.

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1 Q. So he ---

2 A. --- but I don't have an independent recollection.

3 Q. Okay.

4 A. My habit would be to do that but no independent
5 recollection.

6 Q. And would you have let him plead if you thought he
7 didn't understand what he was pleading to?

8 A. No.

9 Q. Okay. There is also the allegation that you failed
10 to adequately investigate this matter. Can you explain
11 to the Court how you investigated Casey's case?

12 A. Well, I wanted to know if everything they said was
13 pretty much accurate of what was going on. So I had my
14 investigator...

15 [Whereupon, Ms. Littlejohn reviews notes]

16 A. It's dated April 18th okay. The investigator,
17 Kristi Page [phonetic] interviewed John Rudder
18 [phonetic], the grandfather of the client, she says
19 [Reading] In essence I identified myself and stated the
20 reason for visiting to Lorrie Rudder [phonetic].

21 I asked him to tell me what happened the night that
22 Casey was arrested at his residence. He stated S.B. 's
23 mother -- because S.B. is she -- it was S.B. ,
24 I remember that name ---

25 THE COURT REPORTER: --- what was the name, S.B. ?

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1 A. S.B. , S.B. if I recall correctly. And
2 that was the victim that was his girlfriend and the
3 baby's mother and was the victim of the domestic abuse
4 allegation.

5 Q. And the letter you are referring to is attached to
6 State's exhibit 1, it's the last page; that 4th page in
7 there. And that's from Kristi Page [phonetic] who is the
8 criminal defense investigator, correct?

9 A. Correct. And basically she told me that she had --
10 she talked to the grandfather and he had had some
11 experience with all this and it kind of got into a melee
12 up there.

13 And the grandfather was a 5th degree black belt and
14 basically got everything stopped when he yelled out
15 that's enough you know he was able to get everybody to
16 calm down. But Mr. Fickling and the police officers had
17 a skirmish on the porch at the grandfather's house.

18 Q. And the grandfather was able to get things calmed
19 down after that skirmish, correct?

20 A. Right, right.

21 Q. Okay. And did you do any further investigation
22 other than sending an investigator out to talk to the
23 witnesses that night?

24 A. I don't see any additional notes on there. Not that
25 I recall.

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June 20, 2022

1 Q. Okay. Mr. Fickling has testified that he didn't
2 give you anything to investigate or to further discuss
3 your investigation of this case.

4 Do you recall any discussions with them about the
5 facts of this case or his assertion of what the facts of
6 this case were?

7 [Whereupon, the witness reviews notes]

8 A. Okay. On 11/7/17 when he was interviewed it says
9 [Reading] Defendant states he and the victim were arguing
10 because he had another photo of a girl on his phone.
11 Defendant states the victim's mother told the Defendant
12 to leave.

13 Defendant states he walked down the road to his
14 grandfather's house where law enforcement found him.
15 Defendant states he was tased and he pulled the prongs
16 out. Defendant states he was tased again and then taken
17 to the ground by officers and a K-9.

18 This is from the interview, the initial interview by
19 the screener. And I would have taken this as a starting
20 base generally and just proceeded to discuss with him
21 hey, tell me about it. I like to just ask them, tell me
22 about it.

23 Q. And was his overview of what the case was or the
24 facts of the case in line with the State's evidence?

25 A. Yes.

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1 Q. It was?

2 A. I mean yes; obviously.

3 Q. Okay. And I believe you stated that you discussed
4 the indictments and the elements of the offenses with
5 him, is that correct?

6 A. I did.

7 Q. Okay.

8 A. I hate that it was so much time he was exposed to.
9 I know he didn't like that but it is what it is.

10 Q. But you would have discussed even though you didn't
11 like it for him discuss those possible punishments and
12 the maximum sentences with him?

13 A. Correct. I think there were actually more than just
14 these two officers there that night. I can't recall
15 independently but I think so.

16 Q. And you're referring to a statement from the
17 investigator?

18 A. No, Officer Plumbly [phonetic] and Officer Babsome
19 [phonetic] who they had the resisting charges on. I want
20 to say there was like three officers; I could be wrong on
21 that.

22 Q. But you believe he was only charged with the two
23 even though there were more officers present ---

24 A. --- right, right.

25 Q. Okay. Did you discuss his rights with him? So

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1 there has been some testimony that he did not know he had
2 the right to a jury trial. He thought that jury trials
3 were only for capital offenses. Do you recall any
4 discussions regarding his -- discussions between you and
5 him regarding his constitutional rights?

6 A. I have no independent recollection but my habit is
7 to always discuss that. They have to know that to go
8 forward.

9 I'll tell them things right down to you're giving up
10 your right to remain silent. For example one of the
11 reasons you're giving up that right is that you're
12 talking to the Judge.

13 So if you're going to talk to the Judge and answer
14 any questions the Judge may have that means you're
15 speaking. And in speaking you're giving up your right to
16 remain silent. That's actually pretty much my standard
17 line to folks.

18 Q. And he specifically alleged that you failed to
19 discuss with him his right to a jury trial. Would you
20 have given him a similar example?

21 A. Normally I'll say something like you have a right to
22 a trial. That's where 12 people will sit and decide what
23 the evidence is if they believe it, who they believe,
24 what they believe and they'll be told to weigh it.

