

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Charleston County

Honorable Michael G. Nettles, Circuit Court Judge

JAMEL RAEKWON BROWN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000438

APPENDIX

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 4 STATE OF SOUTH CAROLINA,)
 5 vs.) Case No. 2021-GS-10-01724
 6 JAMEL RAEKWON BROWN,) 2021-GS-10-01726
 7 Defendant.)
 -----x

September 2, 2022

B E F O R E:

The Honorable Deadra L. Jefferson, Presiding Judge
(Appearing Virtually)

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

Tyler Whitaker, Esq.
Attorney for the Plaintiff

Rad Stuart Deaton, Esq.
Peter McCoy, Esq.
Attorney for the Defendant

Recorded by: DCRP/Loraine Victoria

Transcribed by: Bobbi Fisher, RPR
SC Official Court Reporter III

1

I N D E X

2

DESCRIPTION

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Proceedings

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E X H I B I T S

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(None.)

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COURT REPORTER LEGEND

20

Dash (--)

Indicates an interruption in speech

21

Ellipses (...)

Indicates trailing off in speech

22

(ph)

Indicates phonetic word

23

[Verbatim]

Indicates the word is said as written

24

(Indiscernible)

[Transcription] Indicates word(s) is
not known due to audio recording
quality

25

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

2 (The following proceedings started at 11:30 a.m.):

3 THE COURT: This is 2021-GS-10-1724, attempted armed
4 robbery, Jamel Raekwon Brown; 2021-GS-10-1726, possession
5 of a weapon during the commission of a violent crime.

6 The --

7 MR. DEATON: Your Honor --

8 THE COURT: -- 2021-1724 was indicted as an armed
9 robbery; he's pleading to a lesser included offense. And
10 possession of a weapon during the commission of a violent
11 crime is as indicted.

12 Are there any recommendations or negotiations?

13 MS. WHITAKER: Your Honor, a negotiation of eight
14 years.15 MR. McCOY: And, Your Honor, he's got some family
16 members, and Mr. McCoy is on this case as well, Judge. So
17 if you don't mind, just -- they're walking in the
18 courtroom right now.

19 Thank you, Your Honor.

20 THE COURT: You're welcome.

21 Does he have any record, Ms. Whitaker?

22 MS. WHITAKER: Yes, Your Honor. He has a 2016
23 unlawful carrying.

24 THE COURT: Was the victim notified?

25 MS. WHITAKER: Yes, Your Honor.

1 THE COURT: What is the victim's name for the
2 record?

3 MS. WHITAKER: Roy, R-o-y, Aytes, A-y-t-e-s.

4 THE COURT: I assume you have made him aware of the
5 negotiation?

6 MS. WHITAKER: Yes, Your Honor, and he is supportive
7 of the arrangement.

8 THE COURT: Any restitution?

9 MS. WHITAKER: No, ma'am.

10 THE COURT: Do both you and Mr. McCoy represent
11 Mr. Brown or just you, Mr. Deaton?

12 MR. DEATON: Both of us, Your Honor. I have been
13 representing Mr. Brown until -- since January of 2021.
14 And Mr. McCoy came on a couple of weeks ago.

15 THE COURT: Mr. Deaton, if you could answer and
16 respond for both the defendant and Mr. McCoy.

17 MR. DEATON: Sure.

18 THE COURT: Have you explained to your client the
19 charges contained in the indictment, the possible
20 punishment, and his constitutional rights?

21 MR. DEATON: I have, Your Honor.

22 THE COURT: Do you believe he understands the
23 charge, the punishment, and his rights?

24 MR. DEATON: I do, Your Honor.

25 THE COURT: Does he wish to plead guilty or not

1 guilty?

2 MR. DEATON: Guilty, Your Honor.

3 THE COURT: Do you agree with that decision?

4 MR. DEATON: Yes, Your Honor.

5 THE COURT: Has he ever been evaluated to determine
6 his competency?

7 MR. DEATON: Not to my knowledge, Your Honor.

8 THE COURT: Have you explained to him the violent
9 and most serious classification?

10 MR. DEATON: Yes, Your Honor.

11 THE COURT: Sir, raise your right hand to be sworn.
12 Can you hear me? I need you to get close to the
13 microphone.

14 And, Mr. McCoy, I assume you agree with
15 [indiscernible]?

16 MR. McCOY: I do, Your Honor.

17 JAMEL RAEKWON BROWN,

18 after having been duly sworn, was examined and
19 testified to as follows:

20 THE COURT: You can put your right hand down. State
21 your full name for the record.

22 THE DEFENDANT: Jamel Raekwon Brown.

23 THE COURT: Sir, how old are you?

24 THE DEFENDANT: I'm 24 years old.

25 THE COURT: How far have you gone in school?

1 THE DEFENDANT: I think about --

2 THE COURT: What was the last grade you completed?

3 THE DEFENDANT: I think, like, the 11th grade.

4 THE COURT: Do you have your GED?

5 THE DEFENDANT: No, ma'am.

6 THE COURT: Can you read and write?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Did you understand the sentence sheet?

9 THE DEFENDANT: [Indiscernible] yes, ma'am.

10 THE COURT: What was your last job?

11 THE DEFENDANT: Lead [indiscernible].

12 THE COURT: Where?

13 THE DEFENDANT: Oceanfront hotel over at the Isle of
14 Palms.

15 THE COURT: Are you married?

16 THE DEFENDANT: No, ma'am.

17 THE COURT: Do you have any children.

18 THE DEFENDANT: Yes, ma'am, I do. I have one child.

19 THE COURT: How old?

20 THE DEFENDANT: He is approximately three.

21 THE COURT: On the offense of attempted armed
22 robbery, how do you plead?

23 THE DEFENDANT: Guilty.

24 THE COURT: So you understand the maximum penalty is
25 20 years?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Do you understand that it's classified
3 as violent and most serious?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Do you understand that, if you receive
6 another most serious offense, you would be eligible for
7 life without parole?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: You may have discussed parole and parole
10 eligibility with your lawyer and with others, but until
11 you're sentenced, no one can tell you what, if ever, you
12 will be eligible for parole and under what conditions.
13 You should assume that any time you receive will be served
14 day per day. Do you understand?

15 THE DEFENDANT: [Indiscernible].

16 THE COURT: I'm sorry? I could not hear your whole
17 answer, sir.

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Sir, do you consent to your hearing
20 being held virtually?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: And has your lawyer -- have your lawyers
23 explained to you what a negotiated plea is?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Do you understand the Court's only

1 option is to accept or reject the plea?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: On the offense of possession of a weapon
4 during the commission of a violent crime, how do you
5 plead?

6 THE DEFENDANT: I plead guilty.

7 THE COURT: Do you understand that that penalty is a
8 mandatory five years, none of which can be suspended?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: I want you to listen carefully to the
11 facts.

12 Ms. Whitaker?

13 MS. WHITAKER: Thank you, Your Honor. On
14 Wednesday -- on Wednesday, December 30th, 2020, at
15 3:17 p.m. at the St. Andrews --

16 THE COURT: Was it '20 or '21? The indictment date
17 is 7/30 [sic] of 2020.

18 MS. WHITAKER: Your Honor, I believe it's '20.

19 THE COURT: Mr. Deaton and Mr. McCoy, is that
20 accurate?

21 MR. DEATON: Yes, Your Honor.

22 THE COURT: One had 2020 and one had 2021. I'm
23 assuming there's a scrivener's error in one of them?

24 MR. DEATON: Yes, Your Honor. It's 2020.

25 THE COURT: So do we need to correct that?

1 MR. DEATON: Yes, Your Honor. He's been in
2 incarcerated since January 15th of 2021.

3 THE COURT: Okay. You may continue, Ms. Whitaker.

4 MS. WHITAKER: Thank you, Your Honor.

5 -- at the St. Andrews Regional Library, which is
6 located at 1735 North Woodmere Drive. The victim, Roy
7 Aytes, was a worker renovating the library. He reported
8 that a suspect approached him while he was on a break from
9 work, with a firearm, demanding his cell phone and wallet.

10 The suspect was wearing a black hoodie, a red and
11 white bandana, and blue jeans. This was identical
12 clothing to that reported being worn by the defendant on
13 this day by another person.

14 The victim handed his phone and said that his wallet
15 was in his Jeep. The victim was then escorted to the Jeep
16 with a gun pointed to the back of his head. As the victim
17 looked for his wallet in the Jeep, the suspect counted
18 down from ten out loud. The victim found the wallet and
19 gave it to the defendant. The victim then watched the
20 defendant flee on foot toward the woodline, which borders
21 a neighboring apartment complex.

22 The defendant's silver BMW SUV was located near the
23 crime scene. Prints taken from the victim's hard hat and
24 the driver's side door -- prints were taken from the
25 victim's hard hat and the driver's side door. The prints

1 from the hard hat matched the defendant.

2 THE COURT: [Indiscernible] you said. What BMW was
3 located near the scene?

4 MS. WHITAKER: The defendant's.

5 THE COURT: And what type of car?

6 MS. WHITAKER: It was a silver BMW SUV.

7 THE COURT: SUV. Okay.

8 Sir, do you agree with this review of the facts?

9 THE DEFENDANT: I agree, Your Honor.

10 THE COURT: Do you feel anything needs to be changed
11 or added to the facts?

12 THE DEFENDANT: No, ma'am.

13 THE COURT: Are you pleading guilty because you're
14 guilty?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: You're entitled to a jury trial. At a
17 jury trial, you're entitled to a presumption of innocence.
18 The State has the burden of proving your guilt beyond a
19 reasonable doubt. You have a right to confront and
20 cross-examine the State's witnesses, call your own
21 witnesses, present any defenses, challenge any statements,
22 and remain silent, and your silence could not be used
23 against you. Do you understand your rights?

24 THE DEFENDANT: Yes, ma'am, I do.

25 THE COURT: Do you understand you're giving up those

1 rights?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Are you relying on any deal that I have
4 not been told about?

5 THE DEFENDANT: No, ma'am.

6 THE COURT: Have you been satisfied with your
7 lawyers?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Have they done everything you have asked
10 or expected in representing you?

11 THE DEFENDANT: Yes, ma'am, they have.

12 THE COURT: Any complaints about their services?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Has anyone promised you anything to
15 plead guilty?

16 THE DEFENDANT: No, ma'am.

17 THE COURT: Has anyone threatened or coerced you to
18 plead guilty?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: Are you pleading guilty freely and
21 voluntarily and of your own will?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Have you understood my questions?

24 THE DEFENDANT: Yes, ma'am, I have.

25 THE COURT: Do you need to ask any questions?

1 THE DEFENDANT: No, ma'am.

2 THE COURT: Have you been truthful?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Do you understand that you have the
5 right to appeal this guilty plea and sentence, but you
6 have to do that in writing within ten days of today?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Do you understand that, if you cannot
9 afford a lawyer, one will be appointed to you?

10 THE DEFENDANT: Yes, ma'am, I do.

11 THE COURT: The plea has been qualified.
12 Anything further from the State?

13 MS. WHITAKER: No, Your Honor.

14 THE COURT: Anything further from the defense,
15 Mr. Deaton or Mr. McCoy?

16 MR. DEATON: Yes, Your Honor. I think both of us
17 have a little bit of something to say, Your Honor.

18 Mr. Brown is 24. As he stated, he worked at The
19 Palms on Isle of Palms as a janitor, his most recent job.

20 Judge, he's going to get credit for 595 days. He
21 was -- this happened in December of 2020, and he was
22 picked up in January of 2021 -- January 15th. He's been
23 incarcerated ever since.

24 His bond -- I was hired right before the bond
25 revocation hearing. Judge Young revoked his bonds that he

1 had on previous charges and declined to set bond on these.
2 Your Honor heard a similar motion, I think, in August or
3 September of last year where you decided the same thing,
4 Your Honor, and as such, we have worked hard to get this
5 case resolved with Assistant Solicitor Chad Simpson.

6 I have spent a lot of time with Mr. Brown, you know,
7 both talking to him on the phone and in person, discussing
8 these cases.

9 Judge, you know, Mr. Brown's -- he's young. This
10 happened when he was young. He's never been to prison.
11 He's worried about that. He's concerned about that. But
12 he is remorseful about what happened. He's told me that.

13 He's represented here today by me and Mr. McCoy, as
14 well as several members of his family. Both his sisters
15 and his father are present. And these individuals care a
16 lot about him. I have talked to these folks for months at
17 a time over the last couple of years of dealing with
18 Mr. Brown's case.

19 We believe we have resolved this in a manner that's
20 best for Mr. Brown. I think he's -- he's taken -- it's
21 taken a lot of courage to stand up, knowing he's going to
22 go to prison, and take responsibility for what he did.
23 And I believe, Your Honor, you know, he deserves to have
24 this plea accepted by Your Honor.

25 Now, Mr. McCoy wants to address --

1 THE COURT: I have already accepted the plea.

2 MR. DEATON: I understand. I'm just talking about
3 the negotiation, Your Honor.

4 THE COURT: I have already accepted the plea.

5 MR. DEATON: Okay. But Mr. McCoy wants to address
6 one issue with Your Honor, if you don't mind. And I
7 apologize for the --

8 THE COURT: [Indiscernible].

9 MR. DEATON: -- for the lack of brevity.

10 MR. MCCOY: Judge, thank you, and may it please the
11 Court?

12 Judge, as Mr. Deaton's already mentioned, I join him
13 and I join his family, who is back behind me to the left,
14 in today's court appearance and the plea that we're doing
15 here today.

