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**Aug 05 2025**

**S.C. SUPREME COURT**

**THE STATE OF SOUTH CAROLINA  
In the Supreme Court**

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**Certiorari-PCR  
APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas  
Honorable J. Cordell Maddox, Jr., Circuit Court Judge**

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**Appellate Case No. 2025-000869  
Lower Case No. 2022-CP-32-03461**

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**David Fredshun Gates, ..... Petitioner,**

**vs.**

**The State of South Carolina ..... Respondent.**

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**APPENDIX**

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**WITNESSES**

Lexington County Sheriff's Department

Dustin A Pollard

Law Enforcement Case #: 21004664

**DOCKET NO. 2021GS3203137**

**The State of South Carolina  
County of Lexington**

**ARREST WARRANT NUMBER**

**2021A3210900033**

**COURT OF GENERAL SESSIONS**

**OCTOBER TERM 2021**

**ACTION OF GRAND JURY**

**THE STATE**

**vs.**

**David Fredshun Tyrone Gates**

**TRUE BILL**

Forperson of Grand Jury  
Date: *[Signature]* 2021

**CDR #: 0287**

**VERDICT**

**Indictment for**

**Trafficking in Heroin 14 grams or more, but  
less than 28 grams**

**§ 44-53-0370(e)(3)(b)**

Forperson of Petit Jury  
Date:

**S.R. Hubbard III, SOLICITOR**

STATE OF SOUTH CAROLINA )  
COUNTY OF LEXINGTON )

INDICTMENT FOR  
Trafficking in Heroin 14 grams or more, but less  
than 28 grams

§ 44-53-0370(e)(3)(b)

At a Court of General Sessions, convened on October 2021, the Grand Jurors of  
Lexington County present upon their oath:

That David Fredshun Tyrone Gates in Lexington County, South Carolina on or about  
March 22, 2021, was knowingly and intentionally, willingly and unlawfully in actual or  
constructive possession of heroin , a controlled substance under provisions of § 44-53-  
110, et. Seq. Code of Laws of South Carolina 1976, as amended, in the amount of  
fourteen (14) grams or more, but less than twenty-eight (28) grams, in violation of § 44-  
53-370 (e)(3)(a)1, Code of Laws of South Carolina, 1978, as amended, such being the  
first offense.

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

  
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

7-25 years and \$50,000

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington

STATE

VS.

INDICTMENT/CASE#: 2021-GS-32-03137

David Fredshun Tyrone Gates

AKA: \_\_\_\_\_  
 Race: Black Sex: M Age: 34  
 DOB: \_\_\_\_\_ SS#: \_\_\_\_\_  
 Address: Wild Bird Lane  
 City, State, Zip: Gaston, SC 29053-8820  
 DL#: \_\_\_\_\_ SID# \_\_\_\_\_

AW#: 2021A3210900039  
 Date of Offense: 3/22/2021  
 S.C. Code §: 44-53-0370 (a)(b)  
 CDR Code #: 0287

SENTENCE SHEET

Negotiated  
10 years

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the above indictment comes now the Defendant who was  CONVICTED OF or  PLEADS

TO: Drugs / Trafficking in Heroin, morph., etc., 4 g or more, but less than 14 g - 1st offense

In violation of § 44-53-0370(e)(3)(a)1 of the S.C. Code of Laws, bearing CDR Code # 2381

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  § 17-25-45  
 (CSC w/minor 1<sup>st</sup> or CSC w/minor 2<sup>nd</sup>)

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury, \_\_\_\_\_ (Def.'s Initials)

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

ATTEST:  
 Solicitor [Signature] 103261 SC Bar# [Signature] Defendant [Signature] Attorney for Defendant [Signature] 7111 SC Bar#

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

for a determinate term of 10 days/months/years/Time Served  Youthful Offender Act not to exceed \_\_\_\_\_ years

and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years/Time Served and or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable; the balance is suspended with probation for \_\_\_\_\_

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

The sentence shall run

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

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

To include time spent on monitored house arrest prior to trial and sentencing.  
 The Defendant Shall be Released from County Detention Center.

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

**SPECIAL CONDITIONS:**

- PTUP after \_\_\_\_\_ months/years  
 And Other Terms Listed Below:
- Substance Abuse Counseling       Completion of GED       Random Drug/Alcohol Testing
- Attend Voc. Rehab. Or Job Corp       No Contact with Victim       Domestic Violence Intervention Program
- Mental Health Counseling       May serve W/E beginning: \_\_\_\_\_
- Sex Offender Registry pursuant to S.C. Code § 23-3-430       Public Service Employment \_\_\_\_\_ days/hrs
- Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- Other: \_\_\_\_\_

- RESTITUTION:     Deferred     Def. Waives Hearing     Ordered

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

Payment Terms: \_\_\_\_\_  Set by SCOPPS

Recipient: \_\_\_\_\_

**\*Fines:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning		\$ _____
§14-1-206 (Assessments 107.5%)		\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ _____
§56-5-2895 (DUI Assessment)	\$12	\$ _____
§56-1-288 (DUI Breath Test)	\$25	\$ _____
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25
§14-1-213 (Drug Court Surcharge)	\$150	\$ 150
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$ _____
§60-21-114 (BUI Breath Test Fee)	\$50	\$ _____
§56-5-2842(J) (Vehicle Assessment)	\$40/ea	\$ _____
3% to County (if paid in installments)	TBD	\$ _____
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$800 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ _____
<b>TOTAL</b>		<b>\$ 2769</b>

Clerk of Court/Deputy Clerk: Michelle Jones  
 Court Reporter: \_\_\_\_\_

Presiding Judge: Debra McCaslin  
 Judge Code: \_\_\_\_\_  
 Sentence Date: 1/27/2022

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF LEXINGTON

David Fredshun Gates,            )  
                   Applicant,            )  
   )  
                                   V        )  
   )  
 State of South Carolina,        )  
                   Respondent.        )  
 \_\_\_\_\_ )

2022-CP-32-3461

TRANSCRIPT OF RECORD

March 22, 2024  
Lexington, South Carolina

B E F O R E:

The Honorable J. Cordell Maddox, Jr., Judge

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

ATTORNEY FOR THE STATE:

Donald J. Zelenka, Senior Assistant Deputy Attorney General

ATTORNEY FOR THE APPLICANT:

C. Rauch Wise, Esquire

Tara T. Scott, CVR  
Official Court Reporter

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Kyle Smith

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**EXHIBITS**

(NO EXHIBITS INTRODUCED DURING THIS HEARING)

1           MR. ZELENKA: This is David Fredshun Gates v State of  
2 South Carolina. Involves an application for post-conviction  
3 relief filed on October 11, 2022. He's represented in the  
4 matter before the Court by Rauch Wise, who is present with  
5 his client. He's challenging his conviction for trafficking  
6 in heroin and sentence of ten years. Underlying this is a  
7 claim of conflict of interest due to the fact that his  
8 counsel, Stanley L. Myers, who is now deceased, jointly  
9 represented his brother, Ladarien Gates, at the plea.

10           The record shows that he was committed during the -- as  
11 a result of an indictment on October 21 term for trafficking  
12 in heroin, 14 grams or more, but less than 28 grams. And  
13 again, he was represented by Mr. Myers. On January 27,  
14 2022, he appeared before Judge McCaslin. The prosecution  
15 was represented by Kyle Smith, who is here present in the  
16 courtroom, of the Eleventh Circuit Solicitor's Office. At  
17 that time, the Court was advised that the Applicant was  
18 entering a negotiated plea to the lesser offense of  
19 trafficking in heroin, four grams or more, but less than 14  
20 grams, first offense, with a negotiated sentence of 10  
21 years. After inquiry by the parties, Judge McCaslin  
22 accepted the negotiated plea, and the Applicant was  
23 sentenced to 10 years.

24           He did not appeal from that, and as I said, he is  
25 asserting ineffective assistance of counsel against Mr.

1 Myers, asserting that his attorney had a conflict, as he was  
2 representing the brother, who is a co-defendant in the case,  
3 and he is requesting a new trial.

4 THE COURT: Yes, sir.

5 MR. WISE: We would call Mr. Gates.

6 THE COURT: Come on up, Mr. Gates, and we'll swear you  
7 in.

8 WHEREUPON, David Fredshun Gates, having  
9 first been duly sworn, testified as follows:

10 THE WITNESS: David Gates.

11 DIRECT EXAMINATION

12 BY MR. WISE:

13 A Please state your full name.

14 Q David Gates.

15 A What's your middle name?

16 A Fredshun.

17 Q And spell that for the court reporter.

18 A F-R-E-D-S-H-U-N.

19 Q All right. Mr. Gates, tell us, if you would, about  
20 your being arrested in Lexington County on some drug  
21 charges.

22 A Well, for which one?

23 Q Well, let's start with the first one.

24 A The 2017?

25 Q Right.

1 A I had got pulled over in a traffic stop, basically, and  
2 that's when I found out I even had a warrant.

3 Q All right, and when were you pulled over? About when?

4 A It had to be, like, what, 2019, 2021, then.

5 Q 2019?

6 A Yeah, probably, I think, 2019.

7 Q And were you arrested at that point?

8 A Yes.

9 Q Okay. And that was a charge of distribution of drugs?

10 A Yes, I think so.

11 Q From when?

12 A Serving undercover, I believe.

13 Q All right. From 2017?

14 A Yes, sir.

15 Q Okay. All right. Did you hire a lawyer on that?

16 A Yes.

17 Q Who did you hire?

18 A Stanley.

19 Q Give us his full name.

20 A Stanley Myers.

21 Q Stanley Myers, all right. Subsequently, was there  
22 another charge placed on you? Was there another charge  
23 later placed on you? Did you get charged again?

24 A When?

25 Q In 20 -- at the date, 2021?

1 A Yes. Yes.

2 Q And what was that charge?

3 A They had said they had a warrant for me for -- I took  
4 some drugs from my brother and gave it to the undercover,  
5 and then the undercover gave me the money to give to him.

6 Q Did that ever happen?

7 A No. And then, that's when they told me I was charged.  
8 But once I called, because I had Stanley Myers as my lawyer,  
9 once I called him, he called them and he told me to turn  
10 myself in. And that's when they gave me the other --  
11 another warrant.

12 Q That was the trafficking warrant?

13 A Yes, that was when they gave me that warrant.

14 Q And that was for drugs found where?

15 A Inside the Wild Bird.

16 Q Wild Bird?

17 A Yes.

18 Q Were you living in Wild Bird at the time?

19 A No, I was back and forth with staying there. It was a  
20 studio there, really. They should have had that on record,  
21 too. So, it was like, multiple people in and out that  
22 house.

23 Q Okay. Did your brother stay there occasionally?

24 A Yeah, occasionally he stayed there.

25 Q So, who did you hire to represent you on these later

- 1 charges?
- 2 A Stanley Myers.
- 3 Q Okay. Who did your brother retain?
- 4 A Stanley Myers.
- 5 Q Stanley Myers?
- 6 A Yes. He had Stanley Myers too.
- 7 Q Did you and your brother have any conversations with
- 8 Mr. Myers about whose drugs those were?
- 9 A Yeah. He told Stanley Myers that that was his stuff.
- 10 And Stanley Myers had -- well, he said he had done talked to
- 11 the Solicitor or whoever, and the Solicitor told him, "No,
- 12 we can't do that because David Gates is too valuable to the
- 13 State for us to take that."
- 14 Q Okay. So, Mr. Myers represented you and your brother?
- 15 A Yes, sir.
- 16 Q Did Mr. Myers ever discuss with you what we call a
- 17 conflict of interest?
- 18 A No, he never said anything about that.
- 19 Q Okay. And did he ever discuss with you the fact that
- 20 your brother was willing to take responsibility for the
- 21 trafficking charges?
- 22 A My brother told him that he would, but he never said
- 23 anything else dealing with that.
- 24 Q Okay. What did he tell you about the distribution
- 25 charges, as far as what kind of case they had against you?

1 A Oh, he said that they had a video of me making a  
2 transaction.

3 Q Did you ever see that video?

4 A No.

5 Q Okay. So, how did this plea come about for the  
6 trafficking charge?

7 A Like, he told me -- okay, when he told me that they had  
8 a video. They got you for the 2017, and that they were  
9 going to take you to trial. That they said that they were  
10 going to take you to trial for the 2017 if I ain't plead to  
11 the 10 years.

12 Q To the trafficking?

13 A Yes.

14 Q Okay. All right. Did you discuss with Stanley -- did  
15 you ever ask to look at the video?

16 A Yeah, because when I was in his office I said, could I  
17 see -- could I see, and then he just gave me some pictures.  
18 That's the only thing he gave me.

19 Q And did it show you in it?

20 A It got one picture of me in there looking back, and  
21 then the other picture was just a picture of the trailer,  
22 and the other picture was just a picture with a scale and  
23 some drugs. It looked like, well, ---

24 Q Did you ever see a picture of you handing anything to  
25 anybody?

1 A No, I didn't get no picture of me even with the drugs,  
2 period.

3 Q Did you discuss with Mr. Myers the possibility of your  
4 brother pleading guilty to the trafficking charge and you're  
5 going to trial on it?

6 A No, he ain't never said nothing about that. He never  
7 mentioned nothing about it. When my brother told him that  
8 he was -- got doggone, that the stuff was his and that he  
9 wanted to take the charge, it was nothing else said about it  
10 because he said that the Solicitor said that no, he can't do  
11 that, 'cause ---

12 Q He can't do what?

13 A He can't let my brother take the charge, because I was  
14 too valuable to the State for him just to take the charge.

15 Q So, both of you had to plea or neither one of you  
16 could?

17 A That's what I'm -- that's what I'm guessing.

18 Q Now, you understand that if the Judge grants relief in  
19 this case on a conflict of interest that you'll be back to  
20 what we call square one? All of your charges will be  
21 pending.

22 A Yes, sir.

23 Q Anything that was dismissed pursuant to a plea  
24 agreement will be reinstated.

25 A Yes, sir.

1 Q You understand that?

2 A Yes, sir.

3 Q And not withstanding that fact, do you want to get  
4 relief on this case?

5 A Yes, sir.

6 MR. WISE: Thank you. Answer any questions Mr. Zelenka  
7 may have.

8 CROSS-EXAMINATION

9 BY MR. ZELENKA:

10 Q Mr. Gates, how are you today?

11 A All right.

12 Q Did you want Stanley Myers to represent you in these  
13 matters?

14 A That's who I hired.

15 Q Why did you want Stanley to represent you?

16 A Because I suppose he was a good lawyer.

17 Q Okay. Why did you think he was a good lawyer? What  
18 was your reason for thinking that?

19 A Because, I mean, he was fixing to be a Judge and stuff,  
20 and he had done represented other folks and stuff, so I  
21 heard that he was a good lawyer for this case.