25 Q. What were your discussions with Mr. Fickling

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1 regarding the success he may have at a trial? Did you
2 tell him that you thought it was a good idea, a bad idea?
3 Some attorneys give percentages. How do your discussions
4 go?

5 A. I do not have an independent recollection. In
6 looking over his file I would think it probably wasn't
7 that great because they also had that probation violation
8 that we were dealing with. But I have no independent
9 recollection of it.

10 Q. Of what you were recommended to him?

11 A. Right. I don't even know if I -- I may or may not
12 have recommended it but...

13 Q. And I believe in this letter again, State's exhibit
14 1 on page 3 you state [Reading] As I explained to you I
15 cannot tell you what to do. There are some pros and cons
16 to every case.

17 There are also times when persons may not testify
18 the way you think they should testify whether good or bad
19 essentially. And that paragraph follows the paragraph
20 where you said the Solicitor's offer is.

21 A. Okay.

22 Q. So, do you normally discuss with Applicants even
23 though you may not have an independent recollection that
24 it is their choice whether to plead guilty or proceed to
25 a jury trial?

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1 A. It's always their choice.

2 Q. Okay. And you believe you would have made that
3 clear to Mr. Fickling?

4 A. Absolutely. There are not many options that are the
5 choice of the client. That one is an absolutely,
6 absolutely a choice of all clients.

7 Q. And what was Mr. Fickling's inclination? Was it to
8 plead guilty? Did he ever ask about a trial?

9 A. I don't recall.

10 Q. Okay.

11 A. I have no independent recollection.

12 Q. So do you remember how you got to the plea phase?
13 How did we take the State's offer? What were the
14 discussions inbetween there?

15 A. I honestly don't remember. I can tell you the
16 habit. The habit would be the State would have asked
17 about something. We would have probably talked a little
18 bit about it and then the client and I talk about it.

19 That's the general habit. And this was a negotiated
20 plea. So I mean it's not a matter of it being
21 recommended. I mean this was -- with any negotiated plea
22 I always tell the client bottom line is the judge has two
23 choices; they can either accept the negotiation or tell
24 us no sorry, can't do it, sit down, and we go back to the
25 drawing table. And those are pretty much my exact words

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1 | because I want them to understand that if the judge can't
2 | take it, the judge can't take it.

3 | Q. And again you wouldn't have let him proceed with
4 | that plea hearing if you believed he didn't understand
5 | that.

6 | A. Correct.

7 | Q. Okay. And you don't have any recollection of him
8 | asking for a trial?

9 | A. I have no independent recollection of it.

10 | Q. Okay. In light of the State's evidence could you
11 | conceive of any defenses that were available to him?

12 | A. I don't -- I think if memory serves me correctly I
13 | think he didn't think S.B. [phonetic] would be
14 | testifying so much against him; I'm not sure. But the
15 | 911 tape I don't remember the substance of it but I
16 | remember thinking this was not good.

17 | Q. And she ultimately did have a victim's impact
18 | statement at the guilty plea correct; do you recall that?

19 | A. I don't remember if she had a victim's impact or if
20 | she was present; whichever one is on the transcript.

21 | Q. She was present; excuse me. She was present. And I
22 | can hand up that transcript if you'd like to refresh your
23 | recollection.

24 | A. I think I can -- what page is it?

25 | Q. Page 10, line 9 is where that should begin.

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1 [Whereupon, the witness reviews document]

2 A. Okay. And what would you like?

3 Q. I wanted to know whether you believed that after
4 having heard her testify at the plea hearing, having her
5 make that statement at the plea hearing you stand by that
6 this was his best option was to plead guilty.

7 A. Absolutely. What she had to say there was that was
8 really bad.

9 Q. And that was the one thing that possibly in this
10 case could have helped you at trial?

11 A. Sometimes the victims particularly when there have
12 been instances of being in a relationship or having
13 children together they change their minds or things like
14 that but it was just looking at this is not good what was
15 said.

16 Q. And if Applicant would have asked you to take this
17 case to trial do you believe you would have been prepared
18 to take it to trial?

19 A. Yes.

20 Q. Okay. Was it up on the trial docket? Was there a
21 push to you take the plea or you go to trial or did he
22 take this plea and we still had some time before ---

23 A. --- I don't think it was on a trial docket that I
24 recall.

25 Q. Okay.

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1 A. The Solicitor was Ms. Williams and generally she
2 will give you a deadline but I don't recall it.

3 Again I'm sorry; I don't really have independent
4 recollection. I can just tell you what generally the
5 habits are in my relationships with certain Solicitors
6 and what they expect.

7 Q. Okay. And from what you do remember about your
8 representation do you stand by the counsel that you
9 provided to Mr. Fickling?