16 Judge, my office, as well as myself, has spent a lot
17 of time with Mr. Brown. He is a sharp young man. He is a
18 smart young man. Most importantly, Your Honor, his heart
19 is in the right place. And that leads me to the issue
20 that we have that has come up this week.

21 Judge, there is a DSS kind of custody issue and
22 battle that's going on with his child that he mentioned to
23 you here today already. I know that's not before Your
24 Honor. I know that's not an issue that we face here today
25 in General Sessions and it be no means negates his want to

1 accept responsibility and plead guilty here today. That's
2 what we're here to do. But I thought it was important
3 enough for me to mention it to Your Honor.

4 Judge, he has been advised by a DSS attorney -- and
5 I believe, again, respectfully, that he has been advised
6 wrongfully -- that he -- if he were to get out of jail or
7 bond out of jail right now, would get custody of this
8 child. I have explained to him that it was a young lawyer
9 that said this to him, an inexperienced lawyer that said
10 this to him, and frankly, with the charges that he has
11 facing himself right now, as well as a sentence that he
12 has facing himself right now, that custody would not be
13 something that would be given to him, especially when he
14 is going to go to prison for these charges.

15 Mr. Brown understands that, Your Honor. He knows
16 that, and, again, wants to accept responsibility here
17 today. But he wants to do everything he can to fight for
18 this child, to make sure this child goes to a family
19 member of his, be it his mother or be it his sisters. And
20 I told him, Judge -- and Mr. Deaton has told him the same
21 thing -- we will gladly assist in any way possible, any
22 shape or form, to do such things.

23 Your Honor, his request -- and, again, I told him
24 this is not a situation that I think would happen, but he
25 has asked about staying in Charleston, not going and

1 serving his sentence yet, to work on this issue.

2 Again, I have assured him that Mr. Deaton and I will
3 help in any manner possible, and I told him the Court
4 would probably not entertain that type of request, but we
5 wanted to make it anyway, Judge.

6 And I wanted to tell you, Mr. Brown -- I tell you,
7 he's a smart guy. His heart's in the right place, and
8 we're proud to represent him here today.

9 THE COURT: Anything further from the State?

10 MS. WHITAKER: No, ma'am.

11 THE COURT: Mr. Brown, while your efforts to assist
12 in the custody situation with your child is commendable,
13 the Court has absolutely no control over the jail, who
14 stays there and who doesn't. And I'm a big believer of
15 staying in my lane. I don't allow them to come into my
16 lane, and I don't go in theirs. They have got a facility
17 they have got to run, and by State statute and
18 regulations, they run it the way they deem appropriate.

19 However -- so I cannot order that you remain in
20 Charleston. That is outside of my province or my
21 authority.

22 And in all likelihood, I have no control when
23 they're going to send you to R&E. They might do it today.
24 They might do it tomorrow. They might wait a week.
25 Depends on what's going on at the Department of

1 Corrections, whether there's been an outbreak of COVID,
2 whether they have had security issues. It's a whole lot
3 of variables that go into that equation, so I'm not going
4 to make any promises to you because they're not promises I
5 can enforce. And if I do that for you, which is a
6 non-conforming request, I have to do it for everybody, and
7 I'm not going to do that. So I don't want to mislead you.

8 However, if you want to participate in any DSS
9 proceeding -- the one great thing about COVID -- and we
10 did this before COVID on a smaller scale, but now we have
11 the ability to have the State support in terms of
12 providing us with a wonderful thing called Webex, which is
13 used throughout the state of South Carolina.

14 If you want to be present for any of your
15 proceedings, a family court judge just needs to be made
16 aware of that, and I'm certain they will make every
17 accommodation to allow you to observe the proceedings as
18 well as be present for them, and the State Department of
19 Corrections will accommodate your need -- your ability to
20 attend to the extent that they have available.

21 Again, you know, I don't know -- things change at
22 SCDC based on security concerns, health concerns, and
23 otherwise. Sometimes lockdowns occur and we have no
24 control over that. Again, I have no control over how the
25 Department of Corrections handles them.

1 So, again, while that is commendable to request it,
2 it's not one that I can grant. So I hope you understand
3 the logic of that and my ability to do it, because I don't
4 have the power to do it.

5 Consistent with the negotiated plea, sir, on the
6 attempted armed robbery, you're sentenced to the State
7 Department of Corrections for a period of eight years. On
8 the possession of a weapon during the commission of a
9 violent crime, five years. I'll run these sentences
10 concurrent. You'll get credit for [indiscernible],
11 calculated and applied by the Department of Corrections.
12 And I have also ordered the ATU because I think that will
13 be helpful to you and it will also ease you into -- it
14 will give you a buffer before you go to the facility that
15 you're probably going to be designated to go to.

16 MR. McCOY: Judge --

17 THE COURT: Okay?

18 MR. McCOY: -- briefly, is -- I have made this
19 request in federal court. I don't know if we do it in
20 state court. Is there a way to suggest, in state court, a
21 facility that he would go to, since this is new to him and
22 this is his first time going?

23 THE COURT: We have no control.

24 MR. McCOY: Okay. Thank you, Judge.

25 THE COURT: You're welcome.

1 Right now, because of security concerns,
2 [indiscernible] facilities in Mississippi, Alabama. I
3 have no control. The statute -- the legislature has been
4 very clear. The Department of Corrections runs their
5 facilities. We have no control over it.

6 MR. McCOY: Yes, ma'am. Just wanted to make the
7 request. Thank you, Judge.

8 MS. WHITAKER: Thank you, Your Honor.

9 THE COURT: [Indiscernible] R&E and I have ordered
10 the ATU. That may give him, you know, some treatment in a
11 different facility before he goes to -- but I really don't
12 have any idea how they're doing this right now. There are
13 a lot of variables. There's COVID, there's a lot of
14 security concerns. It's a lot of moving parts. So once
15 he goes to R&E, he'll know exactly where he's being
16 assigned. But like I said, there are people that are in
17 Mississippi right now because of some things that have
18 happened, so I really have no way of knowing, and I would
19 never want to mislead him by giving him some sort of
20 guarantee or even suggesting that I have the ability to
21 even have any influence regarding that.

22 MR. McCOY: Yes, ma'am. We appreciate that. Thank
23 you, Judge.

24 MR. DEATON: Thank you, Your Honor.

25 MS. WHITAKER: Thank you, Your Honor.

1 THE COURT: I think you have to be straight with
2 people, and I don't want him going somewhere thinking
3 something, and then he gets there and they tell him
4 something different and then he feels like we have been
5 dishonest with him and somehow --

6 MR. McCOY: And we appreciate that, Judge. We do.
7 Thank you.

8 MR. DEATON: Thank you, Your Honor.

9 MS. WHITAKER: Thank you, Your Honor.

10 THE COURT: You're welcome. Have a good day.

11 (The above matter concluded at 11:50 a.m.)

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CERTIFICATE OF TRANSCRIBER

CASE NAME/NUMBER: State v. Jamel Raekwon Brown

2021-GS-10-01724; 01726

DATE OF HEARING: 9/2/22

COURT REPORTER/MONITOR: DCRP/Lorraine Victoria

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

Bobbi Fisher

/s/ Bobbi Fisher_____

Bobbi Fisher, RPR and Certified Transcriber

Date Submitted:

NOTE: PURSUANT TO RULE 607(h)(1)(B), SCACR, "A COURT REPORTER SHALL RECEIVE THE FEE OF \$1.00 PER PAGE FOR FURNISHING A COPY OF A PREVIOUSLY PREPARED TRANSCRIPT." ALL REQUESTS FOR COPIES OF THE ATTACHED TRANSCRIPT (FORM 800) FROM OPPOSING PARTY OR NON-PARTIES MUST BE SENT TO THIS REPORTER AT BFISHER@SCCOURTS.ORG.

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) September 2, 2022 8yrs.
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
NO
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) Took a plea deal
- (b) _____

(c) _____

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

(a) Ineffective Assistance of Counsel

(b) _____

(c) _____

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

(a) my lawyer was ineffective by not properly preparing me for the plea deal. ~~at the time~~

(b) My lawyer never properly went over and

(c) discussing the case preparing me for a plea deal.

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? _____

I also released counsel of his duty and he remained on my case.

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?

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

(a) which grounds have been presented:

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

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

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

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

- (a) _____
- (b) _____
- (c) _____

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

- (a) your arraignment and plea? Yes
- (b) your trial, if any? _____
- (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. RAD S. Deaton
425 Red Bank Rd., Goose Creek, S.C. 29944
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. Plea arraignment Attorney
 - ii. _____
 - iii. _____

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

I want sentence overturned with
~~prejudice~~ Prejudice ~~and~~ ~~and~~ ~~and~~ ~~and~~

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

STATE OF SOUTH CAROLINA)
County of Charleston)

VERIFICATION

I, Jamel Raekwon Brown, 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.

Jamel Raekwon Brown

SWORN to and subscribed before me this 28th
day of JUNE, 2023

[Signature] (L.S.)
Notary Public

My Commission Expires: 6-20-26

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

I, Jamel Raekwon Brown, 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.

Jamel Brown
Applicant

SWORN or affirmed to and subscribed before me this
28th day of JUNE, 2023.

[Signature]
Notary Public

My Commission Expires: 6-20-26

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
)	
Jamel Raekwon Brown, #388867	)	CASE NO. 2023-CP-10-03365
)	
Applicant,)	
)	
v.)	
	)	RETURN
State of South Carolina,	)	(Counsel Appointed)
)	
Respondent.)	
_____)	

JULIE J. ARHSTADT
 CLERK OF COURT
 2023 DEC -8 AM 10:55
 FILED

In response to the application for post-conviction relief filed by Jamel Raekwon Brown on July 13, 2023, Respondent would respectfully show this Court:¹

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving an eight-year sentence. In June 2021, the Charleston County Grand Jury indicted Applicant for armed robbery (2021-GS-10-01724) and possession of a weapon during a violent crime (2021-GS-10-01726). These charges arose from an armed robbery of Roy Aytes on December 30, 2020.

On September 2, 2022, Applicant appeared before the Honorable Deadra L. Jefferson and pled guilty to the weapon charge and, on the armed robbery charge, the lesser-included offense of attempted armed robbery. Rad S. Deaton and Peter McCoy, Esquires, represented Applicant. Tyler Whitaker, Esquire, represented the State. Applicant pled, pursuant to a negotiated eight-year sentence. Judge Jefferson accepted the negotiations and sentenced Applicant concurrently to eight

¹ Respondent’s return was due to be filed within 60 days of service. See Rule 12(a), SCRCP (“[T]he State of South Carolina shall answer or otherwise respond to an application for post-conviction relief within 60 days after service of the application, if it arises out of a guilty plea, and 90 days if it arises out of a trial.”). Now, having completed the return, and in light of no demonstrable prejudice to Applicant, Respondent respectfully asks this Court to accept this return as timely filed. See S.C. Code Ann. § 17-27-70(a) (establishing the Court may fix the time in which the State must respond); *Guinyard v. State*, 260 S.C. 220, 195 S.E.2d 392 (1973) (holding the time limit prescribed by the statute is not mandatory but discretionary with the trial court).

years for attempted armed robbery and five years for the weapon charge. Applicant did not appeal.

CURRENT APPLICATION

In his application for Post-Conviction Relief (PCR), Applicant alleges he is being held in custody unlawfully based on the following:

Ineffective assistance of counsel:

- a. Counsel failed to “properly prepare [Applicant] for the plea deal.” Counsel did not go over and discuss the case to prepare him for a plea deal.
- b. Applicant “released counsel of his duty [but] he remained on [the] case.”

As relief, Applicant requests that his “sentence [be] overturned with prejudice.” Attached to this return and incorporated by reference are the Charleston County Clerk of Court records of the underlying convictions, Applicant's records from the South Carolina Department of Corrections, and Applicant's plea transcript. The State reserves the right to amend this return upon receiving any additional relevant materials.

INEFFECTIVE ASSISTANCE OF COUNSEL

Respondent requests an evidentiary hearing on Applicant's claim of ineffective assistance of counsel. Applicant asserts that trial counsel was ineffective for failing to explain the plea agreement. To establish ineffective assistance of counsel, Applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) Applicant sustained prejudice because of counsel's deficient performance. Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). “The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases.” Watson v. State, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). To establish prejudice, Applicant must prove “there is a reasonable probability that,

but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Sixth Amendment right to counsel also applies to a defendant entering a guilty plea. Hill v. Lockhart, 474 U.S. 52 (1985). When reviewing a guilty plea, the Strickland deficiency prong remains unchanged—Applicant must show that counsel's representation fell below an objective standard of reasonableness. Hill, 474 U.S. at 58–59. To show prejudice, Applicant must show a reasonable probability exists “that, but for counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial.” Id. at 59. In determining whether a guilty plea was voluntarily entered, the reviewing judge must consider the entire record, including the transcript of the guilty plea. Harres v. Leeke, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

The record likely does not refute or disprove Applicant's allegation of ineffective assistance of counsel; therefore, the State requests an evidentiary hearing to resolve the issues. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application “alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court”).

ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY

Respondent requests Applicant specify any claims he intends to raise 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 the State or, alternatively, the State will request a continuance. Further, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State in advance. Respondent likewise requests all potential evidence and a list of potential witnesses be sent to the State in advance of the hearing. Respondent reserves the right to request a continuance and oppose witness testimony

and exhibits that are withheld until the last minute resulting in undue prejudice to the State.

ALL OTHER CLAIMS

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

CONCLUSION

WHEREFORE, the State respectfully requests an evidentiary hearing.