22 Q Now, at the time of your plea, did you agree that you  
23 wanted Myers to be representing you at that plea? Did you  
24 want him to be your lawyer?

25 A Yeah, he was already my lawyer.

1 Q Okay. And you clearly knew he was representing your  
2 brother.

3 A No, he didn't -- he didn't -- got doggone -- tell me  
4 that he was representing my brother. Like, literally three  
5 days before we was got -- doggone -- going to court that he  
6 told me that him and my brother had done discussed  
7 something.

8 Q Okay. Who did you think was representing your brother  
9 prior to that?

10 A I didn't know who was representing my brother.

11 Q Pardon me?

12 A I didn't know who was representing my brother, cause my  
13 brother was in jail.

14 Q Okay. You didn't communicate with your brother?

15 A No, he was in jail. He was in jail then. I ain't talk  
16 to him. He had talked to my other -- he had talked to my  
17 other brother, but I didn't talk to him.

18 Q Okay. So, when did you first realize that Stanley was  
19 representing your brother? Three days before?

20 A Yeah, like three days before is when we went to the  
21 court, and then that's when my brother told them that,  
22 "Those were my drugs and stuff. Could you talk to the  
23 Solicitor." That's when Stanley said, I guess he supposedly  
24 had talked to the Solicitor. The Solicitor told him, no, he  
25 cannot -- he can't do that.

1 Q Okay. So, three days before your plea was the first  
2 time you knew that your brother was going to assert that a  
3 the drugs that you were charged with at Wild Bird were his?

4 A Yes. Before I had even heard from Stanley, like, I had  
5 hired Stanley way back in 2020, and then when they had done  
6 -- say they busted the trailer on Wild Bird, that's when I  
7 had asked him to represent me for that too. I didn't even  
8 hear from Stanley until when it was almost 2021, the end of  
9 -- no, 2022, about that doggone time. Like I said, three  
10 days before we had to go to the first court thing, because  
11 we had went twice. First we went one time, then like, a  
12 week later we had to come back up for the plea thing.

13 Q Okay. Well, let me go back to what you were charged  
14 with at that particular time. You were charged with having  
15 drugs at Wild Bird, right?

16 A That's what they say.

17 Q And that's what you pled guilty to.

18 A That's what they say.

19 Q And you had personal possessions at Wild Bird, correct?

20 A Yeah.

21 Q And you're not denying that.

22 A No.

23 Q And you had a safe at Wild Bird?

24 A Yes, it was a safe at Wild Bird.

25 Q And what was in the safe?

- 1 A My passport and some money.
- 2 Q What else was in that safe?
- 3 A Nothing else.
- 4 Q Nothing else? Okay. What other possessions did you  
5 have at Wild Bird, other than what was in the safe?
- 6 A I mean, I had some shoes there.
- 7 Q So, you didn't know that there were drugs in that safe?
- 8 A There was no drugs in that safe.
- 9 Q Okay. Where did the drugs come from that the  
10 government tested?
- 11 A They -- it was a -- they had left a warrant in there on  
12 my counter top. They left a warrant in there on my counter  
13 top, and the warrant was for my brother. I didn't even have  
14 no warrant for me for there. They had a warrant there for  
15 my brother. And on the warrant, it said that the drugs was  
16 in room one, like that, and the safe was in room three.
- 17 Q Okay. Now, with respect to that, when did you learn  
18 that you were actually charged with Wild Bird?
- 19 A I didn't -- when I called my lawyer. No, as a matter  
20 of fact, they had went to my friend's mama's house and told  
21 her that they had a warrant for me. That's when I called my  
22 lawyer, and he told me to turn myself in that next morning.
- 23 Q Now, let me give you a copy of your guilty plea  
24 transcript. Have you read that recently?
- 25 A No.

1 Q Let me ask you to take some time, with the Court's  
2 indulgence.

3 THE COURT: Sure. Yes.

4 Q And read pages 8, 9, 10, and 11. I'll let you take  
5 your time, and you can start where --

6 A Down here?

7 Q Yeah. The paragraph that starts Mr. Smith telling the  
8 facts of the case. You don't need to read it out loud.  
9 Just let me know when you're through.

10 (WHEREUPON, witness reviews document.)

11 Q All right. Thank you. Now, it's clear from that  
12 information, from pages 8 to 10 -- actually, yeah, 8 to 10,  
13 that it was the State's version that you and your brother  
14 were working together in trafficking and distribution of  
15 heroin. You read that, didn't you?

16 A Yes, I read that.

17 Q Okay. And you also read that the State had determined  
18 that Wild Bird Lane is a registered address for you.

19 A No. I don't know how they could say that Wild Bird  
20 Lane is registered to me.

21 Q But you heard the Court ---

22 A That's what they said.

23 Q --- be told that?

24 A Yes.

25 Q And you were told that. And look at page 4 -- I

1 believe it's page 4 -- where you're placed under oath and  
2 told to tell the truth. Page 4, 15 through 21.

3 A Yes, I read that.

4 Q It said you were placed under oath and you were sworn  
5 to tell the truth, correct?

6 A Yes.

7 Q And at that time, you knew you were going to court and  
8 proceeding together, with your brother, on entering the  
9 negotiated pleas. Your brother for the one incident, and  
10 you for having the drugs at Wild Bird Lane. You knew that  
11 at the time you were entering this plea, didn't you?

12 A Yeah.

13 Q All right. And then, as you've read, once again under  
14 oath, you told the Judge at page 11, line 16 through line  
15 20. "You heard the Solicitor," that's the Court asking you,  
16 "Do you agree with those facts?" And you said, "Yes."

17 A You said lines 15 to what?

18 Q Through 20.

19 A Okay.

20 Q Told the Court you agreed with those facts. While you  
21 were under oath, while you were sworn to tell the truth.  
22 You also told the Court -- and you can look at page 8 if you  
23 want to, but that you were pleading free and voluntary to  
24 those charges. You were satisfied with the services of your  
25 lawyer, Mr. Myers, at that time.

1 A Uh-huh.

2 Q And that you knew you and your brother were both being  
3 charged to be involved in trafficking in these particular  
4 drugs.

5 A Uh-huh.

6 Q You understood that, didn't you? And you told the  
7 Court you were agreeing with it.

8 A Uh-huh.

9 Q And at that time, you weren't in an antagonistic  
10 position with your brother, were you? You knew that what he  
11 was saying, he was responsible for it, and by agreeing with  
12 the facts, you said, yeah, that's correct, and you said what  
13 you were responsible for.

14 A They told that we were responsible for the same thing.

15 Q Right. Together.

16 A Yeah, they told us that we both was responsible for the  
17 drugs in the house, yeah.

18 Q That's right.

19 A Uh-huh.

20 Q That's right.

21 A Uh-huh.

22 Q And you were in agreement with that?

23 A Yes.

24 Q Okay.

25 A Because Stanley Myers had told me that if I didn't,

1 then they was going to give me 25 years, because they said  
2 they had me on the video from 2017, if I go to trial.

3 Q Let me go back. Before, you claim you learned for the  
4 first time, three days before -- was it three days before  
5 the guilty plea?

6 A Something like that, yes.

7 Q That your brother was also represented by Myers. Were  
8 you ever indicating that you wanted to testify against your  
9 brother?

10 A My brother had told them plainly that that was his  
11 stuff. He had told them that it was. He told my lawyer.  
12 He told the lawyer that.

13 Q Bear with me. Did you ever tell Mr. Myers you were  
14 willing to testify against your brother?

15 A He never came to me with nothing like that.

16 Q Pardon me?

17 A He never said anything like that to me. I told you  
18 what he told me when he told me, when my brother told him  
19 that the drugs were his what he said. He said the Solicitor  
20 said they ain't going to do that.

21 Q Okay. Did you ever tell Mr. Myers -- just listen  
22 carefully -- that you wanted to testify against your  
23 brother?

24 A He never asked me nothing like that, so that  
25 conversation never came up.

1 Q Okay. So, you were basically in agreement, at the time  
2 of the plea, that you were both involved together in the  
3 trafficking?

4 A Because after -- like I said, after he told the lawyer  
5 that it was his stuff, the lawyer went to the Solicitor and  
6 asked him, and he told him, no, they're not going to do  
7 nothing like that.

8 Q Okay. At that time, were you involved in any drug  
9 activity?

10 A No, I wasn't. I was working, as a matter of fact. I  
11 was working at Snyder Electric.

12 Q And that's what you told Mr. Myers?

13 A Yeah, I told him that I was working at Snyder Electric.  
14 He knew I had a job at Snyder Electric.

15 Q Okay. But in court, you told the Court that you were  
16 involved in drug activity. You agreed with the State's  
17 version.

18 A Because, again, I say, they told me if I didn't take  
19 the plea, I was going to do 25 years. So, at that time, it  
20 looked more reasonable to take the plea than do 25 years.

21 Q Okay. Did you tell that to the Court?

22 A No.

23 Q Okay. You knew at the time you were going to get 10  
24 years, correct?

25 A Yeah.

1 Q And your brother was going to get 10 years, correct?

2 A That's what he said, yeah.

3 Q For their role and responsibility. And you learned  
4 that from Mr. Myers, correct?

5 A Yeah.

6 Q And you learned that from the prosecutor at the time of  
7 the guilty pleas, correct?

8 A Yeah, that's what the prosecutor said. That's what the  
9 Solicitor...

10 COURT REPORTER: I'm sorry, I couldn't hear you.

11 A Oh, that -- yeah, that's what the Solicitor had said.

12 MR. ZELENKA: I have no further questions.

13 MR. WISE: I have no further questions. Ladarien, Mr.  
14 Gates, you can come down here.

15 WHEREUPON, Ladarien Gates, having  
16 first been duly sworn, testified as follows:

17 WITNESS: Ladarien Gates, G-A-T-E-S.

18 DIRECT EXAMINATION

19 BY MR. WISE:

20 Q Give us your middle name, too.

21 A Quentaro.

22 Q And spell that.

23 A Q-U-E-N-T-A-R-O.

24 Q All right. Mr. Gates, you are the brother of David  
25 Gates?

1 A Yes.

2 Q Okay. Back in, I believe, March or April of 2021, were  
3 you arrested on a drug trafficking charge?

4 A Yes, sir.

5 Q All right. And who did you ultimately get to represent  
6 you on that charge?

7 A Stanley L. Myers.

8 Q All right. And do you recall about when you retained  
9 him? It doesn't have to be the exact date, but just  
10 approximately.

11 A Stanley had been retained since, really, 2020. 2020.

12 Q You had some other charges?

13 A Yes, sir.

14 Q Okay. So, he had represented you on other charges?

15 A Yes, sir.

16 Q Okay. And was your brother also arrested on these same  
17 charges?

18 A Yes, sir.

19 Q All right. What did you tell Mr. Myers about the  
20 involvement of your brother in any of these charges? Not  
21 any of them. In regards to the trafficking charge found on  
22 Wild Bird Lane.

23 A I told Stanley that my brother had nothing to do with  
24 the drugs, and I really wanted to take all the charges,  
25 because he really had nothing to do with it.

1 Q And what did Mr. Myers tell you?

2 A Stanley said, "Let's go into the courthouse," because  
3 we were in the parking lot at the time. He said, "Let's go  
4 into the courthouse." So, we went in. We went upstairs.  
5 Me and my brothers was talking to each other, and Stanley  
6 stepped off into one of the conference rooms here. And I  
7 left from beside my brothers and went in there with Stanley,  
8 you know, and he said he was on the phone with the Solicitor  
9 or whoever. And he said he had me sitting there and that I  
10 was willing to take all the charges, because David had  
11 nothing to do with it.

12 Q You heard him say that on the phone?

13 A Yes, sir.

14 Q Okay. And what happened after that?

15 A He got off the phone, and we all got back together, and  
16 he said that they said that they wouldn't do it. That David  
17 would not get off that easy. That's what they said, that he  
18 would not get off that easy. That he was either going to  
19 take the same 10 that I was offered, or they were going to  
20 take him to trial and give him the max.

21 Q Okay. So, what was -- did Mr. Myers ever discuss with  
22 you that you were entering a plea independent of David?

23 A Yes.

24 Q Was the State going to permit that?

25 A Yes.

1 Q All right. So, did Mr. Myers ever discuss with you the  
2 fact that there would be a conflict between the two of you  
3 if you were taking the drugs and David was saying they  
4 weren't mine?

5 A Not at all.

6 Q All right. Do you realize that if -- were you ever  
7 going to go to trial?

8 A No, I was never going to go to trial.

9 Q You recognize --

10 A Yeah, I knew I was going to prison.

11 Q Okay. That was a foregone conclusion?

12 A Yes, sir.

13 Q Okay. And did you ever discuss with the Assistant  
14 Solicitor any conflict between you and Mr. Myers with  
15 representing David?

16 A Not at all. We never spoke to -- to my knowledge we  
17 never spoke to anybody other than Stanley himself.

18 Q Okay. And did you ever sign any documents waiving any  
19 conflict of interest or anything like that?

20 A Not that I know of.

21 MR. WISE: Thank you very much. Answer any questions  
22 Mr. Zelenka has.

23 THE WITNESS: Yes, sir.

24 CROSS-EXAMINATION

25 BY MR. ZELENKA:

1 Q Mr. Gates, you entered a guilty plea that same day as  
2 your brother, correct?

3 A Correct.

4 Q And prior to that plea, at some point, how close to the  
5 time of the plea did you and your brother have that  
6 conversation with Stanley Myers in the courthouse?

7 A I think he told us about the plea before we even had,  
8 like, went to court, where we went to the courthouse and he  
9 was going to speak to the Solicitor about the plea, or  
10 whatever. And I was never - like, I had already spoke to  
11 him about it at one point about, you know, the whole, David  
12 had nothing to do with it, but he just -- he dismissed a lot  
13 of things.

14 Q Who's "he"?

15 A Stanley.

16 Q Stanley?

17 A Yeah.

18 Q Okay. Was that -- was your discussion with your  
19 brother and Stanley that you referred to, was that three  
20 days before, or was it a couple weeks before?

21 A When I first -- I think when I first got out of jail  
22 and, you know, Stanley was coming to visit me or whatever,  
23 and I spoke to him and I was like, "Look, my brother had  
24 nothing to do with this." And he was like, "We'll deal with  
25 that later."