10 A. Yes.

11 Q. Please answer any questions that Mr. Geel has for
12 you. Thank you.

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Casey Fickling v State of South Carolina
Post-Conviction Relief-Debbie Littlejohn-Cross-Examination by Mr. Geel
June 20, 2022

1 CROSS-EXAMINATION

2 BY MR. GEEL:

3 Q. Ms. Littlejohn, you said a few times that you don't
4 have an independent recollection of all the details ---

5 A. --- I don't; I'm sorry.

6 Q. That's all right. You've worked for the Public
7 Defender's office for quite some time now, correct?

8 A. Correct.

9 Q. You still work there.

10 A. Right.

11 Q. And you were working there at the time.

12 A. Right.

13 Q. And you have more than your share of clients, is
14 that fair to say?

15 A. Absolutely.

16 Q. And can you ballpark how many defendants you've
17 represented since December of 2017?

18 A. I couldn't even begin to tell you.

19 Q. Would it be hundreds?

20 A. I'd think that would be really good.

21 Q. So having so many clients over the years it's
22 difficult to sort of keep sharp on all the details of
23 everything ---

24 A. --- it is. That's why I kind of tend to make things
25 a habit.

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1 Q. Right. And so, and I'll just kind of drill down on
2 a few of these things in a moment but a lot of what
3 you're testifying to is what your common practice is in a
4 case.

5 A. Right.

6 Q. Not necessarily a recollection of how you dealt with
7 Mr. Fickling in particular ---

8 A. --- correct ---

9 Q. --- is that fair to say?

10 A. Absolutely.

11 Q. So as to let's just say the number of times you
12 visited him you wouldn't be able to say for certain
13 whether it was three or four or ten or one; I guess it
14 would be more than one but.

15 A. Well, I guess it would be, yes.

16 Q. But you couldn't say specifically how many times.

17 A. I couldn't.

18 Q. Or how long those visits were. And as far as the
19 discussions, the testimony you just provided about
20 reviewing the discovery and kind of going over trial
21 rights that's also just based on your common practice.
22 You're not saying that you have a clear recollection of
23 doing that with Mr. Fickling, correct?

24 A. Correct. The letter says we did it which leads me
25 to believe even more so that I did my habit, but no

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1 independent recollection.

2 Q. Right. And now you indicated that Mr. Fickling was
3 at the Charleston Detention Center for some time period
4 during this case.

5 A. He was at both of them.

6 Q. Right. And when you, in this letter you indicated
7 that you were on our videoconference today. Would you
8 video Mr. Fickling from your office or would you go to
9 the jail and use the video ---

10 A. --- no, we do it from our office.

11 Q. Okay. So like on your laptop you can connect to the
12 ---

13 A. --- we don't have laptops. We're public defenders.

14 Q. Pardon me. On your computer in your office you're
15 able to set up a video conference with inmates at the
16 Charleston County Detention Center.

17 A. Correct.

18 Q. It's a little bit of a drive down to North
19 Charleston if you have to go and see people in person ---

20 A. --- right ---

21 Q. --- so the video makes it so that you don't have to
22 actually go there.

23 A. They're pretty good about setting it up for us. I
24 mean I'm sure you've done it a million times. You can
25 have anywhere from I think the least is 10 or 15 minutes

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1 I'm not sure, to 30-35 minutes. I'm not sure how high up
2 it goes and how low.

3 Q. Now as far as this letter, correct me if I
4 misunderstood you or misheard you did you type this
5 letter up? Do you specifically recall creating this
6 letter?

7 A. I don't specifically recall it but I'm thinking I
8 did. And I'm thinking I did because it looks a lot like
9 my typing and because down at the bottom it doesn't have
10 slash A-V-S.

11 MR. GEEL: And Your Honor, just for the purposes of
12 the record I'm referring to State's exhibit 1 when I say
13 this letter.

14 Q. [Mr. Geel] You have a copy of that? Is that what
15 you're looking at is the June 8th letter ---

16 A. --- I am.

17 Q. One thing I notice is that it's not actually signed
18 at least the copy that I have is not signed. Is that
19 typical of your practice? Do you hand sign your letters
20 when you send them to clients or do you just ---

21 A. --- normally I do. I'm guessing, and I'm not --
22 again this is just a guess, it looks like I typed the
23 letter probably printed it off and gave it to put with
24 the discovery based on that other letter than says at the
25 end that it contains a letter to the client.

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1 Q. Again, you're talking about your practice ---

2 A. --- right ---

3 Q. --- your general practice here. So you believe this
4 would have been included with the discovery materials and
5 then what? What's the process? Once you finish a letter
6 how does it...

7 A. What it appears based on my habit and him being down
8 there is that this was taken and hand delivered this
9 letter along with the discovery was hand delivered to him
10 and he signed for it June 11th, June 12th. And then it
11 was returned and put back in the file just saying he
12 signed for it.

13 Q. So when you say it was hand delivered who would have
14 done that?

15 A. Most likely I'm thinking probably Keith Hair, one of
16 the investigators because he'll go, that's one of the
17 ways he goes home so he would normally have done that.
18 But I'm not saying that was him; I'm just thinking that's
19 likely who it would have been.

20 Q. Right. So the letter indicates hand delivered on it
21 but you can't attest to the fact, you didn't personally
22 hand deliver ---

23 A. --- no, I did not personally hand deliver it.

24 Q. So you can't say for sure whether this was actually
25 hand delivered to Mr. Fickling.

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1 A. No, the only thing I can do is that letter dated
2 June the 11th, y'all have it there, that says at the end
3 it says something about includes a letter that I gave
4 him.

5 That's what makes me believe that it would be this
6 letter and he signed for it. That makes sense and it's
7 sort of my habit so that's what I would guess.