Respectfully Submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

DANIELLE DIXON
Assistant Attorney General

By:



Danielle Dixon

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

December 6, 2023

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

Jamel Raekwon Brown, #388867)

Applicant,)

vs)

State of South Carolina,)

Respondent,)

IN THE COURT OF COMMON PLEAS

2023-CP-10-03365

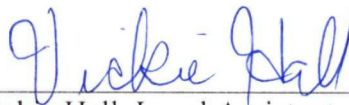
CERTIFICATE OF SERVICE BY MAIL

JULIE J. ARMS, CLERK OF COURTS
2023 DEC -8 AM 10:55
FILED

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

Christopher L. Murphy, Esquire
Murphy Law Offices, LLC
146 Fairchild Street, Suite 130
Charleston, SC 29492

DATED this 6th day of December, 2023.



Vickie Hall, Legal Assistant
For Respondent

1 STATE OF SOUTH CAROLINA * COURT OF COMMON PLEAS
 *
 2 COUNTY OF CHARLESTON * TRANSCRIPT OF RECORD
 *
 3 -----X
 JAMEL R. BROWN, *
 *
 4 Applicant, *
 *
 5 vs. * Case No. 2023-CP-10-03365
 *
 6 STATE OF SOUTH CAROLINA, *
 *
 7 Respondent. *
 8 -----X

September 11, 2024

B E F O R E:

The Honorable Michael G. Nettles, Presiding Judge

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

Christopher L. Murphy, Esq.
Attorney for the Applicant

Danielle Dixon, Esq.
Assistant Solicitor for the Respondent

Recorded by: DCRP Court Monitor

Court Transcriber: Bobbi Fisher, RPR
SC Official Court Reporter III

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25

E X H I B I T S

(Exhibits on file in Clerk of Court's Office.)

Applicant's Exhibits

No.	Description	ID.	REC'D
1	Applicant's Statement	27	27
2	Document	29	29

State's Exhibit

No.	Description	ID.	REC'D
1	8/17/22 Letter	56	56

COURT REPORTER LEGEND

Dash (--) Indicates an interruption in speech

Ellipses (...) Indicates trailing off in speech

(ph) Indicates phonetic word

[Verbatim] Indicates the word is said as written

(Indiscernible)[Transcription] Indicates word(s) is not known due to audio recording quality

P R O C E E D I N G S

(The following proceedings started at 2:40 p.m.):

MS. DIXON: May it please the Court. This is the case of Jamel Brown v. State, Docket No. 2023-CP-10-3365. Mr. Brown is currently serving an eight-year sentence. He was indicted in June of 2021 by the Charleston County Grand Jury for armed robbery and possession of a weapon during a violent crime. Those were Indictment Nos. 2021-GS-10-1724 and 1726.

He appeared before the Honorable Deadra Jefferson on September 2nd, 2022, and pled guilty. Your Honor, this was a negotiated eight-year sentence. He was represented by Rad Deaton and I believe Peter McCoy was also at that hearing, and you'll hear a little bit more today about what his role was.

Mr. Brown pled to the weapon charge and attempted armed robbery as the lesser-included offense of the armed robbery indictment. He was sentenced to the eight-year negotiation and five years for the weapons charge to run concurrent.

He did not file a Notice of Appeal. He filed this PCR application July 13th, 2023. It was on the roster this past March and was continued from then.

He is, as we understand it, alleging counsel was ineffective for not properly preparing him for the plea deal, not discussing and going over the case to prepare him for the plea, and remaining on the case after Mr. Brown released him of his duty to represent him.

1 And, at this time, we will turn it over to Mr. Murphy,
2 who is here representing Mr. Brown.

3 THE COURT: All right. Mr. Murphy, I want to ask if you
4 could clarify the grounds that you're going forward on today.

5 MR. MURPHY: Thank you, Your Honor. May it please the
6 Court.

7 I would say, first of all, basically, this was an
8 involuntary plea, but Mr. Brown wants to represent himself and
9 have me as standby counsel, if it pleases the Court. He has
10 given me filed evidence.

11 (The Applicant and his counsel confer off the record.)

12 MR. MURPHY: This file contains mostly documents that
13 would be in the record as already part of his file; however,
14 it does include a letter to Mr. Deaton and a letter from
15 Mr. McCoy, which I'm going to hand to Ms. Dixon for her
16 review.

17 THE COURT: While she's looking at that, Mr. Brown, you
18 have an absolute right to represent yourself. It's generally
19 not a good idea up -- even if you're a lawyer, it's not a good
20 idea to represent yourself. Do you understand that?

21 THE APPLICANT: Yes, sir.

22 THE COURT: Have you been to law school?

23 THE APPLICANT: No, sir, I haven't.

24 THE COURT: All right. And you understand that it's
25 generally a very treacherous thing to represent yourself and

1 be your own advocate? Do you understand that?

2 THE APPLICANT: Yes, sir.

3 THE COURT: Is that what you want to do?

4 THE APPLICANT: Well, at the time, I'm unsure. I've been
5 having a couple of issues with my attorney -- my PCR attorney,
6 Christopher Murphy.

7 For one, I asked him to get some mental health records
8 for me, I believe, and his actual response was no. He told
9 me, "No, I don't think you're mentally incompetent. I feel
10 like you're aware, so I feel like you know."

11 So I told him, hey, that goes against everything I went
12 against with law library help I've had. I said that wasn't
13 really too good.

14 He also hasn't gotten me any records of anything that
15 I've asked for. All the paperwork that I have as far as for
16 my evidence, I have come up with, my hard work. He hasn't
17 done anything for me.

18 Were you able to get the mental health records?

19 MR. MURPHY: I did not get them yet.

20 THE APPLICANT: He didn't get the mental health records
21 that I asked him for. I asked him to send an expert witness
22 down for my mental health competency. And like I told you,
23 Your Honor, he said -- his response was, "No, I don't think
24 you're mentally incompetent due to the fact you're aware of
25 what's going on, I feel like you're competent."

1 So that's why today I'm like -- I'm not sure about
2 representing myself, but as you can see --

3 THE COURT: All right. Do you want to go forward on your
4 own?

5 THE APPLICANT: I mean, he can -- I can -- I can -- he
6 can help me out. I don't think I want to do that. I can use
7 his -- I can use his assistance.

8 THE COURT: All right. Mr. Murphy, you're recognized.

9 MR. MURPHY: Okay. Thank you, Your Honor.

10 THE APPLICANT: I want to start by reading this. Start
11 by reading this out to him. This is my recent letter to him.

12 MR. MURPHY: Well, this is different.

13 Your Honor, he wants to address the Court directly from
14 -- and this has a --

15 THE APPLICANT: That's it.

16 MR. MURPHY: This is a -- it's a page out of a notebook.
17 I'm not sure what it is. Basically, what he's saying, Judge,
18 is that this is an involuntary plea; that he wanted to
19 terminate the representation of Mr. Deaton, but the Court -- I
20 never -- as I explained, never actually released Mr. Deaton
21 from representing him.

22 He then appeared for a plea hearing, which the Court
23 accepted and ended up accepting the plea. A lot of his issues
24 revolve around that and he says he wanted to go to trial but
25 Mr. Deaton tried to -- or talked him into or convinced him to

1 accept this plea deal. He was facing an armed robbery. He
2 ended up with eight years.

3 I have told Mr. Brown that I'm sure that was the case
4 because I think this was a great deal for you. And that's
5 really where everything breaks down here.

6 And I've told him, in terms of mental records, we look at
7 not what happened after the plea. We have to look beforehand.
8 And there's no way we're going to be able to evaluate his
9 competency when he actually pled guilty.

10 But he can testify to any mental health records that he's
11 had, and I've explained that to him, just like I've explained
12 to him he can testify about wanting to terminate Mr. Deaton.
13 But he's confused about what types of evidence there is out
14 there. And so, really, I think the easiest way for me to do
15 it would be for me to put him up on the stand and question
16 him.

17 THE COURT: Yes, sir.

18 THE APPLICANT: Before we get to that, can I say
19 something?

20 THE COURT: Yes, you may.

21 THE APPLICANT: Your Honor, I honestly feel like --
22 before we get to anything, I feel like my Sixth Amendment has
23 been violated, which is a constitutional right. I honestly
24 feel like that. I had him amend my PCR, which was an
25 involuntary plea, incompetent to stand plea, and ineffective

1 assistance of counsel. What I just gave him was a copy that I
2 wrote down from what she has, the actual release letter from
3 Mr. Rad Deaton. I just wrote it down in my notebook. I
4 wanted him to recite it so you can hear it more -- because
5 like I said today, my rights have been violated, my Sixth
6 Amendment.

7 He shouldn't have been on my case. Once you hear this, I
8 don't understand like -- I don't know what's the next -- I
9 don't know what's the next move for it.

10 THE COURT: All right. Well, he's going to call you to
11 the stand. You can testify as to why you think the plea
12 should be reversed. And you can also --

13 THE APPLICANT: So these are my different grounds --

14 THE COURT: You can always -- you can also voice any
15 grievances that you might have.

16 But you understand -- and you have spoken with your very
17 capable lawyer about the fact that, if you prevail at this
18 hearing, it isn't as if you go home. You'll be standing the
19 charges that were pending against you at that time and could
20 get a significantly higher sentence. You've talked with your
21 lawyer about that, haven't you?

22 THE APPLICANT: Yes, sir. But as of right now, the
23 relief I'm looking for is to overturn my sentence with
24 prejudice. The reason why, because it's not even the accurate
25 plea that he told me it was going to be. It wasn't even that.

1 He told me verbally --

2 THE COURT: But your remedy is you get back -- start back
3 at square one, and you face the indictments again. You
4 understand that?

5 THE APPLICANT: So I can't get my sentence overturned
6 with prejudice?

7 THE COURT: You're talking about just go home? Win and
8 go home?

9 THE APPLICANT: Win and go home?

10 THE COURT: Yeah. What you're saying is -- what you're
11 saying is you think that, if you prevail at this
12 post-conviction relief, then you get to go home, if I were to
13 rule accordingly.

14 The only thing I can do is grant you a new trial, and you
15 would stand to face the charges that were pending against you
16 at that time. If it's armed robbery, it's a minimum mandatory
17 of 10 years. That's the minimum you could get.

18 THE APPLICANT: Yeah, I was looking for more of my
19 sentence to be overturned, though. I was just looking for to
20 be -- I can't be remanded for resentencing?

21 THE COURT: No, I cannot resentence you, no.

22 THE APPLICANT: I don't understand. I don't understand.

23 MR. MURPHY: Judge, that has been a conversation that
24 I've had many times with him, that he is going to max out long
25 before this -- assuming he wins and it runs its course through

1 the Supreme Court, and then he would get remanded back to face
2 the armed robbery charges. Factually, for the armed robbery
3 charges, there was a description that fit Mr. Brown. There
4 was his fingerprints on the car that was robbed. And it was a
5 pretty tight case. Mr. Deaton did a great job getting it
6 below that mandatory minimum.

7 And so I've explained to him over and over again that you
8 don't want to serve --

9 THE COURT: Apparently, he has been advised of that.

10 You may come to the stand and place your left hand on the
11 Bible and raise your right hand as the clerk administers the
12 oath.

13 THE APPLICANT: Where you want me at?

14 THE COURT: Stand right over there. The Bible is on the
15 end of the ledge there. Place your left hand on the Bible and
16 raise your right hand as the clerk administers the oath.

17 THE CLERK: Do you swear or affirm the testimony you
18 shall give the Court is the truth, the whole truth, and
19 nothing but the truth so help you God?

20 THE APPLICANT: Yes, ma'am.

21 JAMEL BROWN,

22 after having been duly sworn, was examined and testified
23 to as follows:

24 THE CLERK: Please be seated.

25 THE COURT: Mr. Brown, have a seat in the witness chair.

1 I'm going to ask that you pull up real close to that
2 microphone. Speak loudly, clearly, and slowly in order that
3 we can hear everything that you have to say.

4 And let's start with your full name once again.

5 THE APPLICANT: Jamel Raquan Brown.

6 THE COURT: Very good.

7 DIRECT EXAMINATION

8 BY MR. MURPHY:

9 Q. Mr. Brown, how old are you?

10 A. I'm 26 years old.

11 Q. Okay. And how far did you go in school?

12 A. 11th grade.

13 Q. All right. And after you left 11th grade, what did --
14 were you employed?

15 A. Correct.

16 Q. And what were you doing?

17 A. Housekeeper.

18 Q. And do you have any children?

19 A. Correct, I do. A five-year-old son.

20 Q. And have you ever been living with your son?

21 A. Correct.

22 Q. And have you ever had to -- have you been supporting your
23 son before you were incarcerated?

24 A. Correct.

25 Q. And how did you support your son?

1 A. Through work. Through jobs.

2 Q. And do you remember what you were getting paid?

3 A. No, sir.

4 Q. And you eventually got arrested for this armed robbery in
5 Charleston County; correct?

6 A. Correct.

7 Q. And you ended up with Mr. Rad Deaton as your attorney?

8 A. Correct.

9 Q. And how did you find Mr. Deaton as your attorney?

10 A. Didn't like it at all.

11 Q. Well, no, no. I just want to know, how did you become
12 familiar -- how was it that you called -- ended up calling
13 him?

14 A. I'm not sure how that happened. I think my family
15 contacted him.

16 Q. Do you remember if he was court appointed or if he was
17 retained?

18 A. He was retained.

19 Q. And did you end up paying his fee or did your family?

20 A. My family paid.

21 Q. And do you know if that was fully paid or not?

22 A. No, it wasn't.

23 Q. It was not fully paid?

24 A. Correct, it was not.

25 Q. And tell me, when you met with Rad Deaton -- well, let me

1 ask you this: How many times did you talk to Rad Deaton on
2 the phone during the course of your representation -- or his
3 representation?

