

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Certiorari to Greenville County

Honorable Patrick Cleburne Fant, III, Circuit Court Judge

ADAM THOMAS BYRUM,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000876

APPENDIX

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1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF GREENVILLE

4 State of South Carolina,

5 vs. Transcript of Record
6 2020-GS-23-3384
7 2020-GS-23-3385
8 2020-GS-23-3494

9 Adam Byrum,

10 Defendant.

11 December 10, 2020
12 Greenville, South Carolina

13 B E F O R E:

14 The HONORABLE LETITIA VERDIN

15
16 A P P E A R A N C E S:

17 Marcus Smith, Representing the State of South Carolina
18 Christopher Shipman, Representing the Defendant
19
20
21

22 SHARON G. HARDOON, CSR
23 Official Circuit Court Reporter, III
24
25

1 THE COURT: All right. Go ahead and
2 bring the defendant out.

3 Mr. Byrum, you are here today on
4 indictment 2020-GS-23-3485, that is for attempted
5 murder. That carries 0 to 30 years. That is
6 classified as violent and most serious. You are
7 also here today on 2020-GS-23-3484, attempted
8 murder. That carries up to 30 years, and that is
9 also violent and most serious. And you are also
10 here today on the charge of murder
11 2020-GS-23-3494. That carries 30 years to life.
12 That is violent and most serious. And I know your
13 attorney has explained to you that any sentence
14 you receive will be served day for day. Is that
15 your understanding?

16 MR. BYRUM: Yes, ma'am.

17 THE COURT: Have you discussed these
18 charges with your lawyer?

19 MR. BYRUM: Yes, ma'am.

20 THE COURT: Are you happy with what your
21 lawyer has done for you?

22 MR. BYRUM: Yes, ma'am.

23 THE COURT: Are under the influence of
24 drugs or alcohol here today?

25 MR. BYRUM: No, ma'am.

1 THE COURT: Has anyone forced you to
2 plead guilty?

3 MR. BYRUM: No, ma'am.

4 THE COURT: Has anyone promised you
5 anything to get you to plead guilty?

6 MR. BYRUM: No, ma'am.

7 THE COURT: Have you ever been treated
8 for any substance abuse problem or mental health
9 problem?

10 MR. BYRUM: Yes, ma'am.

11 THE COURT: Tell me about that.

12 MR. BYRUM: When I was child, mental
13 health problems.

14 THE COURT: Could you move your mask down
15 just a little bit and say that again?

16 MR. BYRUM: I said, as a kid, I had
17 mental health problems.

18 THE COURT: Tell me about that. Were you
19 given a diagnosis?

20 MR. BYRUM: Depression and stuff like
21 that.

22 THE COURT: Okay. Do you take medication
23 for that today?

24 MR. BYRUM: No. I used to.

25 THE COURT: I used to take it, but you

1 don't take it anymore. Do you feel like you're
2 clear-headed here today?

3 MR. BYRUM: Yes, ma'am.

4 THE COURT: This man who's standing next
5 to you, Mr. Shipman, what is his job?

6 MR. BYRUM: To represent me.

7 THE COURT: Okay. And what about my job?
8 Do you know what my job is?

9 MR. BYRUM: To sentence me.

10 THE COURT: Okay, yeah. And do you have
11 any concerns about his mental health competency
12 here today?

13 MR. SHIPMAN: Your Honor, we did have him
14 evaluated and the Department of Mental Health
15 doctors opined that he was fit to stand trial.

16 THE COURT: All right. Do you have any
17 complaints to make against law enforcement, the
18 solicitor's office or your lawyer as a result of
19 these charges whatsoever?

20 MR. BYRUM: No, ma'am.

21 THE COURT: When you plead guilty, you
22 give up certain constitutional rights. One is
23 your right to remain silent about these charges.
24 Do you know that?

25 MR. BYRUM: Yes, ma'am.

1 THE COURT: You also give up your right
2 to a jury trial. At that trial, your attorney can
3 call witnesses for you, cross-examine witnesses
4 against you, and the State would have to prove
5 your guilt beyond a reasonable doubt. But when
6 you plead guilty, you give up your right to a jury
7 trial. Do you know that?

8 MR. BYRUM: Yes, ma'am.

9 THE COURT: And how do you plead to these
10 charges, guilty or not guilty?

11 MR. BYRUM: Guilty.

12 THE COURT: You have 10 days from today's
13 date to appeal this plea if you so choose, but you
14 must do so in writing to this Court.

15 Yes, sir.

16 MR. SMITH: Yes, Your Honor. Mr. Byrum
17 has 632 days in jail.

18 Your Honor, on March 13, 2019 here in
19 Greenville County, Jacori Ashley, age 21, and
20 Kalo McCullough, age 27, drove up to the
21 Dollar General off Locust Hill Road here in
22 Traveler's Rest. Jacori was driving and Kalo was
23 the passenger. Jacori had been contacted by the
24 defendant, Adam Byrum, and requested a ride.
25 Jacori worked with Byrum and his codefendants,

1 Corino Castro's mother at a place called RimTyme.
2 Jacori had given rides to Byrum in the past. This
3 night Jacori asked his friend Kalo to ride with
4 him.

5 They arrived at the Dollar General and
6 waited for Byrum and Castro to arrive. They
7 noticed two individuals wearing hoodies walking up
8 to the car. They knew it was Byrum and Castro as
9 they were on the phone talking with them.

10 When they got next to the car, the
11 defendant, Mr. Byrum, stated something to Jacori
12 and immediately pulled a gun and started shooting
13 into the vehicle. Jacori was hit with one round
14 and it went through his mouth and nasal area, as
15 well as his shoulders.

16 Kalo was hit with a round and went
17 through his lung and shattered a vertebra leaving
18 him permanently paralyzed from the chest area
19 down.

20 Jacori was able to speed off from the
21 site. And amazingly, Your Honor, having been shot
22 in the face, drive to St. Francis hospital in
23 downtown Greenville. At the time, Judge, he was
24 trying to make a phone call, but he couldn't
25 handle the phone because his hand was so full of

1 blood that it was just slipping out of his hand.

2 The guns used to shoot the victims were
3 380 calibers. Four shell casings found were
4 identified by ballistics tests as having been
5 fired from one of the 380 handguns, which was
6 found later belonging to the defendants.

7 Both victims have given statements that
8 both defendant and co-defendant, Byrum and Castro,
9 were the individuals there that night and that
10 Byrum was the person that shot him.

11 Then, Your Honor, four days later on
12 March 17, 2019 in Greenville County deputies
13 arrived at 66 - excuse me -- 6077 Locust Hill
14 Road, a short distance from where the first case
15 happened, in Traveler's Rest and found a Ford
16 F-150 partially in the roadway and partially in
17 the entrance to a business. Inside the vehicle, a
18 deceased white male sitting in the driver's seat
19 was found slumped over the center console with
20 blood on the left and right sides of his head. It
21 was determined that he been shot in the head.
22 Bullet holes were found on the car and two, 380
23 caliber shell casings were also found.

24 The male was later identified as
25 Jamie Dale Smith, age 32. A handwritten note on a

1 paper towel found in Smith's home was later given
2 to investigators that stated (864) 721-7109,
3 Smokey G, Locust Hill Road. T.R., 29690, call
4 30 min, minutes, be I arrive.

5 Smokey G was later identified as this
6 defendant, Adam Byrum, and the phone number was
7 run and found to belong to Adam Byrum as well.

8 An attempt to arrest the defendant was
9 carried out a day later, March 18, 2019.

10 Investigators who connected the two, found that
11 they were related incidents. And so a short
12 distance later -- a short distance from where
13 these two incidents occurred, that's where they
14 were going to arrest the defendant and his
15 co-defendant. Officers had to use a K-9 due to
16 the defendant running to avoid and apprehension.

17 When arrested, the defendant was found in
18 possession of 1.41 grams of methamphetamines and
19 admitted that he had just shot meth.

20 Both the defendant and his co-defendant
21 girlfriend are members of the Gangster of Insane
22 gang, which is part of the larger Folk Nation
23 gang.

24 And, Judge, I know I handed up to you
25 previously, and I've shared that with Mr. Shipman,

1 memes and things from where they had posted on
2 Facebook, and I can talk about some of those, but
3 some from Miss Castro and everything will show
4 that they have the gangster symbols and signs and
5 pictures and things of that nature.

6 Two females at the site of the arrest
7 stated that the defendant was acting crazy last
8 night, meaning the night before Jamie Smith was
9 shot and killed, and that co-defendant Castro had
10 been vomiting when they returned back to the
11 house.

12 This defendant's sister stated that when
13 Adam got home, I took the guns from him because he
14 was acting crazy.

15 Judge, several motives have been
16 mentioned as to why these particular individuals
17 were chosen such as robbing the targets of drugs,
18 killing them -- and killing them to believing that
19 Jamie Smith was a snitch, to Jacori Ashley
20 flirting with co-defendant, Corino Castro, who was
21 this defendant's girlfriend at the time.

22 That's where some of those come in. I
23 mean, you've seen like -- the memes where it says
24 some people won't respect you until you get
25 disrespectful.

1 THE COURT: Right.

2 MR. SMITH: Snitch prevention with a gun
3 and a skeleton -- or skull's head.

4 It's -- Judge, I prefer to take
5 Miss Castro's statement given to the police at
6 face value where it said that she and Adam had
7 planned to rob Jacori and Kalo -- excuse me. That
8 she had planned to rob Jacori and that Kalo was an
9 unintentional victim because they did not that he
10 was going to be there.

11 She stated that they each had 380 caliber
12 handguns, walked up to the car, and that this
13 defendant, Adam Byrum, fired multiple rounds into
14 the vehicle. She also stated that they knew Smith
15 as well.

16 As in the case before, they went to meet
17 Smith, both armed with the 380 handguns with the
18 plan to kill and rob him. She stated that it had
19 been her decision to handle Smith, meaning to kill
20 him.

21 Judge, he does have a record, but, also,
22 we are dismissing a resisting arrest charge, three
23 possession of a weapon during a violent crime
24 charges, two conspiracy charges, as well as a PWID
25 methamphetamine charge in exchange for these pleas

1 here today.

2 THE COURT: Mr. Byrum, you've heard the
3 facts as stated by the solicitor. How do you
4 plead, guilty or not guilty?

5 MR. BYRUM: Guilty.

6 THE COURT: All right. I'll accept your
7 plea as being freely and voluntarily made with
8 advice of extremely competent counsel with whom
9 you say you are satisfied and the plea does have
10 substantial factual basis.

11 Is there a prior record in this case?

12 MR. SMITH: Yes, Your Honor.

13 Judge, in 2013 we have an assault and battery
14 3rd degree; 2014, a burglary 3rd degree, petty larceny
15 and shoplifting; 2015, shoplifting; 2016, resisting
16 arrest, neglect by legal custodian; and 2018, domestic
17 violence 2nd degree.

18 THE COURT: Okay.

19 MR. SMITH: And, Judge, I do have the
20 officer here that would like to talk in a few
21 minutes, and also we do have on the Zoom meeting
22 Mr. McCullough and his mom, and Jacori and his
23 family are here in the courtroom.

24 But I would like to point out one thing,
25 on the memes and emails and things that I handed

1 up to you, Judge, that one on the top, it was
2 posted March 16th.

3 THE COURT: Yes.

4 MR. SMITH: So that was in between the
5 times where these two incidents happened. And, I
6 mean, it reads exactly -- it pissed me off, but,
7 "Keep in mind, I came into this world kicking,
8 screaming, and covered in someone else's blood, I
9 have no problem going out the same way."

10 THE COURT: Right.

11 MR. SMITH: And the last email that was
12 to Miss Castro's mother, and what was happening
13 was, they were sending emails back and forth
14 through her mother, and I'll just say -- I don't
15 need to get into everything, but at the very
16 bottom -- and this was on November the 10th of
17 this year.

18 THE COURT: Right.

19 MR. SMITH: "I can do unimaginable things
20 and feel nothing about it." "I can do
21 unimaginable things and feel nothing about it."

22 THE COURT: Yeah.

23 MR. SMITH: Judge, I won't preach. I'm
24 sorry. I've got Investigator Howard here and he
25 wanted to say a few things.

1 THE COURT: Yes, sir. Thank you for
2 being.

3 DETECTIVE HOWARD: Thank you. Your
4 Honor, I don't have a lot to add to that. The
5 prosecutor did an excellent job there. I know the
6 family can speak to the life-altering changes far
7 more eloquently than I can, but would like to
8 point out that we have three lives and their
9 families have been changed by this irrevocably.
10 One is no longer with us, and two families who are
11 going bear the effects of the defendant's actions
12 the rest of their lives.