8 [Whereupon, Mr. Geel reviews documents]

9 MR. GEEL: Thank you. That's all I have, Your
10 Honor.

11 THE COURT: Thank you, ma'am. You can step down.

12 [Whereupon, the witness is excused and exits the
13 witness stand]

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1 MS. WEIDAUER: The State would call Mr. Fickling.
2 [Whereupon, Mr. Fickling comes forward]

3 - - - - -

4 CASEY FICKLING,

5 Having been previously duly sworn,

6 Was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MS. WEIDAUER:

9 Q. Mr. Fickling, there has been some reference to a
10 letter dated June 11th, 2018, can you tell me is that
11 your signature on that?

12 [Whereupon, the witness is shown document]

13 A. And I have to tell you about the signature. That
14 would be my signature but it's not my signature. I was
15 currently in a state of I could not move and I had an
16 inmate grab my hand and make me sign certain paperwork
17 throughout my time in County.

18 So a lot of my things that I did get and sign I
19 wasn't really getting and signing them; it wasn't me. So
20 I might have signed that but that is not my signature but
21 I would say yeah, I probably did do that.

22 Q. Okay. And you can see that that's blue pen right so
23 you ---

24 A. --- yes, ma'am ---

25 Q. --- you would believe this to be the original copy?

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1 A. Yes, ma'am.

2 Q. Okay. This document says [Reading] By signature
3 below I, Casey W. Fickling acknowledge that I received
4 via hand delivery at the Sheriff Al Cannon Detention
5 Center a copy of my discovery material pages one through
6 80, a copy of color pictures of my case as well as a
7 letter from my attorney, Debra K. Littlejohn of the
8 Berkeley County Public Defender's office on the date
9 below.

10 Do you recall receiving this letter?

11 A. [Inaudible]

12 THE COURT REPORTER: I'm sorry; what was your
13 answer?

14 A. No, ma'am.

15 Q. [Ms. Weidauer] Okay. So how would if another inmate
16 had forced you to sign this how would Ms. Littlejohn have
17 gotten this back? How would this be back in her file?

18 A. I would consider saying that the officer who brought
19 me the paperwork probably took it back.

20 Q. Okay. And did the officer that brought you the
21 paperwork did he see this other alleged inmate force your
22 signature in any way?

23 A. [Indicates]

24 Q. He did?

25 A. Yes, ma'am. I was in the medical unit.

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1 Q. Okay.

2 MS. WEIDAUER: I'd like to hand this up as State's

3 2.

4 [Whereupon, State's Exhibit number 2 is marked by
5 the court reporter]

6 Q. [Ms. Weidauer] After seeing this letter do you
7 recall getting those some 80 pages of discovery?

8 A. Uh Uh.

9 Q. You do not?

10 A. No, ma'am.

11 Q. And you said you were at the medical unit at that
12 time?

13 A. Yes.

14 MS. WEIDAUER: Nothing further, Your Honor.

15 THE COURT: Mr. Geel?

16 MR. GEEL: Nothing further Your Honor, thank you.

17 THE COURT: Mr. Fickling, you can step down.

18 [Whereupon, the witness is excused and exits the
19 witness stand]

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Casey Fickling v State of South Carolina
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1 THE COURT: Anything further from the State?

2 MS. WEIDAUER: Nothing further, Your Honor. The
3 State rests.

4 THE COURT: Mr. Geel, anything further on behalf of
5 the Applicant?

6 MR. GEEL: No, Your Honor, unless the Court wants
7 to hear argument. I'm not sure what your preference is.

8 THE COURT: I'm glad to hear whatever y'all want to
9 tell me. I'll certainly give you that opportunity.

10 MR. GEEL: All right. I suppose I'll proceed then.

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Casey Fickling v State of South Carolina
Post-Conviction Relief Hearing-Closing Arguments-Remarks by Mr. Geel
June 20, 2022

1 CLOSING ARGUMENTS

2 BY MR. GEEL:

3 So I'll be brief, Your Honor. Our standard here for
4 PCR after a guilty plea is we have to demonstrate that
5 there is a reasonable probability that but for counsel's
6 errors the defendant would not have pled guilty and
7 instead would have insisted on going to trial.

8 Mr. Fickling's testimony was very clear that he --
9 that that is what he wants today. So the question that
10 you know is before the Court is whether Ms. Littlejohn's
11 representation her ineffectiveness that we're alleging
12 but for that ineffective representation Mr. Fickling
13 would have gone to trial.

14 We have heard testimony about a small number of
15 meetings over the span of nine months of representation.
16 Ms. Littlejohn testified that she doesn't have
17 independent recollection of the substance of those
18 meetings whereas Mr. Fickling very clearly testifies
19 about the discussions that they had.

20 He indicated that they never discussed going to
21 trial, never discussed the evidence, his trial rights.
22 They didn't discuss strategic choices. He was unclear
23 about what the terms of the plea agreement were. And as
24 we set forth Mr. Fickling has testified that he did not
25 receive the discovery until after he pled. Your Honor,

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1 just for the purposes of the record I'll direct the
2 Court's attention to Dover v State that's at 304 S.C.
3 433. It's a 1991 case.

4 It's similar in fact pattern Your Honor where it
5 says that the record reveals that Dover, that's the
6 Applicant, only spoke to his appointed attorney three
7 times for a total of less than 30 minutes. The initial
8 interview lasted only five to ten minutes.