4 A. Well, I spoke with him frequently over the phone.

5 Q. Okay. And were you incarcerated or being held in
6 detention pending your charges or were you free?

7 A. Correct, I was incarcerated.

8 Q. Okay. So you were at the Charleston County Detention
9 Center?

10 A. Correct.

11 Q. And you spoke with him on the phone?

12 A. Correct.

13 Q. And did he send you the discovery in your case?

14 A. Yeah, he did, correct.

15 Q. All right. And did he discuss the evidence against you
16 and explain your -- any possible defenses you had?

17 A. Can you say that again?

18 Q. Did he discuss the evidence against you that the State
19 was going to present against you?

20 A. Correct.

21 Q. And did you and he discuss defenses -- possible defenses
22 to these charges?

23 A. Correct.

24 Q. And did he -- was there ever any time where he just
25 wasn't available that you couldn't get in touch with him?

1 A. No. No, sir.

2 Q. And your family -- was your family -- was he available to
3 your family as well when they would call him?

4 A. Correct.

5 Q. Now, do you remember approximately how many times you
6 actually met him in person?

7 A. I'll say maybe three.

8 Q. Okay. And, eventually, you ended up getting what we call
9 an offer from the Solicitor's Office; correct?

10 A. Correct.

11 Q. And let me just go back. You were charged with armed
12 robbery. That carries a sentence of 10 years to 30 years.
13 Did you understand that?

14 A. Correct.

15 Q. So that means the lowest amount out of jail time you
16 could get would be ten years under that armed robbery. Do you
17 understand that?

18 A. Correct.

19 Q. And you ended up getting an offer from the Solicitor's
20 Office for attempted armed robbery; right?

21 A. Correct.

22 Q. And under that offer, that's what we call a negotiated
23 plea for eight years. And, basically, that is where the judge
24 could say, "I'm either going to accept or reject this plea; I
25 can't change it." Do you understand that?

1 A. Correct.

2 Q. Okay. So you went in to court -- you made -- you spoke
3 with Rad about whether or not to accept this negotiated plea?

4 A. Correct.

5 Q. All right. At some point in the timeline, you ended up
6 hiring Peter McCoy; is that true?

7 A. Correct.

8 Q. And why did you hire Peter McCoy?

9 A. To proceed with trial.

10 Q. Okay. Was it for your bond or for your trial?

11 A. To proceed with trial. Bond hearings -- bond -- it was
12 for bond, to proceed eventually with trial, though.

13 Q. Okay. So, if I'm hearing you right, you wanted Peter to
14 replace Mr. Deaton as your attorney?

15 A. Correct.

16 Q. Okay. Now, did you tell Mr. Deaton you wanted him off
17 your case?

18 A. Correct.

19 Q. Okay. And you did send him some letters --

20 A. Correct.

21 (Counsel confer off the record.)

22 BY MR. MURPHY:

23 Q. So you eventually sent Mr. Deaton a letter indicating you
24 wanted him to be relieved as counsel; right?

25 A. Yes, sir. I also called down to the law firm, too.

1 Q. All right. And did he discuss with you what steps had to
2 be taken for you to be -- for him to be relieved as counsel?

3 A. No, sir.

4 Q. Did you ever discuss the Substitution of Counsel Order?

5 A. I don't know what that is, sir.

6 Q. Okay. Do you recall ever having a motion before the
7 Court to be relieved as counsel?

8 A. No, sir, I wasn't aware of that.

9 Q. All right. You eventually got pulled over downstairs
10 here before your plea -- on the day of your plea; right?

11 A. Correct.

12 Q. And that was the time you were going to be in front of
13 the judge; right?

14 A. Correct.

15 Q. Okay. And Mr. Deaton was here that day, wasn't he?

16 A. Correct.

17 Q. And did you talk to him about the plea?

18 A. So I --

19 Q. Did you talk to him about what your options were at that
20 time?

21 A. We spoke a little but I told him I wasn't too firm with
22 taking this plea, that I wasn't -- I told him no.

23 Q. All right. And so you were unsure about whether you
24 should go --

25 A. No, I was sure. I said no.

1 Q. All right. You were sure?

2 A. Correct.

3 Q. You said, "I don't want to plea"?

4 A. Take the plea.

5 Q. "I want to go to trial"?

6 A. Well, yeah, I guess if it's -- I didn't want to take the
7 plea. Yeah, correct.

8 Q. I mean, that's your only options.

9 A. Correct.

10 Q. Okay. And you're telling me that you made that clear
11 that you wanted to go to trial and not accept the plea?

12 A. Well, I didn't make it as clear that I wanted to go to
13 trial, but I made it clear I didn't want to take the plea.
14 That's what was clear.

15 Q. All right. So if you didn't want to take the plea, what
16 other option do you think you had?

17 A. Well, at the time, I just wanted to -- to at least try to
18 make bail to fight it on trial.

19 Q. All right.

20 A. I wanted to attend trial. I wanted to make bail to fight
21 it on trial.

22 Q. All right. So, if I hear you, you're saying you wanted
23 to make bond -- get a bond set ---

24 A. Correct.

25 Q. --- so you could get released --

1 A. Correct. So I could prepare for trial.

2 Q. All right. And did you talk to Mr. Deaton about that
3 desire?

4 A. Why -- no, sir, I feel like why should I, after I wrote
5 him that release letter and called down to his law firm. I
6 don't understand what else was I supposed to do.

7 Q. And on the day of your plea ---

8 A. Correct.

9 Q. --- did Mr. McCoy -- did you talk to Mr. McCoy at all?

10 A. I talked to -- I talked to all of them at once, Peter
11 McCoy and Mr. Rad Deaton and my family at one time.

12 Q. Okay. When you say you talked to them at one time, did
13 you talk to Mr. Deaton upstairs here in one of these booths?

14 A. I was in a -- I was -- I was on a cell phone. They
15 called down to the county jail. I was on a cell phone call.

16 Q. All right. And Peter was on that call?

17 A. Correct.

18 Q. And your family was on that call?

19 A. Correct.

20 Q. And Rad was on the call?

21 A. Correct.

22 Q. All right. And this is where you said -- what did you
23 tell them during this call?

24 A. I told them, no. I told them, no. I already -- I
25 already spoke with them before the plea hearing, and I said,

1 "Hey, the paperwork and what you guys verbally are saying are
2 not adding up. You told me this is a five-year plea. You
3 sent me paperwork that says eight years. You said it was just
4 going to be attempted armed robbery. Here comes another
5 charge -- a weapons charge saying it's not going to impact
6 your sentence." So when that came, I said, "Hey, I'm not
7 going to do it."

8 So he called -- that was the purpose of him making that
9 call before my plea hearing, to persuade me to continue with
10 this plea I've denied several times at the moment.

11 Q. All right. So you're saying today that you did not want
12 to plead guilty.

13 A. No, sir.

14 Q. And you eventually got called up before the judge for a
15 guilty plea; correct?

16 A. Correct.

17 Q. And, at that time, the judge asked you a bunch of
18 questions. Do you remember that?

19 A. Correct.

20 Q. And at any point, did you say that you don't want to
21 plead guilty?

22 A. Well, when the judge asked me, "Do you have any
23 complaints about their services?" I responded the correct way,
24 which was, "Yes, ma'am." It was a female judge. And I said,
25 "Yes, ma'am." Nothing was done about it.

1 Q. All right. And did your attorneys or anybody say that
2 there was an issue that you did not want to plead guilty at
3 that time?

4 A. I didn't hear you. I'm sorry.

5 Q. Did your attorneys tell the judge that you did not want
6 to plead guilty?

7 A. No. He swore me in and he said I pled guilty.

8 Q. And when you -- when the judge asked you -- during --
9 well, let me ask you this: If you didn't want to plead
10 guilty, why did you then?

11 A. Well, I just followed my lead counsel's -- I just
12 followed my lead counsel. He swore me in first before we went
13 in the plea. I told him I didn't want to take it. He went up
14 and he swore me in first, gave up my rights.

15 So due to my mental competency, which is a big issue, why
16 I told you to get my mental health records because everyone
17 wants to overlook that. My mental competency is very low. As
18 of right now, I'm able to understand, but at the time, I
19 didn't at all, so...

20 Q. And so when we talk about mental competency ---

21 A. Mm-hmm.

22 Q. --- are you telling the Court that you have mental health
23 issues?

24 A. I do, correct.

25 Q. And what issues are they?

1 A. As of right now, they're all Level 4, which is the
2 highest category. I suffer from post-traumatic stress
3 disorder, bipolarism, high anxiety, depression, and much more.

4 Q. Okay. And are you telling the Court that those mental
5 health issues caused you to not understand what you're doing?

6 A. Correct. I don't know the nature of the consequences of
7 what's going on. I don't really -- I don't fully understand
8 because I'm dealing with someone who is persuading me to take
9 a plea I don't really want to take.

10 Q. Okay. And you ended up actually accepting the plea;
11 correct?

12 A. Correct. I just -- I just followed pursuit. He sworn me
13 in first, pled me guilty. I just followed -- followed. You
14 know, I spent a lot of money with these guys, so I just took
15 their lead.

16 Q. Okay. And now you're saying that your plea was
17 involuntary?

18 A. Correct.

19 Q. That it was against your will; correct?

20 A. Correct.

21 Q. And I'm going to kind of walk you through. You indicate
22 that there was some misrepresentation.

23 A. A lot, correct.

24 Q. And, specifically, what did your attorneys misrepresent
25 to you about your plea?

1 A. Well, the first thing, like I just admitted to, he told
2 me this was a five-year plea. This was never a five-year
3 plea. This is, obviously, an eight-year plea. That's one.

4 A second one, he told me that all charges would be
5 dismissed with this plea, and the armed robbery would be
6 attempted armed robbery. But when I did take the plea, he
7 sent me another paperwork in the mail, which she has over
8 there. He sent another letter, like, a week later and said,
9 "Hey, we're adding a gun charge. It doesn't impact your
10 sentence at all because they're going to run it concurrent."
11 But it's still not what you told me even -- it's not what you
12 told me, though.

13 Q. All right. And when you talk about -- let's first back
14 up.

15 A. Yes, sir.

16 Q. Did you talk about receiving an eight-year sentence as
17 opposed to you would only probably serve five years before you
18 were eligible for release?

19 A. Yeah, that's what he said. But I don't -- like I said,
20 due to my mental -- he should have checked -- he should have
21 evaluated my competency. I'm not mentally stable for him to
22 come at me like that. He should have said, "Hey, this is an
23 eight-year plea. Now, you can do five years if you keep your
24 nose clean and stuff."

25 But for him to come at me off the first -- when he first

1 found out about it and said this is a five-year plea, I feel
2 like my rights have been violated because this is not a
3 five-year plea, this is an eight-year plea.

4 Q. All right. And then you also indicate that counsel gave
5 up your rights by having you plead guilty.

6 A. Correct. He swore me in first. When it came to the plea
7 hearing, he went in front of the judge and said, "Hey" -- the
8 judge asked him, "How does he plead today?" He should have
9 said more, "Through the conversation we just had, I'm unsure.
10 Let's try to get him first." But he swore me in first, so...

11 Q. And you allege that your Sixth and Fourteenth Amendment
12 rights were violated?

13 A. Have been violated, correct.

14 Q. And explain how you believe your Sixth Amendment rights
15 have been violated.

16 A. Well, right to a speedy trial. The fact that I denied
17 the plea several times, they -- this is my life. If I deny it
18 one time, I don't want to see it again. I didn't feel like I
19 should be -- I should be peer-pressured to take a plea. I
20 have rights to a speedy trial. So that means if I say, "Hey,
21 I don't want to do it," then that's that. I pay you -- I've
22 been paying you to do it, like...

23 Q. Okay. And then how do you believe that your Fourteenth
24 Amendment rights were violated?

25 A. Well, really more of just -- just not -- it's just not

1 what he said it is. He said it was a five-year plea and he
2 said -- this is what I was originally told. This is what the
3 plea was supposed to be. It was supposed to be a five-year
4 plea with attempted armed robbery. My plea is not that. It's
5 an eight-year plea with attempted armed robbery with a gun
6 charge added, sir.

7 Q. And you also allege that you were failed -- your
8 attorneys failed to inform you of affirmative defenses.

9 A. Correct.

10 Q. Okay. And what affirmative offenses do you believe they
11 should have done?

12 A. I mean, they just should have had more of my back. I
13 felt like, "Hey, it was more of 'let's just get him to plea
14 out' than 'let's fight for his defense.'" Okay, they had --
15 okay, you know my case with the armed robbery. They have what
16 they have. But he wasn't with me at all. Like, when I tell
17 him stuff, he wouldn't have my back.

18 Q. And let me ask you this ---

19 A. Correct.

20 Q. --- if you were found incompetent, do you know what would
21 happen then? What the procedure would be?

22 A. When? Today?

23 Q. No, back before you pled guilty.

24 A. No, sir.

25 Q. Okay. Do you understand that you would have been sent up

1 to Columbia and incarcerated until you were found competent?

2 A. Well, it didn't happen. If that was a possibility, that
3 would have been cool because I do suffer. You know, so I
4 needed it, but it didn't happen.

5 Q. And do you understand that, civilly -- you would have
6 ended up civilly committed until you were found competent, and
7 then you would have to face these charges after being found
8 competent?