13 THE COURT: Right. Thank you, sir.

14 DETECTIVE HOWARD: Yes, ma'am.

15 THE COURT: Thank you for being here.

16 All right. You want to begin with our
17 participant from Zoom?

18 MR. SMITH: Why don't we start with the
19 people that are actually in the courtroom.

20 THE COURT: That will be fine.

21 MR. SMITH: Judge, I think Jacori's mom
22 is going to speak.

23 MS. DUCES: Yes.

24 MR. SMITH: And I don't think that Jacori
25 wants to talk, Your Honor.

1 THE COURT: Yes, ma'am. Tell me your
2 name, please.

3 MS. DUCES: My name is Barbara Duces, and
4 I'm Jacori's mom. And, you know, I will never
5 forget the phone call that I got from the hospital
6 telling me that my son had been shot, you know.
7 And just hearing a lot of the things that have
8 been said here, you know, I don't know if he's
9 redeemable or not. That's not for me to decide,
10 but I just know how this has affected our families
11 and truly this has affected each family different
12 ways.

13 Of course, I'm sure you're going to hear
14 from Kalo's mother about what they experienced.
15 But, you know, my son being shot in the face, and,
16 thank God, miraculously, he was able to get him to
17 the hospital.

18 THE COURT: It's just a miracle.

19 MS. DUCES: It is a miracle. I mean, the
20 physician said that it's a miracle when he saw
21 what his face looked like, you know.

22 And he still suffers nerve damage. A lot
23 of things. I mean, mentally, the things that he's
24 dealing with is just -- you know. I don't -- you
25 know, we often wonder why it happened, and, for

1 me, I just know that it happened. And I just hope
2 today that, you know, that justice is completely
3 served. The pain that it has caused our family is
4 just unimaginable. And I pray that nobody else
5 would have to go through this at the hands of
6 them.

7 THE COURT: Thank you so much for being
8 here, and I'm just so sorry that he did this to
9 you and to your family.

10 All right.

11 MR. SMITH: I'm sorry, Your Honor.

12 THE COURT: Yes, sir.

13 MR. SAMS: My name is William Sams. I'm
14 Jacori's father. Thank you for allowing us a
15 moment to speak. I will say this, it's hard to
16 know exactly what to say in a situation like this,
17 because no one wants to be in a situation like
18 this. I will say that I believe that everyone has
19 a right to live their life in piece and to have
20 happiness, and someone who didn't have a right
21 altered that for my son and his friend and our
22 families and other families, we just beg you to
23 let the punishment fit the crime.

24 THE COURT: Thank you so much for being
25 here. Thank you.

1 MR. SMITH: Janine, can you hear me?

2 MS. KIRKMAN: Yes, I can.

3 MR. SMITH: Okay. Judge?

4 THE COURT: I can hear her.

5 MR. SMITH: Okay. Go ahead, if you
6 want.

7 MS. KIRKMAN: Okay. I'm Janine Kirkman.

8 I'm the mother of Kalo McCullough. My son was
9 arriving with Jacori, as you all have heard, and
10 he was shot through his left lung and it hit his
11 spine and went into right lung. It collapsed both
12 of his lungs and he spent three weeks in ICU on a
13 ventilator. I'm sorry.

14 And I spent the last couple days trying
15 to decide what to say. How do you prepare to
16 speak on what has happened to your child whether
17 grown or not. My son is now a paraplegic from his
18 chest down. He has multiple medical problems
19 because of this. I'm his caretaker now.

20 He is in -- he has chronic pain syndrome.
21 He's in pain all day, every day. Every day, every
22 night for the last one year, eight months, and 27
23 days. We've seen every specialist there is. They
24 said there's nothing they can do for him, that he
25 will be in a wheelchair for the rest of his life.

1 There is nothing they can do for the pain. He's
2 on -- he takes at least 30 to 45 pills every day
3 just to help with the spasms and help with the
4 pain.

5 There's no words to describe how this has
6 affected me and my family, and my son most of all.
7 He was in college when this happened. His second
8 semester. He was on the Who's Who of America's
9 kids. He was on the honor roll. And it's like
10 over -- in the blink of an eye, all of that is
11 over. It's just hard to try to put into words
12 what we feel every day and every night. We're
13 still in the grieving process. It hurts so much.
14 There's just no words to explain how much pain he
15 is in physically, emotionally, and mentally every
16 day.

17 I just want to show you all, this is the
18 wheelchair that my son is confined to everyday and
19 every night. If he's not in the bed, he's in that
20 wheelchair.

21 And we just beg the Court to please give
22 him the maximum time allowed by law. If he
23 confined my son to a wheelchair, he needs to be
24 confined to a prison cell.

25 THE COURT: Thank you, ma'am.

1 MR. SMITH: Judge, if I can relate one
2 thing that Janine told me a while back when I
3 first met her, I mean, she named the date, the
4 time, and everything. She said the last good
5 night's sleep that she sleep through the night was
6 the night before this accident.

7 She has to get up every two hours and
8 rotate her son so the bed sores don't occur. I
9 mean, she has to do that every two hours. And
10 there wasn't anybody else helping her do this.
11 She's lucky that she has a job -- I think it's
12 medical transcriptionist. Is that -- it's in the
13 medical field.

14 MS. KIRKMAN: I'm a medical outpatient
15 coder.

16 THE COURT: Okay.

17 MR. SMITH: But, I mean, that's just one
18 of the things, Judge.

19 THE COURT: Sure. So completely tragic
20 and senseless.

21 All right. Mr. Shipman.

22 MR. SHIPMAN: Thank you, Your Honor. If
23 it pleases the Court, I'll start out by saying
24 that Mr. Byrum is 24 years old. Any sentence that
25 you can possibly give him, as you are well aware,

1 is going to be longer than he's even been alive.

2 I was thinking, you know, 30 years ago, I was in

3 the first grade, and I was thinking about what --

4 you know, looking through his medical records and

5 everything and what his first grade was like

6 versus mine. And, you know, I use that, kind of,

7 as a segue. We've heard about where he was in

8 March of 2019, and we know where he's going to go

9 after he leaves here, but where he comes from, I

10 think, will shed a lot of light on this situation.

11 We got mental health records going back

12 to when he was six years old. You know, I don't

13 think I've ever seen a case with a six-year-old

14 getting mental health treatment.

15 About the time that he's 10 or 12, he

16 was, you know, engaging in self harm, multiple

17 suicide attempts. He was involuntarily committed

18 three times before he even reached his majority.

19 So we're talking about an elementary school kid

20 here.

21 Looking through the records, he had a

22 bunch of step-fathers, if you want to call them

23 that. You know, mother's boyfriends in and out of

24 the house who abused him. One of the them

25 sexually assaulted him when he was about 10, 11,

1 12 years old.

2 Mother was basically, you know, absent.

3 She -- you know, she -- one of the doctors noted

4 in his file that the mother wanted to rely on

5 drugs rather than on counseling and other things.

6 And so, basically, she wanted to dope him up. And

7 she said that she felt overwhelmed -- or the

8 doctor said that he thought she felt overwhelmed.

9 The mother's words were, I can't get out of bed

10 to -- basically, to fool him. So he's more or

11 less abandoned from a very young age, Your Honor.

12 You know, I think that explains a lot.

13 You know, running to this gang lifestyle, somebody

14 gives him a sense of community, a sense of

15 belonging. Of course, he's, you know, engaging in

16 a lot of drug use. He's basically been given

17 drugs since he was a small child. That's what he

18 was using to cope, I think, with a lot of tragic

19 feelings of his own and a lot of the turmoil in

20 his life.

21 And, of course, that's not to say that it

22 had to end this way, Your Honor. I don't mean

23 that at all, because I've had plenty of people who

24 have had horrible childhoods who have never

25 committed a murder or anything like that.

1 THE COURT: Right.

2 MR. SHIPMAN: I don't mean it that way,
3 but I do think it explains how he got to this
4 point.

5 You know, his father at one point -- his
6 biological father whom he wanted to have a
7 relationship with, basically, disowned him to his
8 face as a child. He said, you're not mine, leave.
9 There's many notations about that in his
10 psychiatric records as well. Again, the
11 step-fathers who were in his life abused him.

12 So, you know, if anybody ever truly -- if
13 it was ever true for anybody that they never had a
14 chance, this is Mr. Byrum standing right here
15 today, Your Honor.

16 You know, at the time, he was all messed
17 up on drugs. The State's made a lot out of his
18 social media presence and the things he's put out
19 there, Your Honor. I will say that, you know,
20 I've been doing this for about eight years now.
21 I've met a few people who have really given me
22 nightmares. Really scary guys. And I'll tell you
23 the thing I notice about them versus Mr. Byrum is,
24 the ones that really scare me don't talk about how
25 big and bad they are. I mean, you can see him,

1 he's probably about, you know, a foot shorter than
2 I am, probably 100 pounds lighter. He's going to
3 go into a prison where there are going to be guys
4 my size or bigger there as well, Your Honor.

5 So I think a lot of this is bluster,
6 self-defense, like, preemptive in nature. He's
7 been in a jail for the last 600 and some odd days.
8 He's going to be in one for the next, you know,
9 20, 30 -- 20 in not even in the cards.
10 Thirty-plus years. So I think that explains a lot
11 of his -- this bluster, Your Honor. I don't think
12 he's a cold-hearted killer by any means. I mean,
13 you can look at this last email there. He's upset
14 about, you know, his love interest. He's talking
15 about loving somebody. And then he's followed up
16 by this, kind of, hyperbolic commentary. I think
17 it's more complicated than just dealing with like,
18 you know, a snake here, Your Honor. I don't think
19 we're dealing with that here by any means.

20 I guess I'll finish this up by saying
21 that, you know, one thing that really struck me in
22 those psychiatric records were some of these
23 doctors had given him worksheets to complete about
24 what are the problems in your life, how do you
25 address them, what happens if you don't, and one

1 thing came up through all of them was wanting,
2 desperately, to have a relationship with his
3 father and his mother. Wanting to be able to get
4 along better with his brothers and sisters.

5 One of them, you know, he, kind of,
6 written down there -- you know, this is when he
7 was 10 or 12 years old -- saying I need to figure
8 this out before I go to jail.

9 You know, dealing with this kind of case,
10 it really stuck into me when I saw it. I don't
11 think it had to be this way. I think he's
12 irredeemable by any means. I think there's
13 definitely something in there to be saved, but
14 he's been -- failed himself in a lot of ways,
15 abandoned himself in a lot of ways. If, you know,
16 maybe if he had a mother that was as good as the
17 two mothers who have been here in court today, we
18 wouldn't be standing here. But, you know, it
19 wasn't entirely his fault bringing him to this
20 point, Your Honor. I'd ask you to consider that
21 in the sentencing.

22 You know, we talked about what to ask
23 for. Again, how do you put a number on this. I
24 know it's a very difficult decision and you've
25 already had to do that once today, so I won't

1 belabor that point. But I'd ask you to consider
2 something in the range of 35 to 40 years, Your
3 Honor, on the murder. And then, of course, on the
4 attempted murders, you know, 30 years on those,
5 Your Honor. I think -- he would finish those 30's
6 on the attempted murder before he ever finished
7 the 35 to 40 on the actual murder, Your Honor. So
8 I just give you that one number there, or that one
9 range to consider.

10 THE COURT: Well, I appreciate the
11 outstanding presentation you've made on behalf of
12 Mr. Byrum. All the work you've done going above
13 and beyond and looking into everything for him.

14 Is there anything Mr. Byrum wants to say?

15 MR. SHIPMAN: No, ma'am.

16 THE COURT: On murder, the sentence of
17 the Court -- on the charge of murder, the sentence
18 of the Court is 50 years. Credit for 632 days.
19 And then concurrent, 30 years and 30 years on each
20 of the attempted murders. Credit for 632 days.

21 MR. SHIPMAN: Thank you, Your Honor.

22 THE COURT: I wish you both the best of
23 luck.

24 MR. SHIPMAN: Thank you.

25 (The hearing was concluded.)

CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in General Sessions, Greenville, County, South Carolina.

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

February 16, 2022

A handwritten signature in cursive script, reading "Sharon G. Hardoon". The signature is written in dark ink and is positioned above a horizontal line.

Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF *greenville, SC*)

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

Adam Thomas Byrum #384584)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2021-CP-23- 04035

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
CLERK OF COURT
PAUL B. WICKENHUISER
GREENVILLE, SC

2021 AUG 10 AM 11:27

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 *Perry Correctional Institution*
2. Name and location of Court which imposed sentence *greenville general sessions court house (305 east north st) greenville SC 29601*
3. Name(s) of co-defendant(s) (if any) *Corina Castro*
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) *assault/attempted murder 19000043839*
 - (b) *assault/attempted murder 19000043839*
 - (c) *murder/murder 19000043839*
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) *50 years*
 - (b) *12-10-20*

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ✓
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
no
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) didnt know I could
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

A

Lack of subject matter jurisdiction

The applicant asserts that the trial court lacked subject matter jurisdiction over the offense and personal jurisdiction over him because the State failed to charge him with valid criminal charges. (Criminal-law-101 wkg 91, 92 (in part)) If the statute is unconstitutional the court lacks subject matter jurisdiction here as stated previously the general assembly had failed to properly insure that S16-3-10 was valid under the 1995 act no. 7 and that S16-3-29 was valid under the 1993 act no 184. By the act not having the great Seal of this state embossed upon its face indicates there is not legislative intentive approval in accordance to S.C. cont. Art. 3 § 18

S.C. cont. Art. 3 § 18 (in part)
 "no act or joint resolution of the states legislative branch shall have the force of law" unless it has the great seal of the state affixed to it!
 under state law the word affixed mean "securely attached to; fixed or fastened in any way or impressed upon permanently. By notification given from the South Carolina Department of archives and history on 8-9-21 by deputy director of archives and records Steven Tuttle, The 1995 act no. 7 or the 1993 act no. 184 was not sealed see ex. b. In this particular case the prosecution had no legal authority to convict and sentence applicant because the statute (16-3-10) and statute (16-3-29) had no legal constitutional foundation from the general assembly of this state because it was not under the great seal. here the applicant was arrested and charged unlawfully and unconstitutionally where the general assembly of this state had not given proper legislative approval under seal here the acts that give absolute constitutional foundation to the law are not properly established within the legislative guidelines. so the statute (16-3-10) and statute (16-3-29) is null and void of legal force. Due process means fundamental importance as required compliance with due process standards of fairness and justice, procedural and substantive rights of citizens against government action that threaten the denial of life, liberty, and property, here the state also violated the cruel and unusual punishment clause under the 8th amendment and the equal protection of law clause to the U.S. constitution on the S.C. constitution article 1 § 3 by the law under the 1995 act no. 7 and the 1993 act no. 184 not being sealed in accordance to the S.C. constitution, it is an error that cannot be corrected or amended in any way because it is ~~an error~~ invalid and unconstitutional (see S.C. code of laws) (§ 2-7-230, § 2-7-240)

SC code of laws 2-7-230 (in part)

"If upon examination of such errors as maybe called to their attention the clerk of the state and of the house of representatives shall be in doubt as to their authority to make a correction as here in above provided said clerks shall withhold the certificate of correction!"

11.A. cont)

(SC code of laws 2-7-240 (in part)

11 no act or joint resolution lodged in the Secretary of State office over (15) fifteen days shall be corrected as here in above provided in this article.

11.B)

Ineffective assistance of counsel

The sixth amendment right to effective assistance of counsel extends to cases involving plea offers, particularly where plea offers lapse and where prejudice is shown, i.e., that the defendant would have accepted the plea before the expiration date but for counsel's error in allowing the expiration date to pass before acceptance of the offer. Missouri vs Frye 132 S.Ct. 1399 (2012). In Missouri vs Frye, counsel did not convey the plea offer to the defendant and as a result the plea offer expired. Accord Lafler vs Cooper 566 U.S. 156, 186 (2012) (If a plea bargain has been offered, a defendant has the right to effective assistance of counsel in considering whether to accept it. If the right is denied prejudice can be shown if loss of plea opportunity led to a trial resulting in a conviction on more serious charges or the imposition of a more severe sentence) and contrary to Missouri vs Frye 566 U.S. 134, 146 (2012) (when defense counsel allowed the offer to expire without advising the defendant or allowing him to consider it, defense counsel did not render the effective assistance the constitution requires).

Here counsel's error in failing to communicate to Petitioner the likely expiration date of the plea offer constituted ineffective assistance of legal counsel in his case in violation of the sixth amendment to the United States constitution. A defendant has a right to effective assistance of counsel during the plea bargaining process. Judge vs. State 321 S.C. 554 427 S.E. 2d 146 (1994), to the extent that a petitioner's statement that he was prejudiced by counsel's deficient performance at the plea bargaining process can satisfy the prejudice prong of the two pronged test to be met in ineffective assistance of counsel cases. See Hill vs. Lockhart, 484 U.S. 52 (1985) Petitioner was prejudiced because he would have accepted the plea offer had he known the expiration date of the same.



9 August 2021

Mr. Adam Byrum #384584
Perry Correctional Institution C Z-6
430 Oaklawn Road
Pelzer, SC 29669

Dear Mr. Byrum:

I checked the following acts that you requested but could not locate a visible impression of the Great Seal: 1993 Act No. 184 and 1995 Act No. 7.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven D. Tuttle". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Steven D. Tuttle
Deputy Director
Archives & Records Management

- (a) Lack of subject matter Jurisdiction
 (b) Ineffective assistance of counsel
 (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
 (a) see Attached
 (b) see Attached
 (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? _____
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
 (d) any other petitions, motions or applications in this or any other Court? _____
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
 (a) the specific nature thereof:
 i. _____
 ii. _____
 iii. _____
 iv. _____
 (b) the name and location of the Court in which each was filed:
 i. _____
 ii. _____
 iii. _____
 iv. _____
 (c) the disposition thereof:
 i. _____
 ii. _____
 iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

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

NO

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

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

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

(a) Lack of subject matter Jurisdiction/ First appeal

(b) Ineffective assistance of counsel/ First appeal

(c) _____

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

- (a) your arraignment and plea? ✓
- (b) your trial, if any?
- (c) your sentencing? ✓
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence?
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Chris Shipman (public defender) (305 East North St)
greenville SC 29601
- ii. [REDACTED]
- iii.
- (b) the proceedings at which each such attorney represented you:
- i. Your arraignment and Plea
- ii. Your Sentencing
- iii.
19. State clearly the relief you seek in filing this application:
- Sentence vacated / new trial
20. Are you now under sentence from any other court that you have not challenged?
- no

STATE OF SOUTH CAROLINA)

VERIFICATION)

County of)

I, _____, 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.

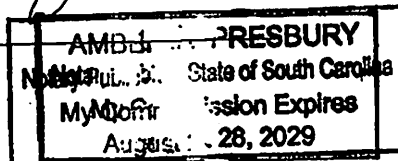
John B.

SWORN to and subscribed before me this 5th
day of August, 21.

John B. (L.S.)
Notary Public

My Commission Expires:

8/28/29



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

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

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

Salem By _____

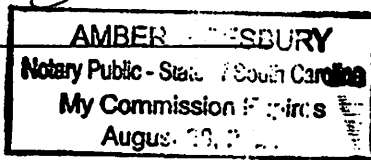
Applicant

SWORN or affirmed to and subscribed before me this
5th day of August, 21.

Amber _____
Notary Public

My Commission Expires: _____

8/28/29



STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Adam Thomas Byrum, #384584,

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS
) FOR THE THIRTEENTH JUDICIAL CIRCUIT
)

) Case No.: 2021-CP-23-04035
)

) **RETURN AND PARTIAL MOTION**
) **FOR SUMMARY DISMISSAL**
)

The State of South Carolina (“Respondent”), making its return to the application for post-conviction relief filed by Adam Thomas Byrum (“Applicant”) on August 20, 2021, would respectfully show this Court:

I. Procedural History

Applicant is presently imprisoned in the South Carolina Department of Corrections. During its July of 2020 term, the Greenville County Grand Jury indicted Applicant for possession of methamphetamine with intent to distribute (2020-GS-23-003491), resisting arrest (2020-GS-23-003480), two counts of conspiracy (2020-GS-23-003489; -003490), murder (2020-GS-23-003494), two counts of attempted murder (2020-GS-23-003484; -003485), and three counts of possession of a weapon during the commission of a violent crime (2020-GS-23-003494; -003484; -003485). On December 10, 2020, Applicant appeared before the Honorable Letitia H. Verdin (“plea court”) and pleaded guilty to murder (2020-GS-23-03494) and two counts of attempted murder (2020-GS-23-03484; -03485). John Christopher Shipman (“plea counsel”) represented Applicant at that guilty plea hearing, and Marcus Lynn Smith (“the solicitor”) of the Thirteenth Circuit Solicitor’s Office represented the State. The plea court sentenced Applicant to imprisonment for fifty years for murder and for thirty years for each conviction for attempted murder, with all sentences running concurrently, and with credit for time served. In accordance

with the plea agreement, the solicitor dismissed the remaining charges, as identified above.

Applicant did not appeal his convictions or sentences.

II. Current Application

In his application for post-conviction relief, filed on August 20, 2021, Applicant argues he is entitled to relief based upon multiple claims, which Respondent interprets as follows: (1) Applicant did not knowingly and voluntarily waive his right to direct appellate review of his convictions and sentences; (2) the plea court lacked subject matter and personal jurisdiction because the enabling legislation of the statutes of which Applicant pleading guilty to violating are not marked with the Great Seal of South Carolina; and (3) plea counsel was constitutionally ineffective for allowing a plea offer to lapse without first having communicated to Applicant the likely expiration date. Applicant prays that the Court would vacate his sentences and remand for a new trial.

Attached to this return and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding Applicant's convictions and sentences, the records of the Greenville County Clerk of Court regarding the charges dismissed in accordance with Applicant's plea agreement, the transcript from Applicant's guilty plea hearing, and Applicant's records from the South Carolina Department of Corrections. Respondent reserves the right to amend this return upon receipt of any relevant materials.

III. Motion to Dismiss One of Applicant's Claims

Pursuant to S.C. Code Ann. § 17-27-70(c), this Court may summarily dispose of an application if there is no genuine issue of material fact in the "pleadings, depositions and admissions and agreements of fact" and the movant is entitled to judgment as a matter of law. The summary dismissal of an application for post-conviction relief without a hearing is appropriate only when it is apparent on the fact of the application that a hearing is not needed for the

development of a factual record and the applicant is not entitled to relief. Mose v. State, 420 S.C. 500, 505, 803 S.E.2d 718, 720 (2017) (citing Leamon v. State, 363 S.C. 432, 611 S.E.2d 494 (2005)). The Court, in considering the motion for summary dismissal without the holding of an evidentiary hearing, must assume the facts presented by Applicant as true and view then in the light most favorable to Applicant. Robertson v. State, 418 S.C. 505, 519, 795 S.E.2d 29, 36 (2016) (citing McCoy v. State, 401 S.C. 363, 737 S.E.2d 623 (2013)).

Pursuant to the South Carolina Constitution, Article III, Section 18:

No Bill or Joint Resolution shall have the force of law until it shall have been read three times and on three several days in each house, has had the Great Seal of the State affixed to it, and has been signed by the President of the Senate and the Speaker of the House of Representatives: Provided, That either branch of the General Assembly may provide by rule for a first and third reading of any Bill or Joint Resolution by its title only.

The South Carolina Supreme Court has held that absolute literal compliance is not essential to ensure the validity of legislation, but has found that substantial compliance is sufficient. Smith v. Jennings, 67 S.C. 324, 45 S.E. 821, 824 (1903). Under the enrolled bill rule, an act is deemed to be properly passed when it has been ratified by the presiding officers of the General Assembly, approved by the Governor, and enrolled in the Office of the Secretary of State. Medical Soc. of South Carolina v. Medical Univ. of South Carolina, 334 S.C. 270, 278, 513 S.E.2d 352, 356 (1999); Beaufort County v. Jasper County, 220 S.C. 469, 487, 68 S.E.2d 421, 430 (1951); State v. Town Council of Chester, 39 S.C. 307, 17 S.E. 752, 755 (1893) (instructing that “when the bill . . . is deposited in the department of state, according to law, its authentication as a bill that has passed congress is complete and unimpeachable”).