9 And it was at this meeting that the decision to
10 plead guilty was made. Dover testified that he was led to
11 believe that it was not a major case and therefore his
12 sentence would not exceed ten years. In any event the
13 Court ruled in that case that Dover was entitled to PCR
14 to have his application granted and entitled to a
15 retrial.

16 We think that the facts are, we submit that the
17 facts are very similar here in terms of a small handful
18 of very brief meetings. Plea counsel doesn't have any
19 independent recollection of what was discussed. And
20 again Mr. Fickling has indicated that he was not made
21 fully aware of his rights and therefore that his
22 resulting guilty plea was involuntary.

23 I will also note for the purposes of the record Your
24 Honor Mr. Fickling has indicated that he has some
25 limitations in terms of learning. We're not suggesting

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1 that he's not competent but the fact that you know he's
2 got a limited education and he has some learning
3 disabilities they presented some challenges in terms of
4 his understanding.

5 So, Your Honor, we submit respectfully that there is
6 a reasonable probability here based on this evidence that
7 if he had been advised of his trial rights and reviewed
8 the evidence and charges with his lawyer in detail that
9 he indeed would have exercised his right to a trial. And
10 that is what we're asking the Court to grant with this
11 application. Thank you.

12 THE COURT: Thank you Mr. Geel. Mr. Weidauer?

13 MS. WEIDAUER: Yes, Your Honor.

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Casey Fickling v State of South Carolina
Post-Conviction Relief Hearing-Closing Arguments-Remarks by Ms. Weidauer
June 20, 2022

1 CLOSING ARGUMENTS

2 BY MS. WEIDAUER:

3 As Mr. Geel stated the due process clause requires
4 guilty pleas to be entered voluntarily, and knowingly and
5 intelligently. The guilty plea transcript in combination
6 with counsel's testimony today I think show that Mr.
7 Fickling understood the charges and the consequences of
8 his plea and that he was not threatened or coerced in any
9 way and understood all the protections that he was
10 waiving.

11 Though Ms. Littlejohn does not have an independent
12 recollection of telling him that he had the right to
13 proceed to a jury trial that is clear through the guilty
14 plea colloquy where he was specifically asked whether he
15 knew that he was waiving that right in which he responded
16 yes ma'am.

17 And overall I don't believe the Applicant has shown
18 that plea counsel's representation fell below an
19 objective standard of reasonableness. Ms. Littlejohn in
20 regards to the other allegation testified that that was
21 the letter that she remembers sending and that she
22 believes she did write that letter specifically.

23 She recalls having meetings with him and discussing
24 discovery with him. And Mr. Fickling on his own through
25 his own testimony admits that in State's exhibit 2 that

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1 is his signature acknowledging that he was receiving hand
2 delivered discovery documents. Therefore, I don't think
3 that the Court should find any reason the Applicant
4 should or has presented valid reasons why he should be
5 allowed to depart from the truthfulness of his statements
6 and his guilty plea at his guilty plea hearing.

7 Therefore, we would just request that this Court
8 deny and dismiss Mr. Fickling's application in full.
9 Thank you, Your Honor.

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Casey Fickling v State of South Carolina
Post-Conviction Relief Hearing-Remarks by the Court
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REMARKS BY THE COURT

I'm going to give it one more in depth look before I make my decision. I'll notify you of my decision by email.

MS. WEIDAUER: Yes, Your Honor.

MR. GEEL: Thank you, Your Honor.

THE COURT: Thank you.

MS. WEIDAUER: And Your Honor Mr. Geel has brought to my attention I'm not sure that you admitted State's exhibit 2. I have it marked and we would just request that this [indicates] is admitted at this time.

MR. GEEL: No objection.

THE COURT: One and two are admitted.

[Whereupon, State's exhibit numbers 1 and 2 are entered into evidence by the Court]

*****END OF TRANSCRIPT OF RECORD*****

Casey Fickling v State of South Carolina
Certificate of the Court Reporter
June 20, 2022

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C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth 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 for Berkeley County, South
Carolina on the 20th day of June, 2022.

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

April 8, 2024

Joyce C. Rueger, CVR-M
Court Reporter

BERKELEY COUNTY PUBLIC DEFENDER, INC.

219 N. HWY. 52, SUITE E, POST OFFICE BOX 1687
 MONCK'S CORNER, SOUTH CAROLINA 29461
 (843) 899-2777 • FAX (843) 899-2701

June 8, 2018

ATTORNEY-CLIENT

HAND DELIVERED

Mr. Casey Fickling
 Charleston County Detention Center
 Charleston, S.C.

RE: State of South Carolina v. Casey Fickling

Dear Mr. Fickling:

As you know from our video conference today the Solicitor handling your case has made an offer. Herein I am going to discuss the offer as well as the Discovery, all of which we reviewed previously, but sometimes it is best to see it in writing.