1 Q Okay. Did you know Stanley was also representing your  
2 brother?

3 A Yes, I did.

4 Q And when did you -- how long did you know that Stanley  
5 was representing your brother? Was it right after your  
6 arrest?

7 A Yeah. I mean, I -- well, yes, yes, yes, yes. Right  
8 after the arrest, yeah.

9 Q And what type of communication did you have with your  
10 brother after that arrest where y'all were charged with the  
11 incidents, including Wild Bird?

12 A Well, he wasn't -- David was never on the case that --  
13 the other cases I had. He had nothing to do with those at  
14 all. He was on this case, like, this particular case.

15 Q Okay. Did you have any discussions with him after your  
16 arrest?

17 A With David?

18 Q Yes.

19 A Yeah, he was like, "Glad you're home," you know, "Stay  
20 out of trouble." I got a job. I was working, and that was  
21 pretty much it.

22 Q Did you have discussions with him about Stanley Myers  
23 representing?

24 A No, nothing about Stanley other than when he was like,  
25 it's time to go meet Stanley, because Stanley wanted to meet

1 us or whatever.

2 Q Okay. When you were talking to Mr. Myers, did you ever  
3 indicate to Mr. Myers that you wanted to testify against  
4 your brother?

5 A Never.

6 Q Okay.

7 A Never. Not once, never said nothing like that.

8 Q So, you always wanted to testify for your brother?

9 A Right.

10 Q Correct?

11 A Right.

12 Q And you didn't -- did you ever have any indication that  
13 your brother wanted to testify against you?

14 A No, never.

15 Q Okay. So you were -- as far as you know, you both were  
16 in agreement with that theory of the case, correct? All the  
17 drugs essentially were yours. Your brother didn't have any  
18 involvement in the drugs, other than the fact that ---

19 A Well, there was never no conversation about that until  
20 that day we were standing outside the courthouse. He had no  
21 idea that I even was going to even say anything like that.  
22 I said it out of the blue.

23 Q So, what would he have thought you were going to say?

24 A We were initially coming to the courthouse to speak to  
25 them about, you know, taking a plea. But like I told you, I

1 told Stanley that my brother had nothing to do with it a  
2 while back, and he just dismissed the whole thing. So, once  
3 again, in front of my brother, I brought it up again, and  
4 that was when he was like, okay, "Well, let's just go call  
5 the Solicitor."

6 Q Okay. Let me back up a few steps. So, at the time of  
7 your arrest, it was your feeling that this case was always  
8 going to be correctly that all the drugs that were found at  
9 Wild Bird were yours.

10 A Because that's the truth.

11 Q Okay. And did your brother know that the drugs at Wild  
12 Bird were your drugs?

13 A Say that again.

14 Q Did your brother know that the drugs that were found at  
15 Wild Bird were your drugs?

16 A I mean, no. I initially stay over there from time to  
17 time when I was arguing with my girl. So, I just go over  
18 there, and I put my stuff up, and I had meant to go back and  
19 get it, but, you know, all this extra stuff happened.

20 Q Okay. And who usually stayed at Wild Bird?

21 A Me, him, my cousins, you know, a few people.

22 Q Did your brother stay there?

23 A Who?

24 Q I'm sorry.

25 A Did my who?

- 1 Q Did your brother stay there?
- 2 A From time to time, yeah, but most of the time he stayed  
3 elsewhere.
- 4 Q Did your brother have access to the safe?
- 5 A To the safe? I initially knew nothing about no safe,  
6 so if they found a safe, it had nothing to do with me, and I  
7 don't know whether he knew about a safe or not.
- 8 Q Do you remember -- and you can look, if you've got the  
9 transcript right there in front of you, at page 8, 9, and  
10 10. You indicated, or it was indicated, that both you and  
11 your brother were involved with trafficking in drugs.
- 12 A Well, that's a lie. I was involved in trafficking in  
13 drugs, but David had nothing to do with that.
- 14 Q And look at page 10. Right around page 12 to 15, where  
15 it said, "From this investigation by law enforcement, we do  
16 believe it's clear that the Gates brothers were working  
17 together in trafficking and distribution of heroin." Did  
18 you read that?
- 19 A On what page you said?
- 20 Q Page 10.
- 21 A Okay, I was looking at that.
- 22 Q Lines 12 through 15.
- 23 A Yeah, but we never -- that's not true.
- 24 Q That's not true?
- 25 A We weren't working together to sell anything.

1 Q All right. Well, page 11, while you were under oath,  
2 you told the Judge it was true, that you did agree with  
3 those facts.

4 A I told the Judge what?

5 Q Let me point it out to you.

6 A When was this? Because I don't remember nothing like  
7 this. I didn't agree never that me and him was working on  
8 nothing.

9 Q All right. So, are you saying the Court Reporter ---

10 A What I'm telling you is, when we accepted our plea,  
11 that was pretty much it, but I never said nothing about me  
12 and him working together to sell no drugs.

13 Q No, you said you agreed with the facts, and those are  
14 the facts that were just said to the Court at the time of  
15 the plea to provide a basis.

16 A Oh, yeah, because at that point, we felt as if we had  
17 no choice, no other options. We were just put against the  
18 wall. They said that they weren't going to -- what we were  
19 told by Stanley was that they said that if we didn't take  
20 the plea, as far as that goes, you know, he was going to go  
21 to trial and get the max, and I would get more than 10  
22 years.

23 Q And you were facing mandatory 25.

24 A Seven to 25, right.

25 Q Okay. So, that was a choice.

- 1 A Okay.
- 2 Q But that didn't require you to lie while you were being  
3 asked those questions under oath, did it?
- 4 A I mean, I felt like my back was against the wall. I  
5 had no choice. Stanley advised me to do that.
- 6 Q Okay. Well, you were both doing it together?
- 7 A Doing what together?
- 8 Q You were pleading together.
- 9 A Yeah, we took a plea.
- 10 Q Yeah, you were both in agreement that that was in both  
11 of your best interests to do that.
- 12 A Yeah, because Stanley advised us to.
- 13 Q Okay. Did you ever get an impression that Stanley was  
14 -- when you were told that, was there ever, if one doesn't  
15 plead the other one can't plead? In other words, you  
16 indicated initially that early on you were told that you  
17 were going to have a ten-year-offer. Is that correct?
- 18 A Right.
- 19 Q Before that meeting.
- 20 A He told us both at the same time.
- 21 Q He told you both at the same time?
- 22 A Yeah, that we was offered a ten-year-sentence. We were  
23 sitting in his office or whatever.
- 24 Q And did you say, "No, I want to go to trial?"
- 25 A No. I never was going to go to trial.

1 Q Okay. And why is that?

2 A Because I knew that I was guilty for what I was charged

3 for.

4 Q But you were never asked or suggested that you should

5 testify against your brother, were you?

6 A No.

7 Q And you would have never testified against your

8 brother, would you have?

9 A Not at all.

10 Q And it was never part of any plea offer that you would

11 have to testify against your brother, was it?

12 A No.

13 Q And when you were meeting with Stanley, Stanley never

14 told you that you had to plea, otherwise your brother

15 wouldn't be able to plea, did he?

16 A No.

17 Q It was your choice to plea, and in any discussions you

18 had, it was also your brother's choice whether he wanted to

19 plea.

20 A Yeah, it was my choice to plead to ten years.

21 MR. ZELENKA: I think that's all I have.

22 MR. WISE: That's all I have.

23 WHEREUPON, April Muller, having first

24 been duly sworn, testified as follows:

25 DIRECT EXAMINATION

- 1 BY MR. WISE:
- 2 THE WITNESS: April Muller, M-U-L-L-E-R.
- 3 Q Ms. Muller, where do you live?
- 4 A At 111 China Berry Lane in Cayce.
- 5 Q Did you own the house where these drugs were found on
- 6 Wild Bird Lane?
- 7 A Yeah.
- 8 Q All right. Basically, what kind of a house was it to
- 9 you?
- 10 A Well, it was initially a studio in it.
- 11 Q A studio of what type?
- 12 A Like music. They do music. A few of them do music, so
- 13 that's all was supposed to be in there.
- 14 Q Okay. Occasionally, did Ladarien stay there?
- 15 A Yeah.
- 16 Q Occasionally, did David stay there?
- 17 A Yeah, different family members stay there.
- 18 Q All right. Let me back up a little bit. Where do you
- 19 work?
- 20 A I drive trucks, and I work at Alvin S. Glenn Detention
- 21 Center.
- 22 Q All right. And how long have you been doing both?
- 23 A I've been doing Alvin S. Glenn Detention Center for 12
- 24 years, and I've been driving trucks since 2017.
- 25 Q 2017, so roughly seven years now?

- 1 A Right.
- 2 Q Long-haul truck driver?
- 3 A Yes.
- 4 Q Okay. Were you -- and how long -- how have you come to
- 5 know the Gates brothers?
- 6 A I became friends with them in 2008.
- 7 Q So, you've known them a number of years?
- 8 A Yeah.
- 9 Q Any kin to them?
- 10 A No.
- 11 Q Just -- how would you describe your relationship with
- 12 them?
- 13 A I've been real -- I've been close friends with all of
- 14 them, but, you know, they used to stay in, like, my grandma
- 15 neighborhood, so yeah.
- 16 Q Were you present when they met with Mr. Myers?
- 17 A Yes.
- 18 Q Tell us what you recall happened at that meeting, and
- 19 when was this in relation to the plea?
- 20 A Okay, first they was told to come up here to find out
- 21 if they was going to take a plea or trial. So, he asked the
- 22 Court for more time so he can talk to both of them and speak
- 23 with the Solicitor, so the judge granted more time. I want
- 24 to say maybe it was like four -- maybe like, four days
- 25 later, he called them to the office and was like, he told

1     them that nothing wasn't going to be processed until April,  
2     but at this time it was January, and Ladarien had just got  
3     out of jail. I want to say either a few days before  
4     Christmas or around Christmas, so he wasn't even out like a  
5     month. So, whenever we met at the office, he had told them  
6     that he had to go -- he had to go schedule to go see a video  
7     of the 2000 -- speaking on David's part. He said that he  
8     had to go see a video. He went to go see a video at the  
9     Solicitor office, and that he may have to cut his hair,  
10    because he may have to go to trial, and that if he go to  
11    trial they got him on the video. And that he, like,  
12    basically catch the max, 25. Twenty-five to 30 I want to  
13    say he said.

14    Q     What did you hear told to Mr. Myers by Ladarien Gates  
15    as to whose drugs these were?

16    A     Darien told him right out there, right by the window,  
17    that he was taking them. That they was his.

18    Q     They were his? All right. And do you remember what  
19    Stanley's reaction to that was?

20    A     He told us that he had to go let them know. He would -  
21    - yeah, let the Solicitor. He said let me go talk to  
22    Solicitors, and -- or the Solicitor, or somebody he say he  
23    had to go speak to about it.

24    Q     Okay.

25    A     So, he came back.

1 Q Fair to say you assumed it was the Solicitor?

2 A Yeah, because he came back and he was like no, they  
3 said that they wasn't -- they couldn't do that.

4 Q Couldn't -- one of them couldn't take it?

5 A Yeah, one of them couldn't take it. And he also told  
6 us the same thing in the office, and he was like, well, they  
7 want two people. And he was like, due to the fact that  
8 that's your house it's either going to be you or him. Him  
9 or you, like, basically putting me in it, and I never be  
10 there.

11 Q Did you ever hear Mr. Myers ever discuss any conflict  
12 of interest with either one of the Gates?

13 A No.

14 MR. WISE: Thank you. Answer any questions Mr. Zelenka  
15 may have.

16 CROSS-EXAMINATION

17 BY MR. ZELENKA:

18 Q I'm sorry, I didn't get the spelling of your last name.

19 A Muller, M-U-L-L-E-R.

20 Q I've got a lawyer that works in my office with the same  
21 name, so I should have picked it up a little bit better, I  
22 apologize. So, you own 128 Wild Bird Lane?

23 A Yes.

24 Q And the brothers both stayed there?

25 A No. Well, it's a few. It's his sister, a few of them

1 done stayed there, like, stay there. Even my kids.  
2 Different people done stayed there. I have another mobile  
3 home too.  
4 Q Okay, but did you have full access to that house?  
5 A No. I mean, no, I didn't like -- do I have a key?  
6 Q Yeah.  
7 A No, I gave three people a key at that time, but I done  
8 changed the locks now. So, yes, I do now.  
9 Q Okay, but at the time you had access to the whole  
10 house, right?  
11 A No, I didn't. I didn't have a key. I was on the road.  
12 I didn't have a key to it. Not at that time.  
13 Q So, you didn't know who was putting drugs in the house?  
14 A No, because it wouldn't happen.  
15 Q Pardon me?  
16 A No, because that wouldn't have happened.  
17 Q It wouldn't have happened, but it did happen.  
18 A Right.  
19 Q And who did you -- why were you in a meeting, in a  
20 lawyer meeting, with the brothers and Stanley Myers? What  
21 was your reason to be there?  
22 A Because I had drove them.  
23 Q You drove them?  
24 A Yeah, because I wanted to know everything that went on  
25 at that residence.

1 Q Why did you think you were entitled to know everything  
2 that went on?

3 A Like I said, I drove them. I wasn't entitled. I mean,  
4 if he wouldn't have talked to me in front of them, but due  
5 to the fact that, you know, that was my mobile home, I drove  
6 them. I brought them to the court.

7 Q Okay, but why were you in the meeting with Mr. Myers  
8 and the brothers' discussion with their lawyers about the  
9 case?

10 A He just told me to come in. In the office, he told me  
11 to come in, and then when I was sitting with them out there,  
12 he just walked up to us.

13 Q Okay, and how did you overhear a phone call between the  
14 brother -- excuse me, the brothers' lawyer, Mr. Myers, and  
15 what you assumed was the Solicitor? Why were you ---

16 A No, I didn't overhear a conversation. I didn't hear a  
17 phone call. He walked off from where I was. He walked off  
18 and said he was ---

19 Q "He" being Stanley?

20 A Yes. Stanley walked off and told me that -- told us  
21 that he was going to speak with him about it.

22 Q Okay, but were you in a room then with both the  
23 brothers?

24 A We were sitting out there on the bench, like on the  
25 open. It was on the open.

- 1 Q All right.
- 2 A We weren't behind doors, but at his office, we was  
3 behind doors.
- 4 Q Okay, when were you at his office?
- 5 A It was like, maybe like, three days later.
- 6 Q Okay, and were you at the guilty plea?
- 7 A That's when he told them what they was -- what they was  
8 offered.
- 9 Q Okay, so three days later from when you were with them,  
10 was that at the courthouse the first time?
- 11 A Yeah.
- 12 Q Okay, so you were at the courthouse, then three days  
13 later they learned what the Solicitor was going to offer?
- 14 A Yes.
- 15 Q Okay, and that took place at Stanley's office?
- 16 A Yes.
- 17 Q Okay, and how close was that to the time that they  
18 entered the guilty plea?
- 19 A Talking about in front of the court?
- 20 Q Uh-huh.
- 21 A I want to say that happened like the 26th. It was --  
22 everything happened in the month of January. Everything, so  
23 I'm not accurate on all the dates, but I know everything  
24 happened in, after like, January the 5th. Between the 5th  
25 and the 26th.

