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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Certiorari to Spartanburg County

Honorable Perry H. Gravely, Circuit Court Judge

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TRAVIS JESSUP,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000259

---

APPENDIX

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STATE OF SOUTH CAROLINA) IN THE SOUTH CAROLINA CIRCUIT COURT  
COUNTY OF SPARTANBURG ) C.A. NO. 2022-CP-42-00456

<hr/>		)
STATE OF SOUTH CAROLINA		)
	Plaintiff,	)
versus		)
		)
TRAVIS JESSUP		)
	Defendant.	)
<hr/>		)

H E A R I N G

DATE: July 18, 2023  
 TIME:  
 LOCATION: South Carolina Circuit Court 7  
 JUDGE: Grace Gilchrist Knie

TRANSCRIBED BY: Lynda Monroe

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(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1

PROCEEDING

2

THE COURT: Okay, Mr. McDonald, we'll just go ahead and qualify these two together. What is Mr. Jessup's full name?

3

MR. McDONALD: Your Honor, it's --

4

THE COURT: Travis Jessup?

5

MR. McDONALD: Travis Jessup. Was Your Honor looking for his middle name?

6

THE COURT: D, middle initial. I've got it.

7

MR. McDONALD: Yeah, I have (inaudible). Is that right, Your Honor?

8

9

THE COURT: Okay. So we've got Travis D. Jessup and then Justin K. McAvey (phonetically), correct?

10

11

UNIDENTIFIED FEMALE: Yes, Your Honor.

12

THE COURT: All right. You all be been sworn by the clerk.

13

14

THE CLERK: Raise your right hand, please. Do you solemnly swear that the testimony you're about to give is the truth, the whole truth and nothing but the truth so help you God?

15

16

MR. JESSUP: Yes, ma'am.

17

18

MR. MCAVEY: Yes, ma'am.

19

20

THE CLERK: Thank you.

21

(Parties were sworn.)

22

THE COURT: Okay. Thank you. Remaining standing for me, please. I'm going to go through a series of questions

23

24

25

1 with you. These are yes or no questions. If you don't  
2 understand, have a seat, and that will tell me that you don't  
3 understand. Okay? The last question will be whether or not  
4 you take any type of prescribed meds. If you do it won't  
5 disqualify you. I just need to know to take it up with you  
6 when we do your individual pleas in just a minute. All  
7 right?

8 And so Mr. McAvey, Mr. McDonald is here on your behalf.  
9 Mr. Jessup, Mr. Schultz is here on your behalf. Do each of  
10 you understand that the purpose of the hearing today is for  
11 you to enter a plea or pleas on the charge or charges against  
12 you? That would be opposed to having a jury trial or a bench  
13 trial on the charge or charges against you. If you  
14 understand, I need for you to answer out loud.

15 MR. JESSUP: (Inaudible).

16 THE COURT: And when you enter a plea, you waive very  
17 important constitutional rights. Not only are you waiving  
18 your right to a trial by jury but you also waive your right  
19 to confront witnesses against you and your right to remain  
20 silent. Do you understand?

21 MR. JESSUP: Yes, I do.

22 THE COURT: If you were to go forward at trial, the  
23 burden of proof is not on you and your lawyer, the burden of  
24 proof is on the State, the attorney for the State, to prove  
25 every element of the charge or charges against you beyond a

1 reasonable doubt. You are presumed to be innocent until  
2 proven guilty and if you were to have a jury trial every  
3 member of the jury, all 12, would have to agree before you  
4 could be found guilty and, so, do you understand these very  
5 important constitutional rights I have just stated to you?

6 MR. JESSUP: Yes, ma'am.

7 MR. MCAVEY: Yes, ma'am.

8 THE COURT: Understanding them is it still your wish to  
9 waive them in exchange for a plea or pleas today?

10 MR. JESSUP: Yes, ma'am.

11 MR. MCAVEY: Yes, ma'am.

12 THE COURT: Has anybody threatened you or coerced you  
13 or promised you anything to get you to enter your pleas  
14 today?

15 MR. JESSUP: No, ma'am.

16 THE COURT: Has anybody threatened you or coerced you  
17 to get you to enter your plea today?

18 MR. MCAVEY: No, ma'am.

19 THE COURT: And don't be offended. I ask everybody the  
20 next questions. Are you, today, under the influence of  
21 alcohol, drugs or any intoxicants that would impair your  
22 judgment?

23 MR. JESSUP: No, ma'am.

24 MR. MCAVEY: No, ma'am.

25 THE COURT: And do you suffer from any mental or

1 physical infirmity that would affect your ability in  
2 understanding what we're doing today?

3 MR. MCAVEY: No.

4 THE COURT: Do you -- well, are you satisfied with the  
5 services of your legal counsel?

6 MR. MCAVEY: Yes, ma'am.

7 THE COURT: And do you take any type of prescribed  
8 meds?

9 MR. MCAVEY: Yes, ma'am.

10 THE COURT: Okay. And that's Mr. McAvey, right?

11 MR. MCAVEY: Yes, ma'am.

12 THE COURT: Okay. Do you?

13 MR. JESSUP: No, ma'am.

14 THE COURT: Okay. Thank you, all. Be seated. All  
15 right.

16 THE BAILIFF: Travis Jessup.

17 THE COURT: Okay, sir, watch your step, okay.

18 UNIDENTIFIED MALE: Your Honor, (inaudible) violation  
19 of probation.

20 THE COURT: Did you all know that?

21 MR. SCHULTZ: We did, Your Honor.

22 THE COURT: Okay. Mr. Jessup, just a moment ago I  
23 asked you a series of questions in a group setting or the two  
24 of you. If I were to ask you all of the questions again,  
25 right now, would your answers be the same?

1 MR. JESSUP: Yes, ma'am.

2 THE COURT: Okay. Thank you. Sir, direct your  
3 attention, first, to Mr. Hunter.

4 MR. HUNTER: Your Honor, before you is Travis Toledo  
5 Jessup with his attorney, Josh Schultz. He's here on two  
6 indictments. 21-1339 originally charged as attempted murder.  
7 He's pleading to the lesser included of assault and battery  
8 high and aggravated which is a violent and serious offense.  
9 There is no recommendation on that charge.

10 He is also here to plea to 22-2524, a true bill  
11 indictment for possession of adulterants intended to defeat a  
12 drug test. He's pleading to that as charged. There is a, I  
13 think, a negotiation on that for a time-served sentence as he  
14 does have credit for 1,002 days.

15 THE COURT: Okay. So Mr. Schultz first. Is that your  
16 understanding?

17 MR. SCHULTZ: It is, Your Honor. We're claiming credit  
18 for the time served on both charges. I just want to clarify  
19 that.

20 THE COURT: Okay.

21 MR. HUNTER: It's 1,002 days.

22 MR. SCHULTZ: Yeah.

23 THE COURT: Okay. All right. I'm going to hear your  
24 arguments about that in just -- I mean, not about the credit.

25 MR. SCHULTZ: Yes.

1 THE COURT: I mean, he's going to be due the credit,  
2 right? It was all in the detention facility?

3 MR. HUNTER: Some of it was home detention but I'm not  
4 arguing against that and the negotiated sentence for the  
5 adulterants is time served so it doesn't matter how many  
6 credits he has on that.

7 THE COURT: Okay. Okay. And so we're also going to be  
8 taking up the probation violation so let me get that  
9 indictment number.

10 UNIDENTIFIED FEMALE: Yes, Your Honor. It's 2019-GS-  
11 42-4553 and three years can be revoked for a DV 2nd, Your  
12 Honor.

13 THE COURT: Did you need to notify somebody?

14 UNIDENTIFIED FEMALE: Your Honor, they were listed as  
15 do not notify.

16 MR. HUNTER: It's the same victim as in our case, Your  
17 Honor.

18 THE COURT: Okay.

19 MR. HUNTER: And we attempted to notify her. She did  
20 not want to be present.

21 THE COURT: Okay. The victim that I'm showing is Keith  
22 Lewers (phonetically). To hold restitution open.

23 MR. HUNTER: So Keith -- there's two victims. There's  
24 a Keith Lewers and a Stacy Latimore. Stacy Latimore was the  
25 victim of the DV that she has. She's also involved in this

1 case but the Keith Lewers indictment is the one we're going  
2 for.

3 THE COURT: Okay. So restitution's going to be held  
4 open?

5 MR. HUNTER: For Mr. Lewers, correct.

6 MR. SCHULTZ: Yeah.

7 THE COURT: For how long?

8 MR. HUNTER: If we could have 90 days, Your Honor.

9 MR. SCHULTZ: We have no objection to that.

10 THE COURT: Okay. Does he need to be here?

11 MR. HUNTER: He -- we called him. He stated he was  
12 going to try to make it but he, obviously, has not made it.

13 THE COURT: Okay. All right.

14 Okay. And, so, Mr. Jessup, let me go over the charges  
15 against you. I have a true bill indictment, 21-GS-42-1339,  
16 and this is a two-count indictment for attempted murder and  
17 possession of a weapon during the commission of a violent  
18 crime.

19 You are pleading to the lesser-included offense, under  
20 attempted murder, to assault and battery of a high and  
21 aggravated nature. The second count is being dismissed in  
22 consideration of your plea and the assault and battery of a  
23 high and aggravated nature is both violent and serious in  
24 nature.

25 I also have a true bill indictment, 22-2524, for

1 defrauding drug or alcohol screening by having the possession  
2 of adulterants and you're pleading as a first offense with a  
3 potential penalty of up to three years and/or a fine of up to  
4 \$5,000.

5 Mr. Jessup, first, do you understand the offenses?

6 MR. JESSUP: Yes, ma'am.

7 THE COURT: And do you understand the potential  
8 penalties?

9 MR. JESSUP: Yes, ma'am.

10 THE COURT: And on the assault and battery of a high  
11 and aggravated nature, that is coming before me without  
12 recommendation or negotiation. Do you understand?

13 MR. JESSUP: Yes, ma'am.

14 THE COURT: Further, on the possession of adulterants,  
15 first offense, that is coming before me with a negotiated  
16 sentence of time served. You have exceeded the maximum time  
17 on that charge. Do you understand?

18 MR. JESSUP: Yes, ma'am.

19 THE COURT: All right. Or almost exceeded I guess.

20 MR. JESSUP: What's the max?

21 THE COURT: Three years.

22 MR. JESSUP: Almost. Very close.

23 MR. SCHULTZ: Yeah.

24 THE COURT: Yes. Okay. So -- and because that's  
25 negotiated I can accept it or reject it but I can't change

1 it. Do you understand?

2 MR. JESSUP: Yes, ma'am.

3 THE COURT: Okay. Further, by entering your pleas, on  
4 these offenses you have violated your prior probationary  
5 sentence under indictment 194553, in which three years can be  
6 revoked on a DV 2nd. He didn't get any credit for time?

7 THE CLERK: Your Honor, he had 63 days credit.

8 THE COURT: Okay. So it would be, basically, two years  
9 and ten months can be revoked on that. Okay?

10 MR. JESSUP: Yes, ma'am. I thought I was on violation  
11 home detention but I was in jail. I was on violation of --

12 MR. HUNTER: No, she was asking about the credit at the  
13 original sentencing.

14 MR. JESSUP: Oh, okay. I'm sorry.

15 MR. HUNTER: Not the --

16 UNIDENTIFIED MALE: (Inaudible) 2019, correct.

17 MR. JESSUP: Oh, okay. I'm sorry.

18 MR. SCHULTZ: We apologize, Your Honor.

19 MR. JESSUP: Yes, ma'am.

20 THE COURT: Okay. And, so, what I'm asking is my  
21 recollection is DV 2nd is zero to three years.

22 MR. SCHULTZ: Yes.

23 THE COURT: And so the probation agent said that three  
24 years could be revoked and so I just wasn't quite -- but it's  
25 clarified for me. You spent 63 days in jail on that?

1 MR. JESSUP: Yes, ma'am.

2 THE COURT: Okay. Okay. And, so, sir, understanding  
3 all of that, do you wish to enter your pleas to these  
4 offenses at this time?