As you know you were arrested for:

- (1) 2017A0810401865 Assault & Battery of a High and Aggravated Nature (ABHAN) against Minor – [Felony – 0-20 years; No Parole; Violent; Serious]
- (2) 2017A0810401866 Domestic Violence of a High and Aggravated Nature (DVHAN) against S. B. – [Felony – 0-20 years; No Parole; Violent; Serious]
- (3) 2017A0810401867 Resisting Arrest with a Deadly Weapon (Officer Pumphrey) – [Felony-for a 1st offense 2 years -10 years and cannot be suspended to less than 6 months – this is one of those charges which is “enhanceable” which means that if there is a 2nd time the punishment is worse]
- (4) 2017A0810300218 Resisting Arrest (Officer Babson) – [Felony – 0-10 years]

The Solicitor presented each of these cases to the Grand Jury along with the change of:



- (5) Unlawful Conduct Towards a Child (Minor) – [Felony carries 0-10 years]

I have also included in this package:

- the definition of each of the charges
- a copy of 24-13-100 which provides the classifications of No Parole offenses;
- a copy of 16-1-60 (3 pages) which list the Violent classifications; and
- 17-25-45 which list the Most Serious and Serious Offense classifications, often referred to as strikes (4 pages)

As you know these are not classifications that either of us has any control over, rather these are set forth by the legislatures in Columbia.

I am going to somewhat break down what I have enclosed as part of your discovery package. Please note that the Rule 5/Discovery pages are generally marked R5 # (page number). There are some photos from Disc 48 that I printed that are at the end and that are not numbered that way. Included in the Discovery is:

Incident Report & Supplement Report	1-20
Refusal to Prosecute A&B3rd by Tonya	21
CDV Juvenile Information	22
DHEC Animal Incident Report	23
Arrest Warrants: 2017A0810401865-1867	24-26
Booking Report	27
Bond Form	28-29
Voluntary Statements by S. B. and Tonya	30-32
Rap Sheet -- see below *	33-39
Arrest Warrants 2017A0810401865-1867 (same as above) & 2018A0810300218	40-47
Disc of 911 call (we listened to this) & 7 pages of photos at the end of the Rule 5	48
Photos	49-58
Indictments (which includes the direct presentment of Unlawful Conduct)	59-68
CAD Report (what is called in & notes of 911 operator)	69-71
Supplemental Report	72-88
BCSO Supervisor's Use of Force Report-Pumphrey	89
BCSO Supervisor's Taser Report	90
BCSO Initial Use of Force	91-92
BCSO Supervisor's Use of Force Report-Woods	93-94
BCSO Freedom of Information Act Request	95
7 pages of photos from disc 48	

With regard to your Rap sheet, it appears that the following convictions appear:

Financial Transaction Card Fraud x 2 Court Date 8/12/15

Use of Vehicle without Permission

Court Date 8/12/15

Grand Larceny taken down to Petit Larceny	Court Date 8/12/15
Petit Larceny	Court Date 9/3/2015
Vehicle with Improper Display of Tag	Court Date 5/13/15
DUS	Court Date 5/13/15
Unlawful Turning	Court Date 5/13/15
Uninsured Motor Vehicle	Court Date 5/13/15
Burglary 2 nd (appears NV)	Court Date 8/12/15 *
Violation of County Ordinance	Court Date 3/1/16
A&B3rd	Court Date 1/3/17

The system was down thus I was unable to lookup the Burglary 2nd to see if it was Violent or Non Violent however based on the sentence of a YOA Not to Exceed 2 years, I am inclined to think it was classified as Violent. I apologize that the system was down while I was trying to get you this information; however I am hopeful that you do recall.

Please take the opportunity to look at the material carefully and please keep in mind the 911 call which we heard several times and in particular what S. B. told the 911 operator.

As you know from our conversation, as well as from what I have set forth above you are currently facing five (5) charges, which if run consecutive would carry seventy (70) years. Also, two (2) of the charges are no parole. The Solicitor's offer is:

Dismiss the ABHAN and enter a plea to 15 years total for the remaining charges.

As I explained to you, I cannot tell you what to do. There are some pros and cons to every case. There are also times when persons may not testify the way that you think that they should testify whether good or bad.

Please take a moment to review this carefully, and I will try to call you this week or the first of the following week.

Sincerely,

Debra K. Littlejohn
Assistant Public Defender

Berkeley County Public Defenders Office
Investigative Report
Confidential Attorney Work Product

State of South Carolina vs. Casey Fickling

Date: April 18, 2018

To: Debra K. Littlejohn, Esquire

From: Kristy L. Page, Criminal Defense Investigator

Interview: John Rutter, the Grandfather of client at [REDACTED] Jennifer Dr, in Ladson, S.C. on April 18, 2018 around 10:30AM.

I identified myself and stated my reason for visiting to Lorri Rutter. She stated her husband, John Rutter, [REDACTED] was in the shower. We spoke on the porch for a few minutes until he came out of the residence.

I asked him to tell me what happened the night that Casey was arrested at his residence. He stated S. B. 's mother had already notified him that Casey 'flipped out on them'. He stated that he and his stepson, Mathew Finch, walk around the trailer park at night for security of the neighborhood. He stated Casey "skipped up to us like nothing was wrong. I even asked him how S. B. and the baby were. He showed us pictures like nothing had happened between them. So we walked him back to our house and sat him on the porch. I knew the police would be there soon. I gave him a jacket because it was cold. I could tell he was on drugs. As soon as he saw the headlights of the patrol cars he ran into the house."

I asked if he thought Casey had a gun on his possession. He stated he didn't because he had a fitted t-shirt and pants. He stated he remembered him having S. B. 's cell phone. I asked if he would show me the area where the police took Casey down. Lorri Rutter showed me how everything occurred verbally and with body motions. It started in the den area and the officers fell thru a door leading on a porch.