1 Q Okay, why do you know January 5th? Why does that stand  
2 out?

3 A No, I'm just saying because I know it wasn't like New  
4 Year's.

5 Q Okay, gotcha. And when you were at Stanley's office,  
6 were you within his room when he's talking to the brothers?

7 A Yeah, we was all sitting in there.

8 Q So, you went into Stanley's office? You weren't out in  
9 the waiting area?

10 A No, he told us all to come in.

11 Q Okay. Did -- in your presence, did either of the  
12 brothers say, "No, I don't want to plead guilty, because I  
13 had nothing to do with it?"

14 A What Ladarien kept saying, he was like -- he was like,  
15 this, it was mine. That's all he kept saying, and he said,  
16 well, this is all they told me. He handed both of them,  
17 like, a thick piece of paper. Like, a thick paper like  
18 this, and he handed it to both of them.

19 Q Did they seem to be in agreement at that time that  
20 pleading guilty would be in their best interest?

21 A Yeah, because I think they really didn't -- I don't  
22 think they really knew a lot. I mean, they didn't know too  
23 much. Like -- like I said, they was, it was some years  
24 being -- it was some years. They were saying,  
25 If you go to trial, it's a lot of years. At that time, I

1 guess, he said, "This is the best thing." He told them, he  
2 said, you know, "You can try to take it to trial, but if you  
3 plead guilty for the video you were on, they're going to try  
4 to automatic charge you for trafficking, and then you'll  
5 have all that in one." And he said, "Regardless of how it  
6 go, I'm going home."

7 Q Okay. Now, did you say something about they both had  
8 to take the plea or something, or did I misunderstand what  
9 you said?

10 A Yeah, he said, this is what -- he said, this is all  
11 they offering.

12 Q This is all ---

13 A He said, this ---

14 Q --- they offered?

15 A Yeah, he said, this is the less they offering for both  
16 -- but it got to be both of y'all.

17 Q You're saying Stanley said it had to be both of y'all?

18 A Yeah.

19 Q And what were the brothers' reactions to that?

20 A They was just reading it, the paper that he handed  
21 them.

22 MR. ZELENKA: Okay. All right, I have no further  
23 questions.

24 MR. WISE: I have nothing further. You can sit down.  
25 The Applicant rests, Your Honor.

1 THE COURT: Anything from the State?

2 MR. ZELENKA: Yes, Your Honor. The State calls Kyle  
3 Smith.

4 WHEREUPON, Kyle Smith, having first  
5 been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. ZELENKA:

8 THE WITNESS: Kyle Ernest Smith, last name spelled  
9 S-M-I-T-H.

10 Q Mr. Smith, how are you doing today?

11 A I'm doing all right. How are you?

12 Q Pretty good. What was your role in this particular  
13 matter, which ended up in a guilty plea with Ladarien Gates  
14 and David Gates on January 27, 2022?

15 A I was the assigned prosecutor for both the Gates  
16 brothers.

17 Q And as part of that responsibility, did you do any  
18 review and investigation over the facts and circumstances of  
19 the arrest dealing with the brothers?

20 A Yes, sir, I did. I reviewed both case files. I will  
21 say, you know, originally these case files were assigned to  
22 Mr. Matt Edgerton with our office, but sometime around  
23 August of that year, he was no longer with our office and  
24 both the Gates brothers' cases were reassigned to me. I  
25 looked through the files and evaluated the cases.

1 Q Okay. And at that time, generally, what were the facts  
2 and circumstances of both of the events that they were  
3 charged with?

4 A With both of the brothers generally, from our narcotics  
5 unit, I had a number of controlled buys on the brothers  
6 using confidential informants. They each had their own  
7 separate sets of charges, and based on these buys, they got  
8 search warrants to go into both 125 Wild Bird Lane and 204  
9 Wild Bird Lane. And forgive me, I can't recall which one  
10 specifically, but I know one of the addresses was registered  
11 to Ladarien. One of the addresses was registered to David,  
12 and then when they executed the search warrant at the  
13 address registered to David, they went into that safe that's  
14 been mentioned. They found a large amount of money,  
15 trafficking amounts of heroin. I believe at the time it was  
16 a field weight of 50-some grams, but when they got the  
17 testing back, it came back to somewhere between 14 and 28  
18 grams. The rest was fentanyl. They found some items  
19 belonging to Mr. David Gates to include, I believe, a  
20 passport, as well as of the cash that they found in the  
21 safe. They could trace that to buys that were conducted on  
22 Ladarien Gates.

23 Q Okay. And as a result of that information, what type  
24 of understanding did you have of who was representing either  
25 of the brothers?

1 A I knew that Stanley Myers represented both of them.  
2 Now, at some point in late 2021, I believe, and correct me  
3 if I'm mistaken, I believe that Stanley represented David  
4 first. Ladarien was represented by the Public Defender's  
5 Office, but then Ladarien also hired Stanley. But most of  
6 the time that I was working on this case, Mr. Myers was  
7 counsel of record for both brothers.

8 Q Okay. And was it ever presented to you from Mr. Myers  
9 that the defenses that the individuals would have would be  
10 antagonistic at all?

11 A You know, I can't recall for certain one way or the  
12 other. I can't definitively tell you that, yes, it was, no,  
13 it wasn't. I believe Mr. Myers may have mentioned something  
14 to me that Ladarien intended to claim all the drugs in the  
15 safe, but based on my review of the case, I believe I had  
16 sufficient evidence to proceed on that trafficking charge  
17 against both of them, and that's what I did.

18 Q And with the plea bargains offered that were given, was  
19 there any requirement or condition that they both had to  
20 take the plea offers you gave them for them to be valid  
21 against one or the other?

22 A Not to my recollection. No, it wasn't required that  
23 they both must testify on the same day. I do know from  
24 reviewing my notes that the date that they -- when I sent my  
25 lowest plea offer on January 14, 2022, they were given their

1 deadline plea offer. And I said, "If this offer is not  
2 accepted, David is going to be the first one up for trial."  
3 We had a separate warrant that we were prepping to try.

4 Q Okay. And you made a series of plea offers?

5 A Stanley and I had quite a bit of back and forth on this  
6 case and negotiation. Yes, we did.

7 Q Started in October?

8 A Yes, sir, that's correct.

9 Q Of 2021, and a plea offer was made on October 27, 2021  
10 with a January 10th deadline, is that correct?

11 A That's correct.

12 Q You extended the deadline again in that matter, and you  
13 indicated to him, at some point in time, that the  
14 confidential informant was not working off the charges. Is  
15 that correct?

16 A I did, yes. I sent that email to Stanley that the CI  
17 was not working off charges. That was on January 11, 2022.

18 Q In your negotiations with Stanley, did he ever suggest  
19 that one of the Defendants was willing to testify against  
20 the other Defendant?

21 A I don't recall any suggestions that one of the brothers  
22 was going to testify against the other in either direction.

23 Q Okay. And when you previously said testify on the day,  
24 did you mean plead guilty on the same day, in your earlier  
25 testimony?

1 A Could you repeat that question again?

2 Q It was difficult, because I'm trying to clarify  
3 something you had said previously today. How was the plea  
4 date determined for the brothers?

5 A I'm going to look at my notes, please. So, around the  
6 time of January, I was instructed by my supervisor,  
7 particularly with regard to David Gates, that he had a case  
8 pending from 2018 that we were preparing to go to trial on.  
9 And that during the month of January, there was a lot of  
10 negotiation back and forth between Stanley and myself to  
11 make sure that he had sufficient time to review the  
12 evidence, that he reviewed the CI video. He did get an  
13 extension from the original plea deadline at the end of the  
14 week of January 10th. And in one of my emails, I believe I  
15 gave him a drop-dead date of the middle of the week, around  
16 on or about January the 20th, and we agreed -- and at that  
17 point, it was agreed that they're both ready to plea. Then  
18 we ended up bringing them in, doing the plea on January the  
19 27th.

20 Q Okay. In the -- do you recall whether Mr. Myers  
21 actually reviewed the videos?

22 A He did.

23 Q And did the videos show in any way, shape, or form the  
24 Applicant in this case, David Gates?

25 A From what I can recall and from what I've reviewed in

1 recent months, the particular video, it did not show David  
2 Gates engaged in a drug transaction. However, again, my  
3 working theory of the case was that, based on all the  
4 evidence I had presented to me, based on the fact that we  
5 got warrants for both residences that are registered to the  
6 brothers, and we found a large amount of narcotics in the  
7 residence registered to Mr. David Gates, along with his  
8 belongings, as well as money traced to buys and Ladarien  
9 Gates, my working theory of the case was that they're  
10 involved together. That, at a minimum, David Gates has  
11 knowledge that his brother is moving drugs and is holding  
12 them for him. At a minimum, he's aware they're there.

13 Q Did the videos reveal an identification of Ladarien  
14 Gates?

15 A From my recollection, they do.

16 Q Excuse me?

17 A I believe they do, from my recollection. I believe  
18 Ladarien was identified. It's been a minute since I've  
19 looked at these, but from my recollection, the videos we  
20 have, the CI talking to an individual named Coop is what I  
21 recall. And Coop being a nickname for Ladarien Gates.

22 Q And what was the nickname for David Gates, if any?

23 A Slim.

24 Q At the time of the plea, you made representations to  
25 the Court about the factual basis of the case?

1 A That's correct.

2 Q And was the factual basis of the case consistent with  
3 what your more recent review of the records in preparation  
4 for this case? Were they consistent?

5 A It is.

6 MR. ZELENKA: I don't think I have any further  
7 questions. Thank you, Mr. Smith.

8 MR. WISE: Just a few.

9 CROSS-EXAMINATION

10 BY MR. WISE:

11 Q Mr. Smith, you got involved in this in August of 2021?

12 A That's right. On or about.

13 Q Just three or four months before the plea was actually  
14 entered.

15 A I'd say a little bit more than four. If I'm recalling,  
16 Matt was no longer with our office at some point in August  
17 2021. It would have taken him some time to go through his  
18 files and to figure out who was going to get what from his  
19 docket. I would be confident in saying by September I'd  
20 have known that I had the Gates brothers.

21 Q And at that time, Ladarien Gates was represented by the  
22 Public Defender's Office?

23 A I believe so, yes. I believe at that point he was  
24 still represented by the Public Defender.

25 Q When you had a discussion with Mr. Myers, and Mr. Myers

1 indicated to you that Ladarien wanted to claim all the  
2 drugs, as you recall it, words of that effect, did you have  
3 a discussion with Mr. Myers at that point that he might have  
4 a conflict in representing both of them?

5 A I did not. No, sir. I don't recall having a  
6 discussion with Mr. Myers about there being a conflict.

7 Q When you did the plea, did you think it prudent to have  
8 the Judge inquire as to whether or not there was a conflict  
9 with Mr. Myers representing both of them?

10 A I reviewed the transcript, and I know the question  
11 wasn't asked, so I can't say that I did.

12 Q If you asked for it, the Judge didn't ask it, quite  
13 obviously.

14 A Right, if it's not in the transcript, I wouldn't have  
15 asked for it either.

16 MR. WISE: Thank you. That's all I have.

17 MR. ZELENKA: Let me just do a follow-up.

18 REDIRECT EXAMINATION

19 BY MR. ZELENKA:

20 Q In the telephone call that you had with Stanley Myers,  
21 if you recall, what did Mr. Myers tell you about the role of  
22 Ladarien as opposed to the role of David Gates?

23 A I vaguely recall there being perhaps some conversation  
24 that Ladarien wanted to claim everything, but again,  
25 obviously from the way the case has played out, I think it's

1 clear from the transcript and how this turned out that I  
2 didn't accept that theory of events.

3 Q Again, as a result of that phone call, did you ever  
4 indicate to them that one would have to take the plea or the  
5 other one could not take a plea?

6 A I don't, no. I don't recall ever saying that.

7 Q Would there have been any reason for you to say that?

8 A No.

9 MR. WISE: Just one follow-up question to that.

10 RECCROSS-EXAMINATION

11 BY MR. WISE:

12 Q If Ladarien Gates had wanted to take the ten-year-plea  
13 independent of his brother, that would have been acceptable  
14 to you?

15 A It would have been.

16 Q And did you communicate that to Mr. Myers?

17 A Without any notes or writing, I can't recall if I did  
18 or not.

19 MR. WISE: Thank you.

20 MR. ZELENKA: The State has no further witnesses, Your  
21 Honor.

22 MR. WISE: Nothing further in reply. I would like to  
23 pass up to the Court two cases this time that deal with  
24 conflict of interest in this case.

25 THE COURT: When did Mr. Myers pass away?

1           MR. WISE: Last fall. I actually had several  
2           conversations with him about this case before he died.

3           THE COURT: I'll take it under advisement. I've got to  
4           take this all back. I don't have a law clerk. I'll take your  
5           file back and read it and let you know something.

6           MR. WISE: We probably should advise Mr. Gates that he  
7           is second behind 250 pages of documents that you have to  
8           read.

9           THE COURT: I've got to read all of this, and I'm not  
10          blaming anybody. It's not your lawyer's fault, but I'll get  
11          to it. And actually, I may move this one up a little bit.

12                       \*\*\*END OF REQUESTED TRANSCRIPT OF RECORD)\*\*\*

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STATE OF SOUTH CAROLINA ) In Court of General Sessions  
 ) Eleventh Judicial Circuit  
COUNTY OF LEXINGTON ) 2021-GS-32-03137

THE STATE, )  
 )  
 ) Plaintiff, )  
vs. )  
 )  
DAVID FREDSHUN GATES, )  
 )  
 ) Defendant. )  
\_\_\_\_\_ )

Lexington, South Carolina  
January 27, 2022

B E F O R E:

The Honorable Debra McCaslin

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

Mr. Kyle Smith, Esquire  
Attorney for the Plaintiff

Mr. Stanley Myers, Esquire  
Attorney for the Defendant

Recorded by: Court Monitor/ DCRP

Transcribed by: Lisa Carter, Court Reporter

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WITNESSES

PAGE

(NO WITNESSES INTRODUCED DURING HEARING)

EXHIBITS

NO.