Applicant pleaded guilty to murder. The punishment for murder is set out in South Carolina Code Section 16-3-20. The relevant portion of the Omnibus Crime Reduction and Sentencing Reform Act of 2010, which amended Section 16-3-20 while re-affirming the sentencing range of thirty years to life or execution, went into effect on June 2, 2010. See 2010 Act 273 § 21

(establishing that the part in which this section was located, with the exception of some provision of two unrelated sections, would become effective upon signature by the governor). Applicant also pleaded guilty to two charges of attempted murder. Section 16-3-29 defines the crime of attempted murder and sets the sentencing range. The Omnibus Crime Reduction and Sentencing Reform Act of 2010 created the attempted murder statute, and that statute also went into effective on June 2, 2010. See 2010 Act 273 § 6.A. The aforementioned authorities indicate that the relevant portions of Sections 16-3-20 and 16-3-29 were enacted properly.

Furthermore, the plea court had subject matter and personal jurisdiction. “Subject matter jurisdiction is the power to hear and determine cases of the general class to which the proceedings in question belong.” State v. Harrison, 432 S.C. 448, 466, 854 S.E.2d 468, 478 (2021) (quoting Ex parte Harrell, 409 S.C. 60, 760 S.E.2d 808 (2014) (per curiam)). “South Carolina circuit courts are vested with original jurisdiction in . . . criminal cases, except those cases in which exclusive jurisdiction shall be given to inferior courts. Thus, circuit courts obviously have subject matter jurisdiction to try criminal matters.” Id. at 466, 854 S.E.2d at 478 (citations and quotations omitted). Obviously, then, the plea court had subject matter jurisdiction. “[J]urisdiction over the person in a criminal case lies in the state or county where the crime was committed.” State v. Crocker, 366 S.C. 394, 402, 621 S.E.2d 890, 594 (Ct. App. 2005) (citation omitted). The indictments allege that Applicant committed these crimes in Greenville County. In his recitation of facts, the solicitor stated that the attempted murders and the murder occurred in Greenville County. Plea Tran. 5-7. After hearing the solicitor’s recitation, Applicant affirmed that he wanted to plead guilty. Plea Tran. 11. The plea court had personal jurisdiction over Applicant because Applicant’s crimes occurred in Greenville County.

There is no genuine issue of material fact regarding this claim and Respondent is entitled to judgment on the claim as a matter of law. The Court should summarily dismiss the claim.

IV. Response to Applicant's Sixth Amendment Claim

All defendants have a right to the assistance of effective counsel as provided by the Sixth Amendment to the United States Constitution. Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008). A post-conviction relief applicant has the burden of proving the allegations in his post-conviction relief action, and when alleging that his lawyer was constitutionally ineffective, he must prove that the conduct of her lawyer “so undermined the proper functioning of the adversarial process that [that conduct] cannot be relied upon as having produced a just result.” Strickland, 466 U.S. at 686. In evaluating allegations of ineffective assistance of counsel, the post-conviction relief court applies the two-pronged test outlined in Strickland. First, the applicant must prove that the performance of his lawyer was deficient. Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989) (quoting Strickland). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). In order for a post-conviction relief applicant to successfully prove that his defense attorney’s performance was deficient, the applicant must prove “that counsel made errors so serious that counsel was not functioning as the ‘counsel’ guaranteed by the Sixth Amendment.” Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (quotation omitted). “The proper measure of counsel’s performance remains whether he has provided representation within the range of competence required of attorneys in criminal cases.” Id. (citations omitted). The “preeminent authority for all” courts when they are considering an applicant’s claim of constitutional ineffectiveness requires that the courts be highly deferential to a defense lawyer’s performance because:

[I]t is all too easy for a court, examining counsel’s defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable A fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the

circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time. Because of the difficulties inherent in making the evaluation, a court must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance.

Id. at 444-45, 334 S.E.2d at 815-16 (quoting Strickland). An applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. "The burden of rebutting this presumption rests squarely on the defendant, and it should go without saying that the absence of evidence cannot overcome it. In fact, even if there is reason to think that counsel's conduct was far from exemplary, a court still may not grant relief if the record does not reveal that counsel took an approach that no competent lawyer would have chosen." Dunn v. Reeves, 141 S. Ct. 2405, 2410 (2021) (quotation omitted).

Second, the deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for [the lawyer's] unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "Representation is an art, and an act or omission that is unprofessional in one case may be sound of even brilliant in another. Even if a defendant shows that particular errors of counsel were unreasonable, therefore, the defendant must show that they actually had an adverse effect on the defense." Hill v. Lockhart, 474 U.S. 52, 58 (1985) (quotation omitted). With respect to a guilty plea counsel, an applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill, 474 U.S. at 59. A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing: (1) that counsel was deficient and (2) that there is a reasonable probability that but for counsel's errors, the defendant would not have pleaded guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). The "prejudice prong ordinarily requires more than simply a defendant's assertion that but for counsel's deficient performance he would not have pled but would have gone to trial." Stalk v. State, 383 S.C. 559,

563, 681 S.E.2d 592, 595 (2009).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. A court need not first determine whether a lawyer's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, 466 U.S. at 670. Moreover, Strickland does not require a finding of ineffectiveness merely for deviation from some rigid rule of representation. Rather, Strickland requires the post-conviction relief applicant to prove that "counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." Id. at 697. Therefore, the function of the post-conviction relief court is to determine if "in light of all the circumstances, the identified acts or omissions were outside the wide range of professional competent assistance" required of a criminal defense attorney. Id. at 690.

"A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, 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)). "Indeed, where a thorough colloquy is conducted, courts must exercise caution in setting aside the guilty plea." Garren v. State, 423 S.C. 1, 12, 813 S.E.2d 704, 712 (2018); see Jamison v. State, 410 S.C. 456, 469-71, 765 S.E.2d 123, 129-30 (2014) (observing that "guilty plea[s] must be treated as final in the vast majority of cases" and instructing that caution must be exercised so as not to "undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea"). The South Carolina Supreme Court has instructed that:

The longstanding test for determining the validity of a guilty plea is whether the plea represents a voluntary and intelligent choice among the alternative courses of

action open to the defendant. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him.

State v. Inman, 395 S.C. 539, 556, 720 S.E.2d 31, 40 (2011) (internal quotations and citations omitted). “[A] guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights.” Jamison, at 468, 765 S.E.2d at 129 (citations omitted).

Applicant raises a claim that plea counsel was constitutionally ineffective for allowing a plea offer to lapse without first having communicated to Applicant the likely expiration date. “[A] defendant has the right to effective assistance of counsel during the plea bargaining process.” Bell v. State, 410 S.C. 436, 440-41, 765 S.E.2d 4, 6 (Ct. App. 2014) (quoting Davie v. State, 381 S.C. 601, 675 S.E.2d 416 (2009), abrogated on other grounds by Smalls, 422 S.C. 174, 810 S.E.2d 836. A defense attorney “has the duty to communicate formal offers from the prosecution to accept a plea on terms and conditions that may be favorable to the accused.” Id. (quoting Missouri v. Frye, 566 U.S. 134 (2012)). Respondent submits that Applicant likely cannot show that he is entitled to post-conviction relief based upon this claim, but requests an evidentiary hearing in order to address the questions of fact raised that the record may not conclusively refute. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (holding that an evidentiary hearing is required when an application for post-conviction relief alleges specific instances of ineffectiveness that are not conclusively refuted by the record) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

V. Applicant’s Right to Direct Appellate Review

Applicant raises the claim that he did not knowingly and voluntarily waive his right to direct appellate review of his conviction and sentence. In White v. State, 263 S.C. 110, 119, 108 S.E.2d 35, 39 (1974), the South Carolina Supreme Court held that, even though a post-conviction relief court may find that an applicant did not voluntarily and intelligently abandon his right to a direct appeal, the post-conviction relief court does not have jurisdiction to grant a belated appeal.

However, when an accused establishes in a post-conviction relief hearing that he was unconstitutionally deprived of his right to a direct appeal, the South Carolina Supreme Court, upon an appeal of the post-conviction relief decision, will review the trial record and pass upon all issues properly raised and argued as if the direct appeal has been perfected. Id. at 119, 108 S.E.2d at 39-40. Although he does not specifically request it, Respondent assumes that Applicant seeks this relief.

Counsel has a constitutionally-imposed duty to consult with a defendant about an appeal when there is reason to think either: (1) that a rational defendant would want to appeal or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. Roe v. Flores-Ortega, 528 U.S. 470 (2000). When counsel has consulted with the defendant regarding the right to appeal, “Counsel performs in a professionally unreasonable manner only by failing to follow the defendant’s express instructions with respect to an appeal.” Id. at 478 (underlining added). In order to establish that he was prejudiced by counsel’s failure to file an appeal, an applicant must show he would have appealed absent counsel’s deficient performance. See Id. at 484. Respondent submits that Applicant likely cannot show that he is entitled to relief on this claim but requests an evidentiary hearing in order to address the questions of fact raised that the record may not conclusively refute. See Sharper, 279 S.C. at 265, 305 S.E.2d at 248.

VI. Denial of All Other Claims

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

VII. Future Amendments and the Discovery Process

Applicant must specify any claims he intends to raise at the post-conviction relief evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Respondent reserves the right to request that any amendments withheld until the last minute be

stricken because of undue prejudice to Respondent pursuant to Love v. State, 428 S.C. 231, 238-39, 834 S.E.2d 196, 199-200 (2019), or, alternatively, Respondent will move for a continuance in the matter. See Love, at 245, 834 S.E.2d at 203 (Kittredge, J., dissent) (“If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.”).

Pursuant to S.C. Code Ann. § 17-27-150(a) (2008), an applicant in a non-capital post-conviction relief action may invoke discovery under the South Carolina Rules of Civil Procedure only if granted leave to do so by a court upon a showing of good cause. If Applicant attempts to invoke discovery powers without first obtaining leave to do so by a court upon a showing of good cause, Respondent will oppose those attempts.

VIII. Conclusion

WHEREFORE, Respondent requests that the Court require dismiss the claim about the plea court’s jurisdiction and convene an evidentiary hearing on the remaining claims.

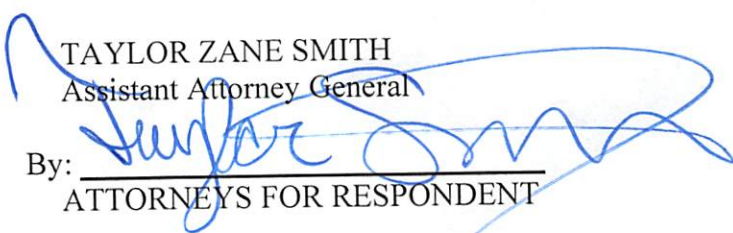
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

TAYLOR ZANE SMITH
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
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March 31, 2022

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Adam T. Byrum, #384584,

Applicant,

vs

State of South Carolina,

Respondent,

IN THE COURT OF COMMON PLEAS

2021-CP-23-04035

CERTIFICATE OF SERVICE BY MAIL

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

Susannah Conyers Ross, Esquire
Ross & Enderlin, PA
330 East Coffee Street
Greenville, SC 29601

DATED this the 31st day of March, 2022.



William Corbett, Jr.
 Legal Assistant for Respondent

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
ADAM THOMAS BYRUM,	)	AMENDED APPLICATION
APPLICANT,	)	
v.	)	ENTERED COMPUTER
	)	
THE STATE OF SOUTH CAROLINA,	)	CASE # 2021-CP-23-4035
RESPONDENT.	)	

This matter comes before the Court by way of application of post-conviction relief filed August 20, 2021, requesting relief due to:

- 1) The Applicant not knowingly and voluntarily waiving his right to appeal;
- 2) the plea court not having subject matter and personal jurisdiction because the enabling legislation of the crimes he plead guilty to violating were not marked with the Great Seal of South Carolina; and
- 3) plea counsel was constitutionally ineffective for allowing a plea offer to lapse before informing the applicant of the expiration date.

Additionally, the Applicant alleges ineffective assistance of counsel for:

- 1) failing to fully review discovery with the Applicant or providing him a copy thereof;
- 2) failing to appeal the plea and sentence;
- 3) advising Applicant that the plea offer was thirty years; and
- 4) failing to move for a reconsideration of the sentence.

Respectfully submitted,



Susannah Ross #11205
Attorney for the Applicant
330 E. Coffee St,
Greenville, SC 29601
(864) 242-0029

Greenville, South Carolina
This 2 day of May, 2024

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS)
THIRTEENTH JUDICIAL CIRCUIT)

ADAM THOMAS BYRUM,)
APPLICANT,)

vs.)