5 MR. JESSUP: Yes, ma'am.

6 THE COURT: And did I ask you, do you understand the  
7 classification of being violent and serious?

8 MR. JESSUP: Yes, ma'am.

9 THE COURT: Do you have any questions about that?

10 MR. JESSUP: Uh-uh.

11 THE COURT: All right. And so understanding all of  
12 that, sir, do you wish to enter your pleas at this time?

13 MR. JESSUP: Yes, ma'am.

14 THE COURT: How do you plead?

15 MR. JESSUP: I plead guilty.

16 THE COURT: Are you doing so freely, knowingly and  
17 voluntarily, all three?

18 MR. JESSUP: Yes, ma'am.

19 THE COURT: And, sir, please be advised that in the  
20 event you wish to appeal any aspect of the plea hearing  
21 today, you only have ten days to do so, in writing, to this  
22 Court. Do you understand?

23 MR. JESSUP: Yes, ma'am.

24 THE COURT: All right. Thank you.

25 Sir, again, direct your attention to Mr. Hunter.

1           MR. HUNTER: Thank you, Your Honor. May it please the  
2 Court. On October 17th, 2020, around 8 a.m., officers of the  
3 sheriff's office responded to the QT on Revel (phonetic) Road  
4 after a shooting had occurred nearby here in Spartanburg  
5 County.

6           At the QT, officers encountered Stacy Latimore, who's  
7 one of the victims. She told officers, without any hesitancy,  
8 that the Defendant was the shooter. The Defendant and her  
9 have cohabitated before or had been in a relationship and do  
10 share a child together, Your Honor.

11           She stated that both of them had spent the night at a  
12 residence nearby belonging to Raymond Flucker (phonetic) but  
13 they had gotten into a verbal altercation that morning. She  
14 called a Keith Lewers for a ride and the Defendant left  
15 before the ride got there.

16           Before Ms. Latimore left, she was unable to find her  
17 glasses and Mr. Flucker warned her to watch out for Mr.  
18 Jessup up the road because he was angry. They began to drive  
19 out of the neighborhood and that's when she stated she saw  
20 the Defendant stop in the middle of the road and began firing  
21 a gun into the driver's side door. Mr. Lewers was hit with a  
22 bullet, Your Honor.

23           She was adamant in the interview with police, on that  
24 day, that the Defendant was the shooter. Since that time she  
25 has contacted our office recanting, saying she couldn't be

1 too sure because she wasn't wearing her glasses.

2 So that's the story for the assault and battery. The  
3 restitution is being held open because Mr. Lewers was  
4 gathering his hospital bills, Your Honor, because he did have  
5 to go to the hospital.

6 Your Honor, the Defendant bonded out, about four months  
7 later, on February 12th, 2021, on home detention and then  
8 nine months after that, on 11/1/21, officers did a home check  
9 on him. He was instructed that he would have to give a drug  
10 test and that's when officers discovered a Upass synthetic  
11 urine kit rubber band onto his penis. He was given a drug  
12 test, ultimately, which he failed for cocaine and marijuana  
13 and admitted use of both of those substances.

14 At that time, he was violated on home detention. Went  
15 to jail. Stayed there until February of 2022. Then he went  
16 to live at Turning Point as his home detention order required  
17 him to be at an in-patient facility after he and Mr. Schultz  
18 told the Judge, during hearing, that drugs were obviously an  
19 issue.

20 He actually turned himself kind of in after he was  
21 kicked out of Turning Point so that's not really a violation  
22 of home detention at that time and had to remain jailed for a  
23 while until they found a bed at Solutions Recovery Center. He  
24 was released from the jail until November of 2022. Then he  
25 got released from Solutions Recover Center, was out on home

1 detention until May 24th when he was scheduled for a hearing  
2 in front of you, Your Honor, for this plea. However, a drug  
3 test revealed marijuana, again, so he's been in jail ever  
4 since on that home detention violation.

5 So those are the facts of the synthetic urine and the  
6 (inaudible), Your Honor.

7 THE COURT: Okay. But the 1,002 days includes all the  
8 time?

9 MR. HUNTER: I'm agreeing to 1,002 days for both  
10 charges, Your Honor.

11 THE COURT: Okay. Okay. Mr. Jessup, sir, is that  
12 substantially what happened?

13 MR. JESSUP: Yes, ma'am.

14 THE COURT: All right. Thank you. I find that there  
15 is a factual basis for the pleas and I will accept them.

16 Anything else? What about the prior conviction history  
17 for the last ten years?

18 MR. HUNTER: Your Honor, I think it's important maybe  
19 just start at '06 for him because that's when it really  
20 starts getting serious. He has a common-law robbery in '06.  
21 In '08 assault high and aggravated and assault with intent to  
22 kill. In 2010, CDB (phonetic) 1st. 2014, CDB 2nd. In 2019,  
23 DV 2nd which is with Stacy Latimore, Your Honor.

24 THE COURT: Okay. And so the DV 2nd was with Ms.  
25 Stacy?

1 MR. HUNTER: Stacy Latimore. She was the passenger in  
2 the vehicle that he shot at, Your Honor.

3 THE COURT: Okay. But the DV 2nd was as to her?

4 MR. HUNTER: She was the victim in the probation case,  
5 Your Honor.

6 THE COURT: Okay. Just wanted to make sure. Okay.  
7 Thank you.

8 Okay. Let me hear from probation.

9 UNIDENTIFIED FEMALE: Yes, Your Honor. Mr. Jessup is  
10 currently under supervision with our department under  
11 indictment 2019-US-42-4553 for the offense of domestic  
12 violence 2nd degree. He was sentenced by Your Honor on  
13 August 14th, 2019. He was sentenced to the following special  
14 conditions. Batterer's treatment program, comply with DSS  
15 orders, no contact with the victim and the completion of  
16 batterer's treatment program, the DV conditions, of course,  
17 and the (inaudible) order was signed as well. He could  
18 (inaudible) this case if he completed batterer's treatment  
19 program.

20 Your Honor, we had to issue three warrants for Mr.  
21 Jessup. The first was on April the 6th of 2020. That he had  
22 violated probation or domestic violence conditions of his  
23 probation. He had not completed Court ordered batterer's  
24 treatment intervention or maintained employment. A home  
25 visit was conducted on May the 8th or, excuse me, March the

1 18th of 2020, and he no longer resided at the approved  
2 residence of 111 Hanover Place, Apartment ■■■, in Spartanburg.  
3 He was able to be reached, via telephone, at the same time  
4 and date and he stated he was in Rock Hill, staying with a  
5 family member. He was not given permission to move to Rock  
6 Hill and did not inform the agent that he had moved to Rock  
7 Hill. That warrant was served on May the 20th, 2020, Your  
8 Honor. That warrant number is W40220348 (phonetically  
9 formatted).

10 The next warrant, W40220742, was issued on July the  
11 30th, 2020, for violating domestic violence conditions again.  
12 He had absconded supervision. He was staying at the USA  
13 Econo Lodge. He was able to be located there for a home  
14 visit in May but since then, his whereabouts were unknown.  
15 Multiple attempts were made to contact the offender and were  
16 unsuccessful. He also had not enrolled in batterer's  
17 treatment as ordered and he was behind on his Court ordered  
18 fine and that warrant was served on October the 19th of 2020.

19 We did also have to issue another warrant, W42210103,  
20 on February the 18th, 2021. And that was for incident report  
21 for Spartanburg County Sheriff's Office. That Ms. Latimore -  
22 - the offender and Ms. Latimore were together at a friend's  
23 apartment. I believe it accounts for this charge, Your  
24 Honor.

25 He was in possession of a weapon when he committed

1 these crimes. His plea is a violation today. We would like  
2 to note that Ms. Latimore -- he is not supposed to have  
3 contact with Ms. Latimore until batterer's treatment was  
4 done. He did not complete those classes.

5 Your Honor, we would ask for a revocation and to  
6 terminate this case, Your Honor.

7 THE COURT: Okay. Thank you. Okay. Mr. Jessup, do  
8 you admit that you willfully violated your prior probationary  
9 sentence under indictment 194553?

10 MR. JESSUP: Yes, ma'am.

11 THE COURT: All right. Thank you. Okay. Is there  
12 anything else from the State?

13 MR. HUNTER: Nothing else from the State. We did call,  
14 both Stacy Latimore and Keith Lewers. Stacy did not want to  
15 be present. She was present here May 24th, and was going to  
16 speak on his behalf. So I did want you to know that. Mr.  
17 Lewers, obviously, was not going to speak on his behalf but  
18 she was.

19 THE COURT: Okay.

20 MR. HUNTER: So that's it from the State.

21 THE COURT: And so -- okay. All right.

22 Mr. Schultz, did you have an opportunity to review the  
23 evidence and the discovery with Mr. Jessup?

24 MR. SCHULTZ: I did, Your Honor.

25 THE COURT: Yes, sir.

1           MR. SCHULTZ: Thank you, Your Honor. As the Court  
2 knows, I represent Mr. Jessup there on the charges. I think  
3 obviously the time served recommendation is we would beg of  
4 the Court to go along with that. Obviously, the most serious  
5 one that we have in front of Your Honor is the assault and  
6 battery, high and aggravated in nature. It carries up to 20  
7 years. I told Mr. Jessup this is his most serious charge.  
8 Nevertheless, the State is dismissing the attempted murder as  
9 a result of this plea here today.

10           Mr. Jessup is 45 years old. He's a graduate of Folly  
11 Springs High School. He has two children ages 22 and, I  
12 believe, 11 now. Is that right, Travis?

13           MR. JESSUP: Yeah.

14           MR. SCHULTZ: Okay. And he's lived here all his life.  
15 He actually appeared in front of Your Honor -- I think this  
16 could be the third or fourth time. He actually appeared in  
17 front of Your Honor. The first time he appeared in front of  
18 Your Honor we made a motion to reinstate his home detention  
19 because he was -- I believe he was kicked out of Morris  
20 Village I believe or Turning Point, I'm sorry, Your Honor.

21           But he's got a lot of good things actually going for  
22 him. He was in Morris Village Alcohol and Drug Abuse  
23 facility in Columbia between the dates of January 5th, 2023  
24 through February 2nd, 2023. I'd like to read this letter  
25 into the record here.

1           It says, "Mr. Travis Jessup completed in-patient  
2 personal growth program at the South Carolina Department of  
3 Mental Health, Morris Village Alcohol and Drug Abuse facility  
4 in Columbia, South Carolina. Mr. Jessup's participation was  
5 excellent. He actively participated in all scheduled group  
6 meetings and activities. It is the best (inaudible) identify  
7 the Court issues concerning his difficulty coping with daily  
8 stressors was sincere and appeared successful. Our recovery  
9 program to include 12-step meetings, sponsorships, service  
10 work, helping others and reading recovery literature is  
11 imperative to facilitate and solidify the thinking, the  
12 behavior change currently evolving." And that's from Cindy  
13 Charard (phonetically) who's an addiction specialist there at  
14 Morris Village.

15           And he actually completed and he has a certificate of  
16 completion for Morris Village and that was signed on the  
17 second of February 2023. If the Court would like to see  
18 that?

19           THE COURT: Yes, sir.

20           MR. SCHULTZ: I'm also including the letter here as  
21 well.

22           THE COURT: Thank you.

23           MR. SCHULTZ: Thank you, Judge.

24           Also, I have a very good letter of recommendation from  
25 the production supervisor at Spartanburg Steel Products.

1 Write a letter of recommendation for Travis Jessup. "Travis  
2 started working at SSP," and that's Spartanburg Steel  
3 Products, "in March of 2023 as a temporary employee." He was  
4 (inaudible) on detention when he was working for Spartanburg  
5 Steel. "He's been an excellent asset to our company. Has  
6 been hired on full time as of May 8th, 2023. Travis has a  
7 great attitude and has been a model associate. I wish we  
8 could find more people with his work ethic and attitude."  
9 And that was Dillon Byron (phonetically). And he's one of --  
10 he was one of Mr. Jessup's supervisors there at Spartanburg  
11 Steel.