DESCRIPTION

EV.

(NO EXHIBITS INTRODUCED DURING HEARING)

- 1
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1 THE COURT: Good morning.

2 MR. SMITH: Good morning.

3 MR. MYERS: Good morning.

4 THE CLERK: Your Honor, we have 2021-GS-32-03211,  
5 the State vs. Ladarien Gates. Indicted for trafficking  
6 heroin 4 grams or more, but less than 14 grams. He's  
7 pleading to trafficking heroin between 4 and 14 grams,  
8 first offense. That indictment has been true billed and  
9 being represented by Mr. Myers.

10 And we have 2021-GS-32-03137, the State vs. David  
11 Gates. Indicted for trafficking heroin, 16 grams or more,  
12 but less than 28 grams. He's pleading to trafficking heroin  
13 4 grams or less, first offense. That indictment has been  
14 true billed and being represented by Mr. Myers.

15 Please raise your right hand. Raise your right hand.  
16 Do you swear or affirm the testimony you give the court is  
17 the truth, the whole truth and nothing put the truth so  
18 help you God.

19 MR. GATES: Yes.

20 MR. GATES: Yes.

21 THE CLERK: You are?

22 MR. GATES: David Gates. All right. Any objections  
23 to these pleas being heard together?

24 Mr. MYERS: No, ma'am.

25 MR. SMITH: None from the State.

1 THE COURT: Okay. All right. Let me address both  
2 the Gate brothers, when I ask you a question please answer  
3 independently. Don't answer the same as the other one if  
4 you don't mean to, you understand.

5 MR. GATES: Yes, ma'am.

6 MR. GATES: Yes, ma'am.

7 THE COURT: All right. Let me ask the both of you,  
8 have you had the opportunity to talk to your lawyer about  
9 these charges, the possible penalties they carry, and all  
10 your constitutional rights, Mr. Gates?

11 MR. GATES: Yes, ma'am.

12 THE COURT: And, then, David Gates?

13 MR. GATES: Yes, ma'am.

14 THE COURT: Okay. Are you under the influence of  
15 any drugs or alcohol today, Mr. Gates?

16 MR. GATES: No, ma'am.

17 THE COURT: And Mr. David Gates?

18 MR. GATES: No, ma'am.

19 THE COURT: All right. Have you ever been treated  
20 for any type of mental illness? Mr. Gates?

21 MR. GATES: No, ma'am.

22 THE COURT: Mr. David Gates?

23 MR. GATES: No, ma'am.

24 THE COURT: Okay. Y'all understand, and I'm  
25 talking to both of you, that these drug offenses and I

1 think you're probably feeling the effects of it today are  
2 enhanced every time you get caught, the penalty goes up, do  
3 you understand, Mr. Gates? Is it Ladarien?

4 MR. GATES: Yes, ma'am.

5 THE COURT: Okay. And David Gates?

6 MR. GATES: Yes, ma'am.

7 THE COURT: And are you willing to give up all your  
8 constitutional rights, such as your jury trial, presenting  
9 a defense, your right to remain silent, the right to call  
10 witnesses and have your lawyer cross-examine the witnesses?  
11 You also have the right to testify or not to testify. All  
12 of these are your constitutional rights, do you understand  
13 that, Mr. Ladarien Gates?

14 MR. GATES: Yes, ma'am.

15 THE COURT: Mr. David Gates?

16 MR. GATES: Yes, ma'am.

17 THE COURT: At this time are you willing to give up  
18 those constitutional rights and go forward with the guilty  
19 plea, Ladarien?

20 MR. GATES: Yes, ma'am.

21 THE COURT: And David?

22 MR. GATES: Yes, ma'am.

23 THE COURT: This is for Ladarien, your indictment  
24 has been true billed. The date says March 12, 2021. You did  
25 have in your possession a quantity of heroin, which puts

1           you at the trafficking offense level. You pleading guilty  
2           or not guilty?

3           MR. GATES:        Guilty.

4           THE COURT:       All right. And Mr. David Gates, on your  
5           trafficking, both of these for both of y'all carry a  
6           mandatory minimum 7 to 25 years, do you understand that,  
7           Ladarien?

8           MR. GATES:        Yes, ma'am.

9           THE COURT:        And David?

10          MR. GATES:        Yes, ma'am.

11          THE COURT:       All right. And David your indictment  
12          has been true billed date says on March 22, 2021. You did  
13          have in your possession 14 grams but less than 28 grams  
14          also of heroin. You pleading guilty or not guilty?

15          MR. GATES:        Yes, ma'am, guilty.

16          THE COURT:        This is a negotiated plea, 10 years.  
17          That means I have to give you 10 years, you understand  
18          that, Mr. Gates?

19          MR. GATES:        Yes, ma'am.

20          THE COURT:        And Mr. Gates?

21          MR. GATES:        Yes, ma'am.

22          THE COURT:        Other than that, has anyone promised  
23          you anything, forced you, threatened you to get you to  
24          plead guilty, Ladarien?

25          MR. GATES:        No, ma'am.

1 THE COURT: David?

2 MR. GATES: No, ma'am.

3 THE COURT: Are you pleading freely and  
4 voluntarily, Ladarien?

5 MR. GATES: Yes, ma'am.

6 THE COURT: And David?

7 MR. GATES: Yes, ma'am.

8 THE COURT: Satisfied with the services of your  
9 attorney, Mr. Ladarien?

10 MR. GATES: Yes, ma'am.

11 THE COURT: David?

12 MR. GATES: Yes, ma'am.

13 THE COURT: All right. Mr. Smith, let me hear from  
14 you?

15 MR. SMITH: Thank you, Your Honor. May it please,  
16 the Court?

17 THE COURT: Yes, sir.

18 MR. SMITH: The facts, the facts presentation is  
19 going to encompass Mr. Ladarien Gates and David Gates.  
20 Your Honor, these charges stem from investigation by Agent  
21 Dustin Pollard of the Lexington County NET Team on March  
22 11th, March 12th and March 12, 2021, three controlled buys  
23 with confidential agents law enforcement were conducted on  
24 a subject known to law enforcement as Coop, Mr. Ladarien  
25 Gates. Those addresses were 3658 Fish Hatchery Road, 125

1 Wild Bird Lane, and 204 Wild Bird Lane, all of which are in  
2 the Gaston Area of Lexington County. And on all three of  
3 those instances Ladarien Gates did contribute, did  
4 distribute a quantity of narcotics to a confidential  
5 operative law enforcement. Those agents were outfitted with  
6 monitoring equipment during the transaction. They were  
7 searched before and after by negative results for any items  
8 that would compromise the search. Your Honor, on one of  
9 those buys the quantity of heroin which has been confirmed  
10 by drug analysis distributed to the informants was  
11 sufficient to fall within the threshold weight for  
12 trafficking of heroin.

13 Your Honor, as a result of these buys, Agent Pollard  
14 did obtain a search warrant for the address at 125 Wild  
15 Bird Lane and 204 Wild Bird Lane. 125 Wild Bird Lane is the  
16 registered address for David Gates. And 204 is the  
17 registered address for Ladarien. They arrived at 125 Wild  
18 Bird Lane to serve that search warrant. They made entry,  
19 cleared the house, and did execute the search warrant.  
20 During the course of that warrant they seized numerous  
21 items consistent with narcotic trafficking, scales,  
22 paraphernalia, glass jars with narcotics believed to be  
23 heroin, pill bottles, sandwich baggies, guns and  
24 ammunition.

25 Your Honor, one of, in one of the rooms during the

1 course of the search warrant they did observe an open safe.  
2 Inside of that safe was Mr. David Gates' passport, and the  
3 safe is also located in the room that of Mr. Gates, David  
4 Gates stays in. Also inside the safe was \$17,650 of US  
5 currency total as well as in that money found - they could  
6 locate bills which they documented - had come from some of  
7 the control buys. Your Honor, those drugs found in that  
8 safe were tested. It was a field weight in two separate  
9 jars what was believed to be 56 grams of heroin. However,  
10 one of the jars came back as approximately 24 grams of  
11 heroin. The other was solely fentanyl.

12 Your Honor, it is from the result -- from this  
13 investigation by law enforcement we do believe it is clear  
14 that the Gates brothers are working together in trafficking  
15 and distribution of heroin.

16 Your Honor, they're both pleading to trafficking 4 to  
17 14 grams of heroin, first offense. With their prior record  
18 and the weights involved, these are charges that would  
19 carry a mandatory 25, were they to be convicted at trial.

20 For Ladarien Gates we are dismissing a total of 13  
21 warrants with this plea including numerous distributions,  
22 trafficking, a gun charge and an unrelated failure to stop  
23 and hit and run charge. For David Gates we are dismissing 4  
24 drug charges. Your Honor, the prior record for ---

25 THE COURT: I'm looking at them. For Ladarien, and

1 I'm looking at it for David, they are kind of running neck  
2 and neck with each other, almost similar?

3 MR. SMITH: That's correct, Your Honor. This is,  
4 this is not their first go round ---

5 THE COURT: It's not.

6 MR. SMITH: --- with convictions for distribution  
7 of narcotics. You have the priors for your review, I don't  
8 think I need to belabor the point. But I will tell you that  
9 I do have Agent Burt and Agent Pollard of the Lexington  
10 County Sheriff Department here present for this plea.

11 THE COURT: I see them. Thank you for coming.

12 MR. SMITH: I don't believe they're -- y'all have  
13 anything you'd like to add to the record --- (inaudible) It  
14 is a negotiated 10, Your Honor, and these are violent and  
15 serious offenses.

16 THE COURT: I see that. All right. Ladarien Gates,  
17 you heard the solicitor, you agree with those facts?

18 MR. GATES: Yes, ma'am.

19 THE COURT: How about, David Gates?

20 MR. GATES: Yes, ma'am.

21 THE COURT: All right. I will tell you that both of  
22 these, for both of y'all, they are violent, they are  
23 serious. There's a certain combination of strikes, you  
24 know, if you get another most serious, I mean, there's a  
25 combination you can be standing up here getting a life

1 sentence, have you talked to Mr. Myers about those  
2 consequences of getting a serious, most serious, and a  
3 violent offense?

4 MR. GATES: Yes, ma'am.

5 THE COURT: Ladarien?

6 MR. GATES: Yes, ma'am.

7 THE COURT: And David?

8 MR. GATES: Yes, ma'am.

9 THE COURT: All right. I'm gonna find that there's  
10 a factual basis to accept both pleas. I'm gonna find both  
11 pleas to be freely and voluntarily given. You've had advice  
12 of excellent counsel. I'm gonna tell you I think your  
13 counsel has done you a great job. And heroin and fentanyl  
14 is killing everybody because I would've given you more than  
15 10.

16 MR. GATES: Thank you.

17 THE COURT: Okay. The sentence of the court,  
18 Ladarien Gates, you are to be committed to the Department  
19 of Corrections for 10 years. How about ---

20 MR. MYERS: He does have a substantial amount of  
21 time, of credit, Your Honor. Ladarien, how many days was  
22 it?

23 MR. GATES: (inaudible)

24 THE COURT: I will let the, check the box at the  
25 South Carolina Department of Corrections. You are entitled

1 to any time that you've serve. I'll let them calculate  
2 that.

3 How about you David Gates?

4 MR. MYERS: Two days on Mr. Gates.

5 THE COURT: Two days?

6 MR. MYERS: On David.

7 THE COURT: Okay. The sentence of the court David  
8 Gates, you too, to be committed to the Department of  
9 Corrections for 10 years and I'll give you the credit for  
10 the two days.

11 MR. MYERS: Thank you, Your Honor.

12 THE COURT: Good luck to you both. But y'all need  
13 to -- I'm telling you your prior record, don't let me see  
14 you again.

15 MR. SMITH: Thank you, Your Honor.

16 MR. MYERS: Thank you, Your Honor.

17 (CONCLUSION OF HEARING HELD ON JANUARY 27, 2022)

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FORM 5

STATE OF SOUTH CAROLINA )

COUNTY OF LEXINGTON )

David Fredshun Gates SCdC No. 00387073 )  
Full name and prison number (if any) of Applicant. )

v. )

State of South Carolina )

IN THE COURT OF COMMON PLEAS

2022CP3203461

APPLICATION FOR

POST-CONVICTION RELIEF

**INSTRUCTIONS - READ CAREFULLY**

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

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

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

1. Place of detention Kershaw Correctional Institution
2. Name and location of Court which imposed sentence General Sessions Court, Lexington County, Lexington, SC
3. Name(s) of co-defendant(s) (if any) Ladarien Gates
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2021-GS-32-03137
  - (b) \_\_\_\_\_
  - (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) January 27, 2022

2022 OCT 11 PM 2:32  
LISA M. COMER  
CLERK OF COURT  
LEXINGTON SC

FILED

- (b) \_\_\_\_\_
  - (c) \_\_\_\_\_
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty X
  - (b) after a plea of not guilty \_\_\_\_\_
  - (c) after a plea of nolo contendere \_\_\_\_\_
7. Did you appeal from the judgment of conviction or the imposition of sentence?  
No
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
    - i. 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. \_\_\_\_\_
    - 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:
- (a) The conflict of interest argument could only be raised in a Post Conviction Relief Petition. I was not aware of the legal significance of the conflict of interest issue until after the plea was entered.
  - (b) \_\_\_\_\_
  - (c) \_\_\_\_\_

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

(a) My attorney had a conflict of interest as he was representing my brother who was a co-defendant in the same crime.

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

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

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

(a) The charges against both my brother and I arose out of the same search of the same residence. I was told that my brother was going to take full responsibility for the drugs found in the house. His testimony would have exonerated me. My lawyer, therefore, could not give my brother and I the same impartial advice. As such, I was denied effective assistance of counsel in violation of Article I, sec. 14 of the Constitution of the State of South Carolina and the Sixth Amendment to the Constitution of the United States of America.