9 A. Correct. The only way --

10 Q. Is that something you wanted to do?

11 A. Once they found me competent, then I would have to
12 eventually face this.

13 Q. Yeah. Is that something you wanted?

14 A. I wouldn't have minded it, correct. That would have been
15 okay.

16 Q. Okay. And we've already talked about your telephone
17 call. We talked about the part where the judge asked you if
18 you had any complaints, and you said yes.

19 We talked about your mental illness.

20 A. Can you -- can you read my violations of the papers I
21 gave you or is it not time for that? My ineffective
22 assistance of counsel and my involuntary plea and my
23 competency to stand plea, can you read those violations for
24 me?

25 Q. Well, what I can do is we could mark these as a Court's

1 exhibit and I could profer them for you. Would that be okay?

2 A. I don't understand.

3 Q. I'm going to put them -- mark them as a Court's exhibit
4 and the judge could read them.

5 A. Oh, okay.

6 Q. Is that okay?

7 A. Yes, sir.

8 I really had that -- that whole -- that whole file that's
9 labeled "evidence" from my file, I really was going to give it
10 all to you guys.

11 MR. MURPHY: Your Honor, I believe we have an exhibit --
12 a folder here we could mark as Exhibit 1 without objection.
13 And there is a second piece of paper, which Ms. Dixon objects
14 to; we could mark that as a Court's exhibit and profer that,
15 Your Honor, as Exhibit 2, if that would be okay.

16 THE COURT: Yes.

17 (Court's Exhibit No. 1, Applicant's Statement, was marked
18 for identification and received into the record.)

19 THE APPLICANT: Is --

20 MS. DIXON: I don't have any objection; I just want to
21 get a copy of this.

22 MR. MURPHY: We have a -- the document that Ms. Dixon is
23 looking at right now, she does not have a copy of that. Is
24 there a way we can get a copy of that and mark it as a --

25 THE COURT: Why don't we proceed forward with the hearing

1 and then you can get a copy.

2 MR. MURPHY: Okay. Thank you.

3 BY MR. MURPHY:

4 Q. All right, Mr. Brown. We are going to get a copy of that
5 exhibit and mark that as an exhibit for the Court's record.

6 Okay?

7 A. I've got a question. So you're not going to rehearse
8 over those paperworks I gave you?

9 Q. We already went through that verbally.

10 A. I didn't hear you say anything I had written down.

11 MS. DIXON: If you want to -- that's fine.

12 MR. MURPHY: In terms of going through this, I went
13 through all of the categories. I could read this for you --
14 for the Court -- for the record.

15 THE APPLICANT: Yeah, can you read it? Yes, sir.

16 MR. MURPHY: Or, actually, you know what? Let me do
17 this --

18 THE COURT: Mr. Brown -- Mr. Brown, if you want me to, I
19 can go back into chambers and read all of it. Would you like
20 for me to do that?

21 THE APPLICANT: Yes, sir.

22 THE COURT: Let's do that. We're going to take a recess
23 for a moment. If I could have all the documents he wants me
24 to read.

25 MR. MURPHY: And we'll mark this as Court's Exhibit 2,

1 please.

2 (Court's Exhibit No. 2, Document, was marked for
3 identification and received into the record.)

4 THE APPLICANT: Is Peter McCoy not here today?

5 MR. MURPHY: Peter is available by phone, I understand.

6 And, Your Honor, I could finish up with direct of him and
7 then we could take a break, if that pleases the Court.

8 THE COURT: Okay. We can do that.

9 BY MR. MURPHY:

10 Q. Now, we have marked all of your allegations, how you
11 believe your rights were violated, have been marked as
12 exhibits. Okay? And the judge is going to read them before
13 he issues a ruling. And I'm not saying he's going to issue a
14 ruling today or not; I don't know that.

15 You ended up pleading guilty, but you're saying you were
16 forced to plead guilty, you didn't want to do that.

17 A. Correct.

18 Q. And you wanted to go to trial.

19 A. He swore me in first, and I just followed behind. This
20 is my lead counsel here. This is my counsel who I just told
21 momentarily, "Hey, I don't want to take it." He still says,
22 "Hey, he's guilty," so I just followed pursuit.

23 They also told me a five-year plea. Once again, I'm
24 going to say it the last time. He told me this was a
25 five-year plea and that the only charges that would be on file

1 is attempted armed robbery. This is not that. This is an
2 eight-year plea with a gun charge added.

3 Q. Now, in terms of maxing out your sentence, are you
4 scheduled to max out within the five-year range?

5 A. No, sir. I'm scheduled to do the whole eight.

6 Q. Okay.

7 A. Five years is not an option right now in SCDC for me.

8 Q. Okay. So --

9 A. Which makes this what? An involuntary plea.

10 Q. All right. So you're alleging that it was involuntary
11 plea because you thought it was a five-year deal.

12 A. Oh, I didn't thought. He told me that.

13 Q. Okay. Got it.

14 A. I didn't think any -- that's what he told me. I'm just
15 going off what my lawyer tells me.

16 Q. Other than what we've talked about today -- just today,
17 is there any other issues that you believe or errors your
18 attorney has committed that led to your involuntary plea?

19 A. I mean, other than he just -- I think my -- I think my
20 father might have something to say more than me, but that's
21 really the basics of it. He told me this was a five-year
22 plea. I'm just very upset with him.

23 My mental competency, he should have checked and at least
24 -- you know, like, shouldn't just mix the five and the eight
25 up, you know, due to the fact that, okay, I could have done

1 five off of -- I don't know what you call it, but I guess good
2 behavior is what I see it as. But even if I could have done
3 five off of good behavior, he should have never come and told
4 -- the word "five-year plea" should have never been told to
5 me. That's how I feel today. I should have -- that's what I
6 was expecting.

7 Q. Okay. That's all I have. Thank you, Mr. Brown.

8 THE COURT: All right. Let me have those documents.

9 MR. MURPHY: Okay. They are right...

10 THE APPLICANT: The documentations I have is for --

11 THE COURT: Yeah, I was just wanting to get them so I
12 could look at them.

13 THE APPLICANT: Okay.

14 THE COURT: All right. We'll stand at ease for five
15 minutes.

16 (A recess was taken from 3:16 p.m. to 3:22 p.m.)

17 THE COURT: Ms. Dixon, cross-examination?

18 MS. DIXON: May it please the Court.

19 THE COURT: Yes.

20 CROSS-EXAMINATION

21 BY MS. DIXON:

22 Q. Mr. Brown, you have testified on direct that you believe
23 this to be a five-year offer; correct?

24 A. Correct.

25 Q. Do you recall at the beginning of the hearing when the

1 solicitor said this was a negotiated eight-year sentence?

2 A. Excuse me?

3 Q. Do you recall, at the beginning of this hearing -- the
4 plea hearing, do you remember going before the judge and
5 pleading guilty?

6 A. Correct.

7 Q. And at the beginning of that hearing, the solicitor told
8 the judge this was a negotiated eight-year sentence; correct?

9 A. I'm not sure.

10 Q. If the transcript reflects that, would you agree with it?

11 A. Yeah, correct.

12 Q. And let's see. Do you recall the judge asking you if you
13 agreed with the facts of the case as recited by the solicitor?

14 A. Correct.

15 Q. And you told the judge yes?

16 A. Correct.

17 Q. And the judge asked you, "On the offense of attempted
18 armed robbery, how do you plead," and you said, "Guilty"?

19 A. Correct.

20 Q. And the judge told you the maximum penalty for that, 20
21 years. And you said, "Yes, ma'am"; correct?

22 A. Correct.

23 Q. And the judge told you it was a violent and most serious,
24 and you told her you understood that; correct?

25 A. Correct.

1 Q. And you told the judge that your lawyers had explained to
2 you what a negotiated plea is; correct?

3 A. Correct.

4 Q. And you told the judge that you were pleading guilty to
5 the possession of a weapon charge; correct?

6 A. Correct.

7 Q. And you told the judge you understood that that penalty
8 was a mandatory five years and none of which could be
9 suspended; correct?

10 A. Correct.

11 Q. And you told the judge you understood you were waiving
12 your constitutional rights; correct?

13 A. Correct.

14 Q. Including your right to present a defense; correct?

15 A. Correct.

16 Q. Including your right to remain silent; correct?

17 A. Correct.

18 Q. Including your right to cross-examine and confront the
19 State's witnesses; correct?

20 A. Correct.

21 Q. And you told the judge you understood you were giving
22 that up; correct?

23 A. Correct.

24 Q. You told the judge you were satisfied with your lawyers;
25 correct?

1 A. Um...

2 Q. "Have you been satisfied with your lawyers?"

3 "Yes, ma'am."

4 "Have they done everything you've asked them or expected
5 in representing you?"

6 "Yes, ma'am, they have."

7 A. Correct.

8 Q. "Has anyone threatened or coerced you to plead guilty?"

9 And you told the judge, "No, ma'am"; correct?

10 A. She asked me, "Do you have any complaints about their
11 services?"

12 I also said, "Yes, ma'am."

13 Q. Okay. And then you told the judge that no one had
14 threatened or coerced you; correct?

15 A. Correct.

16 Q. And you told the judge you were pleading guilty freely
17 and voluntarily and of your own free will; correct?

18 A. Correct.

19 Q. And you told the judge you had understood her questions;
20 correct?

21 A. Correct.

22 MS. DIXON: Nothing further from the State.

23 THE COURT: Any redirect?

24 MR. MURPHY: Nothing further, Your Honor.

25 THE COURT: All right. You may step down.

1 (The Applicant and his counsel confer off the record.)

2 MR. MURPHY: We would call Mr. Jamel Brown, Sr.

3 THE COURT: Mr. Brown, please come forward.

4 Place your left hand on the Bible and raise your right
5 hand as the clerk administers the oath.

6 THE CLERK: Do you swear or affirm the testimony you
7 shall give the Court is the truth, the whole truth, and
8 nothing but the truth so help you God?

9 THE WITNESS: Yes.

10 JAMEL BROWN, SR.

11 after having been duly sworn, was examined and testified
12 to as follows:

13 THE CLERK: Please be seated. Please state your full
14 name, spelling your last name loudly and clearly into the
15 microphone.

16 THE WITNESS: Jamel B-r-o-w-n.

17 DIRECT EXAMINATION

18 BY MR. MURPHY:

19 Q. And, Mr. Brown, you heard your son testify about a
20 telephone conversation prior to the plea?

21 A. Yes, correct.

22 Q. And were you on that telephone call?

23 A. Yes.

24 Q. And did you hear Jamel say he did not want to plead
25 guilty?

1 A. Yes.

2 Q. And did he say he wanted to go to trial?

3 A. No, he did not say actually going to trial, but we were
4 trying to reject that plea deal.

5 Q. Okay. When he was asked about the plea deal, you heard
6 him say he did not want to go forward?

7 A. Yes.

8 Q. That's all I have. Thank you.

9 THE COURT: Cross-examination?

10 CROSS-EXAMINATION

11 BY MS. DIXON:

12 Q. You said this call occurred before the guilty plea?

13 A. Yes.

14 Q. And, at that time, he didn't want to plead but he also
15 didn't say he wanted a trial?

16 A. Yes.

17 MS. DIXON: Nothing further.

18 THE COURT: Any redirect?

19 MR. MURPHY: No, Your Honor.

20 THE COURT: You may step down.

21 THE WITNESS: Yes, sir. Thank you.

22 MR. MURPHY: And, Your Honor, we would like to call Peter
23 McCoy as a witness. He is available via telephone, and so I
24 believe we can call him as a -- put him on speakerphone here.

25 THE COURT: Well, that's typically -- if the State would

1 agree to that, I'll do that, but, you know --

2 MS. DIXON: Yeah, Judge --

3 THE COURT: In these times of virtual hearings -- virtual
4 hearings are bad enough, but when then you start doing them by
5 telephone -- but if you agree to that, we'll do it.

6 MS. DIXON: We have no objection and we don't anticipate
7 his testimony being that long.

8 THE COURT: Significant or long?

9 MS. DIXON: Significant or long, honestly.

10 THE COURT: All right. Then we'll do it then.

11 MS. DIXON: And, Judge, he did -- just for the record, he
12 has another hearing somewhere else today, so that was the
13 basis for the accommodation. Although, Chris, I think his
14 hearing is actually at 3:30; is it not?

15 MR. MURPHY: I don't know.

16 (Pause in the proceedings while setting up the conference
17 call.)

18 MR. MURPHY: We call Mr. Rad Deaton.

19 THE COURT: Yes, sir. Please come forward. Take a
20 moment to set your paperwork down. Place your left hand on
21 the Bible and raise your right.

22 THE CLERK: Do you swear or affirm the testimony you
23 shall give the Court is the truth, the whole truth, and
24 nothing but the truth so help you God?

25 THE WITNESS: I do.

1 RAD DEATON,

2 after having been duly sworn, was examined and testified
3 to as follows:

4 THE CLERK: Please be seated. Please state your full
5 name, spelling your last name loudly and clearly into the
6 microphone.

7 THE WITNESS: Rad Stewart Deaton, D-e-a-t-o-n.

8 DIRECT EXAMINATION

9 BY MR. MURPHY:

10 Q. Mr. Deaton, how long have you been practicing law?

11 A. I was licensed in 2002. I have been practicing in my own
12 firm since 2004.

13 Q. And in terms of -- you remember Mr. Brown as a client?

14 A. Absolutely.

15 Q. And tell us how you became to -- how you got involved in
16 his case, representing him.

17 A. I was contacted, I believe, by his sister. He had a
18 couple of sisters so I can't remember her name. But she
19 contacted me. Mr. Brown had a pending unlawful carrying from,
20 I believe, 2019 that Mr. Robert Gilliard was representing him
21 on or listed as counsel of record.