12 Obviously, Your Honor, the facts in this case are quite  
13 serious. I will say, just to kind of reiterate what Mr.  
14 Hunter said, Ms. Latimore, Stacy Latimore, the victim in this  
15 case, has been to my office. She's called me several times  
16 in attempting to dismiss or try to dismiss the case and  
17 saying that her memory is foggy or her memory is not clear.

18 I had her, with her consent, obviously, sign an  
19 affidavit in my office and that was a while ago. That was  
20 actually May of 2022. It says, "I, Stacy Latimore, is  
21 writing the State. For whom it may concern, that Travis  
22 Jessup wasn't involved in the incident shooting. He was not  
23 the shooter." And that's signed Stacy Latimore.

24 Now, I don't say that to try the case when we're doing  
25 a plea. I will say this to protect the record here, Mr.

1 Jessup is waiving any and all defenses that he has but I just  
2 want to let the Court know just to reiterate what Mr. Hunter  
3 said, that Ms. Latimore has been in my office. She wants to  
4 have the charges dismissed. Obviously, the State is pushing  
5 forward with it. So I want to let the Court know that, as  
6 well. That she's been to my office as well.

7 I've spoken to Mr. Jessup several times. He's  
8 expressed remorse to me about what has happened. This is  
9 somebody that is about middle aged. He needs to stop doing  
10 these things that get him into this trouble. This could've  
11 been a lot worse but, hopefully, thankfully for Mr. Jessup  
12 and, most (inaudible), Ms. Latimore, that it was not as bad  
13 as it could've been.

14 I would ask of the Court, I know it's a lot to ask  
15 under the circumstances here, number one, I'm asking for time  
16 credit on the assault and battery of a high and aggravated  
17 nature, any sentence the Court would so give. I'm asking for  
18 the Court to give him a chance on home detention. I think  
19 that he seemed to me to be turning his life around. He was -  
20 - as I said, he was working at Spartanburg Steel. Received a  
21 glowing recommendation. Got some help at Morris Village. So  
22 it appeared to me, at least, that he was turning his life  
23 around.

24 Now granted, he did test positive for marijuana back  
25 when he was scheduled to plead guilty in front of Your Honor

1 but I think that's just -- over time I think that's a  
2 diminimist (phonetically) violation of his bond.

3 He's never complained to me once about being in jail.  
4 He realized what he did was wrong but at the same time, Your  
5 Honor, we are asking for a chance for him to prove himself.  
6 Therefore, respectfully, Your Honor, I'm asking for a  
7 substantial sentence on home detention of five years.

8 Mr. Jessup realizes that what happens is if he does  
9 violate the five year sentence on home detention if the Court  
10 is gracious enough to give him that sentence, he would have  
11 to serve 85 percent of it, at least 85 percent of it, if not  
12 more, if there be any violations. If he violates the  
13 sentence he has to go to prison.

14 So we are asking for a chance for Mr. Jessup. I thank  
15 Your Honor for hearing us and I think Mr. Jessup wishes to  
16 address Your Honor.

17 THE COURT: Yes, sir. I'm happy to hear from you.

18 MR. JESSUP: I'm just sorry that this all happened. I  
19 never meant for none of this to happen. I really -- I  
20 could've prevented this all from happening though I was on  
21 drugs and it was like maybe put myself in a lot of bad  
22 situations. I just ain't seen my kids in like the last three  
23 years. (Inaudible). I miss my daughter graduation  
24 (inaudible). I just want -- want this all behind, you know.  
25 I apologize (inaudible), you know. I just want to try to get

1 through all this. I really, really hate that this happened.  
2 I really do. If I could change, I would. That's all.

3 THE COURT: Okay. Thank you, sir.

4 All right. Okay. With regard to the matter of the  
5 State versus Travis Jessup and indictment 22-GS-42-2524,  
6 possession of adulterants intended to deceive a drug test,  
7 first offense, I will accept the sentence negotiated in order  
8 that Mr. Jessup receive a sentence of time served, giving him  
9 credit for 1,002 days. That includes time prior to trial and  
10 pretrial detention and on monitored house arrest.

11 With regard to indictment 21-GS-42-1339 for assault and  
12 battery of a high and aggravated nature. It is the order of  
13 the Court that I find it appropriate that Mr. Jessup receive  
14 a sentence of 20 years. That will be suspended to 10 years  
15 followed by probation for 5 years. He will get credit for  
16 1,002 days and during the period of probation, he's not to  
17 contact any victims, he will submit for random drug and  
18 alcohol testing, will complete the domestic violence  
19 intervention program and undergo substance abuse counseling.

20 There's a (inaudible) provision after 3 years of the  
21 probation if Mr. Jessup is in full compliance. The issue of  
22 restitution on Mr. Keith Lewers is being left open for 90  
23 days. With regard to the probation violation under  
24 indictment 19-4553, I will revoke the time that is left and  
25 run that concurrent.

1           Sir, I do sincerely wish you the very best. You're  
2 very fortunate that someone was not killed in this incident.  
3 I hope that you'll benefit from the programs I am requiring  
4 you to complete. Good luck to you.

5           MR. SCHULTZ: Thank you, Your Honor.

6           UNIDENTIFIED FEMALE: Your Honor, just for  
7 clarification, he'll need to file (inaudible) condition while  
8 he's under supervision?

9           THE COURT: I'm sorry?

10          UNIDENTIFIED FEMALE: Will he need to (inaudible)  
11 conditions while he's under supervision?

12          THE COURT: Yes, I checked it.

13          UNIDENTIFIED FEMALE: Thank you.

14          THE COURT: I thought I said it but, yes, ma'am.

15          UNIDENTIFIED FEMALE: You did.

16          THE COURT: Okay.

17          UNIDENTIFIED FEMALE: In so many words, yes, Your  
18 Honor. Also, the credit for 1,002 days is applied to the  
19 probation violation as well?

20          THE COURT: I'm sorry, what?

21          UNIDENTIFIED FEMALE: The credit of 1,002 days is  
22 applied to the probation violation?

23          THE COURT: Yes, ma'am.

24          UNIDENTIFIED FEMALE: Thank you.

25          THE COURT: It is concurrent.

1 UNIDENTIFIED FEMALE: Thank you.

2 THE COURT: Thank you. Good luck to you, sir.

3 MR. SCHULTZ: Thank you, Your Honor.

4 (THERE BEING NO FURTHER QUESTIONS, THIS HEARING IS CONCLUDED

5 AT 2:21 p.m.)

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**CERTIFICATE OF TRANSCRIBER**

I, Lynda Monroe, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 7, Spartanburg County, South Carolina, on the 18th day of July, 2023.

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

July 13, 2024

---

Lynda Monroe, Transcriber

FORM 5

STATE OF SOUTH CAROLINA )  
 )  
 County of SPARTANBURG )  
 )  
TRAVIS JESSUP#281842 )  
 Full name and prison number (if any) of Applicant )  
 )  
 v. )  
 )  
 State of South Carolina )

IN THE COURT OF COMMON PLEAS

**2024-CP-42-00456**

APPLICATION FOR

POST-CONVICTION RELIEF

17-27-45(A); 17-27-60

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention wateree river correction institution

---

2. Name and location of Court which imposed sentence SPARTANBURG COUNTY  
COURT HOUSE, 180 Magnolia st. P.O. BOX 3483, spartanburg sc 29304
3. Name(s) of co-defendant(s) (if any) N/A

---

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2020A4210205441
  - (b) \_\_\_\_\_

CLERK OF COURT  
 SPARTANBURG COUNTY  
 ANNY W. COX  
 P.O. BOX 3483  
 SPARTANBURG, SC 29304  
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- (c) \_\_\_\_\_
- 5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) JULY 18, 2023
  - (b) 20 yrs suspended to 10 yrs + 5 yrs probation
  - (c) \_\_\_\_\_

- 6. Check whether a finding of guilty was made:
  - (a) after a plea of guilty  \_\_\_\_\_
  - (b) after a plea of not guilty \_\_\_\_\_
  - (c) after a plea of nolo contendere \_\_\_\_\_

7. Did you appeal from the judgment of conviction or the imposition of sentence?  
**INADVISE OF COUNSEL**

- 8. If you answered "yes" to (7), list:
  - (a) the name of each Court to which you appealed:
    - i. N/A
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
  - (b) the result in each such Court to which you appealed:
    - i. N/A
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
  - (c) the date of each such result:
    - i. N/A
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
  - (d) if known, citations of any written opinion or orders entered pursuant to such results:
    - i. N/A
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_

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

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_

CLERK OF COURT  
 SHERIFFS DEPARTMENT  
 701 W. 11th St.  
 OMAHA, NE 68102-2808  
 402.441.2808

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

- (a) INEFFECTIVE COUNSEL
- (b) INEFFECTIVE COUNSEL
- (c) \_\_\_\_\_

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

- (a) NOT GUILTY OF ASSAULT AND BATTERY HIGH + AGGREGATED
- (b) INFORM ME I WOULD GET PROBATION OR HOME DETENTION
- (c) \_\_\_\_\_

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A

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

- (a) the specific nature thereof:
  - i. N/A
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
  - i. N/A
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_

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 CLERK OF COURT  
 SUPREME COURT  
 ANY VA COX

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

NO

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

(a) which grounds have been presented:

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

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

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

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 OFFICE OF THE  
 STATE CLERK  
 REVISED 3/2003

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

- (a) INADVISE OF COUNSEL
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

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

- (a) your arraignment and plea?  X
- (b) your trial, if any? \_\_\_\_\_
- (c) your sentencing? \_\_\_\_\_
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence?  INADVISE OF COUNSEL
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?  
 N/A

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

- (a) the name and address of each attorney who represented you:
  - i.  JOSH Schultz esquires
  - ii.  366 N Church st., spartanburg SC 29306
  - iii. \_\_\_\_\_
- (b) the proceedings at which each such attorney represented you:
  - i.  plea
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

STATE OF SOUTH CAROLINA  
 DEPARTMENT OF CORRECTIONS  
 11/18/20  
 11:20

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

OVERTURN CONVICTION, NEW TRIAL

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

N/A

STATE OF SOUTH CAROLINA )

County of )

JUMBER )

VERIFICATION

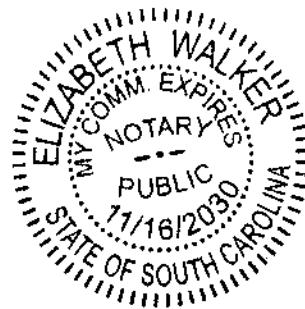
I, TRAVIS Jessup 281842, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Subscribed before me this 29 day of January, 2024.

Elizabeth Walker  
Notary Public

(L.S.)

My Commission Expires: 11-16-2030

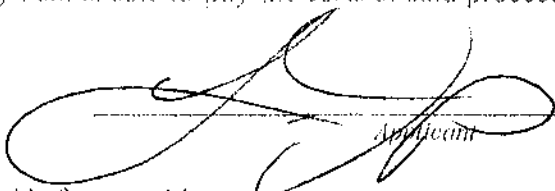


SP-100 (Rev. 3/2003)  
FORM NO. 100  
NOTARY PUBLIC  
STATE OF SOUTH CAROLINA  
Revised 3/2003

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

I, Travis Jessup 281842, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

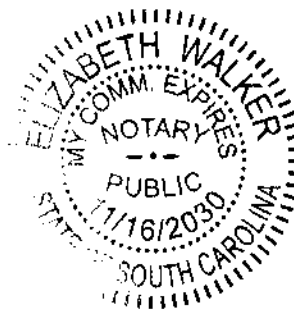
- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

  
 \_\_\_\_\_  
 Applicant

SWORN or affirmed to and subscribed before me this 29 day of January, 2024.