AFFIDAVIT OF SERVICE)
BY ELECTRONIC MAIL)

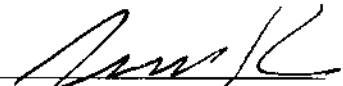
THE STATE OF SOUTH CAROLINA,)
RESPONDENT.)

CASE # 2021-CP-23-4035

04 MAY 24 PM 10:04
6766 24774 200801 80

1. I am the attorney for the Applicant in the above-captioned matter.
2. Regular communication by mail exists throughout the state of South Carolina and this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Amended Application** in the above-captioned matter on the following person by electronic mail addressed to:

TommyEvans@scag.gov


Attorney for Applicant

This 4 day of May, 2024

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	2021-CP-23-04035
COUNTY OF GREENVILLE	)	
	)	
	)	
	)	
ADAM THOMAS BYRUM,	)	
APPLICANT,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
STATE OF SOUTH CAROLINA,	)	
RESPONDENT.	)	
_____	)	

October 8, 2024
Greenville, South Carolina

B E F O R E:

THE HONORABLE PATRICK CLEBURNE FANT, III, JUDGE

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

SUSANNAH CONYERS ROSS, ESQ.
Attorney for the Applicant

TOMMY EVANS, JR., ESQ.
Attorney for the Respondent

CHERYL A. SMITH
Circuit Court Reporter

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(AW) - Denotes Applicant's Witness
(RW) - Denotes Respondent's Witness

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EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>
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There were no exhibits introduced.

P R O C E E D I N G S

(WHEREUPON, proceedings commenced at 1:49 PM.)

MR. EVANS: Thank you, Your Honor. This is Adam
Thomas Byrum vs. The State of South Carolina
Postconviction Relief Action Case Number
2021-CP-23-04035. Mr. Byrum is currently serving a
sentence for the offense of murder and attempted murder.

Before we begin, Your Honor, I would like to move
for a dismissal on one of the allegations raised by
Mr. Byrum within his application regarding his saying
that the Court does not have jurisdiction due to the
Great Seal not being attached to the actual statute. And
we would just move for that to be dismissed. And I would
like to have -- be able to argue before the Court my
reasoning why that actual allegation on his
postconviction reaction [sic] should be dismissed, Your
Honor.

THE COURT: Number 2? That's Number 2 on the
amended app?

MR. EVANS: Yes.

THE COURT: Is that correct, Ms. Ross?

MS. ROSS: Yes.

MR. EVANS: Yes.

MS. ROSS: It's kind of -- it's Number 2 on the
amended app, but that was one of his original pro se

1 allegations.

2 THE COURT: Yeah. But I'm just saying ---

3 MS. ROSS: I was just restating ---

4 THE COURT: I'm just saying as far as just it's on
5 the amended app as Number 2.

6 MS. ROSS: Yes.

7 THE COURT: Okay.

8 MR. EVANS: Your Honor, the reason why we're moving
9 to dismiss, because under Section 17-27-70(c), we say the
10 respondent is raising this issue of a cause of action
11 relief cannot be granted.

12 He's attempting to rely on Article 3, Section 18 of
13 the South Carolina Constitution which states no bill or
14 joint resolution shall have the free force of law until
15 it's been read three times on separate days in each house
16 and had a Great Seal affixed to it. Under State
17 v. Jennings, which is a 1903 case, it's an old case but
18 it's still the law, the Supreme Court determined that
19 absolute literal compliance is not essential to ensure
20 the validity of a legislation. Also, according to the
21 South Carolina Supreme Court in Medical Society of South
22 Carolina vs. The Medical University of South Carolina,
23 the Supreme Court cited that an act deemed to be properly
24 passed is when it's been ratified by the presiding
25 officer of the General Assembly, approved by the

1 governor, and enrolled in the Office of Secretary of
2 State.

3 Mr. Byrum was -- he pled guilty to murder and
4 attempted murder. And these laws were part of the
5 Omnibus Crime Reduction and Sentencing Act of 2010.
6 These acts were voted on by the General Assembly and
7 signed by the governor and went into effect on June 2,
8 2010, prior to his plea date of March 13, 2019.
9 Therefore, our position is he's raised allegations where
10 there is no relief that should be granted, is a valid
11 law, he pled guilty to it and he got the sentence that
12 conforms with the amount of sentence that can be given by
13 a Circuit Court judge per statute, Your Honor. So we
14 would ask this court to dismiss this particular
15 allegation, Your Honor.

16 Thank you.

17 THE COURT: Mrs. Ross?

18 MS. ROSS: Thank you, Your Honor. May it please the
19 Court. I have seen this allegation a number of times.
20 In my experience, it is dismissed in the order, the final
21 order after the PCR hearing. So I just haven't seen it
22 dismissed summarily at the outset. But I know that that
23 argument has not prevailed in the past.

24 THE COURT: Yeah. Okay. Well, I'm going to grant
25 the dismissal. But, of course, I'm sure it's going to be

1 captured in the entire order however, you know, I rule in
2 that. So just I'll grant the motion for dismissal on
3 Number 2 ---

4 MR. EVANS: Thank you, Your Honor.

5 THE COURT: --- Number 2 of the amended complaint.

6 So that leaves us with the amended application of
7 Number 1, the applicant not knowingly and voluntarily
8 waived his right to appeal, plea counsel was
9 constitutionally ineffective for allowing the plea offer
10 to lapse before informing the applicant of the
11 expiration date and then the additional for failing to
12 fully review discovery with the applicant or providing
13 him a copy thereof, failing to appeal the plea and
14 sentence, advising applicant that the plea offer was
15 30 years and failing to move for a reconsideration of the
16 sentence.

17 Is that all the ---

18 MS. ROSS: Yes. I believe so. I do always ask --
19 move to conform the pleadings to the evidence pursuant to
20 Love v. State which came out recently. Well, I say that.
21 2019. And -- but we're ready to proceed at this time.

22 THE COURT: Okay.

23 MS. ROSS: I'm going to call Adam Thomas Byrum.

24 THE CLERK: Please place your left hand on the Bible
25 and raise your right hand.

1 WHEREUPON,

2 ADAM THOMAS BYRUM

3 After having been duly sworn, testified as follows:

4 THE CLERK: Thank you. You may be seated. Please
5 state your full name for the record.

6 THE WITNESS: Adam Thomas Byrum.

7 DIRECT EXAMINATION

8 BY MS. ROSS:

9 Q Mr. Byrum, you understand that if you win, if you
10 get relief today, the relief is to start all over again.

11 A I do.

12 Q And you can potentially get a life sentence, for
13 instance, more than you've gotten.

14 A I do.

15 Q All right. And it's your desire to proceed?

16 A Yes.

17 Q All right. Let's talk about you've alleged
18 ineffective assistance of counsel of Chris Shipman. Can
19 you just tell us about that?

20 A Well, he failed to go over the motion with me,
21 failed to get me the motion. I was under the
22 understanding that I was taking a 30-year plea and --
23 well, obviously, they gave me a 30 to life. I would not
24 have willingly took a life plea willingly. I'd have took
25 it to trial. And it came at the last minute with the

1 plea. I mean, I was in the courtroom. I mean, I didn't
2 have enough time to even think it over.

3 Q Okay. So let's talk about, starting from the
4 beginning, going over the motion. How many times do you
5 think Mr. Shipman met with you over the course of your
6 case?

7 A Twice.

8 Q And you're saying he did not review the discovery
9 with you?

10 A (Shakes head negatively.)

11 Q Did you review any videos?

12 A He -- he brought some -- I think he brought a few
13 papers up there, but we didn't like go fully over or
14 nothing. I didn't know nothing about my case. I mean,
15 I'm just now learning about my case.

16 Q Okay. And you say that. So obviously, you have a
17 copy of your discovery now.

18 A Yes. I got a motion -- a copy of it June the 20th
19 or something.

20 Q All right. And here's the cover letter, a copy of
21 the cover letter that was sent to you from the Public
22 Defender's Office. Does that look familiar?

23 A Yes.

24 Q And what's the date on that?

25 A June the 19th.

1 Q Now, since you've been able to review your
2 discovery, has that helped your understanding of the
3 case?

4 A I haven't finished actually fully going through it,
5 so it's a big motion. But yes. A little bit.

6 Q Now, let's talk about you said there was a plea
7 offer. What was the plea offer that was allowed to
8 expire? What happened with that? I wasn't sure about
9 the facts of that.

10 A See, I thought it was the 30.

11 Q Okay. So your understanding when you went up to
12 take that plea was that it was a 30-year plea offer.

13 A Yes.

14 Q Okay. And what would you have done if you knew it
15 was just an open plea?

16 A I would have took a trial. I would not have
17 willingly took it.

18 Q And what happened? Did your lawyer move to
19 reconsider the sentence after you got the 50 years?

20 A No. Not as far as I know. I was put in lockup,
21 so....

22 Q Would you have wanted that?

23 A Yes.

24 Q And how about an appeal?

25 A Yes.

1 Q Did you ask for an appeal?

2 A No. I couldn't. I was in lockup.

3 Q So did your lawyer come and talk to you after your
4 sentence at any point?

5 A No.

6 Q And if he had, how do you think it would have been
7 different for you?

8 A I would have asked for an appeal and I would have
9 tried to fight this and actually figured out why I got a
10 30 -- 30-to-life plea and not a 30 plea.

11 Q Now, did you have a codefendant in this case?

12 A Yes.

13 Q Did they get more time than you?

14 A They got less time than me.

15 Q Did you -- is there anything else you'd like to
16 allege as far as ineffective assistance of counsel?

17 A Not from -- not from my memory, no.

18 MS. ROSS: I have no further questions. Please
19 answer any questions the attorney general has for you.

20 THE COURT: Counsel?

21 MR. EVANS: Thank you, Your Honor.

22 CROSS EXAMINATION

23 BY MR. EVANS:

24 Q On December 20 -- 10, 2020, you pled guilty to
25 murder and attempted murder, correct?

1 A Correct.

2 Q And you had pled in front of Judge Verdin. You pled
3 guilty.

4 A Correct.

5 Q And prior to your guilty plea, you took an oath,
6 said you would tell the truth, the whole truth, nothing
7 but the truth; isn't that correct?

8 A Correct.

9 Q The same oath you took today.

10 A Correct.

11 Q Now, this is page 2 of your transcript. And if you
12 look at line 19, 20, 21, it says -- 20, 21, the Court
13 asked you, "Are you happy with your lawyer, what he's
14 done for you?" and you say, "Yes, ma'am;" isn't that
15 correct?

16 A Yes.

17 Q Okay. And one of your allegations was that your
18 lawyer didn't allow you to review discovery or didn't
19 give you a copy; is that true?

20 A Correct.

21 Q Okay. But if you look at page 2 of your transcript
22 of your guilty plea, the Court asked you, "Have you
23 discussed these charges with your lawyer?" and you say,
24 "Yes, ma'am."

25 A I had discussed it with him.

1 Q Okay. So you did talk to him.

2 A Yes. He explained to me about my charges. He did
3 not explain to me about my case.

4 Q Okay.

5 A He just told me what I was charged with. There's a
6 difference, sir.

7 Q You didn't tell Judge Verdin that, did you?

8 A Well, I'm not very understanding. I don't -- I
9 don't understand a lot of this stuff, so....

10 Q Okay. Well, she asked you, "Did you go over your
11 charges with your lawyer?"

12 A Yes. He explained my charges. He did not explain
13 my case. I will repeat that again.

14 Q Okay. You didn't tell Judge Verdin he didn't
15 explain to me my case, I don't know what's going on, did
16 you?

17 A I didn't know that I was supposed to. Pardon me.

18 Q You never told the judge you didn't have sufficient
19 time to talk through the case with your lawyer.

20 A No.

21 Q Okay. You never told the judge that you wanted to
22 see your discovery, you never had a chance to see it, did
23 you?

24 A No.

25 Q And you were told by the judge this offense carries

1 30 years to life; isn't that correct?

2 A Correct.

3 Q And you knew what you were facing when you went in
4 front of the judge; isn't that correct?

5 A Correct.

6 Q But you didn't say I don't want 30 years to life. I
7 want something less on appeal.

8 A See, I understood my -- my charge carries 30 to
9 life. I did not understand that that was the plea.

10 Q Okay. You didn't tell the judge you didn't
11 understand, did you?

12 A No.

13 Q Now, you said that you didn't know what your charges
14 were against you, you didn't know what the evidence they
15 had, correct?