22 And then he also had a pending burglary second that was a
23 separate incident that nobody was representing him on. He was
24 out of bond on both of those. He picked up this armed robbery
25 and a domestic violence first, which occurred within hours of

1 each other. The allegations were that they occurred within
2 hours of each other and were somewhat related in terms of the
3 evidence.

4 And, at that point in time, I was contacted. The State
5 had filed -- I mean, I was retained two weeks before the
6 motion to revoke the bonds on the first two cases, and of
7 course his bonds were denied at the magistrate level on these
8 two charges -- on the new charges, and I believe it was
9 possession of weapon during the commission of a violent crime,
10 which was, you know, a throw-in with the armed robbery.

11 So it was originally, you know, five or six charges, I
12 think I was retained to represent him on, and then I ended up
13 taking over Mr. Gilliard's case, which the State nolle prossed
14 at some point anyway because it was so old.

15 But I think this was at the end of '20, right before '21,
16 and we had that bond motion, which was heard by Judge Young
17 within two weeks of me representing him.

18 Q. And so how -- approximately how long was the course of
19 your representation?

20 A. I mean, it was the end of, obviously, 2020/early 2021
21 until the plea.

22 Q. And, during that time, did you have conversations with
23 Mr. Brown about his case?

24 A. Plenty of times.

25 Q. Do you recall how many?

1 A. I -- you know, I think it was, obviously, '20 and '21, so
2 meetings at the jail weren't as frequent in those years
3 because of COVID at all. But, you know, I did meet with him
4 several times at the jail. You know, it may be three, it may
5 be five, I don't know. But I talked to him and his father
6 two, three times a week at least. I mean, you know, I talked
7 to him more than probably any client in my career.

8 Q. And you also -- I assume you received the discovery from
9 the Solicitor's Office in this case?

10 A. I did on all the cases, yes.

11 Q. Okay. And I assume you would have gone over that with
12 Mr. Brown?

13 A. I did.

14 Q. And eventually -- and we'll kind of just cut to the
15 chase. Well, let me -- the day of the plea, did you have
16 conversations with him about his options in terms of going to
17 trial versus pleading guilty?

18 A. Absolutely, I did. Actually, before the plea that week,
19 Peter McCoy and I both went to the jail and spoke with him in
20 person before that, and then we talked to him again on the
21 phone.

22 I'll explain, for the Court's knowledge, as to why it was
23 on the phone. For whatever reason, in 2022, when -- I guess
24 it was '22 when this plea happened, Judge Jefferson was
25 bringing everybody to the courthouse, and we were standing in

1 this courtroom in front of a TV screen. And she wasn't
2 bringing any of the defendants down here, and she wasn't in
3 the courtroom either, I don't believe.

4 So if I recall correctly, I don't even believe she was
5 here. I think she was on the video screen as well. But I'm
6 not positive on that. I know he was on the video screen. So
7 we thought he was going to be brought down here and he was
8 not.

9 Q. And so, let's back up. What was Peter McCoy's
10 involvement? How did he get involved? Do you know that?

11 A. So it was kind of odd. So Chad Simpson was the
12 prosecutor on the case. It was originally David Osborne,
13 before he left the Solicitor's Offices here and went to
14 Dorchester.

15 And so I had, you know, two tough prosecutors on this
16 case. David never made any kind of offer. We had at least
17 three bond hearings, bond reconsideration hearings, you know,
18 and, obviously, those were denied every time and he was out on
19 bond for burg and unlawful carrying and got arrested for an
20 armed robbery.

21 As I told him multiple times, "You're not getting a
22 bond." Well -- and that was his concern, "Get a bond, get a
23 bond, get a bond." That was the only thing he wanted to do.
24 You know, he didn't want a trial; he just wanted a bond, which
25 I told him was not going to happen and three judges told him,

1 I believe, it wasn't going to happen, you know, if I recall
2 correctly.

3 But Chad Simpson contacted me and gave an initial offer
4 of 10 years on the armed robbery and the possession of a
5 weapon during the commission of a violent crime running
6 concurrently. So, of course, you know, having had plenty of
7 conversations with Jamel but also, you know, knowing that,
8 given his age and everything else, I wanted to try to get him
9 a better offer. I felt that, you know, he probably wouldn't
10 take the 10 years. I believe I discussed it with him, but,
11 you know, I thought before -- before I said, "Hey, you
12 probably ought to consider it," let me see what Chad will do.

13 I had conversations with Chad by telephone in the
14 summer -- I believe it was in June or so -- where -- after he
15 had given me that written offer of the 10 years on the armed
16 robbery which is, you know, the mandatory minimum. You know,
17 I had conversations with him where I pitched an attempted and
18 a lesser sentence of six, seven, eight, whatever he would give
19 me that was less than the 10 that would also give him the
20 ability to serve 65% as opposed to, you know, the full 10.

21 And, you know, of course, Chad told me that over the
22 phone, acted as if -- and, over the phone, Chad did act as if
23 that attempted armed robbery was going to be the only charge,
24 but when he sent me the -- so, of course, I discussed that
25 with Jamel and told him it was going to be eight years

1 negotiated -- that's what we discussed over the phone -- and
2 that, you know, his earliest possible release date would be
3 in November of 2027, which I believe he's scheduled to be
4 released in November of 2027, if I'm not mistaken.

5 So that was absolutely correct. I told him that not only
6 over the phone -- or not only in person but in writing. And I
7 wrote down all these sentences in writing for him and all
8 these offers.

9 But after Chad sent me the proposal or the new offer in
10 writing, which included the five years, I, of course, you
11 know, updated that for Mr. Brown, letting him know exactly
12 what the offer was that they added that. And I put it in
13 writing to him and I went and took it to him at the jail and
14 we discussed it where it clearly states in the letter -- and
15 this is what I told him, which is, they're adding this, which
16 he didn't say on the phone, but they're adding this and you
17 know, of course, this is one of your charges, but they're
18 running it concurrent so it should not affect your sentence at
19 all.

20 You know, he's going to do five years. He's getting
21 credit for -- God, it was a long time. He was getting credit
22 for about 500-and-some days. I mean, he got credit for a long
23 time. So, you know, when we did the plea in 2022 or so, I
24 mean, I knew he was going to get, you know, out fairly soon.

25 Q. And so, going back, he's --

1 A. Oh, you wanted to know Peter McCoy. I'm sorry.

2 Q. Right. So Peter McCoy.

3 A. I didn't mean to not answer that question.

4 So Peter -- so two weeks before or a week before this
5 plea offer is set to expire -- and, of course, I discussed it
6 with Jamel several times, discussed it with his dad several
7 times, his sisters, people who would call in, and, you know,
8 I'm telling them he needs to take this deal all day. It is a
9 great deal. "You're getting a dismissal of several charges,
10 several incidents." You know, having to win two or three
11 trials is going to be pretty difficult in General Sessions
12 Court anyway. You know, and he's facing so much time, and of
13 course, the facts of this armed robbery were real bad.

14 So I thought he should have taken this deal. So, yes,
15 I'm telling him to do that. You know, he's making a decision.
16 We knew we had an expiration date. And, all of a sudden,
17 CourtPlus pops up and, you know, of course gives me a
18 notification that somebody has entered a Notice of Appearance
19 in the case.

20 You know, so I thought it might have been a mistake,
21 somebody put the wrong indictment number or something down,
22 you know. And it was Peter. So I got an email immediately
23 from Chad Simpson, copying both Peter and I, and it was
24 directed to Peter that said, "Hey, are you taking over this
25 case, you know, because he's got a good offer out." I think

1 Chad's email says, "He's got a good offer out that expires
2 next week. What is going on?"

3 Of course, I immediately responded to Peter, "Call me.
4 What is going on?"

5 Of course, I eventually talk to Peter. I don't know that
6 Peter had ever really talked to Jamel; I think he had only
7 talked to family members. But Peter told me he was hired only
8 to do a bond hearing and that's what he told the prosecutor,
9 of course, which threw a monkey wrench in the fact that I'm,
10 you know, possibly stuck with trying all these cases because
11 Peter is going to represent him to try to get him a bond that
12 we've already tried to do two or three times and were denied.

13 And, of course, with Peter involved, we had Judge
14 Jefferson and Judge Young, who both denied the bond, who both
15 told him he's not going to get a bond; Judge Jefferson was
16 pretty clear about it. And then Peter conflicted Judge McCoy.
17 I believe Judge Price was in the 14th Circuit at the time.
18 But, of course, Jamel, like any other person in the jail at
19 the time, wanted Bentley Price to hear the case. And Bentley
20 was one of my college classmates, so, yeah, certainly, I would
21 want him to hear the case, but it didn't happen, and you can't
22 pick your judge, unfortunately, especially for a bond motion.

23 So -- but that's what Peter -- that was Peter's
24 involvement. It was two weeks before the plea offer expired,
25 which -- that's how we get involved.

1 Q. All right. So you and Peter went to the jail to talk to
2 Jamel about this plea deal?

3 A. Absolutely. Peter wasn't really sure about the facts of
4 the case. As a matter of fact, after the plea, he was shocked
5 at how bad the armed robbery facts were. You know? And he
6 told me that after the plea, you know, because, of course, he
7 hadn't been representing him for two years like I had and
8 hadn't had the discovery like I had. But once I discovered
9 everything with Peter and told him the offer -- and Peter was
10 a former prosecutor down here, just as his wife was -- and,
11 you know, it was a good offer.

12 Q. And before he was set -- the date in September -- I think
13 it was September -- before he was to plead, did he -- he was
14 set for a plea, did he indicate that he wanted to go to trial?

15 A. No. As a matter of fact, he said he did not want to go
16 to trial; he just didn't want to plead right now. And it was
17 more of a right now. It wasn't "I don't want to plead." It
18 was "I don't want to plead right now."

19 And I'll tell you a couple of reasons why. One, he
20 wanted a bond, and Peter, of course, had been hired to do a
21 bond. So he thought, for some reason, he was going to get a
22 bond.

23 But, second, somebody -- some DSS caseworker in another
24 town told him he could potentially get custody of a child,
25 which, with pending DV first against the mother of that child,

1 involving a weapon, the same day as an armed robbery, pending
2 burglary, pending all that -- I've handled DSS cases for 20
3 years -- that person is not going to be considered, and I told
4 him that, but he didn't want to listen to that.

5 And that was a consideration for him to when he said,
6 "Hey, you know, I don't -- I just don't want to plead right
7 now." You know? And I said, "Let's not -- it doesn't work
8 that way. It's going to expire, and you're going to be forced
9 to go to trial."

10 Q. All right. And then the second issue is his mental
11 competency. During your course of representation, did you
12 have any issues with his mental competency or any questions
13 about it?

14 A. Not once.

15 Q. And did he ever tell you, "I've got these mental
16 illnesses and I don't know what I'm doing"?

17 A. No. He told me he had some anxiety and depression. He
18 did tell me something about that, and I think it involved one
19 of his family members passing away. And I'm not sure who it
20 was. I don't know if it was his brother or somebody who had
21 passed away. You know, but there was never a time where I
22 thought he didn't know what he was doing.

23 He knew exactly what the evidence said. He knew exactly
24 how to discuss it. He discussed it with me, you know, at
25 length. And, you know, the biggest thing in our -- in my

1 representation was, "How am I supposed to go to trial?
2 Explain how your fingerprints end up on a hard hat of the
3 construction worker that's robbed?" I mean, it's -- it's
4 impossible.

5 Q. And in terms of the five-year versus the eight-year deal
6 that you heard Mr. Brown testify, he says that you told him
7 five -- he was going to get a sentence of five years. Did you
8 ever tell him he was going to get a sentence of five years?

9 A. No. What I told him was the sentence is eight years.
10 And I told him in writing and handed it to him. It's an
11 eight-year negotiated sentence, and that your earliest
12 possible release date was going to be November of 2027, which,
13 essentially, was about five years. I mean, and I told him,
14 yeah, it's essentially about a five-year sentence if you max
15 out at your earliest release date, you know, which is the 65%
16 of the sentence, the full eight-year sentence.

17 Q. And had you not gotten the charges reduced to -- not only
18 would he face a 10-year minimum, but it would be an 85%
19 sentence?

20 A. Absolutely.

21 THE APPLICANT: I'm doing 85% now. And you already
22 counted most of it. You can ask him...

23 (The Applicant and his attorney confer off the record.)

24 BY MR. MURPHY:

25 Q. So did Mr. Brown ever ask you to be relieved as counsel?

1 A. So about eight months, maybe nine months -- I don't know
2 the date of that letter. It was in the -- I want to say
3 December maybe when I received a letter from him where he
4 wants a new attorney. And I said, "You're welcome to get a
5 new attorney."

6 I went down to the jail immediately and talked to him the
7 next day when I got that letter, and I discussed that with him
8 -- that issue and told him, "You're welcome to get a new
9 attorney." And he said, "I want my money back."

10 And I said, "Well, you first haven't paid all the money
11 and I've been representing you for two years. You know, it's
12 not going to happen. But you're welcome to go get a new
13 counsel any time you want. But that new counsel is not going
14 to get you a bond."

15 And, of course, he did not get new counsel until Peter
16 submitted a Notice of Appearance. And, again, Peter, having
17 been a prosecutor, defense attorney, U.S. attorney, knows that
18 he can't just pop into a case without doing a substitution,
19 and he didn't intend to do that. And he told me that. And he
20 told Chad that.