I asked if Mr. Rutter agreed there was excessive force. He stated, "Absolutely!" He then stated he was a 5th degree black belt and trained officers in 'take down moves'. He stated that Casey was wrong for resisting but the situation got out of hand because the "smaller officer hit Casey in the face about 20 times until I said 'THAT'S ENOUGH!!'"

Mr. Rutter stated he doesn't believe jail is the place Casey needs to be. He stated Casey has had major mental health issues all of his life. He stated he needs help for drug use as well. He stated he is concerned because S. B. is pregnant with another man's baby and thinks Casey will kill him when he finds out. I thanked him and left.

BERKELEY COUNTY PUBLIC DEFENDER

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(843) 899-2777 • FAX (843) 899-2701

June 11, 2018

VIA HAND DELIVERY

Mr. Casey W. Fickling #1126060
Charleston County Detention Center

RE: State of South Carolina vs. Casey W. Fickling

By signature below I, Casey W. Fickling, acknowledge that I received via hand delivery at the Sheriff Al Cannon Detention Center a copy of my Discovery material (pages 1-80), a copy of colored pictures in my case, as well as a letter from my attorney, Debra K. Littlejohn of the Berkeley County Public Defender's Office, on the date below.

I have received the above-mentioned material.



Signature

6/12

Date





Charleston County Sheriff's Office
Inmate Report

NOTE: Inmate search results Generated at: 6/11/2018 12:09:11 PM

Inmate Details											
Inmate #	Name	DOB	Booking Date	Booking Time	Booking Status	Gender	Race	Release Date	Release Time	Early Release Date	Final Due Date
0001126060	FICKLING, CASEY WILLIAM	19952/22/2018	10:28	CURRENT	M	W					
Additional Information											
Age	Height	Weight	Confinment Reason								
23	6 02	180 lb									
Charge Details											
Arresting Agency	Charge #	Warrant #	Bond Amount	Charge Status	Charge Description	Court	CourtDate				
PS	N/A		\$0.00		COURTESY HOLD BERK CO	GSC					
Holding Agency	Holding Charge										
BERKELEY CO LAW ENFORCEMENT	CCURTESY HOLD BERK CO CDVHAN 20										

FICKLING, CASEY WILLIAM



Print

STATE OF SOUTH CAROLINA)
 COUNTY OF BERKELEY)
)
 Casey Fickling, #363960,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

COURT OF COMMON PLEAS
 NINTH JUDICIAL CIRCUIT

Case No.: 2019-CP-08-1682

ORDER OF DISMISSAL

2024 OCT 29 AM 10:37
 LEAH GUERRY DUPREE
 CLERK OF COURT
 BERKELEY COUNTY, SC

[Handwritten signature]
FILED

This matter is before the Court by way of an application for post-conviction relief (PCR) filed by Casey Fickling (Applicant) on April 14, 2022. On June 20, 2022, an evidentiary hearing convened before the Honorable Kirsti Curtis. Applicant was present and represented by Christopher R. Geel, Esquire. Assistant Attorney General Samantha J. Weidauer represented Respondent. At the hearing, the Court heard testimony from Applicant and Debra K. Littlejohn (plea counsel). After reviewing the records before this Court and the testimony presented at the hearing, this Court finds Applicant did not meet his burden of proof. Thus, this Court denies relief and dismisses this application with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the Department of Corrections serving an aggregate fifteen-year-sentence. In April 2018, the Berkeley County Grand Jury indicted Applicant for unlawful conduct toward a child (2018-GS-8-687), resisting arrest with a deadly weapon (-686), and domestic violence of high and aggravated nature (DVHAN) (685). On August 9, 2018, Applicant appeared before the Honorable Jennifer McCoy and pled guilty as indicted. Applicant was represented by Deborah Littlejohn, Esquire. Judge McCoy sentence Applicant to concurrent terms of fifteen years for DVHAN and ten years each for unlawful conduct toward a child and

[Handwritten notes]
 E-mail: DD 10/6

resisting arrest. Applicant did not appeal.

CURRENT APPLICATION

On January 23, 2020, Applicant filed this PCR application alleging the following:

- a. I was ineffectively represented by trial counsel: my trial counsel never made me aware of being able to plea to a lesser offense;
- b. I was not mentally evaluated prior to my guilty plea: My trial counsel never had me mentally evaluation prior to pela knowing I have mental issues.

As relief, Applicant requested “my case be reverse and remanded for resentencing; and/or a modification of sentence takin into consideration my mental state.”

On March 4, 2022, Applicant filed an amended application alleging:

Ineffective assistance of plea counsel¹/Involuntary plea:

- a. Counsel failed to discuss Applicant’s trial rights with him and adequately advise Applicant of his right to a jury trial;
- b. Counsel failed to discuss the evidence and possible defenses with Applicant.

At the PCR hearing, Applicant proceeded only on the allegations of his amended application.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the records before it, including the Charleston Count Clerk of Court records of the underlying convictions; Applicant’s records from the South Carolina Department of Corrections; the trial transcript, the records of Applicant’s direct appeal; and the records of this PCR application. This Court has further had the opportunity to observe the witnesses presented at the PCR hearing, closely pass upon their credibility, and weigh their testimony accordingly.¹ After a careful review based on the Strickland standard set forth below,

¹ This Court will reference PCR testimony where relevant below.

this Court finds Applicant has failed to carry his burden of proof. Below are this Court's findings of facts and conclusions of law as required by section 17-27-80 of the South Carolina Code (2017).