16 A No.

17 Q Okay. And you said that your lawyer didn't go over
18 discovery with you; is that correct?

19 A Correct.

20 Q Okay. Well, in your transcript on page 5 to 11, the
21 solicitor went over the facts of the case. Do you
22 remember that?

23 A No. I actually do not remember that, but he
24 probably did.

25 Q Okay. And after that, on page 11, the judge asked

1 you -- the judge told you that's the State's case, and
2 the judge asked you, "Are you pleading guilty or not
3 guilty?" and you told her, "Guilty," correct?

4 A Correct.

5 Q You never dispute anything the solicitor said.

6 A No. Because a lot of stuff I don't understand. I
7 don't understand the judge talk, so I didn't understand
8 it, as I said again.

9 Q Right. Oh, well, but you understand what's a lie
10 and what's the truth; isn't that correct?

11 A Correct.

12 Q Okay. So if somebody says something that's not
13 true, you know it's not true, isn't it?

14 A Correct.

15 Q Okay. And you didn't dispute anything the solicitor
16 said; isn't that correct?

17 A Correct.

18 Q And the sign that you agree with the information
19 that was in discovery because you say you were pleading
20 guilty after you heard what the State had against you.

21 A I never disagreed.

22 Q You never disagree? Okay. All right.

23 A But I never said I went through -- I got the motion
24 either. She explained it to me, but he never did. I was
25 in the courtroom at the last minute when I got -- when I

1 got the -- they explained it to me.

2 Q Okay. What was the offer that you said -- was any
3 offers that were given to you prior to you pleading?

4 A 30.

5 Q They offered you 30?

6 A Yeah. I thought it was a 30-year plea.

7 Q You thought it was a 30-year plea.

8 A Yeah.

9 Q Okay.

10 A I wouldn't have took no -- nothing else.

11 Q All right. And you never told the judge you thought
12 you were pleading guilty to 30 years.

13 A No. I thought that was the plea until after --
14 after they said 30 to life.

15 Q But you never corrected the judge and said I thought
16 I was pleading to 30 years.

17 A At the last minute -- it was already -- court was
18 already going on. I didn't understand I could speak and
19 do all that.

20 Q And you said you never knew that you have a right to
21 appeal.

22 A Yeah. I never knew. As soon as after court, they
23 sent me straight to lockup. I didn't get to speak to my
24 lawyer. I didn't get to do nothing.

25 Q Okay. On page 5 of your transcript, it says, "You

1 have ten days from today's date to appeal this plea if
2 you so choose, but you must do so in writing with this
3 court."

4 A Correct. The next ten days I was in lockup. I did
5 not get to appeal. I did not -- I did not know I could
6 appeal while I'm in lockup. I can't appeal.

7 Q Well, this says you have ten days. It told you
8 that.

9 A I understand that. And I was in lockup for them ten
10 days ---

11 Q Okay.

12 A --- so how would I appeal? I can't write nobody.

13 Q Did you tell your lawyer you wanted to appeal?

14 A I couldn't speak to my lawyer afterwards.

15 Q Your lawyer's standing right beside you in your
16 guilty plea, wasn't he?

17 A I understand that. And after they moved us, I
18 thought he was going to come back there and speak to me
19 so I could ask him for an appeal. I did not understand
20 that I was going to have to speak to him right then and
21 there.

22 Q Did you ever write your lawyer and said you want an
23 appeal?

24 A I was in lockup, and after that I was in Kirkland.
25 I had no way.

1 Q So you don't have paper and pencil in lockup?

2 A No.

3 Q Okay.

4 A They don't give me nothing.

5 Q Why were you in lockup?

6 A Because I got over ten years. Greenville County, if
7 you get over ten years, they send you to lockup until you
8 get shipped to Kirkland.

9 Q Oh, so you were locked up in the county jail.

10 A Yes.

11 Q Okay.

12 A And then when I got to Kirkland, I had no way to
13 write him either.

14 MR. EVANS: All right. Nothing further, Your
15 Honor.

16 MS. ROSS: No further direct.

17 THE COURT: Ms. Ross? Okay. Anyone else?

18 MS. ROSS: No, Your Honor.

19 THE COURT: You can step down, sir.

20 So you don't have any further witnesses.

21 MS. ROSS: No, Your Honor.

22 MR. EVANS: Your Honor, at this time, the State
23 would like to call John Shipman to the stand.

24 THE CLERK: Mr. Shipman, please place your left hand
25 on the Bible and raise your right hand.

1 WHEREUPON,

2 JOHN CHRISTOPHER SHIPMAN

3 After having been duly sworn, testified as follows:

4 THE CLERK: Thank you. You may be seated. And
5 please state your full name for the record.

6 THE COURT: Mrs. Ross, so are you resting?

7 MS. ROSS: Yes, Your Honor.

8 MR. EVANS: I'm sorry.

9 THE COURT: Well, I mean, I just -- for the record,
10 I wanted to be sure.

11 MR. EVANS: I didn't think about it. My apologies.

12 THE COURT: It's not your fault. I should have
13 asked her. I mean -- thanks.

14 THE WITNESS: John Christopher Shipman.

15 DIRECT EXAMINATION

16 BY MR. EVANS:

17 Q Mr. Shipman, where do you currently work?

18 A Hawk Law Firm.

19 Q And you represented Mr. Byrum on this case?

20 A I did.

21 Q You represented him on two counts of attempted
22 murder and murder?

23 A Yes. And I think there were some additional charges
24 that were related, drug charges, I believe, that were
25 also dismissed as part of the....

1 Q Okay. And how many times do you remember seeing
2 Mr. Shipman [sic] while he was in the county jail?

3 A I don't remember the particular number. I know I
4 saw him shortly after he was arrested -- or about
5 March 22, 2019. I usually try to see clients, you know,
6 within 90 days, so I would imagine I probably saw him
7 four or five times beyond that as well.

8 Q Was any plea offer given by the solicitor's office?

9 A There was. It was plead to murder and two counts of
10 attempted murder. The initial offer was a range of 35 to
11 45 or a recommendation of 40.

12 Q Okay. And did you relay this offer to Mr. Byrum?

13 A I did.

14 Q What was his answer to this recommendation?

15 A I mean, he didn't -- it was a lot to lay on somebody
16 at one time so I told him to think about it. I came back
17 and saw him later. He's kind of indecisive about things
18 for a while. And then I think what kind of -- we found
19 out that Ms. Castro, the codefendant, was going to be --
20 was working with the solicitor and going to testify
21 against him and that kind of -- you know, we started
22 moving from there.

23 And, you know, I kind of walked through him we could
24 take this offer or we can plead straight up or a trial.
25 If he wanted a shot of something lower than 35 or lower

1 than 40, you know, he would have to basically plead
2 straight up and ask for mercy from the Court. And I kind
3 of went through the pros and cons of taking the offer,
4 you know, taking the plea straight up and going to trial.

5 Q Was there a plea deadline on this case?

6 A I'm sure there was. I don't recall what it was,
7 particularly. But this was also when the pandemic
8 lockdown started. And, you know, the solicitor,
9 Mr. Smith, was kind of -- basically told me he's willing
10 to work with me on this because he knew and we knew that
11 he wasn't going to be able to try any case in an
12 expeditious manner.

13 So I don't recall the expiration on there. And I
14 believe I asked Mr. Byrum before we went back into the
15 courtroom if he wanted me to go talk with the solicitor
16 about putting the range or the recommendation back on the
17 table, and he said no. So, I mean ---

18 Q And you told him this -- when did you tell him this?

19 A That was the day of the plea. I was talking to him
20 in the holding cell off of the courtroom right before we
21 went in front of Judge Verdin.

22 And, you know, basically, I thought Mark would be
23 amenable to putting that plea offer back on the table
24 given the lockdown with the pandemic. And, you know, I
25 thought if I went back there and asked for it, Mark would

1 probably give it to me. But Mr. Byrum said he wanted to
2 -- to go.

3 Q Okay. And he got a 50-year sentence, didn't he?

4 A Yes.

5 Q Okay. So you're saying he had an opportunity to get
6 the 40 years and he didn't want it. He wanted to risk
7 it.

8 A Well, I don't know that Mark would have put it back
9 on the table. But, you know, knowing him and the
10 situation, I thought it would be a good likelihood that
11 Mark would put it back on the table considering that he
12 couldn't try the case if he wanted to.

13 Q Okay. So it was a possibility he would have got the
14 40 years and he turned that down and decided to go and
15 risk it ---

16 A Yes.

17 Q --- the defendant. Okay.

18 Did you ever go over the discovery with Mr. Byrum?

19 A Yes. I don't believe I gave him a copy of it. And
20 I -- you know, on a case like this, my advice to my
21 clients is usually to not keep a copy on them at the jail
22 because it is a good way for snitches to pop up in your
23 case who -- maybe that's a technical term -- but, you
24 know, to keep them from prying and trying to go, you
25 know, and cut a deal themselves by making up a story that

1 so-and-so confessed when all they did was dig through the
2 discovery.

3 Q And that's something you do with all your clients.
4 You don't give them a copy of discovery. You just go
5 over it because you're worried about ---

6 A Well, not all my clients. I mean, if it were, you
7 know, a run-of-the-mill shoplifting case or something
8 like that, the need for that kind of security isn't
9 really there. But with murders and things like that, my
10 -- my advice was, you know, don't keep it on you. But if
11 they insisted, I will give it to them.

12 Q After the plea, did you tell him about his right to
13 appeal?

14 A I don't think I did personally, but that was part of
15 Judge Verdin's colloquy.

16 Q Okay. And he never told you he wanted to appeal,
17 did he?

18 A No, sir.

19 Q Did you ever file a motion for reconsideration?

20 A I did not.

21 Q Did you think Judge Verdin would reconsider if you
22 asked for it?

23 A No.

24 Q Do you think any grounds, they exist, that you think
25 would have gotten this plea reversed?

1 A I mean, if he truly doesn't understand the offer
2 that he was -- you know, the range that he was going in
3 for and misunderstood the -- what was at stake, then yes.
4 I think he probably made an involuntary plea. But, you
5 know ---

6 Q Did you think he didn't understand?

7 A I thought I explained it clearly, you know. But I
8 can't vouch for what he took from what I gave him. But I
9 -- any -- especially a serious case like this, I try to
10 go over it in very particular detail what you're walking
11 into.

12 Q He never told you he didn't understand what you were
13 talking about when you told him what the plea was.

14 A No, he didn't.

15 MR. EVANS: Nothing further, Your Honor.

16 THE COURT: Any cross?

17 CROSS EXAMINATION

18 BY MS. ROSS:

19 Q Good afternoon, Mr. Shipman.

20 A Good afternoon.

21 Q Now, looking through that file that you had, there
22 were a lot of mental health questions, weren't there,
23 about -- did you have Mr. Byrum evaluated?

24 A I don't -- I don't -- I don't really recall. I know
25 I got his mental health records, but I don't remember if

1 we had him evaluated for competency. I don't believe I
2 did.

3 Q Okay. But I assume you found him to be competent,
4 hence the plea.

5 A Yes, yes.

6 Q And most of those evaluations talk about PTSD and
7 different issues with Mr. Byrum?

8 A Yes. He had a pretty traumatic childhood.

9 Q And would you agree that he didn't have an extensive
10 education or very sophisticated understanding of the law
11 or anything that he was doing at the time?

12 A I would agree with that.

13 Q Now, you were appointed in the case?

14 A I was.

15 Q And you say that you reviewed discovery with him but
16 didn't give him a copy.

17 A Right.

18 Q And that was down at the jail?

19 A Yes.

20 Q Do you know, can you give a ballpark of how many
21 times you went down to see him?

22 A I used to keep this in a spreadsheet, which since
23 I've left the PD's office, I cannot locate. But like I
24 said, my -- my habit, my practice was to go, you know,
25 usually every 90 days at least. And I think I got his

1 case in March of '19 and he pleaded in December of '20,
2 so that's roughly 19 months. Divide that by three, that
3 would be six or eight times, I suppose.

4 Q Okay. And then as far as the recommendation, what
5 was the -- was this a Zoom plea or in person?

6 A This was in person.

7 Q Okay. And you're saying he didn't want to accept
8 the recommendation?

9 A Yes. That was from the range or the -- or sort of
10 the mid-point that Mark put out there. I think it was 35
11 to 45 or 40.

12 Q All right. And you're saying just knowing Mr. Byrum
13 and his level of sophistication, you think it's possible
14 that he misunderstood the 30 as to saying that he was
15 looking at 30?