Elizabeth Walker  
 \_\_\_\_\_  
 Notary Public

My Commission Expires: 11-16-2030



Revised 3/2003  
 02/20/20

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	FOR THE SEVENTH JUDICIAL CIRCUIT
	)	
Travis D. Jessup, #281842,	)	CASE NO. 2024-CP-42-00456
	)	
Applicant,	)	
	)	
v.	)	<b>RETURN</b>
	)	(Counsel Appointed)
State of South Carolina,	)	
	)	
Respondent.	)	

In response to Travis D. Jessup's (Applicant) application for post-conviction relief (PCR) commenced on February 2, 2024, Respondent, the State of South Carolina, makes the following Return:<sup>1</sup>

**PROCEDURAL HISTORY**

Applicant is presently confined with the South Carolina Department of Corrections (SCDC) pursuant to the Spartanburg County Clerk of Court's orders of commitment. During its April 2021 and May 2022 terms, the Spartanburg County Grand Jury indicted Applicant for attempted murder and possession of a weapon during the commission of a violent crime (2021-GS-42-1339); and possession of adulterants intended to defeat a drug test (2022-GS-42-2524). E. Joshua Schultz, Esquire, represented Applicant. Seventh Circuit Assistant Solicitor James Hunter,

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<sup>1</sup> Respondent's return was due to be filed within sixty days of receipt of Applicant's instant post-conviction relief application. See Rule 12(a), SCRCP ("[T]he State of South Carolina shall answer or otherwise respond to an application for post-conviction relief within 60 days after service of the application, if it arises out of a guilty plea, and 90 days if it arises out of a trial."). Now, having completed the return required in this matter, and in light of no demonstrable prejudice to Applicant as a consequence of the delay, Respondent respectfully asks this Court to accept this return as timely filed. See S.C. Code Ann. § 17-27-70(a) (establishing that the Court may fix the time in which the State must respond and that "respondent shall file with its answer the record or portions thereof that are material to the questions raised in the application."); *Guinyard v. State*, 260 S.C. 220, 195 S.E.2d 392 (1973) (holding the trial court may extend the time for filing and that the time limit prescribed by the statute is not mandatory, but discretionary with the trial court.).

Esquire, prosecuted the case.

On July 18, 2023, Applicant appeared before the Honorable Grace Gilchrist Knie, circuit court judge, and pled guilty to the lesser included offense of assault and battery of a high and aggravated nature and possession of adulterants intended to defeat a drug test. Judge Knie sentenced Applicant to a negotiated sentence of time served for possession of adulterants intended to defeat a drug test and twenty years' imprisonment suspended to ten years' followed by five years' supervision for assault and battery of a high and aggravated nature.<sup>2</sup>

Applicant did not appeal his convictions or sentences.

#### FACTS PRESENTED AT THE GUILTY PLEA

The facts were taken from the guilty plea transcript as articulated by the State:

Thank you, Your Honor. May it please the Court. On October 17th, 2020, around 8 a.m., officers of the sheriff's office responded to the QT on Revel (phonetic) Road after a shooting had occurred nearby here in Spartanburg County. At the QT, officers encountered Stacy Latimore, who's one of the victims. She told offers, without any hesitancy, that the Defendant was the shooter. The Defendant and her have cohabitated before or had been in a relationship and do share a child together, Your Honor. She stated that both of them had spent the night at a residence nearby belonging to Raymond Flucker (phonetic) but they had gotten into a verbal altercation that morning. She called a Keith Lewers for a ride and the Defendant left before the ride got there. Before Ms. Latimore left, she was unable to find her glasses and Mr. Flucker warned her to watch out for Mr. Jessup up the road because he was angry. They began to drive out of the neighborhood and that's when she stated she saw the Defendant stop in the middle of the road and began firing a gun into the driver's side door. Mr. Lewers was hit with a bullet, Your Honor. She was adamant in the interview with police, on that day, that the Defendant was the shooter. Since that time she has contacted our office recanting, saying she couldn't be too sure because she wasn't

At the time of entering his guilty plea Applicant was under State supervision resulting from his conviction for second degree domestic violence (2019-GS-42-4553). The victim in the probation case was also one of the victim's in the instant case. As a result of Applicant violating his probation by entering his guilty plea, Judge Knie revoked the time remaining on his probation and ordered that the remainder of his sentence be served concurrent to his additional sentences.

wearing her glasses. So that's the story for the assault and battery. The restitution is being held open because Mr. Lewers was gathering his hospital bills, Your Honor, because he did have to go to the hospital. Your Honor, the Defendant bonded out, about four months later, on February 12th, 2021, on home detention and then nine months after that, on 11/1/21, officers did a home check on him. He was instructed that he would have to give a drug test and that's when officers discovered a Upass synthetic urine kit rubber band onto his penis. He was given a drug test, ultimately, which he failed for cocaine and marijuana and admitted use of both of those substances. At that time, he was violated on home detention. Went to jail. Stayed there until February of 2022. Then he went to live at Turning Point as his home detention order required him to be at an in-patient facility after he and Mr. Schultz told the Judge, during hearing, that drugs were obviously an issue. He actually turned himself kind of in after he was kicked out of Turning Point so that's not really a violation of home detention at that time and had to remain jailed for a while until they found a bed at Solutions Recovery Center. He was released from jail until November of 2022. Then he got released from Solutions Recover Center, was out on home detention until May 24th when he was scheduled for a hearing in front of you, Your Honor, for this plea. However, a drug test revealed marijuana, again, so he's been in jail ever since on that home detention violation. So those are the facts of the synthetic urine and the (inaudible), Your Honor.

(Plea Tr. pp. 14, l. 1 – 16, l. 6).

#### CURRENT APPLICATION

In his PCR application, Applicant, through PCR Counsel, alleges he is detained unlawfully for the following reasons (excerpts verbatim):

1. Ineffective assistance of counsel:
  - a. "Not Guilty of Assault and Battery High + Aggravated."
  - b. "Inform me I would get probation or home detention."

Applicant requests relief in the form of overturning his conviction and receiving a new trial.

Attached to this return and incorporated by reference are the Spartanburg County Clerk of

Court records regarding the subject's convictions and sentences, Applicant's records from the SCDC, Applicant's plea transcript, and the records of the current PCR action. Respondent reserves

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SPARTANBURG COUNTY  
SOUTH CAROLINA

the right to amend this return upon receiving any relevant materials.

**RESPONSE TO ALLEGATIONS OF INEFFECTIVE ASSISTANCE OF PLEA COUNSEL**

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant—like all other defendants—the right to "assist[ance] by an attorney, whether retained or appointed, who plays the role necessary to ensure that the trial is fair." Strickland v. Washington, 466 U.S. 668, 685 (1984); Taylor v. State, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). Ordinarily, PCR allegations are centered upon an assertion that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. See generally S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right and raises a question of fact that can only be determined by an evidentiary hearing. Rogers v. State, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985); Rule 71.1(e), SCRPC. The reviewing court applies the two-part test outlined in Strickland to determine whether counsel's conduct "was so [ineffective] as to require reversal" of the applicant's conviction. 466 U.S. at 687. To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness and (2) the applicant sustained prejudice due to counsel's deficient performance. Id. at 687–88; Cherry v. State, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. Strickland, 466 U.S. at 700; see also Bell v. Cone, 535 U.S. 685, 695 (2002) (explaining that "[w]ithout proof of both deficient

performance and prejudice to the defense, . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable" (citation and internal quotation marks omitted)).

As aforementioned, the applicant has the burden of establishing both deficiency and prejudice in order to be entitled to relief. Hughes v. State, 346 S.C. 554, 558, 552 S.E.2d 315, 317 (2001); Rule 71.1(e), SCRPC. To prove deficient performance, the applicant must establish that "in light of all the circumstances, the identified acts or omissions [complained of] were outside the wide range of competence demanded of attorneys in criminal cases. Strickland, 466 U.S. at 690. To prove prejudice, the applicant must establish that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 694. A reasonable probability is a probability "sufficient to undermine confidence in the outcome." Id. However, "the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged." Id. at 696.

Because of the difficulties inherent in making such an evaluation, the reviewing court must indulge in a "strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance." Butler, 286 S.C. at 445, 334 S.E.2d at 816. "The burden of rebutting this presumption 'rests squarely on the defendant,' and '[i]t should go without saying that the absence of evidence cannot overcome [i]t.'" Dunn v. Reeves, 594 U.S. 731, 739 (2021) (alteration in original) (quoting Burt v. Titlow, 571 U.S. 12, 22–23 (2013)). In fact, "even if there is reason to think that counsel's conduct 'was far from exemplary,' a court still may not grant relief if '[t]he record does not reveal' that counsel took an approach that *no competent lawyer would have chosen*." Id. (alteration in original) (emphasis added) (quoting Titlow, 571 U.S. at 23–24).

Representation is constitutionally ineffective only if counsel's conduct "so undermined the proper

functioning of the adversarial process" that the defendant was denied a fair proceeding. Strickland, 466 U.S. at 686; see Nix v. Whiteside, 475 U.S. 157, 175 (1986) (noting that under Strickland, the "benchmark" of the right to counsel is the "fairness of the adversary proceeding").

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, Hill v. Lockhart, 474 U.S. 52 (1985) extended the two-part Strickland test to challenge guilty pleas based on ineffective assistance of counsel. See Padilla v. Kentucky, 559 U.S. 356, 373 (2010) (recognizing that the guilty plea process is a "critical phase of litigation" for purposes of the Sixth Amendment right to effective assistance of counsel). When reviewing a guilty plea, the analysis of counsel's performance under the first prong of Strickland remains unchanged—the applicant must show that counsel's representation fell below an objective standard of reasonableness demanded of attorneys in criminal cases. Hill, 474 U.S. at 58–59; accord Thompson v. State, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000).

An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice to plead guilty was not "within the range of competence demanded of attorneys in criminal cases." Hill, 474 U.S. at 56. The second, or "prejudice" prong—however—"focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process." Id. at 58–59. Specifically, when an applicant claims counsel's deficient performance caused him to accept a plea, the applicant "must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial." Id. at 59.

This inquiry "focuses on a defendant's decision making" and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. Lee v. United States, 582 U.S. 357, 367 (2017). However, the applicant must convince

MR. W. CO. ANDERSON ERK OF

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the court that a decision to reject the plea bargain would have been rational under the circumstances. Padilla, 559 U.S. at 372. Judges must "look to contemporaneous evidence to substantiate a defendant's expressed preferences." Lee, 582 U.S. at 369. In determining whether a guilty plea was taken in accordance with constitutional standards, the reviewing judge must analyze and consider the entire record, including the transcript of the guilty plea and the evidence presented at the PCR hearing. Harres v. Leeke, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

Surmounting the Strickland high bar is never an easy task, and the strong societal interest in finality has "special force with respect to convictions based on guilty pleas." Lee, 582 U.S. at 368-369 1967 (internal citations and quotation marks omitted); cf. Hill, 474 U.S. at 58 ("[R]equiring a 'prejudice' showing from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel 'will serve the fundamental interest in the finality of guilty pleas.'"). Reviewing "[c]ourts should not upset a plea solely because of *post hoc* assertions from a defendant about how he would have pleaded but for his attorney's deficiencies." Lee, 582 U.S. at 369. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—*not* whether counsel would have still advised him or her to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999).

Moreover, "there is no reason for a court deciding an ineffective assistance claim to approach the inquiry in the same order or even to address both components of the inquiry if the defendant makes an insufficient showing on one." Strickland, 466 U.S. at 697. The court "need not determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies." Id. If it is easier to dispose of an ineffectiveness claim on the grounds of lack of sufficient prejudice, the court may evaluate the

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prejudice prong only. Id.

In the present case, Applicant has asserted various allegations that Plea Counsel provided ineffective assistance of counsel. Because these allegations likely raises questions of fact not conclusively refuted by the record, the State requests an evidentiary hearing to fully resolve the issues. Accordingly, Respondent requests an evidentiary hearing to resolve this issue fully. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983) ("Where an application for post-conviction relief alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court, a question of fact is raised which can only be resolved by an evidentiary hearing.").

**ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY PROCESS**

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has retained an attorney, the attorney, not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. *Pro se* filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to Love v. State, 428 S.C. 231, 834 S.E.2d 196 (2019), or, alternatively, the State will request a continuance in the matter. Id., 428 S.C. at 245, 834 S.E.2d at 203 (Kittredge, J., dissenting) ("If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.").

Pursuant to S.C. Code Ann. § 17-27-150, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, the State requests that all potential exhibits

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and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. As noted above, the State reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute, resulting in undue prejudice to the State. See Love, 428 S.C. 231, 834 S.E.2d 196.

CONCLUSION

WHEREFORE, Respondent respectfully requests an evidentiary hearing be held on the claims of ineffective assistance of Plea Counsel.


Respectfully submitted,

ALAN WILSON  
Attorney General

DONALD J. ZELENKA  
Deputy Attorney General

SHAYLA J. FLORES  
Assistant Attorney General

By:

  
ATTORNEYS FOR RESPONDENT  
Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211

September 24<sup>th</sup>, 2024

CLERK OF COURT  
SPARTANBURG COUNTY  
AMY M. COX

2024 OCT -3 PM 4:22

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STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

2024-CP-42-00456

Travis Jessup #281842

Applicant,

vs

CERTIFICATE OF SERVICE BY MAIL

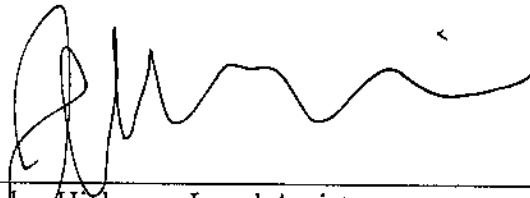
State of South Carolina,

Respondent,

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

**Rodney Wade Richey, Esquire**  
**Richey & Richey, PA**  
**33 Market Point Dr, Greenville, SC 29607**  
**Post Office Box 10916**  
**Greenville, SC 29603-0916**

DATED this 24<sup>th</sup> day of September 2024.



\_\_\_\_\_  
 Jordan Hickman, Legal Assistant  
 For Respondent

CLERK OF COURT  
 SPARTANBURG COUNTY  
 AMY VA. FOX

2024 OCT -3 PM 4:22

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1 STATE OF SOUTH CAROLINA ) IN THE GENERAL SESSIONS COURT OF  
 ) THE SEVENTH JUDICIAL CIRCUIT  
 2 ) 2024-CP-42-00456  
 )  
 3 )  
 4 COUNTY OF SPARTANBURG )

5 STATE OF SOUTH CAROLINA, )  
 6 )  
 7 )  
 7 TRAVIS JESSUP, )  
 Plaintiff, )  
 8 )  
 ) TRANSCRIPT OF RECORD  
 9 vs. )  
 )  
 10 STATE OF SOUTH CAROLINA, )  
 )  
 11 Defendant. )

12  
13 November 18, 2024

14 Spartanburg, South Carolina

15  
16 B E F O R E:

HONORABLE PERRY H. GRAVELY, JUDGE

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

Bryan T. Hall, Esquire  
Attorney for the State

Rodney W. Richey, Esquire  
Attorney for the Defendant

19  
20  
21  
22  
23  
24 Lisa G. Amick  
Court Reporter  
25

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(NO WITNESSES CALLED.)

1 THE COURT: Alright. Yes, be glad to hear from you.

2 MR. HALL: May it please the Court? Assistant  
3 Attorney General, Brian Hall for the State, Your Honor. This  
4 is the case of Travis Jessup versus State of South Carolina,  
5 docket number 2024-CP-42-00456. In May of 2021, or excuse me,  
6 in April of 2021 and May of 2022, the Spartanburg County Grand  
7 Jury indicted Mr. Jessup for two counts of attempted murder and  
8 possession of a weapon during the commission of a violent  
9 crime, indictment number 2021-GS-42-1339, as well as possession  
10 of adulterant intended to defeat a drug test, indictment number  
11 2022-GS-42-2524. On July 18th of 2023, Mr. Jessup pled guilty  
12 before the Honorable Grace Knie. Assistant Solicitor James  
13 Hunter prosecuted the case, and Mr. Jessup was represented by  
14 E. Joshua Schultz. And he pled guilty to the lesser included  
15 offense of assault and battery of a high and aggravated nature,  
16 and the possession of adulterants and one count of, or one  
17 count of ABHAN was dismissed and then he pled to the other  
18 count of ABHAN in exchange for his plea. There was no  
19 recommendation on the ABHAN charge and he was sentenced to a  
20 negotiated sentence of time served for the possession charge.  
21 He was sentenced to 20 years suspended to 10 years followed by  
22 5 years' probation with the option for probation to terminate  
23 upon 3 years if full compliance, and that was for the ABHAN,  
24 and of course time served on the possession charge. There was  
25 also a violation of probation, that indictment number is 2019-

1 GS-42-4553. And that probation was revoked, the remaining time  
2 was revoked, and it was run concurrent to the ABHAN. Mr.  
3 Jessup did not appeal, and this PCR was filed on February 2nd  
4 of 2024. Mr. Jessup is alleging ineffective assistance of  
5 counsel based on actual innocence. Unless that allegation is  
6 withdrawn, the State will move to dismiss for failure to state  
7 a recognizable claim as well as ineffective assistance of  
8 counsel for counsel informing him that he would get probation  
9 or home detention. Before this Court are the PCR records, the  
10 clerk of court records, and the SCDC records. Mr. Jessup is  
11 present and represented by Rodney Richey. And the State is  
12 ready to proceed, Your Honor.

13 THE COURT: Yes.

14 MR. RICHEY: Thank you, Your Honor. May it please  
15 the Court? Your Honor, the Attorney General is correct, he's  
16 alleging that the plea was induced by a promise for probation,  
17 and of course, he didn't get that. And he's alleging that  
18 counsel's ineffective in inducing him to plead, that he wanted  
19 to proceed to a jury trial, okay? And that's the issue before  
20 this Court.

21 THE COURT: And I guess he realizes that if it goes  
22 back that he can end up with a heck of a lot more time than  
23 what he got ---

24 MR. RICHEY: I've ---

25 THE COURT: --- and he also, it's up to the

1 Judge to decide whether he gets the credit for the home  
2 detention. So he's, he may be sorry if he gets what he's asked  
3 for, but I'll be glad to hear from him.

4 MR. RICHEY: I've talked to him about that, stand up,  
5 Mr. Jessup. And, sir, I discussed that you could potentially  
6 get more time in this case, correct?

7 MR. JESSUP: Yes, sir.

8 MR. RICHEY: And the Judge can't do anything to  
9 affect your sentence, do you understand that?

10 MR. JESSUP: Yes, sir.

11 MR. RICHEY: And you understand knowing all that you  
12 still want to go forward?

13 MR. JESSUP: Yes, sir.

14 MR. RICHEY: Okay.

15 THE COURT: Okay.

16 MR. RICHEY: I call Josh Schultz.

17 THE COURT: Alright. Do you solemnly swear to tell  
18 the truth, the whole truth, and nothing but the truth so help  
19 you God?

20 MR. SCHULTZ: I do.

21 THE COURT: Alright. Please state your name for the  
22 record.

23 MR. SCHULTZ: Attorney E. Joshua Schultz, Spartanburg  
24 County Bar.

25 **DIRECT EXAMINATION**

1 BY MR. RICHEY:

2 Q Mr. Schultz, at the time that you represented Mr. Jessup,  
3 were you in private practice?

4 A I was.

5 Q And was that, where was that practice located?

6 A Just right across the street at 184 North Daniel Morgan  
7 Avenue.

8 Q In Spartanburg?

9 A Yes.

10 Q Okay. And do you recall the representation of Mr. Jessup?

11 A I do.

12 Q And just briefly, the facts were it was an alleged  
13 shooting, is that what the facts were?

14 A That's correct.

15 Q And do you recall who was involved in the shooting or  
16 involved in this incident?

17 A Other than Mr. Jessup?

18 Q Yes.

19 A Yes. The, if I could look, can I look ---

20 Q Yes.

21 A --- in my file?

22 Q That's fine.

23 A Okay. I believe it was Lattimore and Lewers.

24 Q Was this, was any one of the parties a former girlfriend  
25 of Mr. Jessup, was involved with him to some extent?

1 A I believe Ms. Lattimore was.

2 Q Okay. And do you recall in the case that Ms. Lattimore,  
3 she was the person that identified Mr. Jessup, is that correct?

4 A Yes. She gave a statement.

5 Q Okay.

6 A You want me to read the statement?

7 Q No. But she did give a statement identifying him as the  
8 shooter at some point?

9 A Yes. It said October 17th, 2020, when he shot at car  
10 after twice, noticed my friend was shot.

11 Q And you recall that she recanted that statement saying  
12 that she couldn't, that she didn't have her glasses on and that  
13 type stuff, correct?

14 A Yeah. She recanted the statement, she came to my office  
15 on May 17th, 2022, signed an affidavit stating that I, in  
16 quotes, I, Stacy Lattimore is writing this statement for whom  
17 it may concern that Travis Jessup wasn't involved in the  
18 incident shooting, period, he was not the shooter, end  
19 quote.

20 Q Okay. And Mr. Jessup, did he ask you to have a jury  
21 trial?

22 A Did he ask me?

23 Q Yeah. Did he request a jury trial?

24 A Yes. We called it on as a trial and he was on the trial  
25 docket at some point. Later he decided to enter a plea.

1 Q Okay. And in deciding to plead guilty, did you have any  
2 discussion about a possible sentencing?

3 A Yes. The offer on the case that Mr. Hunter gave was for  
4 assault and battery of a high and aggravated nature. He was  
5 originally charged, and you tell me if I'm going on for too  
6 long or whatever, but he was originally charged with two counts  
7 of attempted murder which carries zero to 30 years, two  
8 possessions of weapon during a violent crime which both carry  
9 minimum mandatory sentences of 5 years. He was also charged  
10 with possession of a weapon by a person convicted of a crime of  
11 violence and attempted to defeat a drug test. And I believe  
12 all of those I think were indicted, so the grand total of 80  
13 plus years his criminal liability would be. However, when I  
14 got involved with Mr. Hunter, the solicitor's office gave me an  
15 offer which was basically, having him plead guilty straight up  
16 to assault and battery of a high and aggravated nature, that  
17 carries up to 20 years. And later on, he offered me time  
18 served on the attempting to defeat a drug test, and I believe  
19 ultimately I think the transcript reflects ---

20 Q Well, let me ask you this ---

21 A Oh, I'm sorry.

22 Q Let me ask you this question.

23 A Yes, sir.

24 Q During your talks to him about pleaing, did you tell him  
25 if he pled he would get probation and house arrest?

1 A I told him that, in front of Judge Knie, that that could  
2 happen, but I did not promise him that.

3 Q Okay. When you say could, did y'all, did he, in terms of  
4 you telling him it could happen, do you believe that's the  
5 reason why he withdrew his request for a jury trial?

6 A That could be a possible reason, yes.

7 Q Okay. And do you believe there's any way that he could  
8 have construed that to believe that he was going to get  
9 probation?

10 A I'm not sure, that would be speculative on my part, but,  
11 and I think the record reflects that nobody promised him nor  
12 guaranteed him anything. But yes, I would, I could think why a  
13 Defendant would think that.

14 Q And in looking at the trial of the case itself, the main  
15 eyewitness being the lady, Ms. Lattimore, in the case recanted,  
16 there was really not a lot of physical evidence against him, is  
17 that correct?

18 A Not a lot. It was basically based on eyewitness  
19 testimony, you know, there was some physical manifestations,  
20 but not a lot.