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

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

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

(a) any petition in a State Court under South Carolina Law? No

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No

(d) any other petitions, motions or applications in this or any other Court? No

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

(a) the specific nature thereof:

i. N/A

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

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

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

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

Revised 3/2003

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(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:

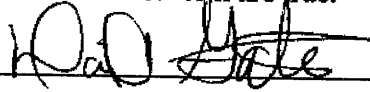
- i. N/A
- ii. \_\_\_\_\_

- iii. \_\_\_\_\_
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) The conflict of interest argument could only be raised in a Post Conviction Relief Petition. I was not aware of the legal significance of the conflict of interest issue until after the plea was entered.
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? Yes
- (b) your trial, if any? N/A
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes
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. Stanley Myers
- ii. C. Rauch Wise, 305 Main Street, Greenwood, SC 29646
- iii. \_\_\_\_\_
- (b) the proceedings at which each such attorney represented you:
- i. plea and sentencing
- ii. preparation of this Post Conviction Relief petition
- iii. \_\_\_\_\_
19. State clearly the relief you seek in filing this application:  
A new trial on all charges
20. Are you now under sentence from any other court that you have not challenged?  
No

STATE OF SOUTH CAROLINA )  
 )  
County of Kershaw )

VERIFICATION

I, David FredshunGates, 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.

  
\_\_\_\_\_

SWORN to and subscribed before me this 23<sup>rd</sup>  
day of September, 2022

Catherine A. Ormrod (L.S.)  
Notary Public

My Commission Expires: 1-22-2029



of Corrections at the Kershaw Correctional Institution, pursuant to orders of commitment from the Lexington County Clerk of Court. During an October 2021 term, the Lexington County Grand Jury indicted Applicant for trafficking in heroin 14 grams or more, but less than 28 grams. 2021GS3203137. Stanley L. Myers, Esq., represented Applicant on the charges.

On January 27, 2022, the Applicant appeared with counsel Myers before the Honorable Debra McCaslin, Presiding Judge. The prosecution was represented by Kyle Smith of the Eleventh Circuit Solicitors office. At that time the Court was advised that the Applicant was entering a negotiated plea to the lesser offense of trafficking in heroin, 4 grams or more, but less than 14 grams -- 1<sup>st</sup> offense with a negotiated sentence of 10 years. Tr.p. 4, 7. After inquiry of the parties, Judge McCaslin accepted the negotiated plea and sentenced the Applicant to 10 years. Applicant did not appeal.

*Attachments*

Respondent attaches, and incorporates by reference, the following:

1. Lexington County Clerk of Court records, including the indictment, sentencing sheet, arrest warrant, notice of appearance, Motion for Brady and other favorable material, Request for Rule 5 material, and the State's Request for Discovery;
2. Guilty Plea Transcript of January 27, 2022; and
3. SCDC Records.

*Present Allegations*

Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel. My attorney had a conflict of interest as he was representing my brother who was a co-defendant in the same crime
  - a. The charges against both my brother and I arose out of the same search of the same residence. I was told that my brother was going to take full

responsibility for the drugs found in my house. His testimony would have exonerated me. My lawyer, therefore, could not give my brother and I the same impartial advice. As such, I was denied effective assistance of counsel in violation of Article I, Sec. 14 of the Constitution of the State of South Carolina and the Sixth Amendment to the Constitution of the United States.

Applicant requests a new trial.

## DISCUSSION

### *Strickland v. Washington Standard*

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To establish that Sixth Amendment counsel was ineffective, a PCR applicant must show that counsel's representation fell below an objective standard of reasonableness, and but for counsel's error, there is a reasonable probability that the outcome of the trial would have been different. *Strickland v. Washington*, 466 U.S. 668, 694 (1984); *Simpson v. Moore*, 367 S.C. 587, 595-96, 627 S.E.2d 701, 706 (2006). "A reasonable probability is a probability sufficient to undermine confidence in the outcome" of the trial. *Strickland*, at 694. Relief will not be granted on a showing of mere error—prejudice must also be shown. *Id.* Moreover, it is presumed that counsel made all decisions in exercise of reasonable judgment. *Strickland*, at 689. It is an applicant's burden to prove, by a preponderance of the evidence, an entitlement to relief. Rule 71.1 (e), SCRCP. See also *Speaks v. State*, 377 S.C. 396, 399, 660 S.E.2d 512, 514 (2008) ("the burden of proof is on the applicant to prove the allegations in his application").

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

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

Respondent submits that the plea record, when considered in light of the relevant and controlling case law, demonstrates that Applicant likely cannot show he is entitled to any relief.

*Argument in Response to the Claims*

The remaining claim alleging ineffective assistance of counsel likely requires consideration of facts outside the existing record to adequately resolve. Therefore, Respondent conditionally requests an evidentiary hearing under *Sharper*. As it presently stands, though, the negotiated guilty plea record appears to demonstrate competent assistance, and, as a matter of law, counsel is presumed to have rendered “reasonable professional assistance.” *Strickland*, at 689. Thus, it is unlikely that Applicant will be able to carry his burden of proof.

“The Sixth Amendment right to counsel attaches upon initiation of adversarial judicial proceedings and at all critical stages of a criminal trial.” *State v. Sterling*, 377 S.C. 475, 479, 661 S.E.2d 99, 101 (2008). “To establish a violation of the Sixth Amendment right to effective

counsel due to a conflict of interest arising from multiple representation, a defendant who did not object at trial must show an actual conflict of interest adversely affected his attorney's performance." *Thomas v. State*, 346 S.C. 140, 143, 551 S.E.2d 254, 256 (2001). "An actual conflict of interest occurs where an attorney owes a duty to a party whose interests are adverse to the defendant's." *Staggs v. State*, 372 S.C. 549, 551, 643 S.E.2d 690, 692 (2007). This Court has further stated that an actual conflict of interest occurs:

when a defense attorney places himself in a situation inherently conducive to divided loyalties.... If a defense attorney owes duties to a party whose interests are adverse to those of the defendant, then an actual conflict exists. The interests of the other client and the defendant are sufficiently adverse if it is shown that the attorney owes a duty to the defendant to take some action that could be detrimental to his other client.

*Duncan v. State*, 281 S.C. 435, 438, 315 S.E.2d 809, 811 (1984) (quoting *Zuck v. State of Alabama*, 588 F.2d 436, 439 (5th Cir.1979)).

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"The mere possibility defense counsel may have a conflict of interest is insufficient to impugn a criminal conviction." *State v. Gregory*, 364 S.C. 150, 152-53, 612 S.E.2d 449, 450 (2005). Additionally, the fact that counsel does not advise a defendant of the potential conflict of interest does not affect the constitutionality of the conviction. *Jackson v. State*, 329 S.C. 345, 355, 495 S.E.2d 768, 773 (1998). Moreover, the "Rules of Professional Conduct have no bearing on the constitutionality of a criminal conviction." *Langford v. State*, 310 S.C. 357, 360, 426 S.E.2d 793, 795 (1993).

"However, a defendant need not demonstrate prejudice if there is an actual conflict of interest." *Gregory*, 364 S.C. at 153, 612 S.E.2d at 450. " 'But until a defendant shows that his counsel actively represented conflicting interests, he has not established the constitutional predicate for his claim of ineffective assistance.' " *Duncan*, 281 S.C. at 438, 315 S.E.2d at 811 (quoting *Cuyler v. Sullivan*, 446 U.S. 335, 350, 100 S.Ct. 1708, 64 L.Ed.2d 333 (1980)).

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See Lomax v. State, 379 S.C. 93, 101–02, 665 S.E.2d 164, 168 (2008), abrogated by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018). See Thomas v. State, 346 S.C. 140, 143–45, 551 S.E.2d 254, 256 (2001) (holding Petitioner in PCR proceeding demonstrated actual conflict of interest that affected her counsel's performance given counsel jointly represented Petitioner and her husband in a case where solicitor offered a plea bargain that would allow the charge against one spouse to be dismissed if the other spouse would plead guilty to the entire amount of cocaine); see also Staggs v. State, 372 S.C. 549, 551–52, 643 S.E.2d 690, 691–92 (2007) (Petitioner in PCR proceeding demonstrated actual conflict of interest that adversely affected counsel's trial performance where his counsel, who represented him on the charge of murder, also simultaneously represented Petitioner's father, mother, and brother on related accessory after the fact of murder charges); see generally Allan L. Schwartz, *Circumstances Giving Rise to Conflict of Interest Between or Among Criminal Codefendants Precluding Representation by Same Counsel*, 34 A.L.R.3d 470 (1970 & Supp.2008) (outlining cases which consider what particular circumstances give rise to conflict of interest where single counsel represents multiple codefendants).

The record is void as to whether there was a waiver of any alleged conflict of interest in the joint representation and whether the brother had antagonist or consistent theories. The factual basis at the plea set out the following:

MR. SMITH: The facts, the facts presentation is going to encompass Mr. Ladarien Gates and David Gates. Your Honor, these charges stem from investigation by Agent Dustin Pollard of the Lexington County NET Team on March 11th, March 12th and March 12, 2021, three controlled buys with confidential agents law enforcement were conducted on a subject known to law enforcement as Coop, Mr. Ladarien Gates. Those addresses were 3658 Fish Hatchery Road, 125

Wild Bird Lane, and 204 Wild Bird Lane, all of which are in the Gaston Area of Lexington County. And on all three of those instances Ladarien Gates did contribute, did distribute a quantity of narcotics to a confidential operative law enforcement. Those agents were outfitted with monitoring equipment during the transaction. They were searched before and after by negative results for any items that would compromise the search. Your Honor, on one of those buys the quantity of heroin which has been confirmed by drug analysis distributed to the informants was sufficient to fall within the threshold weight for trafficking of heroin.

Your Honor, as a result of these buys, Agent Pollard did obtain a search warrant for the address at 125 Wild Bird Lane and 204 Wild Bird Lane. 125 Wild Bird Lane is the registered address for David Gates. And 204 is the registered address for Ladarien. They arrived at 125 Wild Bird Lane to serve that search warrant. They made entry, cleared the house, and did execute the search warrant.

During the course of that warrant they seized numerous items consistent with narcotic trafficking, scales, paraphernalia, glass jars with narcotics believed to be heroin, pill bottles, sandwich baggies, guns and ammunition.

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Your Honor, one of, in one of the rooms during the course of the search warrant they did observe an open safe. Inside of that safe was Mr. David Gates' passport, and the safe is also located in the room that of Mr. Gates, David Gates stays in. Also inside the safe was \$17,650 of US currency total as well as in that money found - they could locate bills which they documented - had come from some of the control buys. Your Honor, those drugs found in that safe were tested. It was a field weight in two separate jars of what was believed to be 56 grams of heroin. However, one of the jars came back as approximately 24 grams of heroin. The other was solely fentanyl.

Your Honor, it is from the result -- from this investigation by law enforcement we do believe it is clear that the Gates brothers are working together in trafficking and distribution of heroin.

Tr.p. 8-10.

Respondent submits that the allegations of ineffective assistance of counsel will likely require an evidentiary hearing to adequately resolve. See *Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (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.”).

### CONCLUSION

WHEREFORE, having made its Return, Respondent requests that this matter be conditionally scheduled for an evidentiary hearing pursuant to *Sharper*.

Respectfully submitted,

ALAN WILSON  
Attorney General

DONALD J. ZELENKA  
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S.C. Bar 5758  
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By: 

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P.O. Box 11549  
Columbia, South Carolina 29211-1549  
(803) 734-6305

ATTORNEYS FOR RESPONDENT

March 5, 2024



Based upon its review of the record, including the testimony, court records and transcript of the guilty plea, this Court finds the application for post-conviction relief must be denied for the reasons set forth below :

*Procedural History*

Applicant, David Fredshun Gates, is presently confined in the South Carolina Department of Corrections at the Kershaw Correctional Institution, pursuant to orders of commitment from the Lexington County Clerk of Court. During an October 2021 term, the Lexington County Grand Jury indicted Applicant for trafficking in heroin 14 grams or more, but less than 28 grams. 2021GS3203137. Stanley L. Myers, Esq., represented Applicant on the charges.

The plea was a joint plea with his brother Ladarien Gates who was also represented by Mr. Myers. However, they were pleading to separate offenses:

THE COURT: This is for Ladarien; your indictment has been true billed. The date says March 12, 2021. You did have in your possession a quantity of heroin, which puts you at the trafficking offense level. You pleading guilty or not guilty?

MR. GATES: Guilty.

Tr.p. 6-7

THE COURT: All right. And David your indictment has been true billed date says on March 22, 2021. You did have in your possession 14 grams but less than 28 grams also of heroin. You pleading guilty or not guilty?

MR. GATES: Yes, ma'am, guilty.

THE COURT: This is a negotiated plea, 10 years. That means I have to give you 10 years, you understand that, Mr. Gates?

MR. GATES: Yes, ma'am.

Tr.p. 7, l. 11-21.

On January 27, 2022, the Applicant appeared with counsel Myers before the Honorable Debra McCaslin, Presiding Judge. The prosecution was represented by Kyle Smith of the Eleventh Circuit Solicitors office. At that time the Court was advised that the Applicant was

entering a negotiated plea to the lesser offense of trafficking in heroin, 4 grams or more, but less than 14 grams – 1<sup>st</sup> offense with a negotiated sentence of 10 years. Tr.p. 4, 7. After inquiry of the parties, Judge McCaslin accepted the negotiated plea and sentenced the Applicant to 10 years. Applicant did not appeal.

This Court has before it and reviewed the following:

1. Lexington County Clerk of Court records, including the indictment, sentencing sheet, arrest warrant, notice of appearance, Motion for Brady and other favorable material, Request for Rule 5 material, and the State's Request for Discovery;
2. Guilty Plea Transcript of January 27, 2022; and
3. SCDC Records.

#### *Present Allegations*

Applicant alleged that he was being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel. My attorney had a conflict of interest as he was representing my brother who was a co-defendant in the same crime
  - a. The charges against both my brother and I arose out of the same search of the same residence. I was told that my brother was going to take full responsibility for the drugs found in my house. His testimony would have exonerated me. My lawyer, therefore, could not give my brother and I the same impartial advice. As such, I was denied effective assistance of counsel in violation of Article I, Sec. 14 of the Constitution of the State of South Carolina and the Sixth Amendment to the Constitution of the United States.

#### **FINDINGS AND CONCLUSIONS**

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, and weighed the testimony accordingly. Before the Court are Applicant's records from the South Carolina Department of Corrections, the transcript of Applicant's guilty plea, the records of the Lexington County Clerk of Court regarding the subject

convictions, the application for post-conviction relief, the Respondent's Return. This Court has reviewed the records submitted to it by the parties, the legal arguments made by the attorneys, and the pleadings. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings based upon all of the probative evidence presented during the guilty plea and this evidentiary hearing.