16 A I suppose it's possible.

17 MS. ROSS: All right. I have no further questions.

18 THE COURT: Any redirect?

19 MR. EVANS: No redirect, Your Honor.

20 THE COURT: You may step down, Mr. Shipman. Thank
21 you.

22 THE WITNESS: Thank you, Your Honor.

23 MR. EVANS: Your Honor, the defense rests.

24 THE COURT: All right. Any closing arguments?

25 MR. EVANS: Your Honor, basically, we would ask the

1 Court to dismiss the application for postconviction
2 relief. It's clear that he pled guilty before a Circuit
3 Court judge. He was explained his rights. He was
4 explained the maximum that he can receive by law. He was
5 represented by competent counsel. He expressed to the
6 Court at the time of his plea that he was satisfied with
7 his counsel. He expressed to the Court that he
8 understood the amount of time that he was facing. And
9 according to his counsel, he had an offer that was less
10 than he ended up getting that he turned down. According
11 to his counsel, even on the day of the plea, it was a
12 possibility he could have gotten the offer that was
13 offered initially, and he decided to roll the dice and he
14 got more time. And I think now the reason why we're
15 before this court is buyer's remorse. He wants a new
16 case so he can possibly get the less time he was offered
17 in the first place. But that is not the reasoning why
18 postconviction relief was created.

19 Postconviction relief was created in order for a
20 court to make a determination if his counsel was
21 ineffective and if that ineffectiveness --
22 ineffectiveness results from an indifference. There was
23 nothing that was presented by the applicant, who has the
24 burden of proof, showing that his counsel was ineffective
25 or that anything his counsel did caused his sentence, or

1 if something was done differently, his sentence would
2 have been different. Therefore, we would ask this court
3 to dismiss this case.

4 Thank you, Your Honor.

5 THE COURT: Ms. Ross?

6 MS. ROSS: Thank you, Your Honor. May it please the
7 Court.

8 Pittman v. State sets out that pleas have to be
9 knowingly and voluntarily made. You heard Mr. Byrum's
10 testimony that he understood that he was pleading to
11 30 years. He trusted what he heard his lawyer say about
12 that. It's not -- again, had some serious mental health
13 history, though he is competent, but that doesn't mean
14 that his plea was knowingly and voluntarily made. So we
15 would just argue that this case is deserving of relief.

16 THE COURT: Okay. Thank you. All right. I'll
17 take it under advisement.

18 (WHEREUPON, proceedings concluded at 2:19 PM.)
19
20
21
22
23
24
25

1 CERTIFICATE OF REPORTER

2
3 STATE OF SOUTH CAROLINA)

4 COUNTY OF GREENVILLE)

5
6
7 I, CHERYL A. SMITH, Official Court Reporter for the
8 Thirteenth Judicial Circuit of the State of South
9 Carolina, do hereby certify that the foregoing is a true,
10 accurate and complete Transcript of Record of the
11 proceedings had and evidence introduced in the trial of
12 the captioned case, relative to appeal, in the Court of
13 Common Pleas for Greenville County, South Carolina, on
14 the 8th day of October, 2024.

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

17
18 July 14, 2025
19

20
21 *Cheryl A. Smith*

22 Cheryl A. Smith, CVR-M

23 Court Reporter
24
25

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	FOR THE THIRTEENTH JUDICIAL CIRCUIT
Adam Thomas Byrum, SCDC# 384584,	)	
	)	Case No.: 2021-CP-23-04035
Applicant,	)	
	)	
v.	)	ORDER OF DISMISSAL
	)	<i>(with prejudice)</i>
State of South Carolina,	)	
	)	ENTERED COMPUTER
Respondent.	)	

This matter comes before the Court by way of an application for post-conviction relief filed on August 20, 2021, by Applicant Adam Thomas Byrum. Respondent made its return requesting an evidentiary hearing and moved for partial summary dismissal of Applicant's Great Seal allegation on or about March 31, 2022. Susannah Ross, Esq. was appointed to represent Applicant on November 3, 2021. On May 14, 2024, Applicant, through counsel, amended his application.

An evidentiary hearing was held on October 8, 2024, at the Greenville County Courthouse with the Honorable Patrick C. Fant, III, presiding. Applicant and his counsel, Ms. Ross, were present. Assistant Attorney General Tommy Evans Jr. of the South Carolina Attorney General's Office represented the State. At the beginning of the hearing, Respondent moved to dismiss Applicant's Great Seal allegation, which this Court granted. Applicant and his plea counsel, John Shipman, Esq., testified at the hearing.

After reviewing and considering the record, arguments presented by counsel, and the controlling case law, this Court finds that Applicant has failed to carry his burden of proof. Consequently, this Court **DENIES** relief for the specific reasons set out in this order.

PROCEDURAL HISTORY

Applicant is currently incarcerated in the South Carolina Department of Corrections, Turbeville Correctional Institution, pursuant to commitment orders from the Greenville County Clerk of Court for murder and two counts of attempted murder, serving a 50-year aggregate sentence.

During the July 2020 term, the Greenville County Grand Jury indicted Applicant for possession of methamphetamine with intent to distribute (2020-GS-23-003491), resisting arrest (2020-GS-23-003480), two counts of conspiracy (2020-GS-23-003489; -003490), murder (2020-GS-23-003494), two counts of attempted murder (2020-GS-23-003484; -003485), and three counts of possession of a weapon during the commission of a violent crime (2020-GS-23-003494; -003484; -003485).

On December 10, 2020, Applicant appeared before the Honorable Letitia H. Verdin and pled guilty to murder (2020-GS-23-03494) and two counts of attempted murder (2020-GS-23-03484; -03485). (Plea Tr., at 1). John Christopher Shipman (“plea counsel”) represented and Marcus Lynn Smith (“the solicitor”) of the Thirteenth Circuit Solicitor’s Office prosecuted the case. (Plea Tr., at 1). The solicitor presented the following recitation of facts:

[O]n March 13, 2019, here in Greenville County, Jacori Ashley, age 21, and Kalo McCullough, age 27, drove up to the Dollar General off Locust Hill Road here in Traveler’s Rest. Jacori was driving and Kalo was the passenger. Jacori had been contacted by the defendant, Adam Byrum, and requested a ride. Jacori worked with Byrum and his codefendants, Corino Castro’s mother at a place called RimTyme. Jacori had given rides to Byrum in the past. This night Jacori asked his friend Kalo to ride with him.

They arrived at the Dollar General and waited for Byrum and Castro to arrive. They noticed two individuals wearing hoodies walking up to the car. They knew it was Byrum and Castro as they were on the phone talking with them.

When they got next to the car, the defendant, Mr. Byrum, stated something to Jacori and immediately pulled a gun and started shooting into the vehicle. Jacori was hit with one round and it went through his mouth and nasal area, as well as his shoulders.

Kalo was hit with a round and went through his lung and shattered a vertebra leaving him permanently paralyzed from the chest area down. Jacori was able to speed off from the site. And amazingly, Your Honor, having been shot in the face, drive to St. Francis hospital in downtown Greenville. At the time, Judge, he was trying to make a phone call, but he couldn't handle the phone because his hand was so full of blood that it was just slipping out of his hand.

The guns used to shoot the victims were 380 calibers. Four shell casings found were identified by ballistics tests as having been fired from one of the 380 handguns, which was found later belonging to the defendants.

Both victims have given statements that both defendant and co-defendant, Byrum and Castro, were the individuals there that night and that Byrum was the person that shot him.

Then, Your Honor, four days later on March 17, 2019 in Greenville County deputies arrived at 66 - excuse me -- 6077 Locust Hill Road, a short distance from where the first case happened, in Traveler's Rest and found a Ford F-150 partially in the roadway and partially in the entrance to a business. Inside the vehicle, a deceased white male sitting in the driver's seat was found slumped over the center console with blood on the left and right sides of his head. It was determined that he been shot in the head. Bullet holes were found on the car and two, 380 caliber shell casings were also found.

The male was later identified as Jamie Dale Smith, age 32. A handwritten note on a paper towel found in Smith's home was later given to investigators that stated (864)721-7109, Smokey G, Locust Hill Road. T.R., 29690, call 30 min, minutes, be I arrive.

Smokey G was later identified as this defendant, Adam Byrum, and the phone number was run and found to belong to Adam Byrum as well.

An attempt to arrest the defendant was carried out a day later, March 18, 2019. Investigators who connected the two, found that they were related incidents. And so a short distance later -- a short distance from where these two incidents occurred, that's where

they were going to arrest the defendant and his co-defendant. Officers had to use a K-9 due to the defendant running to avoid and apprehension. When arrested, the defendant was found in possession of 1.41 grams of methamphetamines and admitted that he had just shot meth.

Both the defendant and his co-defendant girlfriend are members of the Gangster of Insane gang, which is part of the larger Folk Nation gang. And, Judge, I know I handed up to you previously, and I've shared that with Mr. Shipman, memes and things from where they had posted on Facebook, and I can talk about some of those, but some from Miss Castro and everything will show that they have the gangster symbols and signs and pictures and things of that nature.

Two females at the site of the arrest stated that the defendant was acting crazy last night, meaning the night before Jamie Smith was shot and killed, and that co-defendant Castro had been vomiting when they returned back to the house.

This defendant's sister stated that when Adam got home, I took the guns from him because he was acting crazy. Judge, several motives have been mentioned as to why these particular individuals were chosen such as robbing the targets of drugs, killing them -- and killing them to believing that Jamie Smith was a snitch, to Jacori Ashley flirting with co-defendant, Corino Castro, who was this defendant's girlfriend at the time.

That's where some of those come in. I mean, you've seen like -- the memes where it says some people won't respect you until you get disrespectful. Snitch prevention with a gun and a skeleton -- or skull's head.

It's -- Judge, I prefer to take Miss Castro's statement given to the police at face value where it said that she and Adam had planned to rob Jacori and Kalo -- excuse me. That she had planned to rob Jacori and that Kalo was an unintentional victim because they did not that he was going to be there.

She stated that they each had 380 caliber handguns, walked up to the car, and that this defendant, Adam Byrum, fired multiple rounds into the vehicle. She also stated that they knew Smith as well. As in the case before, they went to meet Smith, both armed with the 380 handguns with the plan to kill and rob him. She stated that it had been her decision to handle Smith, meaning to kill him.

(Plea Tr., at 5-10). Applicant pled guilty without contesting or qualifying any of the factual summary presented. (Plea Tr., at 11).¹ Judge Verdin sentenced Applicant to imprisonment for fifty (50) years for murder and thirty (30) years for each conviction for attempted murder, with all sentences running concurrently, and with credit for time served. In accordance with the plea agreement, the solicitor dismissed the remaining charges, as identified above.

Applicant did not appeal his convictions or sentences.

CURRENT ALLEGATIONS

In his amended application for post-conviction relief, Applicant argues he is entitled to relief based upon the following:

1. The Applicant did not knowingly and voluntarily waive his right to appeal;
2. The plea court not having subject matter and personal jurisdiction because the enabling legislation of the crimes he pled guilty to violating were not marked with the Great Seal of South Carolina;
3. Plea counsel was constitutionally ineffective for allowing a plea offer to lapse before informing the Applicant of the expiration date;
4. Plea counsel failed to fully review discovery with Applicant or provide him a copy;
5. Plea counsel failed to appeal the plea and sentence;
6. Plea counsel advised Applicant that the plea offer was thirty years; and
7. Plea counsel failed to move for reconsideration of the sentence.

(Amended PCR App.).

¹ Applicant's co-defendant, Corina Castro, was indicted and pled to the same. She received an aggregate sentence of 43 years.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

INEFFECTIVE ASSISTANCE CLAIMS

To show a violation of the Sixth Amendment, an 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*, 466 U.S. at 694. It is presumed that counsel made all decisions in exercise of reasonable judgment. *Id.* at 689. It is the applicant's burden to prove, by a preponderance of the evidence, that he is entitled to relief. Rule 71.1 (e), SCRPC. *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.”).

In *Hill v. Lockhart*, The United States Supreme Court held that the aforementioned two-part *Strickland* test additionally applies to allegations of ineffective assistance of plea counsel. 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985). The first half of the test remains as intended in *Strickland*; however, the prejudice requirement focuses on whether counsel's constitutionally

ineffective performance affected the outcome of the plea process. *Hill*, 474 U.S. at 57-59. “In other words, in order to satisfy the “prejudice” requirement, the defendant must show that there is a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial.” *Id.*

As such, A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of a plea by showing that counsel’s representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985). When determining issues relating to guilty pleas, the Court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the PCR hearing. *Anderson v. State*, 342 S.C. 54, 57, 535 S.E.2d 649, 650 (2000). Notably, statements made during a guilty plea should be considered true: “... accuracy and truth of an accused’s statements at ... his guilty plea ... are ‘conclusively’ established by that proceeding unless and until he makes some reasonable allegation why this should not be so.” *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975), *overruled on other grounds by United States v. Whitley*, 759 F.2d 327 (4th Cir. 1985); *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (same).