21 Q Okay. And so it was a case that it could have ---

22 A Or manifestation, I don't mean physical, there were some  
23 manifestations of the shooting, yes.

24 Q So this is a case he could have tried and been a  
25 competitive trial, is that correct?

1 A It would have been difficult. Could you define what you  
2 mean by competitive?

3 Q Well, let me say it this way. The, Ms. Lattimore's  
4 testimony was critical in the case, correct? That's how ---

5 A Yes.

6 Q --- he initially got charged, correct?

7 A Yes.

8 Q And without that testimony, he would have some sort of  
9 shot at winning at trial, correct?

10 A Yes.

11 Q Thank you.

12 MR. RICHEY: Answer any questions of the Attorney  
13 General.

14 MR. HALL: May it please the Court?

15 **CROSS EXAMINATION**

16 BY MR. HALL:

17 Q Mr. Schultz, how long have you been practicing law?

18 A Since 2005.

19 Q Okay. And how much of that time has been spent in  
20 criminal practice?

21 A Almost 100 percent.

22 Q Okay. And were you retained by Mr. Jessup?

23 A I was.

24 Q Okay. And during the course of your representation, about  
25 how many times did you meet with him?

1 A I don't have the exact amount, but it was at least five or  
2 six.

3 Q Do you believe that you met sufficiently with him to be  
4 able to discuss this case with him?

5 A Yes. And I reviewed the discovery just by myself several  
6 times as well.

7 Q Okay. Well, let me ask you about that. Did you request  
8 and receive discovery from the State in this case?

9 A I did. I received discovery around spring of 2022, April  
10 14th, 2022. My office filed a notice of representation, Rule 5  
11 motion, and I received discovery soon thereafter.

12 Q Okay. Can you tell us, or can you tell the Court what  
13 evidence the State had against Mr. Jessup?

14 A May I refer to my file?

15 Q Yes.

16 A Okay. There were the incident reports and narrative by  
17 Officer Britt, there was a supplemental investigator report  
18 filed by Benefield, there was a supplemental report filed by  
19 Barnett. There was a forensic report detailing medical staff,  
20 and injuries to the victim in the case. There was an  
21 investigator report, quite a voluminous investigator report  
22 filed by Officer Barnett. There was a victim advocate  
23 investigative narrative. There was the permission to search  
24 vehicle that was given consent by one of the victims in the  
25 case; Lewis or Lewers. There was a statement of Stacy

1 Lattimore, there was actually, let's see, two page statement by

2 Stacy Lattimore ---

3 Q Let me ask ---

4 A There was a ---

5 Q Mr. Schultz, if I could?

6 A I'm sorry. Yes, sir.

7 Q Let's talk about Ms. Lattimore's statement. In her  
8 original statement that she gave to law enforcement, is it  
9 correct that she identified Mr. Jessup as the shooter, is that  
10 right?

11 A Yes. As, do you want me to quote it or no?

12 Q Sure. Or summarize it.

13 A Okay. Stacy Lattimore wrote 10-17-2020, in quotes, as we  
14 road by he pulled his gun and shot at his car and when he shot  
15 at car after twice, I noticed my friend was shot, end quote.

16 Q And that statement was given around the time of the  
17 incident, is that right?

18 A I think it was given the day of the incident.

19 Q Okay. And then two years later she came to your office  
20 and signed the affidavit, is that right?

21 A Inside two years later, yes.

22 Q You can continue about the evidence the State had.

23 A And do you want me to go on with that?

24 Q I'm sorry, let me rephrase.

25 A Yes, sir.

1 Q Can you continue telling the Court what evidence the State  
2 had ---

3 A Yes.

4 Q --- against Mr. Jessup?

5 A There was a recorded audio interview of Stacy Lattimore  
6 and Keith Lewer. There was photo evidence of the injury to I  
7 believe Mr. Lewer here, and that's what I meant by the physical  
8 manifestation. There was several, several pictures taken, I  
9 don't have color pictures of them. Then of course, Mr.  
10 Jessup's record. And the 911, the incident details, there was  
11 also body cams as well. So there was a fair amount of evidence  
12 in this case.

13 Q And did Mr. Jessup also give a statement in this case?

14 A He did, I think it was recorded, I believe, let's see. I  
15 don't have a written statement there, but he did, he did fill  
16 out an interrogation waiver form.

17 Q Okay. I want to ask you; did you review this discovery  
18 with Mr. Jessup?

19 A Yes.

20 Q Okay. And you indicated that at some point he wanted to  
21 go to trial. What would your strategy have been for trial?

22 A The strategy at trial would have been to discredit the  
23 victims in the case. Ms. Lattimore said that she wanted to  
24 have the case dropped. Again, May 17th she came to my office,  
25 I, Stacy Lattimore is writing the statement for whom it may

1 concern that Travis Jessup wasn't involved in the incident  
2 shooting, he was not the shooter. So I obviously would have  
3 tried to impeach her credibility because of that statement.

4 Q Okay. And Mr. Jessup was interested in a trial, but at  
5 some point, he decided to plead guilty, is that correct?

6 A Yes.

7 Q Okay. Did you have any discussions with him about his  
8 decision to plead guilty?

9 A Yes.

10 Q Okay. Can you tell the Court the nature of those  
11 conversations?

12 A Well, the, it was sort of an odd situation there. He was  
13 on the trial docket; I think it was in late spring or early  
14 summer of 2023. And he was on the trial docket, he was sort of  
15 going back and forth whether he should go to trial or not. He  
16 was also on home detention at the time. The, he entered a plea  
17 and Judge Knie deferred sentencing because the Solicitor said,  
18 Mr. Hunter passed him in the hallway and said oh, he smells  
19 like marijuana, so he gave him a drug test, he failed the drug  
20 test, Judge Knie held him in contempt, accepted the plea and  
21 later on sentenced him. I think, I want to say like July of  
22 2023 if I'm not mistaken.

23 Q Okay. To clarify, you stated in your, you testified on  
24 direct that you told him that probation and house arrest were  
25 possible, but you didn't promise him that?

1 A Yes.

2 Q Okay. And you also testified on direct that although  
3 probation and house arrest were possible, it'd be speculation  
4 to testify that that was the reason that Mr. Jessup decided to  
5 plea, is that right?

6 A Yes.

7 Q But ultimately, who made the decision to plead  
8 guilty?

9 A Mr. Jessup.

10 Q Okay. And before he pled, did you explain to him the  
11 charges against him?

12 A Yes.

13 Q Okay. Did you explain to him the potential sentence that  
14 each charge carried?

15 A Yes.

16 Q Did you explain to him his Constitutional Rights?

17 A Yes.

18 Q Including his right to a jury trial?

19 A Yes.

20 Q His right to remain silent?

21 A Yes.

22 Q And his right to confront witnesses?

23 A Yes.

24 Q Okay. And ultimately, Mr. Jessup, in exchange for his  
25 plea, one of the ABHAN charges were dismissed and he pled to

1 ABHAN which is the lesser included offense of attempted murder,  
2 is that right?

3 A Well, both of the attempted murder charges were dismissed  
4 and the possession of a weapon during a violent crime, two  
5 counts of those.

6 Q Okay. And then he pled to ABHAN, is that right?

7 A He pled straight up to one count of ABHAN.

8 Q Okay.

9 A And the attempting to defeat a drug test, I think those  
10 were the two convictions, if I'm not mistaken.

11 MR. HALL: No further questions, Your Honor.

12 THE COURT: Redirect?

13 MR. RICHEY: No more questions.

14 THE COURT: Thank you, you may step down.

15 MR. RICHEY: I call Mr. Jessup.

16 MR. SCHULTZ: Thank you, Your Honor.

17 MR. HALL: Judge, we would ask that, we withdraw,  
18 Your Honor, sorry.

19 THE COURT: What are you withdrawing?

20 MR. HALL: We were going to ask that he stick around,  
21 but I think... He can be released, Your Honor.

22 THE COURT: Okay. Alright. Do you solemnly swear to  
23 tell the truth, the whole truth, and nothing but the truth so  
24 help you God?

25 MR. JESSUP: Yes, sir.

1 THE COURT: And state your name for the record.

2 MR. JESSUP: Travis Jessup.

3 THE COURT: Alright. Mr. Jessup, if you'll take a  
4 seat and answer any questions your attorney has.

5 **DIRECT EXAMINATION**

6 BY MR. RICHEY:

7 Q Sir, state your name, please.

8 A My name is Travis Jessup.

9 Q And Mr. Jessup, are you currently in the Department of  
10 Corrections?

11 A Yes, sir, I am.

12 Q And what are you in there for?

13 A For the charge of assault of battery of a high and  
14 aggravated nature.

15 Q Okay. And any other cases you're in there on?

16 A If it's the violation of probation still.

17 Q Okay. Alright. And how much time did you receive? What  
18 sentence did you receive, put it that way.

19 A I received a 20 year suspended to 10 years followed by  
20 probation.

21 Q Okay. And who represented you on those cases?

22 A Mr. Schultz represented me.

23 Q Okay. And you filed an application for post-conviction  
24 relief because it's your position that he did not effectively  
25 represent you, correct?

1 A Correct.

2 Q Okay. The facts of this, this was an alleged shooting,  
3 correct?

4 A Yes, sir.

5 Q And we've heard this Ms. Lattimore's name in here today --  
6 -

7 A Yes.

8 Q --- she was the lady that initially made a statement  
9 against you, correct?

10 A Yes.

11 Q What kind of relationship did you have with her; did you  
12 know her?

13 A Yeah. We was previously involved, we have a child  
14 together, but yeah, we wasn't together at the time of the  
15 incident.

16 Q Okay. And who was with her during this incident that  
17 you're aware of now?

18 A The other victim?

19 Q Yeah. Who was with her, yeah, when this supposedly  
20 happened?

21 A The other victim's name was Keith Lewers, but she came to  
22 the place with another ---

23 Q Okay. Well, I'm just asking for names ---

24 A Okay.

25 Q Alright. Okay. And it's your position that you

1 are not guilty of these charges, correct?

2 A Oh, I'm not guilty of the charges.

3 Q Okay. And you discussed that with your lawyer, correct?

4 A Yes, I told him that, yeah.

5 Q Okay. And at some point, you decide to plead guilty, is  
6 that correct?

7 A Yes, sir.

8 Q Okay. And had you had an opportunity to review the  
9 evidence with your attorney?

10 A He, I never went over the discovery with him, he said he  
11 had it, he would mail it to me, but he never did give it to  
12 me.

13 Q Okay. When you were out on bond, did y'all ever discuss  
14 what, the evidence the State had?

15 A Yeah, we discussed some things, yes, sir.

16 Q Yeah. You discussed it?

17 A Yeah.

18 Q And you believe there's stuff you did not discuss?

19 A Yeah, there was a lot of stuff that we did not discuss  
20 also.

21 Q Okay. At the time that you were, that you stood in front  
22 of the Judge to plead guilty, did you have substantially all  
23 the information you needed to plead guilty or no?

24 A No.

25 MR. HALL: Objection, leading.

1 Q Okay. Well, let me ask it this way. Prior to pleading  
2 guilty, you are aware, were you aware that Ms. Lattimore  
3 recanted on her statement?

4 A Yes, I was aware of that.

5 Q Okay. And who told you that?

6 A He did and, yeah, he told me.

7 Q Okay. And did you believe that to be favorable to your  
8 case?

9 A Yes, yes, I did.

10 Q And did you get this information before you pled?

11 A Yes, I had it already.

12 Q Okay. And so was that, was that part of the basis of you  
13 wanting a jury trial?

14 A Right, yes, sir.

15 Q Okay. At some point, you decide to plead guilty, is that  
16 correct?

17 A Yes, sir.

18 Q And I'm going to refer you to page, the transcript, page  
19 13 where the Judge ask you are you pleading freely,  
20 voluntarily, and knowingly at this time. You remember the  
21 Judge asked you ---

22 A Yeah, I know she asked me that.

23 Q Okay. And you answered that you were, right?

24 A Yes, I, yes, sir.

25 Q Okay. Why did you answer that question that way?

1 Because you're not satisfied, you believe the plea, do you  
2 believe the plea was not freely, knowingly, and voluntarily  
3 made?

4 A Well, he told me that during my plea that I couldn't say  
5 nothing like that I wasn't happy or satisfied or she would  
6 throw my plea out. So he was like this would be my fastest way  
7 to get home if I was to go ahead and plead guilty now.