21 (The Applicant and his counsel confer off the record.)

22 BY MR. MURPHY:

23 Q. Do you know if Peter McCoy ever told Mr. Brown that this
24 would be a five-year deal?

25 A. Not with me. If he met with him outside of my

1 presence -- I have no idea what Peter did outside of my
2 presence. Again, after Peter submitted that, I was in
3 communication with Peter. We went to the jail together to
4 talk to him. And that's -- I believe that may be the day
5 where I handed him the letter, you know, again, so...

6 But, I mean, once again, I have no idea what Peter told
7 him. I can tell you what I told him and I can tell you what
8 the judge told him, I mean, which was clearly everything I
9 said. There was never any word out of my mouth that he was
10 going to get five years, even though he was going to end up
11 doing five years.

12 Q. Thank you, sir. That's all I have.

13 THE COURT: Cross-examination.

14 MS. DIXON: May it please the Court.

15 RECALLED CROSS-EXAMINATION

16 BY MS. DIXON:

17 Q. In terms of he's raised some issue earlier today about a
18 speedy trial motion, is that something that he ever asked you
19 about or that y'all discussed?

20 A. No. He didn't want a trial. He wanted a bond.

21 Q. He wanted a bond. Gotcha.

22 And then I believe you said that he was already on bond
23 when he picked up these charges; correct?

24 A. He was already out on two bonds. Two different
25 incidents.

1 Q. Already on two bonds.

2 And you were representing him on more than one charge.

3 In your opinion, which was going to be the most difficult case
4 to try?

5 A. Armed robbery, by far.

6 Q. And that would be this case that he pled to?

7 A. The case that he pled to, the attempted armed robbery,
8 yes.

9 Q. Gotcha.

10 And then, in terms of that, what was the State's
11 evidence, if you recall?

12 A. So, from what I recall, this -- well, and I'll have to
13 tell you about the DV-first, which happened that same day, and
14 that's why it all tied in.

15 So the police were called in West Ashley where Mr. Brown
16 lived to -- and I believe his girlfriend, the father -- or the
17 mother of his child, whose name was Heaven -- reported that he
18 was wearing a white shirt, black pants, red bandana. You
19 know, of course, knew who he was -- he's the father of the
20 child -- and that he had assaulted her and pointed a weapon at
21 her, described the weapon, etc.

22 The police were looking for him for a DV-first warrant.
23 Okay? Within hours of that -- and I don't know how many -- I
24 don't know if it was ten hours, five hours, whatever, at the
25 South Windemere Shopping Center, there was an armed robbery

1 where this construction worker -- and I don't remember his
2 name off the top of my head, but he was a construction worker
3 that Mr. Brown did not know, was working on the Public Library
4 over there in broad daylight, having lunch.

5 The allegation is that a -- the allegation was that a
6 Black male, small dreadlocks, which was consistent with
7 Heaven's description of him, wearing a white shirt, red
8 bandana covering his face, and black pants was -- had gone up
9 to him, pointed a weapon at him, forced him over to the car,
10 put a weapon on the back of his head, counted down to ten, if
11 he didn't give him his cell phone. Threw the cell phone.
12 Touched the car several times and knocked the hard hat off of
13 his head.

14 And the State recovered -- from what I remember, I don't
15 think -- they recovered fingerprints off the car, but I don't
16 know that they matched. But the State recovered definitely a
17 match to a fingerprint. Maybe it was four fingerprints but it
18 was on the hard hat.

19 And, of course, having talked to Jamel, he was working at
20 the time as a dishwasher at The Boathouse on Isle of Palms and
21 was not working that day, had never worked in Home Depot, had
22 never worked in Lowe's, had never worked construction, didn't
23 know this guy. I didn't know how that would ever be able to
24 be explained.

25 But there was also a situation where Jamel's car was in

1 the parking lot. And, of course, Jamel gave a statement to
2 the police right after this where he denied involvement but he
3 said, "I've only been there because my car broke down there."
4 Well, of course, there were some eyewitnesses that said, yeah,
5 it appeared to be the same guy that we helped move the car a
6 couple of weeks ago.

7 So there was some evidence and, of course, that was going
8 to be bad enough. I got a call from this victim at some point
9 who indicated that one of Jamel's sisters had contacted him
10 trying to get him to drop these charges.

11 Q. And this is the construction worker?

12 A. Construction worker. In which I -- you know, of course
13 I'm glad he called me and not the Solicitor's Office. Of
14 course, I, you know, just listened to him. I said, "Well,
15 that's never going to happen again." That's all I said. And
16 then I, you know, hung up the phone, of course.

17 And I told everybody not to be contacting this guy, but
18 of course, I told Jamel, you know, this is going to come out
19 if we don't accept this plea. And that plea may be, you know,
20 revoked or withdrawn -- the offer withdrawn. And, you know,
21 of course, it come out and make a judge mad at sentencing
22 after a trial or a regular plea.

23 So, you know, but the State's evidence in that armed
24 robbery, the worst piece of evidence -- you know, a lot of
25 circumstantial stuff, but the worst piece of evidence was his

1 fingerprints. The individual could not pick him out of a
2 lineup, of course, because he says there's a mask over his
3 face, so he did not pick him out of a lineup.

4 Q. And did you explain all of this -- all this evidence to
5 Mr. Brown?

6 A. I did.

7 Q. And did you explain to him the sentencing ranges of these
8 charges?

9 A. I did, both in writing and verbally.

10 Q. And did you explain to him the negotiation, what that
11 meant and what it was?

12 A. Both in writing and verbally.

13 Q. And did you explain to him the constitutional rights he
14 would be waiving?

15 A. I did. Normally, I do like a Provident (ph) sheet, a
16 form or something, and I usually get my clients to sign them.
17 You know, it wasn't going to be something I was going to be
18 able to get Jamel to sign.

19 Q. Gotcha.

20 And then --

21 A. I mean, you know, especially given Peter's involvement.

22 Q. And I think you testified on direct, you had no concerns
23 about his ability to understand?

24 A. I didn't. I mean, he understood everything. You know,
25 from what I recall, he told the police he didn't think -- I

1 think one of his statements was, "I don't think I did," which,
2 you know, of course -- I mean, he did discuss with me
3 substance abuse issues, and so did Heaven, you know, when she
4 came to meet with me in my office. So that may have been
5 something that, you know, was there at the time, but it's not
6 something I could have -- that made me think he didn't know...

7 He could assist in his defense. I had no concerns that
8 he didn't know what was going on.

9 Q. Gotcha.

10 And then I'm handing you what's been marked State's
11 Exhibit 1. If you could, first of all, tell me if you've seen
12 that before and identify it for the record.

13 A. I'm sorry; I'm getting old.

14 All right. So this is a letter that I hand-delivered to
15 Jamel, August -- it's dated August 17th, 2022, so I'm sure I
16 delivered it that day.

17 MS. DIXON: And, Judge, we would move to enter this into
18 evidence.

19 MR. MURPHY: No objection.

20 THE COURT: It's into evidence.

21 (State's Exhibit No. 1, 8/17/22 Letter, was marked for
22 identification and received into evidence.)

23 BY MS. DIXON:

24 Q. Mr. Deaton, if you could just let us know what the offer
25 is from the State that you relayed to him in this letter.

1 A. So, in this letter, this was the final letter I think I
2 sent him. I sent him one July 15th, 2022, where I relayed to
3 him the first offer, which was the ten-year and five-year
4 minimum sentence -- five years concurrent.

5 July 26, I relayed to him the same offer after I was able
6 to get Mr. Simpson to extend the deadline after speaking with
7 him the first time and he didn't want to take that offer, and
8 that's when I went back to Chad.

9 August 9th is when I sent -- I hand-delivered it -- a
10 letter indicating that it was just the attempted armed
11 robbery, and, of course, when Chad sent me the offer in
12 writing and included that other one, then that's why -- you
13 know, it was -- what I said was that "Assistant Solicitor Chad
14 Simpson had offered to dismiss the following charges:
15 Domestic violence, first degree, zero to 10 years; unlawful
16 carrying of a pistol, zero to one year; burglary-second,
17 nonviolent, zero to 10; and that he would reduce the armed
18 robbery, which is the 10 to 30, but plead guilty to attempted
19 armed robbery, which is a zero- to 20-year offense; possession
20 of weapon during the commission of a violent crime, which is
21 five years. If you will accept the sentence of attempted
22 armed robbery, eight years; possession of a weapon during the
23 commission of a violent crime, five years, these offenses
24 would run concurrent, meaning that they would run together. I
25 originally thought he was going to offer to dismiss the

1 possession of a weapon during the commission of a violent
2 crime offense, but with him running it concurrent, it does not
3 impact your sentence at all." And that's what I said.

4 And I did tell him it was a mandatory -- a strike under
5 the mandatory life sentence statute; that he would get credit
6 for 595 days; that his projected release date would be
7 November 3rd, 2027; and I indicated this is not a guaranteed
8 release date but merely a projection using the calculator
9 provided by the South Carolina Department of Corrections.

10 And, again, told him to notify family members of the date
11 of the plea, telling him this is August 17th, telling him it
12 would be set September 2nd, 2022.

13 MS. DIXON: Nothing further from the State.

14 THE COURT: Any redirect?

15 MR. MURPHY: Nothing further, Your Honor.

16 THE COURT: All right. You may step down.

17 THE WITNESS: Thank you, Your Honor.

18 THE COURT: And you're free to leave. Thank you, sir.

19 THE WITNESS: Thank you, Judge.

20 MR. MURPHY: I'm going to -- we would recall Mr. Brown.

21 THE COURT: Mr. Brown, I'll remind you, you're still
22 under oath.

23 THE APPLICANT: Sir?

24 THE COURT: You are still under oath.

25 THE APPLICANT: Okay. Yes, sir. Yes, sir.

1 JAMEL BROWN,
2 after having been previously duly sworn, was examined and
3 testify to as follows:

4 RECALLED DIRECT EXAMINATION

5 BY MR. MURPHY:

6 Q. Now, Mr. Brown, you heard ---

7 A. Yes, sir.

8 Q. --- you heard the testimony of Mr. Deaton; correct?

9 A. Correct.

10 Q. And you indicate that you did not accept the guilty plea
11 via Mr. Deaton?

12 A. Correct.

13 Q. And how did you accept the guilty plea then?

14 A. I accepted the guilty plea through Peter McCoy, through
15 visitation on the day of this plea was -- the day this plea
16 expired. Rad Deaton came down to me not once but twice, and I
17 denied both pleas.

18 Like I said, I have the rights to a speedy trial. So
19 with me denying it the first time, I don't see why would he
20 come back again, but he did. He came back again maybe three
21 hours later. I, once again, sat with him about 30 minutes and
22 denied it again.

23 So what he done now, which I feel is a violation of my
24 rights, is he contacted Peter McCoy and had him come down to
25 persuade me about this five-year plea and then that's when I

1 took it.

2 I didn't even accept this plea through Rad Deaton; I
3 accepted it through Peter McCoy, who is not here today.

4 Q. All right. And when Peter talked to you about the case,
5 was Rad present?

6 A. No, he wasn't.

7 Q. And so you're telling this Court you accepted this plea
8 because of conversations with Peter McCoy?

9 A. With Peter McCoy, correct.

10 MR. MURPHY: That's all I have. Thank you, Judge.

11 THE COURT: Any cross-examination?

12 RECALLED CROSS-EXAMINATION

13 BY MS. DIXON:

14 Q. But you do recall going before the Judge and also
15 accepting the plea on the record; correct?

16 A. Excuse me?

17 Q. You did go before the plea judge and accept the plea
18 before the judge; correct?

19 A. Yeah, but I -- correct.

20 MS. DIXON: Nothing further.

21 MR. MURPHY: And that's all we have, Your Honor.

22 THE COURT: That's everything?

23 MR. MURPHY: That's everything.

24 THE COURT: All right. I'll be glad to hear from the
25 applicant with regard to closing remarks.

1 MS. DIXON: Judge, can we try to call Peter McCoy real
2 quick?

3 THE COURT: Yes. I thought he said that he --

4 MS. DIXON: Well, he brought up some new stuff that I'm
5 now kind of just -- it will really just take, like, two
6 minutes.

7 THE APPLICANT: Where you want me at, Judge?

8 THE COURT: You can -- you can have a seat.

9 MS. DIXON: I think we can go without the testimony.

10 THE COURT: Okay. Be glad to hear from the applicant
11 with regard to closing remarks.

12 CLOSING ARGUMENT ON BEHALF OF THE APPLICANT

13 MR. MURPHY: Thank you, Your Honor. May it please the
14 Court.

15 Your Honor, we would move for a reversal. We would ask
16 that you grant his PCR application based on an involuntary
17 plea. Mr. Brown clearly did not understand the nature of what
18 he was pleading to or the sentence that he was pleading to
19 based on his testimony.

20 He testified he was misled as to the charges that would
21 be dismissed and what he would be pleading against, and
22 there's also an indication in the transcript where the judge
23 asks if he has any question or if he's satisfied with
24 everything, and he says no -- I'm sorry, the question here on
25 page 11, it says, "Is there any complaints about their

1 services?" And the defendant says, "Yes, ma'am," but nothing
2 -- no colloquially stopped. He was ignored when he said that
3 there was some complaints.