Ineffective Assistance of Counsel / Involuntary Plea

In a PCR action, an applicant bears the burden of proving the allegations. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). To establish ineffective assistance of counsel, 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. Strickland v. Washington, 466 U.S. 668, 687-88 (1984). A PCR applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the applicant would not have pled guilty and would have insisted on going to trial. Dalton v. State, 376 S.C. 130, 136, 654 S.E.2d 870, 873 (Ct. App. 2007). To prove prejudice following a guilty plea, the applicant "must show that there is a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial." Hill v. Lockhart, 474 U.S. 52, 59 (1985).

"To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him." Dalton, 376 S.C. at 138, 654 S.E.2d at 874. "[A] defendant entering a guilty plea must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999).

Failed to advise of constitutional rights, including right to a jury trial

Applicant first contends counsel was ineffective for not advising him of his constitutional rights, including his right to a jury trial. He further contends his plea was involuntary because he did not understand he could have a jury trial. Applicant did not prove this ground.

At the PCR hearing, Applicant testified that when he arrived at Court, he was told to “sign this and sign that and I would step into the courtroom as a zero to 15 plea and they gave me 15 years.” He testified counsel did not tell him he was appearing for a guilty plea, and he did not know what he “was signing up for.” Applicant stated he expected to receive an eight-year sentence based on conversations he had with other inmates. He clarified he did not discuss with plea counsel his expectation that he would receive eight years. Applicant claimed he did not know he could have a jury trial, and counsel never discussed with him his right to a jury trial or the fact he could turn down the plea offer.

Plea counsel testified she discussed with Applicant the indictments, the elements of the offenses, and the sentences each charge carried. Although she did not specifically recall discussing his constitutional rights, she explained her common practice was to always discuss that. Counsel stated she typically advised clients they had a right to a trial where “12 people will sit and decide what the evidence is and if they believe it.”

This Court finds counsel’s foregoing testimony credible. This Court further finds Applicant was advised of his constitutional rights, including the right to a jury trial, both by counsel and the plea judge. Ultimately it was Applicant’s decision to waive his right to a jury trial and plead guilty, and this Court finds Applicant did so knowingly and voluntarily. Applicant thus did not prove counsel was ineffective in this regard or that his plea was involuntary, and this claim is denied.

Failed to discuss evidence and possible defenses

Applicant next contends counsel was ineffective for not discussing evidence and possible defenses, which rendered his plea involuntary. Applicant did not prove this claim.

At the PCR hearing, Applicant testified counsel did not discuss the evidence with him or his possible defenses, and he did not receive a copy of the discovery. However, he recalled counsel showed him a disk that “was supposed to have photos on it supposedly.” He stated he received discovery for the first time the day of his guilty plea—after he pled guilty. However, Applicant acknowledged he listened to the 911 call.

Plea counsel testified she met with Applicant and discussed discovery. She stated she also sent Applicant a letter dated June 8 discussing a plea offer and the discovery; in the letter she indicated the discovery had been reviewed previously. Counsel testified Applicant signed the letter and indicated he received the discovery on June 11.

This Court finds credible counsel’s foregoing testimony that she reviewed discovery with Applicant, and Applicant did not prove counsel was deficient in this regard. This Court further finds Applicant did not set forth any viable defense counsel could have raised and did not meet his burden in this regard. Applicant has not shown counsel was ineffective of that his plea was involuntary, and this claim is denied.

CONCLUSION

Based on the foregoing, this Court concludes Applicant has not established any constitutional violations that would require this Court to grant relief. Thus, this application is denied and dismissed with prejudice. Should Applicant wish to appeal, he must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. See Rule 203, SCACR. Applicant has the right to an 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). If Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on applicant's behalf. Rule 71.1(g), SCRPC. Attention is directed to Rule 243, SCACR, for appellate procedures.

IT IS THEREFORE ORDERED:

1. This application for PCR is denied and dismissed with prejudice; and
2. Applicant shall be remanded to and remain in the custody of the State.

AND IT IS SO ORDERED THIS 16th day of October, 2024.



KRISTI CURTIS
Presiding Judge
Ninth Judicial Circuit



_____, South Carolina



FILED

 2024 OCT 29 AM 10:37
 LEAH GUERRY DUPREE
 CLERK OF COURT
 BERKELEY COUNTY, SC

ALAN WILSON
 ATTORNEY GENERAL

October 24, 2024

The Honorable Leah Guerry Dupree
 Clerk of Court - Berkeley County
 Post Office Box 219
 Moncks Corner, South Carolina 29461-0219

Re: Casey Fickling, #363960 v. State of South Carolina
Case No. 2019-CP-08-01682

Dear Ms. Dupree:

Enclosed please find the original Order of Dismissal signed by the Honorable Kristi Curtis, in the above-captioned case, for filing in your office. In addition, please forward a time stamped copy back to our office for our file.

Sincerely,

Danielle Dixon
 Assistant Attorney General

DD/vh

cc: Christopher R. Geel, Esquire