8 Q Okay.

9 A So that's what I did, I was locked up at the time, so, and  
10 I was thinking that I would have to stay another year and a  
11 half or so waiting on trial, so I was just like okay, I'll take  
12 the home detention or probation to get on out now instead of  
13 staying in jail.

14 Q Okay. Let's go back. You keep, you're saying that I will  
15 take the home incarceration, probation?

16 A Yeah.

17 Q Were you told by anybody that you would get that sentence?

18 A He told me that this was my opportunity, if I wanted, this  
19 was my best opportunity to go home right now, I could get home  
20 detention, probation.

21 Q Okay. Now, I want to make this clear. He told you it was  
22 your best opportunity or ---

23 A To go home right now ---

24 Q Well, let me finish the question.

25 A Yeah.

1 Q Okay. He told you it was your best opportunity or you're  
2 going to get house arrest, which one?

3 A I was under the understanding that I was going to get home  
4 detention or probation, that I was already on home detention --  
5 -

6 Q Okay.

7 A --- that's the understanding of what I was going to get.

8 Q Not understanding, I want to know what he told you?

9 A He told me that I was going to get home detention or  
10 probation.

11 Q That's what he said?

12 A Yeah, that's what he told me.

13 Q Okay.

14 A That's the reason why I changed my plea from not guilty  
15 to, okay, and he was like that I could go home today, you know  
16 what I'm saying? That I can get home detention and probation  
17 if I was to plead today. Everybody else went home, and I was  
18 watching, he said everybody else went home, and everybody else  
19 did. And he said man, I'm guaranteed that she going to give  
20 you home detention or probation if you was to plead today, so  
21 that's how the plea came about. I never intended on pleading  
22 guilty, that's how it came about, that I could go home today,  
23 and that's how it was.

24 Q Okay. So you set aside your wishes for a jury trial based  
25 on what he said?

1 A Yes, yeah.

2 Q And is it the only reason why you pled guilty is because  
3 he told you that, is that the only reason?

4 A Yes.

5 MR. HALL: Objection, leading.

6 Q Okay. What was the reason why you pled guilty?

7 A Because he said that I was going to go home.

8 Q Okay. And without him saying that, would you have pled  
9 guilty?

10 A No, I would have never pled guilty.

11 Q What would you have done?

12 A I would have stuck with my trial.

13 Q Okay. And at this point right now, you still want this  
14 trial, correct?

15 A Yeah, yes, I do.

16 Q Okay. And even if it may not be in your best interest,  
17 you still want a trial, right?

18 A Yes.

19 Q Okay. Thank you.

20 MR. RICHEY: Ask questions the Attorney General has.

21 THE COURT: Alright. Cross examination.

22 MR. HALL: Beg the Court's indulgence.

23 **CROSS EXAMINATION**

24 BY MR. HALL:

25 Q How are you doing, Mr. Jessup?

1 A     Alright.

2 Q     Mr. Jessup, I believe you testified on direct that  
3 you discussed the evidence with your lawyer, is that  
4 right?

5 A     Yes.

6 Q     Okay. And you even discussed Ms. Lattimore's recanting  
7 statement, is that right?

8 A     Yes.

9 Q     Before you pled?

10 A    Yes.

11 Q    Okay. And I believe you testified that your lawyer told  
12 you that your best opportunity to go home, or your best  
13 opportunity to get home detention was if you pled guilty, is  
14 that right?

15 A    He said that my best, he said that I could, it was going  
16 to be my best opportunity for me to go home immediately, like  
17 right now today if I was to plead today.

18 Q    Okay. And he said best opportunity, right?

19 A    Yeah, he said that in there too, yeah, yeah.

20 Q    And Mr. Jessup, you understood that if you had gone to  
21 trial, the State was prepared to try you for two counts of  
22 attempted murder, right?

23 A    Yeah. But I didn't do it so that wasn't no problem.

24 Q    You have to answer the question yes or no first.

25 A    Yes, sir, I understood that.

1 Q Okay. And you understand that each count of attempted  
2 murder carried up to 30 years, is that right?

3 A Yes, sir.

4 Q Okay. And so if you had gone to trial, you do understand  
5 that if convicted, you face up to 30 years, right?

6 A I understand.

7 Q Okay. And in this case you got, you pled guilty to  
8 assault and battery of a high and aggravated nature, right?

9 A Yes, sir.

10 Q And you got sentenced to 20 years suspended to 10 years  
11 active followed by 5 years of probation?

12 A Yes, sir.

13 Q Okay. And that's less than 30 years, right?

14 A I didn't, it was a whole lot compared to no years.

15 Q Mr. Jessup, you testified on direct that you never  
16 intended to plead guilty, is that right?

17 A Right.

18 Q Okay. But isn't it true that in your plea hearing the  
19 Judge informed you that by pleading you were waiving your right  
20 to a jury trial, is that right?

21 A Yes, I think so.

22 Q Okay. And you told the Judge that you understood that?

23 A Yes, I understood that.

24 Q And you told the Judge that you wanted to waive that right  
25 and plead guilty, is that right?

1 A If that's what was said, yes, sir.

2 Q And you also told the Judge that you understood that by  
3 pleading guilty you were waiving your right to confront  
4 witnesses, right?

5 A Yes, I think so.

6 Q Okay. And so at trial, you had the opportunity to cross  
7 examine Ms. Lattimore, but you chose to plead guilty, is that  
8 right?

9 A If that's how it was said. I chose to plead under the  
10 counsel of the lawyer or my lawyer telling me that this was  
11 going to be best for me.

12 Q Okay. And you informed the Judge that you were giving up  
13 your right to remain silent, is that right?

14 A If that's what she asked.

15 Q Yes or no is that what she said?

16 A Yes, I guess so.

17 Q Okay. And you also told the Judge that no one  
18 threatened, coerced, or promised you anything to plead guilty,  
19 right?

20 A Right.

21 Q And you told the Judge that you weren't under the  
22 influence of any drugs, alcohol, or intoxicants that would  
23 impair your judgement, is that right?

24 A Right.

25 Q And you also told the Judge that you don't suffer

1 from any mental or physical infirmity that would have affected  
2 your ability to understand what you were doing, is that right?

3 A I guess, yes, but I was in lock up at the time.

4 Q Yes or no Mr. Jessup.

5 A Yes, sir.

6 Q Okay. And you also told the Judge that you were satisfied  
7 with the services of your attorney, is that right?

8 A I don't think I exactly said yes, but saying that I had no  
9 other choice, I said that I had no other choice with my lawyer  
10 at the time.

11 Q You told the Judge that you didn't have any ---

12 A Yeah, like when she asked me that, I remember mumbling,  
13 mumbling that I ain't have no other choice but to go with what  
14 my lawyer said, what my lawyer said, but I never just say that  
15 I was happy with him.

16 MR. HALL: Beg the Court's indulgence.

17 Q Isn't it true that you told the Judge you were pleading  
18 guilty freely, knowingly, and voluntarily, is that right?

19 A Yes.

20 Q And isn't it true that the Solicitor gave the Judge the  
21 facts of the case indicating that you had shot at the victim,  
22 Stacy Lattimore and Mr. Keith Lewers, and you indicated to the  
23 Judge that is what actually happened?

24 A No. I don't remember that part, I never remember him  
25 saying that I shot anybody, shot anybody during his, during

1 when he was explaining the facts of the case, he never said  
2 none of that.

3 Q Okay. Mr. Jessup, on page 16 of your transcript, the  
4 Judge asked you beginning at lines 11 and lines 12, okay, Mr.  
5 Jessup, sir, is that substantially what happened, and you said  
6 yes, ma'am, isn't that right?

7 A Yes, yes.

8 Q And based on your answer, the Judge found that that was  
9 the factual basis for your plea, is that right?

10 A I guess so.

11 MR. HALL: Beg the Court's indulgence.

12 Q And isn't it true, you said that you told the Court, you  
13 mumbled in Court that you weren't satisfied with the services  
14 of your lawyer, but isn't it true that on page 7 of your, of  
15 the plea transcript beginning at lines 4 and 5 the Judge asked  
16 are you satisfied with the services of your legal counsel?

17 A Page what?

18 Q 7.

19 MR. HALL: Apologies, I'll withdraw that question.  
20 Beg the Court's indulgence. No further questions, Your Honor.

21 MR. RICHEY: Just one question.

22 **REDIRECT EXAMINATION**

23 BY MR. RICHEY:

24 Q Sir, you are saying that you are innocent of these  
25 charges, correct?

1 A Yes, sir, I am.

2 Q Okay. Thank you.

3 THE COURT: Alright. You may step down.

4 MR. RICHEY: We have no other witnesses, Your Honor.

5 THE COURT: Alright.

6 MR. HALL: And no witnesses from the State, Your  
7 Honor.

8 THE COURT: Alright. I'll be glad to hear from you.

9 MR. RICHEY: Your Honor, we'd ask the Court to review  
10 the record in this case. Mr. Jessup's testimony, his position  
11 is that his plea wasn't voluntarily made because the inducement  
12 was he was going home. I understand the testimony that he said  
13 at one point that the lawyer told him his best opportunity, but  
14 it was his belief that if he pled that he would not be  
15 incarcerated, and unfortunately, he is. So his position is is  
16 that his conviction should be vacated and a new trial be  
17 ordered, thank you, Your Honor.

18 THE COURT: Mr. Hall?

19 MR. HALL: May it please the Court. As I'm sure Your  
20 Honor knows, for a guilty plea to be made knowingly, and  
21 voluntarily, freely, and intelligently the Defendant has to  
22 have an awareness of the charges against him, the possible  
23 sentences and his Constitutional Rights. You heard testimony  
24 that Mr. Jessup had an awareness of all of that prior to  
25 pleading guilty and made the decision to plead guilty. He

1 reviewed the evidence with his attorney and ultimately made the  
2 decision to plead guilty. And Your Honor, we would cite to  
3 Dalton v. State, 376 S.C. 130 stating that statements made  
4 during the guilty plea should be considered conclusive unless  
5 the applicant provides a valid reason why he should be allowed  
6 to depart from the truthfulness of those statements. So Your  
7 Honor, the record speaks for itself. We would also cite to  
8 Wolfe v State 326 S.C., that's a 1997 Supreme Court case in  
9 which the Supreme Court stated that a guilty plea entered based  
10 on the belief that a Judge will impose a particular sentence  
11 does not render the guilty plea involuntary. And so the fact  
12 that Mr. Jessup believed that he would receive a certain  
13 sentence doesn't make the guilty plea involuntary. And so Your  
14 Honor, we would ask that you deny Mr. Jessup's PCR petition.

15 THE COURT: Alright. And I have had a chance to  
16 review the transcript from the plea hearing on, I just lost the  
17 page, I'm sorry, on July 18th, 2023. I mean, it's, I think the  
18 record's very complete as far as advising him of his rights, he  
19 did not object to any of the facts there that day. And I  
20 believe, and so it boils down to was he promised anything, and  
21 actually what he testified to is this is at first that this is  
22 your best opportunity to go home is consistent with what Mr.  
23 Schultz testified to that a, when Judge Knie, you could  
24 possibly get home detention and probation, but I don't think  
25 that there's nothing really to indicate that there was a

1 guarantee in that. But I believe that the, Mr. Jessup has  
2 failed to show that his plea was not voluntary with informed  
3 decision, and I'm going to deny the petition and ask the State  
4 to prepare an order.