### **Summary of PCR Hearing Testimony**

The Applicant was called as the initial witness in the hearing. He stated that this was his first drug charge, He testified that he was pulled over at traffic stop in 2019. He stated that he was arrested and charged with a distribution charge. At that time he hired Stanley Myers. The Applicant stated he was charged again in 2021. He claimed the warrant was for giving drugs which he claimed did not happen. He stated that his counsel Stanley Myers told him to turn himself in, when he did he was facing a trafficking charge. His brother retained Stanley Myers as well. He stated his brother stayed at a house in Wild Bird where this stuff was found. He claimed that Myers never mentioned anything about a conflict of interest. Applicant claimed Myers told him that there was a video of him in 2017 making the transaction, but Applicant he never saw the video prior to the plea although he asked to see it. He said that he looked at pictures , including one of scales, but claimed he was not shown any picture of him with the drugs or making the drug transaction. He learned that they would take him to trial if he didn't plead to 10 years. He claimed that Myers never told him about his brother pleading and him going to trial. He claimed the Solicitor said he cannot let the brother take the charge because David was too valuable to the State.

On cross-examination, he stated he wanted Stanley to represent him because he was told he was a good lawyer and was soon to be a judge. He wanted him to be his lawyer at his plea, but

claimed he was not aware he was representing his brother. Did not know who was representing his brother before this. He stated he first learned he was representing his brother three (3) days before his plea. He stated that his brother was to assert that all of David's drug charges were on him, not his brother.

However, he pled guilty to drugs found at the Wild Bird address where he had personal possessions, including his passport and some money was in the safe in return to the 10 year sentence. He claimed he had some shoes at Wild Bird also. However, he stated that there were no drugs in the safe. He asserted that there was a warrant for him there and the drugs were in a different room from the safe. He stated that someone's mother was told there was a warrant for him and that is how he learned about the warrant.

Reading the facts of the case as given at the guilty plea, the Applicant stated said he and his brother were working together to traffic and distribute. He noted at the PCR that Wild Bird Lane was not a registered address for him despite what the State said at the plea. He confirmed that he had sworn to tell the truth at the plea and told the judge under oath that he agreed with the state's version of the facts. He acknowledged that the at the plea he was not having an antagonistic defense against his brother at the time. He stated he was in agreement at guilty plea that he and his brother worked together. He confirmed that Stanley never came to him about anything about him testifying against his brother. At the PCR, he claimed he was not involved in any drug activity at the time. However he told the plea court that he was because if he didn't take the plea he would do 25 years. He did not tell that to the plea court. At the joint plea with his brother Ladarien Gates, the Applicant stated he knew he and his brother would get 10 years. He had learned this from Stanley and Solicitor.

His brother Ladarien Gates testified he was arrested in 2021 on drug trafficking charges. Stanley L. Myers represented him who was retained since 2020 for some other charges as well. He testified that he told Stanley his brother had nothing to do with the Wild Bird charges his brother was arrested for. Stanley said let's go into the courthouse. He said he then went upstairs with his brother and they spoke with each other. He claimed that Myers called the solicitor and told him Ladarien was willing to take responsibility on the charges. However, he learned the Solicitor said they would not do it and that David would not get off that easy. He claimed that the State was willing to permit an independent plea for him whether or not David pled guilty or went to trial. He stated that Stanley never addressed a conflict of interest. However, Ladarien stated he was never going to trial because his guilt was a foregone conclusion. He testified that he never spoke to anyone except Stanley himself, never waived conflict of interest because it was never discussed.

On cross-examination, he confirmed that he pled same day as brother. He stated he spoke to Stanley with his brother about the plea before they went to the courthouse. He stated he first time he told Myers his brother was innocent was after he got out of jail. He claimed Stanley dismissed a lot of things Ladarien said. However, he knew Stanley represented his brother right after his arrest. After arrest, he also spoke with David. Ladarien said he did not talk about Stanley other than when David said it was time to meet him.

Ladarien never indicated to Stanley that he wanted to testify against his brother, but only to testify for him. Similarly, there was never any indication that his brother wanted to testify against him. He stated there was no conversation about his plans until the day of the plea. He stated he was initially just going to ask about taking a plea. He claimed that the truth was that all the drugs at Wild Bird were his. He claimed his brother did not know the drugs at Wild Bird

were his. Ladarien stated he had meant to go back and get the drugs. Ladarien claimed that he, his brother, and his cousins all stayed at Wild Bird.

He claimed he did not know about the safe and it had nothing to do with him. He claimed it was a lie during the plea that both of them were involved in trafficking. He admitted that under oath he told the judge he agreed with facts, but he claimed he did not remember this during the PCR hearing. He stated he never said anything about them working together, however the plea record states he agrees with the facts. Ladarien felt he had no choice but to agree because their backs were against the wall, and Stanley told him to. At plea, both he and his brother agreed with the facts because they were advised to by Stanley. Stanley told them both at the same time the plea offer was 10 years. He claimed he was never going to go to trial. Ladarien confirmed he never asked to nor would have testified against his brother. He stated it was his choice to plead to 10 years.

April Muller testified that she was the owner of the Wild Bird Lane house in Cayce. She stated that Ladarien and David both stayed there. She stated she was a long haul truck driver and also worked at Alvin S. Glenn Detention Center. She stated she befriended the Gates brothers in 2008 and became close friends. She testified that she was present when the brothers met with Myers. She said he had asked the Court for more time to talk with them. She said the judge granted more time to discuss things with solicitor. She said that that the Solicitor had some video they needed to see. She was thinking that the brothers were thinking about going to trial. She heard that if he went to trial he would get 25 to 30 years. She recalled Ladarien saying at the courthouse the drugs were his. She recalled Stanley was going to go talk to the solicitor about this, but Solicitor could not take that claiming he wanted two people and that one of them could not take it.

On cross-examination, she stated a few sisters also stayed there, as well as April's kids sometimes stayed there. She stated that they did not have full access to the house and had no key. She stated she drove the brothers to the meeting with Stanley. She was told to come into the meeting. She stated she was sitting on the bench in the courthouse with the brothers. She went to Stanley's office three days later, where they were told what the plea offer was. She said everything happened in the month of January. She stated there was a meeting in the meeting room with the brothers at the law office. She testified that they both were fine with pleading guilty at the time. Stanley said this is all they are offering but it had to be both brothers.

Assistant Solicitor Kyle Smith testified that assigned prosecutor for the brothers' cases. He reviewed the facts and circumstances of the arrest and the merits of the case. The case had been initially assigned to former Assistant Solicitor Matt Edgerton. Smith stated that there were confidential informants on the brothers, which resulted in search warrants to enter Wild Bird Ln. He said that at the house they found a large amount of money and heroin, 14-28 grams, and the rest was fentanyl. Smith knew that Stanley Myers represented both brothers. His information was that David was represented first, then Ladarien hired Stanley. He cannot recall any available defenses, but that there was sufficient evidence to proceed against both on trafficking. He stated the offer had to be accepted, and if not, David was to be the first tried. Smith stated that there was quite a bit of back and forth with Myers that began in October 2021. Smith set a January 10 deadline, which was extended. He stated that the confidential informant was not working off charges. Smith stated the he does not recall any suggestion that one brother was to testify against the other. He stated that a plea date was determined by an instruction from his supervisor that David was going to be tried first. Smith stated that the Applicant was given plenty of time to review the evidence with a January 27 plea date. He stated that Stanley reviewed the videos.

Smith declared that the video did not show Applicant engage in a drug transaction, but that there was a large amount of narcotics at the registered house of the Applicant. It was Smith's opinion and theory that the Applicant at minimum was aware of drugs at Wild Bird. He believes Ladarien was identified as the nickname Coop and David's nickname was Slim. He stated that the facts are consistent with his version presented at the plea.

On cross-examination, Smith acknowledged that initially Ladarien was represented by Public Defender's Office. Smith confirmed that he did not discuss conflicts of interest with Stanley. He confirmed that questions about a conflict were never asked in the plea transcript. Smith did have a recollection of Myers telling him that Ladarien wanted to claim everything. However, it was Smith's position that he did not accept that theory.

## DISCUSSION

### *Strickland v. Washington Standard*

To establish that Sixth Amendment counsel was ineffective, a PCR applicant must show that counsel's representation fell below an objective standard of reasonableness, and but for counsel's error, there is a reasonable probability that the outcome of the trial would have been different. *Strickland v. Washington*, 466 U.S. 668, 694 (1984); *Simpson v. Moore*, 367 S.C. 587, 595-96, 627 S.E.2d 701, 706 (2006). "A reasonable probability is a probability sufficient to undermine confidence in the outcome" of the trial. *Strickland*, at 694. Relief will not be granted on a showing of mere error—prejudice must also be shown. *Id.* Moreover, it is presumed that counsel made all decisions in exercise of reasonable judgment. *Strickland*, at 689. It is an applicant's burden to prove, by a preponderance of the evidence, an entitlement to relief. Rule 71.1 (e), SCRCP. See also *Speaks v. State*, 377 S.C. 396, 399, 660 S.E.2d 512, 514 (2008) ("the burden of proof is on the applicant to prove the allegations in his application").

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, *Hill v. Lockhart*, 474 U.S. 52 (1985), extended the two-part *Strickland* test to challenge guilty pleas based on ineffective assistance of counsel. See *Padilla v. Kentucky*, 559 U.S. 356, 373 (2010) (recognizing that the guilty plea process is a “critical phase of litigation” for purposes of the Sixth Amendment right to effective assistance of counsel). When reviewing a guilty plea, the analysis of counsel’s performance under the first prong of *Strickland* remains unchanged—the applicant must show that counsel’s representation fell below an objective standard of reasonableness demanded of attorneys in criminal cases. *Hill*, 474 U.S. at 58–59; accord *Thompson v. State*, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel’s advice to plead guilty was not “within the competence demanded of attorneys in criminal cases.” *Hill*, 474 U.S. at 56. The second, or “prejudice” prong, however, “focuses on whether counsel’s constitutionally ineffective performance affected the outcome of the plea process.” *Id.* at 58–59. Specifically, when an applicant claims counsel’s deficient performance caused him to accept a plea, the applicant “must show that there is a reasonable probability that, but for [plea] counsel’s [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial.” *Id.* at 59.

“The Sixth Amendment right to counsel attaches upon initiation of adversarial judicial proceedings and at all critical stages of a criminal trial.” *State v. Sterling*, 377 S.C. 475, 479, 661 S.E.2d 99, 101 (2008). “To establish a violation of the Sixth Amendment right to effective counsel due to a conflict of interest arising from multiple representation, a defendant who did not object at trial must show an actual conflict of interest adversely affected his attorney’s performance.” *Thomas v. State*, 346 S.C. 140, 143, 551 S.E.2d 254, 256 (2001). “An actual

conflict of interest occurs where an attorney owes a duty to a party whose interests are adverse to the defendant's." *Staggs v. State*, 372 S.C. 549, 551, 643 S.E.2d 690, 692 (2007). This Court has further stated that an actual conflict of interest occurs:

when a defense attorney places himself in a situation inherently conducive to divided loyalties.... If a defense attorney owes duties to a party whose interests are adverse to those of the defendant, then an actual conflict exists. The interests of the other client and the defendant are sufficiently adverse if it is shown that the attorney owes a duty to the defendant to take some action that could be detrimental to his other client.

*Duncan v. State*, 281 S.C. 435, 438, 315 S.E.2d 809, 811 (1984) (quoting *Zuck v. State of Alabama*, 588 F.2d 436, 439 (5th Cir.1979)). *Lomax v. State*, 379 S.C. 93, 101, 665 S.E.2d 164, 168 (2008) (alteration in original) (citation omitted). *Dorsey v. State*, No. 2011-194547, 2015 WL 5248676, at \*3 (S.C. Ct. App. Sept. 9, 2015).

"The mere possibility defense counsel may have a conflict of interest is insufficient to impugn a criminal conviction." *State v. Gregory*, 364 S.C. 150, 152–53, 612 S.E.2d 449, 450 (2005). Additionally, the fact that counsel does not advise a defendant of the potential conflict of interest does not affect the constitutionality of the conviction. *Jackson v. State*, 329 S.C. 345, 355, 495 S.E.2d 768, 773 (1998). Moreover, the "Rules of Professional Conduct have no bearing on the constitutionality of a criminal conviction." *Langford v. State*, 310 S.C. 357, 360, 426 S.E.2d 793, 795 (1993).

"However, a defendant need not demonstrate prejudice if there is an actual conflict of interest." *Gregory*, 364 S.C. at 153, 612 S.E.2d at 450. " 'But until a defendant shows that his counsel actively represented conflicting interests, he has not established the constitutional predicate for his claim of ineffective assistance.' " *Duncan*, 281 S.C. at 438, 315 S.E.2d at 811 (quoting *Cuyler v. Sullivan*, 446 U.S. 335, 350, 100 S.Ct. 1708, 64 L.Ed.2d 333 (1980)) See *Lomax v. State*, 379 S.C. 93, 101–02, 665 S.E.2d 164, 168 (2008), *abrogated by Smalls v. State*,

422 S.C. 174, 810 S.E.2d 836 (2018). *See Thomas v. State*, 346 S.C. 140, 143–45, 551 S.E.2d 254, 256 (2001) (holding Petitioner in PCR proceeding demonstrated actual conflict of interest that affected her counsel's performance given counsel jointly represented Petitioner and her husband in a case where solicitor offered a plea bargain that would allow the charge against one spouse to be dismissed if the other spouse would plead guilty to the entire amount of cocaine); *See also Staggs v. State*, 372 S.C. 549, 551–52, 643 S.E.2d 690, 691–92 (2007) (Petitioner in PCR proceeding demonstrated actual conflict of interest that adversely affected counsel's trial performance where his counsel, who represented him on the charge of murder, also simultaneously represented Petitioner's father, mother, and brother on related accessory after the fact of murder charges); *see generally Allan L. Schwartz, Circumstances Giving Rise to Conflict of Interest Between or Among Criminal Codefendants Precluding Representation by Same Counsel*, 34 A.L.R.3d 470 (1970 & Supp.2008) (outlining cases which consider what particular circumstances give rise to conflict of interest where single counsel represents multiple codefendants).

The record now reflects that the brothers' theories were consistent as related to Myers representation -they were not antagonistic with each other but consistent. The factual basis at the plea set out the following factual basis :

MR. SMITH: The facts, the facts presentation is going to encompass Mr. Ladarien Gates and David Gates. Your Honor, these charges stem from investigation by Agent Dustin Pollard of the Lexington County NET Team on March 11th, March 12th and March 12, 2021, three controlled buys with confidential agents law enforcement were conducted on a subject known to law enforcement as Coop, Mr. Ladarien Gates. Those addresses were [REDACTED] Fish Hatchery Road, [REDACTED] Wild Bird Lane, and [REDACTED] Wild Bird Lane, all of which are in the Gaston Area of Lexington County. And on all three of those instances Ladarien Gates did contribute, did distribute a quantity of narcotics to a confidential operative law enforcement. Those agents were outfitted with monitoring equipment during the transaction. They were searched before and after by negative results for any items that would compromise the search. Your Honor,

on one of those buys the quantity of heroin which has been confirmed by drug analysis distributed to the informants was sufficient to fall within the threshold weight for trafficking of heroin.