The record here supports that the plea was a voluntary choice among alternatives as guided by counsel against which Applicant had no complaints at the time of the plea. (GP Tr., at 2). This Court finds that Applicant entered his guilty plea freely, knowingly, intelligently, and voluntarily in accordance with *Boykin v. Alabama*, 395 U.S. 238, 89 S. Ct. 1709 (1969). Furthermore, this Court finds plea counsel’s testimony to be credible, and that he rendered reasonably effective assistance under prevailing professional norms and demonstrated a normal

degree of skill, knowledge and professional judgment that are expected of an attorney who practices criminal law. *Strickland, supra*.

ALLEGATIONS ON THE MERITS

Applicant alleges that he did not voluntarily and knowingly waive his right to appeal, and that plea counsel failed to appeal the plea and sentence. The record shows that Judge Verdin informed Applicant that he had 10 days to appeal his plea and that it must be done in writing. (Plea Tr., at 5). Applicant testified that he wanted to appeal his plea and sentence, however plea counsel testified that he discussed a motion to reconsider Applicant's sentence with him but that they did not discuss an appeal. Applicant testified that he wanted plea counsel to move for resentencing because his co-defendant received a lesser sentence and that he wanted plea counsel to file an appeal. He testified that he was in lock up and could not appeal, and that his lawyer did not visit him.

There is no dispute that Applicant was informed of his right to appeal his plea and the timeframe and manner which he had to do so. Further the testimony presented at the PCR hearing shows that Applicant and plea counsel discussed a motion to reconsider, but that Applicant did not ask plea counsel to appeal his conviction or sentence at that time. *See Turner v. State*, 380 S.C. 223, 224, 670 S.E.2d 373, 374 (2008) (referencing *Roe v. Flores-Ortega*, 528 U.S. 470, 120 S.Ct. 1029 (2008)), holding that there is no constitutional requirement that counsel must inform a defendant of the right to appeal from a guilty plea absent extraordinary circumstances, *i.e.*, when the defendant inquires, or when there is reason to think that a rational defendant would want to appeal). Applicant has not alleged that he had viable issues for appeal, other than dissatisfaction with his sentence, which he discussed with plea counsel, and ultimately decided not to pursue. Even to that extent, expectation or hope of a lesser sentence does not show

any deficiency in plea counsel's representation nor the possibility of an involuntary plea. *Wolfe v. State*, 326 S.C. 158, 485 S.E.2d 367 (1997) (fact that defendant "hoped" and "expected" to get reduced sentence does not render plea invalid); *Harres v. Leeke*, 282 S.C. 131, 318 S.E.2d 360 (1984) (fact that defendant "thought" judge would give lighter sentence not a basis for relief).

Applicant alleges that plea counsel did not review the discovery with him or provide him a copy, advise him of the timeframe of expiration for the plea offer, or move for reconsideration of his sentence. Applicant testified that plea counsel met with him 2 times and that he did not go over his case with him or give him a copy of the discovery. He testified that he thought the plea offer was for 30 years, and that if he knew he was pleading to 30 years to life then he would have proceeded to trial.

Plea counsel testified that it is his practice to visit with clients every 90 days at least, and that he estimates he met with Applicant 6-8 times. He testified that he reviewed the available discovery with Applicant and that he advised him to not keep a copy of the discovery with him in jail in case someone may try to go through it. As to the plea offer, plea counsel testified that he advised Applicant of the State's original offer, and that Applicant was indecisive about accepting the offer. Ultimately, Applicant decided to reject the offer. When the State informed them that Applicant's co-defendant was going to testify against him at trial, plea counsel advised that he could not get the original offer back, and that Applicant could plead straight up and ask for mercy in an attempt to receive less than 35 years. As to the motion to reconsider, plea counsel testified that he discussed the matter with Applicant and told him that it was unlikely that Judge Verdin would grant the motion. He testified that he believed he explained why the motion to reconsider would not prevail in detail to Applicant and that Applicant did not tell him that he didn't understand, nor did he appear to not understand.

Based on the testimony presented and the record before this Court, Applicant has not shown that plea counsel's advice was outside the range of reasonably effective assistance under prevailing professional norms in criminal matters. *Strickland, supra*. This Court credits plea counsel's testimony that he reviewed Applicant's case with him, including the discovery, and reasonably advised Applicant of the potential concerns of providing Applicant with a copy for him to keep while he is incarcerated. This Court credits plea counsel's testimony that Applicant made an informed choice to enter a guilty plea in consideration of the evidence the State intended to present at trial, and with the knowledge that his co-defendant would testify against him. As to the allegation that plea counsel did not file a motion to reconsider Applicant's sentence, this Court gives credence to plea counsel's testimony that he explained why the motion would not be successful. Applicant has presented no evidence that would support the motion's success, other than that his co-defendant received a lesser sentence.

Applicant has failed to show *Strickland* prejudice, i.e., that there is a reasonable probability, without the distorting effects of hindsight and wishful thinking, that absent plea counsel's alleged errors he would have proceeded to trial. *See Strickland, supra; see also Hill, supra*. Applicant's bare assertion that he would have proceeded to trial if he knew he was pleading to 30 years to life is not convincing to this Court, nor is it a rational risk, considering the evidence against him and the likelihood that he would receive a greater sentence than the sentence he is currently serving. As such, this Court finds that Applicant has failed to establish that plea counsel's representation and advice was deficient, and that but for the alleged deficiencies, Applicant would have elected to proceed to trial, or received a lower sentence.

CONCLUSION

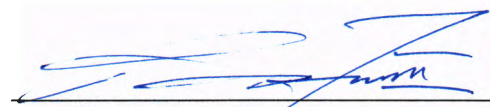
Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations during his plea hearing or that of his appellate rights. Therefore, this PCR application must be **DENIED** and **DISMISSED** with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. Applicant's application for post-conviction relief is denied and dismissed with prejudice; and
2. Applicant is remanded to the custody of Respondent for completion of his sentence.

AND IT IS SO ORDERED this 2nd day of May, 2025.


 PATRICK C. FANT, III
 Thirteenth Judicial Circuit, Presiding Judge

Greenville, South Carolina

Copy mailed to	
Attorney	<u>General KK / Susanah Ross</u>
on	<u>5 / 2 / 2025</u>

WITNESSES

Jonathan D Howard

Greenville County Sheriffs Office

3/18/2019

ARREST WARRANT NUMBER

2019A2330202520 and 2019A2330202584

ACTION OF GRAND JURY

TRUE BILL

[Signature]
FOREMAN GRAND JURY
Foreperson of Grand Jury

VERDICT

∞
Foreperson of Petit Jury
Date:

DOCKET NO. 2020-GS-23-

MLS

003484

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

July

TERM 2020

THE STATE

vs.

ADAM THOMAS BYRUM

Indictment for

3410 and 0549

ATTEMPTED MURDER and POSSESSION OF A
WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME

VIOLATION §16-03-0029 and §16-22-0490

ENTERED
ACCT *[Signature]*

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

INDICTMENT FOR
 ATTEMPTED MURDER and POSSESSION OF A WEAPON
 DURING THE COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on **JUL 07 2020** the Grand Jurors of Greenville
 County present upon their oath:

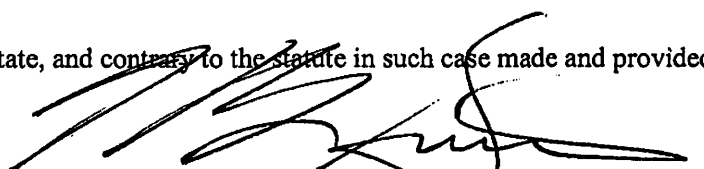
COUNT I — ATTEMPTED MURDER

That ADAM THOMAS BYRUM did in Greenville County, on or about the 14th day of March, 2019,
 unlawfully, with malice aforethought, and with the intent to kill, attempt to kill KALO McCULLOUGH.
 This is in violation of §16-03-0029 of the South Carolina Code of Laws (1976) as amended.

COUNT II — POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That ADAM THOMAS BYRUM did in Greenville County, on or about the 14th day of March, 2019,
 Possess or visibly display a HANDGUN during the commission of a violent crime, to wit:
 ATTEMPTED MURDER. This is in violation of §16-23-490 of the South Carolina Code of Laws
 (1976) as amended.

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


 SOLICITOR

BAR # 11832

WITNESSES

Jonathan D Howard

Greenville County Sheriffs Office

3/18/2019

ARREST WARRANT NUMBER

2019A2330202519 and 2019A2330202521

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2020-GS-23-
MLS 003485

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

July TERM 2020

THE STATE

vs.

ADAM THOMAS BYRUM

Indictment for

3410 and 0549

ATTEMPTED MURDER and POSSESSION OF A
WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME

VIOLATION §16-03-0029 and §16-23-6490

ENTERED

ACCT

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

INDICTMENT FOR
 ATTEMPTED MURDER and POSSESSION OF A WEAPON
 DURING THE COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on

JUL 07 2020

the Grand Jurors of Greenville

County present upon their oath:

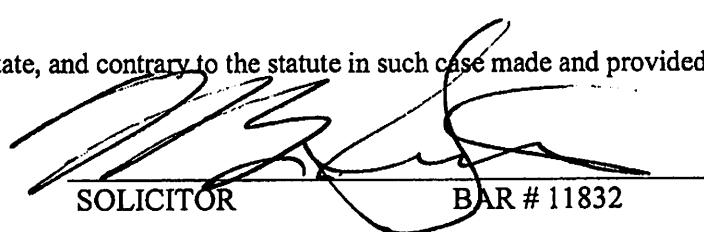
COUNT I — ATTEMPTED MURDER

That ADAM THOMAS BYRUM did in Greenville County, on or about the 14th day of March, 2019, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Jacori Ashley. This is in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

COUNT II — POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That ADAM THOMAS BYRUM did in Greenville County, on or about the 14th day of March, 2019, possess or visibly display a HANDGUN during the commission of a violent crime, to wit: ATTEMPTED MURDER. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as amended.

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


 SOLICITOR

BAR # 11832

WITNESSES

Jonathan D Howard

Greenville County Sheriffs Office

3/18/2019

ARREST WARRANT NUMBER

2019A2330202586 and 2019A2330202587

**ACTION OF GRAND JURY
TRUE BILL**

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

DOCKET NO. 2020-GS-23-

MLS

The State of South Carolina 003494

County of Greenville

COURT OF GENERAL SESSIONS

July

TERM 2020

THE STATE

vs.

ADAM THOMAS BYRUM

Indictment for

0116 and 0549

**MURDER and POSSESSION OF A WEAPON
DURING THE COMMISSION OF A VIOLENT
CRIME**

VIOLATION §16-03-0010 and §16-23-0490

**ENTERED
ACCT**

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
**MURDER and POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME**

At a Court of General Sessions, convened on **JUL 07 2020** the Grand Jurors of Greenville
County present upon their oath:

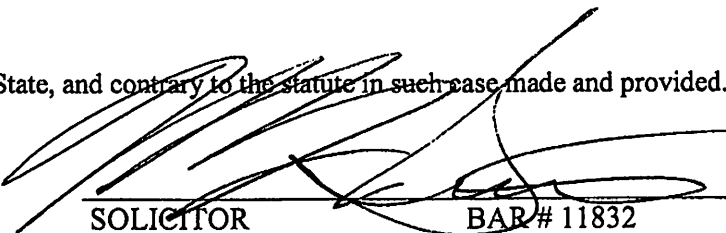
COUNT I — MURDER

That ADAM THOMAS BYRUM did in Greenville County, on or about the 17th day of March, 2019, unlawfully and with malice aforethought kill JAMIE SMITH by means of shooting him, and that JAMIE SMITH died as a proximate result thereof. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

COUNT II — POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That ADAM THOMAS BYRUM did in Greenville County, on or about the 17th day of March, 2019, possess or visibly display a HANDGUN during the commission of a violent crime, to wit: MURDER. This is in violation of §16-23-0490 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

BAR # 11832