5 MR. HALL: Yes, Your Honor, when would you like that  
6 order by?

7 THE COURT: Tomorrow? No. I mean, what kind of  
8 schedule are you on now?

9 MR. HALL: We ask for 30 days, Your Honor.

10 THE COURT: That's good. Make sure you send Mr.  
11 Richey a copy.

12 MR. RICHEY: Thank you, Your Honor.

13 MR. HALL: Thank you, Your Honor.

14 (Whereupon the hearing ended at 2:10 pm.)  
15  
16  
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25



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	FOR THE SEVENTH JUDICIAL CIRCUIT
	)	
Travis Jessup, SCDC #281842,	)	Case No. 2024-CP-42-00456
	)	
Applicant,	)	<b>ORDER OF DISMISSAL</b>
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

This matter is before the Court pursuant to an application for post-conviction relief (“PCR”) filed by Travis Jessup (“Applicant”) on February 2, 2024. November 18, 2024, an evidentiary hearing convened before the Honorable Perry H. Gravely. Applicant was present and represented by Rodney W. Richey, Esquire. Assistant Attorney General Bryan T. Hall represented Respondent. At the hearing, Applicant testified on his own behalf and called as a witness E. Joshua Schultz, Esquire. Respondent did not call any witnesses. Following a thorough review of the plea transcript and the testimony and evidence presented at the evidentiary 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 South Carolina Department of Corrections (“SCDC”) serving a ten (10) year sentence. In its April 2021 and May 2022 terms, the Spartanburg County Grand Jury indicted Applicant for two (2) counts of attempted murder (2021-GS-42-1339), possession of a weapon during the commission of a violent crime, and possession of an adulterant intended to defeat a drug test (2022-GS-42-2524). The charges arose from an incident in which Applicant shot at the victim, his ex-girlfriend, and another person. The victim identified Applicant as the shooter without hesitation.

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On July 18, 2023, Applicant pled guilty before the Honorable Grace Knie. E. Joshua Schultz, Esquire, (“Counsel”) represented Applicant. Assistant Solicitor James Hunter prosecuted the case. In exchange for his plea, one (1) count of attempted murder was nolle prosequi, and Applicant pled guilty to assault and battery of a high and aggravated nature (“ABHAN”), the lesser-included offense. For ABHAN, Judge Knie sentenced Applicant to twenty (20) years suspended to ten (10) years followed by five (5) years of probation with probation to terminate upon payment (“PTUP”) after 3 years of full compliance. Pursuant to a negotiated sentence, Judge Knie sentenced applicant to time served for the possession charge. Applicant did not appeal.

#### CURRENT APPLICATION

Applicant timely commenced this PCR action on February 2, 2024, alleging he is being held in custody unlawfully for the following reasons:

##### **Ineffective Assistance of Counsel**

Counsel informed Applicant that he would get probation or home detention.

##### **Actual innocence**

On October 3, 2024, Respondent filed a Return. Before this Court are the Spartanburg County Clerk of Court records of the subject conviction; Applicant’s records from SCDC; the plea transcript; and the records of the current PCR action.

#### TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING

##### *Applicant’s Testimony*

At the evidentiary hearing, Applicant averred that he never reviewed discovery with Counsel but discussed the evidence with Counsel. Applicant testified that the victim recanted her statement, which was favorable to Applicant’s case and the basis for Applicant wanting a trial. Applicant testified that he could not tell the plea judge that he was not happy with Counsel because Counsel told Applicant the judge would throw the plea out. Applicant testified that Counsel told

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him that pleading guilty would be his best opportunity to get home detention or probation. Applicant testified that he never intended to plead guilty but pled because of Counsel's advice that it was his best opportunity to go home. Applicant testified that he would not have pled guilty and would have gone to trial.

*Counsel's Testimony*

E. Joshua Schultz ("Counsel") testified that he met with Applicant at least five (5) to six (6) times during representation and felt that he met with Applicant sufficiently. Counsel testified that he reviewed discovery with Applicant, which included a statement by the victim identifying Applicant as the shooter, incident reports, Applicant's recorded statements, photos of injuries, and body cam footage. Counsel testified that there was not a lot of physical evidence in Applicant's case. Counsel testified that the victim later recanted her statement in May 2022. Counsel testified that Applicant wanted a jury trial initially and was placed on the trial docket, but Applicant later decided to plead guilty. Counsel testified that the solicitor offered Applicant a plea to ABHAN, and a negotiated sentence of time served for attempting to defeat a drug test; Applicant was originally indicted for two (2) counts of attempted murder. Counsel testified that trial would have been difficult [to win] but his defense strategy was to discredit the victims' credibility. Counsel testified that Applicant decided to plead guilty, and Counsel advised him that probation and house arrest were possible but did not promise that. Counsel testified that it is possible that Applicant rejected going to trial because he believed he could receive a probationary sentence. Counsel testified that he advised Applicant of his constitutional rights including his right to a jury trial, right to confront witnesses, and right to remain silent.

CLERK OF COURT  
SPARTANBURG COUNTY  
AMY W. COX  
**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has had the opportunity to review the plea transcript in its entirety and has heard

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the testimony at the PCR hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony. After a careful review based on the *Strickland* standard set forth 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**

In a PCR action, an applicant bears the burden of proving the allegations. Rule 71.1(e), SCRCPC; *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). An applicant alleging ineffective assistance of counsel must prove "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668 (1984); *Butler*, 286 S.C. at 441, 334 S.E.2d at 813. "The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases." *Watson v. State*, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Butler*, 286 S.C. at 441, 334 S.E.2d at 813. An applicant must overcome this presumption to receive relief. *Cherry v. State*, 300 S.C. 115, 386 S.E.2d 624 (1989).

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*, 466 U.S. at 687-88; *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625. Applicant must prove prejudice by showing "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.

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“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).

This Court finds Applicant failed to prove Counsel was ineffective in advising him prior to his guilty plea. This Court finds *credible* Counsel advised him that probation and house arrest were possible, but Counsel did not promise that. Counsel’s testimony is corroborated by Applicant’s testimony that Counsel told him that pleading guilty was his “best opportunity” to get a house arrest sentence as opposed to trial. This Court finds Applicant failed to overcome the presumption that Counsel rendered adequate advice at the time he decided to plead guilty. *Padilla v. Kentucky*, 559 U.S. 356, 372 (2010) (counsel is presumed to have rendered competent advice at the time their clients considered pleading guilty). This Court finds *credible* Counsel’s testimony that it was Applicant’s decision to plead guilty. This Court finds Counsel’s performance and advice were reasonable under prevailing professional norms and thus, were not deficient.

Further, this Court finds that Applicant failed to prove that but for Counsel’s advice, he would not have pled guilty and would have insisted on going to trial because this Court finds that the determinative factor in Applicant’s decision to plead guilty was the possibility of home detention or a probationary or sentence. This Court finds *credible* Counsel’s testimony that it is possible that Applicant rejected going to trial because he believed he could receive a probationary sentence. Thus, Applicant failed to meet his burden.

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**Involuntary Plea**

In a PCR action, an applicant bears the burden of proving the allegations. Rule 71.1(e), SCRCF; *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). “To be knowing and voluntary, a plea must be entered with an awareness of its consequences.” *Holland v. State*, 322 S.C. 111, 113, 470 S.E.2d 378, 379 (1996). “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 v. State*, 376 S.C. 130, 138, 654 S.E.2d 870, 874 (Ct. App. 2007).

This Court finds Applicant failed to prove his guilty plea was made involuntarily. This Court finds that the record reflects Applicant pled guilty with a full understanding of the charges against him, the possible sentences for each charge, and his constitutional rights. This Court finds *credible* Counsel’s testimony that he reviewed discovery with Applicant and advised Applicant of his constitutional rights. This Court finds the record from the plea colloquy establishes that Applicant pled guilty freely and voluntarily. Thus, Applicant failed to meet his burden.

**Actual Innocence**

Applicant alleged “actual innocence” in his PCR Application. This Court finds Applicant failed to meet his burden by failing to present evidence to support his claim. Accordingly, this Court denies relief.

*[Space left blank intentionally. Conclusion follows on next page.]*

ANTY W. GOX  
SPARTANBURG COUNTY  
CLERK OF COURT

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CONCLUSION

Based on the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant relief. Thus, this application is denied and dismissed with prejudice.


Should Applicant wish to secure appellate review, he must file and serve a notice of appeal within thirty (30) 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 an applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on applicant's behalf. Rule 71.1(g), SCRCP. Attention is directed to Rule 243, SCACR, for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED:**

1. This application for PCR is denied and dismissed with prejudice; and
2. Applicant must be remanded to and remain in the custody of the State.

AND IT IS SO ORDERED THIS 9 day of Dec, 2024.

Spartanburg, South Carolina

  
 PERRY H. GRAVELY  
 Presiding Judge  
 Seventh Judicial Circuit

CLERK OF COURT  
 SPARTANBURG COUNTY  
 ARY W. COX

2024 DEC 13 PM 3:40

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**WITNESSES**

SCSO

*[Handwritten signature]*

**ARREST WARRANT NUMBER**

2020A4210205411-Count 1  
2020A4210205413-Count 2

**ACTION OF GRAND JURY**

APR 02 2021

*[Handwritten signature]*

*Matthew Fowler*  
Foreperson of Grand Jury  
Date:

**VERDICT**

Foreperson of Petit Jury  
Date:

DOCKET NO. **21-GS-42-1339**

The State of South Carolina  
County of Spartanburg  
Barry Barnette, Solicitor

**COURT OF GENERAL SESSIONS**

APR 12 2021

**TERM**

THE STATE  
vs.

Travis Delveto Jessup

**Indictment for**

COUNT ONE- ATTEMPTED MURDER, COUNT  
TWO- POSSESSION OF WEAPON DURING  
VIOLENT CRIME

SC Code: 16-3-029, 16-23-490  
CDR Code: 3410, 549  
Class FEL-A & FEL-F

**FILED**

2021 APR -9 AM 10:50

CLERK OF COURT  
SPARTANBURG COUNTY  
AMY W. COX

*MP Count II only*  
*Filed to court I*  
*72-24 TEL 7/19/23*

*[Handwritten initials]*

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF SPARTANBURG )

## INDICTMENT

MAR 31 2021

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

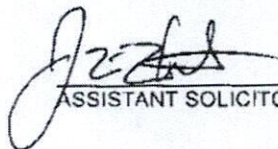
**COUNT ONE- ATTEMPTED MURDER**

That Travis Delveto Jessup did in Spartanburg County on or about October 17, 2020, with malice aforethought attempt to kill Keith Lewers, by shooting into a vehicle occupied by the victim, with the intent to kill the said victim, in violation of §16-03-0029, of *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

**COUNT TWO- POSSESSION OF WEAPON DURING VIOLENT CRIME**

That the defendant Travis Delveto Jessup did in Spartanburg County on or about October 17, 2020, visibly display a firearm and/or knife during the commission or attempted commission of a violent crime, to-wit: attempted murder, in violation of Code §16-23-490, *CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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

  
 ASSISTANT SOLICITOR

DOCKET NO. -

**22-GS-42-2524**

The State of South Carolina

County of Spartanburg

*Barry J. Barnette, Solicitor*

COURT OF GENERAL SESSIONS

MAY 23 2022

TERM

WITNESSES

SCSO

*[Signature]*

ARREST WARRANT NUMBER

2021A4210205754

THE STATE  
vs.

ACTION OF GRAND JURY

MAY 20 2022

*[Signature]*

Travis Delveto Jessup

*[Signature]*

Foreperson of Grand Jury

Date:

VERDICT

Indictment for

Defrauding Drug or Alcohol Screening  
Tests - Possession of Adulterants

SC Code: 16-13-470

CDR Code: 2667

Foreperson of Petit Jury

Date:

*[Vertical Stamp]*

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF SPARTANBURG )

INDICTMENT


At a Court of General Sessions, convened on MAY 29 2022 the

Grand Jurors of Spartanburg County present upon their oath:

**Defrauding Drug or Alcohol Screening Tests – Possession of  
 Adulterants**

That Travis Delveto Jessup did in Spartanburg County on or about November 1, 2021, unlawfully attempt to foil or defeat a drug or alcohol screening test by the substitution or spiking of a sample or the advertisement of a sample substitution or other spiking device or measure; or adulterate a urine or other bodily fluid sample with the intent to defraud a drug or alcohol screening test or possess adulterants which are intended to be used to adulterate a urine or other bodily fluid sample for the purpose of defrauding a drug or alcohol screening test; all in violation of §16-13-470, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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

  
 Assistant Solicitor