Your Honor, as a result of these buys, Agent Pollard did obtain a search warrant for the address at ■ Wild Bird Lane and ■ Wild Bird Lane. ■ Wild Bird Lane is the registered address for David Gates. And ■ is the registered address for Ladarien. They arrived at ■ Wild Bird Lane [*the address registered to David Gates, not Ladarien Gates*] to serve that search warrant. They made entry, cleared the house, and did execute the search warrant.

During the course of that warrant they seized numerous items consistent with narcotic trafficking, scales, paraphernalia, glass jars with narcotics believed to be heroin, pill bottles, sandwich baggies, guns and ammunition.

Your Honor, one of, in one of the rooms during the course of the search warrant they did observe an open safe. Inside of that safe was Mr. David Gates' passport, and the safe is also located in the room that of Mr. Gates, David Gates stays in. Also inside the safe was \$17,650 of US currency total as well as in that money found - they could locate bills which they documented - had come from some of the control buys. Your Honor, those drugs found in that safe were tested. It was a field weight in two separate jars of what was believed to be 56 grams of heroin. However, one of the jars came back as approximately 24 grams of heroin. The other was solely fentanyl.

Your Honor, it is from the result -- from this investigation by law enforcement we do believe it is clear that the Gates brothers are working together in trafficking and distribution of heroin.

Tr.p. 8-10. The record further shows that each of the Gates brothers indicated under oath that they agreed with those facts while under oath. Tr.p. 11, l. 16-21.

This Court finds that the Applicant has failed in his burden of proof that there was an actual conflict of interest in the dual representation of David Gates and Ladarien Gates by the late Stanley Myers. [*This Court can take notice that Stanley Myers died on September 27, 2023 -- after this PCR application had been filed.*]. "A guilty plea is a solemn, judicial admission of the truth of the charges against an individual . . . , a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed." *Dalton v. State*, 376 S.C. 130, 137, 654

S.E.2d 870, 874 (Ct. App. 2007) (citing *Blackledge v. Allison*, 431 U.S. 63, 74 (1977)); see *McMann v. Richardson*, 397 U.S. 759, 774 (1970) (noting the compelling interests in maintaining the finality of guilty-plea convictions validly obtained). Indeed, admissions made during a guilty plea carry a presumption of verity and should be considered conclusive unless an applicant presents cogent and valid reasons why he should be allowed to depart from the truth of his statements. *Dalton*, 376 S.C. at 137–38, 654 S.E.2d at 874 (internal citations and quotation marks omitted); cf. *Blackledge*, 431 U.S. 63. at 73–74(1977) (pointing out that representations made by a defendant, his lawyer, and the prosecutor at a guilty plea hearing, as well as any findings made by the judge accepting the plea, constitute a “formidable barrier in any subsequent collateral proceedings”); *United States v. Broce*, 488 U.S. 563, 569 (1989) (“A plea of guilty and the ensuing conviction comprehend all of the factual and legal elements necessary to sustain a binding, final judgment of guilty and a lawful sentence. Accordingly, when the judgment of conviction upon a guilty plea has become final and the offender seeks to reopen the proceeding, the inquiry is ordinarily confined to whether the underlying plea was both counseled and voluntary. If the answer is in the affirmative then the conviction and the plea, as a general rule, foreclose the collateral attack.”).

The Court must find that the Applicant has failed to show that he cannot be bound by his representations under oath that he agreed with the prosecutor’s representations in the factual basis that he and his brother Ladarien were involved together in drug trafficking and that drugs were found in the safe in the room that David Gates stayed in with money in the safe that came from the controlled buys. The Applicant agreed under oath to these facts at the plea. This Court does not find credible any of the reasons that Applicant or his brother has presented to be a “cogent or and valid reason” to support being allowed to depart from the truth at the guilty plea.

To the contrary, the evidence and admissions at the plea carry the finding of verity and support that at the time of the plea, the Applicant as well as his brother had a consistent version – that they were both involved together in the drugs trafficking and that the drugs found in the Applicant’s residence was part of the trafficking and the money located in the safe were proceeds from the trafficking.

The mere fact that his brother, through counsel Myers may have indicated in plea negotiations that Ladarien was willing to accept that the drugs were his does not make the dual representation an actual conflict of interest. This was not an actual conflict of interest adversely affected his attorney’s performance – particularly when the Applicant admitted under oath to the State’s versions which reveals a consistent theory that both were engaged in the offense that each pleaded guilty. Here, there was no decision by either represented party to testify against the other brother. This additional distinguishing factor supports the denial of relief in this case.

This case is easily distinguished from the cases relied upon by the Applicant. Likewise, in *Thomas v. State*, 346 S.C. 140, 142, 144, 551 S.E.2d 254, 255–56 (2001), the supreme court determined an actual conflict of interest arose when an attorney represented Thomas and her husband on related drug charges. Before trial, the State offered the following plea bargain:

[Thomas] and [her h]usband could each plead to trafficking in cocaine in an amount of more than one hundred grams and each receive an eight-year sentence [,] or either [Thomas or her h]usband could plead to the entire amount and receive the mandatory minimum sentence of twenty-five years, while the other person would be allowed to go free.

346 S.C. at 142, 551 S.E.2d at 255. Thomas pled to the entire amount. 346 S.C. at 143, 551 S.E.2d at 255. The court determined an actual conflict arose the moment the State made the plea offer “because it was in each spouse’s best interest for the other spouse to take the entire responsibility for the cocaine.” 346 S.C. at 144, 551 S.E.2d at 256. The court reasoned, “At the

moment the [State] made the plea offer, [Thomas's and her h]usband's interests became adverse to one another and counsel should have advised them accordingly." *Id.* "Further, counsel acted upon this conflicting loyalty by failing to advise [Thomas] she had nothing to lose by proceeding to trial." *Id.* The court noted counsel could have continued to represent both parties if he had "acquired another waiver covering this specific conflict." *Id.*

To the contrary, in David Gates case there was no similar offer to allow David Gates to go free if his brother pled guilty. To the contrary, if Ladarien pled, David was still going to go on trial. This is based upon the credible testimony of Kyle Smith.

Similarly, in *Langford v. State*, 310 S.C. 357, 359, 426 S.E.2d 793, 794-95 (1993), the supreme court examined whether an actual conflict of interest arose when an attorney represented codefendants at a guilty plea hearing. Langford and his codefendant, Howard, retained the same law firm to present an alibi defense. 310 S.C. at 358, 426 S.E.2d at 794. However, another codefendant, Todd, pled guilty and produced a recorded conversation wherein Langford implicated himself in the burglaries. 310 S.C. at 358-59, 426 S.E.2d at 794. When Howard learned about the recorded conversation, he decided to plead guilty. 310 S.C. at 359, 426 S.E.2d at 794. Langford also pled guilty, and "Langford and Howard entered their pleas simultaneously and received identical sentences." *Id.*

Langford later applied for PCR, asserting plea counsel was ineffective for "continu[ing] to represent him after Howard decided to plead guilty without advising him of the dangers of dual representation." 310 S.C. at 359, 426 S.E.2d at 794. The court determined "Langford's attorney never actively represented competing interests," 310 S.C. at 360, 426 S.E.2d at 795, reasoning,

The possible conflict that developed when Howard decided to plead guilty never ripened into an actual conflict, however, because Langford, fearing that Howard

would testify against him, also decided to plead guilty. There is no evidence in the record from which it may be inferred that trial counsel advised either codefendant to plead guilty in order to obtain more favorable consideration for the other. The mere fact that Howard would be available to testify against Langford does not establish an actual conflict of interest.

310 S.C. at 359–60, 426 S.E.2d at 795.

Similarly distinguishable, in *Edgemon v. State*, 318 S.C. 3, 5, 455 S.E.2d 500, 501 (1995), the Court found an actual conflict of interest arose when evidence showed plea counsel advised Edgemon's codefendant, Brogden, to plead guilty and testify against Edgemon. Citing *Langford*, the court noted “[t]he mere fact that Brogden would be available to testify against [Edgemon] does not establish an actual conflict of interest.” *Edgemon*, 318 S.C. at 5, 455 S.E.2d at 500. However, the court found an actual conflict of interest arose because plea counsel advised Brogden to testify against Edgemon prior to Edgemon's guilty plea and failed to negotiate a pretrial intervention program on behalf of Edgemon even though the State promised the program to Brogden. 318 S.C. at 5, 455 S.E.2d at 501.

Unlike *Edgemon*, there is no credible evidence in the record that there was ever any suggestion of one brother to testify against the other. The evidence is to the contrary that neither would testify against the other.

Finally, in *Gonzales v. State*, 419 S.C. 2, 795 S.E.2d 835 (2017), defense counsel's simultaneous representation of juvenile defendant and defendant's mother's boyfriend for other drug-related charges created an actual conflict of interest prior to defendant's trial. In *Gonzales*, the mother's boyfriend paid part or all of defendant's attorney fees, after counsel discussed with mother ways to pay such fees and suggested possibility of using the funds recovered in boyfriend's previous forfeiture action. The juvenile defendant and mother's boyfriend were each arrested for trafficking in marijuana over one thousand pounds in a very short time frame in the

same geographical area, and it was unlikely a juvenile would act independently when engaging in such trafficking. There, unlike in Gates case, counsel failed to advise defendant as to favorable options he may have otherwise exercised, and a law enforcement official testified that the conflict of interest hindered law enforcement's ability to secure cooperation from defendant in prosecution of mother's boyfriend, and an Assistant United States Attorney testified that had defendant been available for cooperation in prosecution of mother's boyfriend, their office would have advocated that defendant receive favorable treatment for his cooperation. Here, there was no similar showing made in this record.

The Court recognizes the burden of proof is on the Applicant in this setting. This Court is further constrained by the fact that the Applicant's counsel is now deceased and the fact that there was no court inquiry about the joint representation at the time of the guilty plea. However, since this Court has found that there was no conflict of interest based upon the probative evidence at the guilty plea, the failure of an on the record inquiry does not require relief based upon the resolution that there was no actual conflict of interest.<sup>1</sup>

### CONCLUSION

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

This Court notifies the Applicant that he must file and serve a notice of appeal within

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<sup>1</sup> In making this conclusion, the Court is mindful that the best practice is to have an on the record inquiry to determine the existence of a waiver and the existence or waiver of a conflict of interest. However, this Court similarly concludes that in light of the sworn statements and affirmations before the plea court, the failure to do so here, does not require post-conviction relief.

thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCR, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant's attention is directed to Rule 243, SCACR, for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED:**

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

AND IT IS SO ORDERED this 13 day of AUGUST, 2024.

  
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J. CORDELL MADDUX  
Presiding Judge  
Eleventh Judicial Circuit

Anderson, South Carolina

**FILED**

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

IN THE COURT OF COMMON PLEAS  
ELEVENTH JUDICIAL CIRCUIT

2024 AUG 30 AM 9:04

LISA M. COMER  
CLERK OF COURT  
LEXINGTON SC

Case No.: 2022-CP-32-3461

David Fredshun Gates, #387073,

Applicant,

v.

Rule 59 e Motion

State of South Carolina,

Respondent.

David Fredshun Gates, the Applicant above name, pursuant to Rule 59e of the South Carolina Rules of Civil Procedure, to alter or amend the decision rendered in this matter on August 13, 2024 and filed on August 16, 2024 based upon the following grounds:

1. This Court erred in failing to conclude that an actual conflict existed when the brother of the applicant was willing to admit the drugs found were his and did not belong to the applicant. At that point a conflict existed and trial counsel should have obtained a waiver of that conflict at the time of the plea.

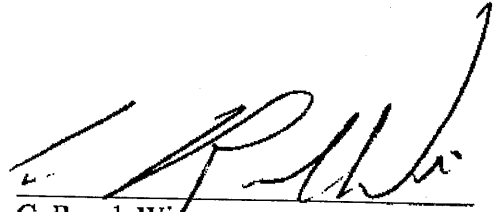
2. This Court erred in failing to recognize that *Thomas v. State*, 346 S.C. 140, 551 S.E.2d 254 (2001) is applicable to this case as the record reflects that the brother of the applicant told the defense counsel that he was willing to accept the drugs in questions as his. That statement by the brother of the applicant created as to the defense counsel the exact same conflict as existed in *Thomas*. At that point defense counsel could not proceed with negotiations as to the brother of the applicant as the negotiations were prejudicial to the applicant. The defense counsel could not negotiate as to both brothers when he knew both brothers were telling him that the applicant was not guilty.

3. This Court failed to consider the obligation of both the solicitor and the trial judge to

assure the defense counsel did not have a conflict when he was representing two co-defendants in the same case.

For the foregoing reasons, this Court should alter or amend the order issued in this matter and grant the applicant the relief requested.

August 26, 2024



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In his third assertion, the Applicant contends that the trial judge and prosecutor, under the circumstances, were obligated to assure that defense counsel did not have a conflict in representing the two co-defendants. In light of the fact that this Court found that the Applicant had failed in his burden of proof to show an actual conflict of interest that adversely affected the representation and sufficiently addressed the issues within its order of dismissal, this argument does not provide a basis for relief under Rule 59.

**IT IS THEREFORE ORDERED that the Motion to Alter or amend the judgment be denied.**

**AND IT IS SO ORDERED this** 20<sup>th</sup> **day of** March, 2025.

  
\_\_\_\_\_  
J. CORDELL MADDOX  
Presiding Judge  
Eleventh Judicial Circuit

Anderson, South Carolina

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas  
J. Cordell Maddox, Circuit Court Judge

Case No 2022-CP-32-3461

David Fredshun Gates, #387073, ..... Appellant,

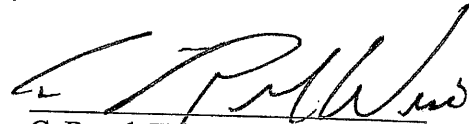
vs.

The State ..... Respondent.

NOTICE OF INTENT TO APPEAL

David Fredshun Gates, #387073 appeals the Orders of Honorable J. Cordell Maddox Order denying Rule 59 Motion filed April 18, 2025 and Order of Dismissal filed August 16, 2024. Appellant received a copy of this decision on May 2, 2025.

May 5<sup>o</sup>, 2025



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