4 So, based on all that, Judge, we would ask you to grant
5 his application.

6 THE COURT: Be glad to hear from the State.

7 CLOSING ARGUMENTS ON BEHALF OF THE STATE

8 MS. DIXON: May it please the Court.

9 Your Honor, we would submit that he hasn't shown today
10 that this plea was involuntary in any way. The plea colloquy
11 in and of itself answers the question regarding whether or not
12 the plea was voluntary. The judge did an excellent job
13 explaining the sentence, the offenses, and the constitutional
14 rights. But in addition to that, Mr. Deaton testified that he
15 discussed all of this discovery with him, that he went over
16 all this information with him, that he had no reasons to
17 question Mr. Brown's ability to understand their
18 conversations, and that he believed that he understood that
19 this was an eight-year sentence.

20 Your Honor, that is also reflected by the letter that's
21 entered as State's Exhibit 1 wherein Mr. Deaton clearly laid
22 out the plea offer to Mr. Brown.

23 It's also reflected by the plea transcript itself wherein
24 the State, at the very beginning, indicates it was an
25 eight-year negotiation. The judge goes through everything.

1 And he has no questions or anything at that time to indicate
2 he doesn't understand what's going on.

3 We would submit that this -- you know, they've referenced
4 page 11 of the transcript, and I would just submit that it
5 needs to be read in the context of the entire page.

6 THE COURT: I think he essentially misspoke in that.

7 MS. DIXON: I agree. I think -- the two questions before
8 it, "Have you been satisfied with your lawyers and have they
9 done everything you've asked or expected?" He answers "yes"
10 to both of those.

11 So, you know, it's either a scrivener's error or just a
12 misspeaking, but I think, if you read it in the context of the
13 entire page, which is how it should be viewed, it does not
14 show that, you know, he had issues with his lawyer at that
15 time.

16 But we would just submit they haven't met their burden of
17 proof.

18 RULING

19 THE COURT: All right. I'm going to deny the motion for
20 post-conviction relief. One of the things I will mention is
21 it's clear that he spoke with trial counsel, Mr. Deaton,
22 frequently. I think that came out from the applicant's
23 testimony himself, and the applicant mentioned that he spoke
24 to him several times.

25 Trial counsel said that he spoke to this client more than

1 he had spoken to any other client. And it's clear that he
2 prepared the case well, he was familiar with the evidence
3 based on his testimony here today.

4 And there was some mention in the applicant's testimony
5 about not going over affirmative defenses; however, in his
6 direct testimony, he indicated that he did, indeed, go over
7 all possible defenses.

8 He testified that his trial counsel was available to him
9 and his family. There were at least three visits to the
10 detention center.

11 The offer -- it's a very comprehensive letter, and in the
12 documents that the applicant has provided to me, which would
13 seem to indicate that not only was the letter written, but,
14 clearly, he received it. Because in the documents that the
15 applicant has submitted to me, it talks -- it shows that there
16 was an offer of an attempted robbery, eight years; possession
17 of a weapon during the commission of a crime, five years.

18 And based on all of those reasons and primarily the
19 transcript itself, it's clear that the -- he was satisfied
20 with his lawyers, no one put any pressure on him to enter into
21 the plea, and he understood what was going on. That's clear
22 from the transcript itself, and the application is denied.

23 THE APPLICANT: Your Honor, can I say something before I
24 go?

25 THE COURT: Yes, sir.

1 THE APPLICANT: I appreciate you for denying it, but the
2 only thing I'm still kind of confused about, I just don't
3 understand, you know, this violation of where I accepted it.
4 I never even accepted it through Rad. I accepted it through
5 another attorney that's not here to testify or anything. He's
6 has told me -- he's told me misconception. He's -- I'm just
7 totally -- you know, he's not even here to testify or
8 anything. He is not --

9 THE COURT: Well, I'm not the one who calls the
10 witnesses, and I did not --

11 THE APPLICANT: That's what I'm saying.

12 THE COURT: I'm not -- you know, I'm here to base my
13 decision on what's transpired here today.

14 But based on -- even if McCoy was there or was here and
15 testified, the transcript trumps all of that.

16 THE APPLICANT: Because they -- they called me moments
17 before the plea hearing and told me, "Hey, just say 'yes' to
18 everything," Your Honor. I was -- I was peer pressured.

19 THE COURT: The transcript preempts that because the
20 judge asked you under oath did anybody put any pressure on you
21 to accept the plea, and you said no. And that -- that
22 prevails.

23 And I wish you the best of luck, and your lawyer has done
24 a very fine job on your behalf as far as protecting the
25 record, and I wish you the best of luck. Good luck to you.

1 THE APPLICANT: All right. Thank you.

2 MR. BROWN, SR.: Love you, man.

3 THE APPLICANT: Love you, Pops.

4 (At 4:12 p.m., the above hearing concluded.)

5 * * * *

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Certificate of Transcriber

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CASE NAME: Sherman Green v. State

DATE OF HEARING: 9/11/24

RECORDING METHOD: DCRP Court Monitor

I, Bobbi Fisher, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that I was not present for the live proceeding; and that said proceedings were transcribed to the best of my ability from the audio and/or video recording and supporting information; and that I am neither counsel for, related to, nor employed by any of the parties to this case; and I have no interest, financial or otherwise, in its outcome.

Bobbi Fisher

/s/ Bobbi Fisher _____

Bobbi Fisher, SC Official Court Reporter III, RPR

Transcript Prepared: 5/29/25

NOTE: PURSUANT TO RULE 607(h)(1)(B), SCACR, "A COURT REPORTER SHALL RECEIVE THE FEE OF \$1.00 PER PAGE FOR FURNISHING A COPY OF A PREVIOUSLY PREPARED TRANSCRIPT." ALL REQUESTS FOR COPIES OF THE ATTACHED TRANSCRIPT (FORM 800) FROM OPPOSING PARTY OR NON-PARTIES MUST BE SENT TO THIS REPORTER AT BFISHER@SCCOURTS.ORG.

RECEIPT FOR EXHIBITS CHARLESTON COUNTY

Case No. 2023CP1003365 Judge: Netles

Date Trial Started: 9-11-24 Date Trial Ended: 9-11-24

Received of Haley Burnett, Court Reporter for the above case, these exhibits:

Plaintiff/State	Defendant/State	Court Exhibits
1. Cream folder full of letters... Etc... ✓	Hand Delivery of guilty plea NOTICE ✓	medication & Disorder List ✓
2.		Involuntary plea Handwritten ✓
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This 11 day of September 2024,

By: [Signature] / Lindsey Helms
Deputy Clerk of Court Charleston County

EVIDENCE FILE

Case NO: 2023-Cp-10-03365

PLAINTIFF'S
EXHIBIT
1
DCRP

August 9, 2022

PLEAD GUILTY: Attempted Armed Robbery (0-20 years)

He will attempt to, if you will accept, the following:

SENTENCE: Attempted Armed Robbery (8 years)

As indicated previously, Unlawful Carrying of a Pistol that you were charged with in 2018 (Mr. Robert Gaillard was representing you, but that I took over) was *nolle prossed* in November of 2021 by the same assistant solicitor. Often times when a defendant has more serious charges that are more recent, the prosecutor will "not prosecute" the older less severe charge which is what occurred here.

If you were to accept this plea offer, your earliest date of release would be approximately November of 2027. As a most serious offense, a plea to Attempted Armed Robbery would constitute a strike under the mandatory life statute.

Understand that you have the absolute right to put the state to the test, to make them prove you guilty beyond a reasonable doubt. You have the right to a jury trial and to confront all witnesses against you. I will pursue your defense with all due diligence and do my best to obtain the best possible results. If you were convicted at trial of the offenses for which you are currently charged, the Court could theoretically sentence you to well over thirty (30) years.

THIS POTENTIAL OFFER, AS WE'VE DISCUSSED, EXPIRES ON FRIDAY, AUGUST 12, 2022. I WOULD ENCOURAGE YOU TO ACCEPT THIS OFFER AS I BELIEVE IT TO BE IN YOUR BEST INTEREST.

You have for whatever reason retained Peter McCoy to file a Bond Motion in this case. As I've discussed with you, no judge is likely to set bond in this case as you were arrested for two (2) charges (DV 1st Degree and Armed Robbery) while out of bond for Burglary 2nd Degree and both of those offenses involved firearms. I have discussed this matter with Peter and he is in agreement with me that you need to accept this offer. He has no intention of taking over this case for the purposes of trial.

WE NEED TO FORMALLY LET THE PROSECUTOR KNOW WHETHER YOU ARE ACCEPTING OR REJECTING THIS PLEA OFFER ON OR BEFORE AUGUST 12, 2022.

Sincerely,


Rad S. Deaton

/rsd

August 17, 2022

REDUCTION: Armed Robbery (10-30 years)

PLEAD GUILTY: Attempted Armed Robbery (0-20 years)

Possession of a Weapon during the Commission of a Violent Crime (5 years)

He will attempt to, if you will accept, the following:

SENTENCE: Attempted Armed Robbery (8 years)

Possession of a Weapon during the Commission of a Violent Crime (5 years)

THESE OFFENSES WOULD RUN CONCURRENT, MEANING THAT THEY WOULD RUN TOGETHER.

I ORIGINALLY THOUGHT HE WAS GOING TO OFFER TO DISMISS THE POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME OFFENSE, BUT WITH HIM RUNNING IT CONCURRENT, IT DOES NOT IMPACT YOUR SENTENCE AT ALL.

As a most serious offense, a plea to Attempted Armed Robbery would constitute a strike under the mandatory life statute. This means that if you receive another most serious offense, in your lifetime, you could receive a mandatory life sentence.

Although this is a rough estimate, you should receive credit for five hundred ninety-five (595) days in jail on these charges which should put your projected release date to be November 3, 2027. This is not a "guaranteed" release date, but merely a projection using the calculator provided by the South Carolina Department of Corrections.

I believe this is a great resolution for you under all the facts and circumstances and look forward to resolving this case on September 2, 2022.

Again, please notify your family members of the date and time for the plea so that they may attend if they so choose. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,


Rad S. Deaton

rsd

Enclosures

Dear Mr. Rad S. Deaton

I appreciate all your hardwork and your effort to resolve my case. It's Been almost 11 months in and I have no paper-work to no what is going on in my case. When you were first hired as my attorney, I told you my main goal was to attend home were I could provide for my 1 year old son. Regardless IF I had to be on strict house supervision. I have only seen you one time during my 11 month bid. I should have went up for my Preliminary hearing on august 2nd, I have no idea why you had it rescheduled and then nothing never happened.

Also on February 14th when I had my bond-hearing you told me in 6 months I would have attended another hearing. When august came I was told from your helper you put in a motion on august 25th, which led me to go up in September which is 7 months. You told me it would be Jefferson or McCoy and that you would come see me the day before you never came. I didn't want to go up in front of Jefferson, I rather have waived the hearing and waited. With all this being said Mr. deaton, unfortunately I'm realising you and decided to find another attorney. I know I have been paying you and I'm requesting some reinstatement fee back IF possible. Please and thank you Sincerley,

Any

Jamel R. Brown

Any Questions or concern

Call

or

RECEIVED

BY

DATE

12/6/21



Julie J. Armstrong
Charleston County Clerk of Court

Charleston County
Circuit Court Case Details
Public Index

Charleston County Home Page Clerk of Court Home Page Magistrates Court SC Judicial Home Page Search Tips

Search View

The State of South Carolina VS Jamel Raekwon Brown

Case Number:	K404392	Court Agency:	General Sessions	Filed Date:	01/16/2021
Case Type:	Criminal-Clerk	Case Sub Type:			
Status:	PCR	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Jefferson, Deadra L.
Disposition:	Pled Guilty				
Disposition Date:	09/02/2022	Date Received:	01/20/2021	Arrest Date:	01/15/2021
Law Enf. Case:		True Bill Date:	06/07/2021	No Bill Date:	
Prosecutor Case:		Indictment Number:	2021GS1001724	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Brown, Jamel Raekwon	Post Conviction Relief	Filing		07/13/2023-10:28		
Brown, Jamel Raekwon	Active - Non Probation	Filing		09/08/2022-09:19		
Brown, Jamel Raekwon	Sentence/PG	Filing		09/02/2022-09:19		
Brown, Jamel Raekwon	Motion/Motion for Bond	Motion		08/08/2022-14:30	09/02/2022-14:30	
Brown, Jamel Raekwon	Motion/Motion for Bond	Motion		08/08/2022-14:22	09/02/2022-14:22	
Brown, Jamel Raekwon	Order/ Bond Modification/Denied	Filing		09/14/2021-16:15	09/02/2022-16:15	
Brown, Jamel Raekwon	Motion/Motion for Bond	Motion		08/25/2021-13:15	09/14/2021-13:15	
Brown, Jamel Raekwon	Indictment/Indictment	Filing		06/14/2021-11:48	09/02/2022-11:48	
Brown, Jamel Raekwon	Motion/Brady Motion/Edwards Notice	Filing		01/29/2021-15:44	09/02/2022-15:44	
Brown, Jamel Raekwon	Notice of Appearance	Filing		01/29/2021-14:48	09/02/2022-14:48	
Brown, Jamel Raekwon	Motion/Discovery	Filing		01/29/2021-14:40	09/02/2022-14:40	
Brown, Jamel Raekwon	Amended Motion/Motion for Bond Revocation	Motion		01/25/2021-09:22	02/09/2021-09:22	
Brown, Jamel Raekwon	Preliminary Hearing Request	Filing		01/25/2021-00:00	01/26/2021-00:00	
Brown, Jamel Raekwon	Miscellaneous	Filing		01/20/2021-13:27	01/26/2021-13:27	
Brown, Jamel Raekwon	Order/Original Bond Order	Order		01/20/2021-13:27	09/02/2022-13:27	

MCCOY LAW GROUP, LLC

15 Prioleau Street
Charleston, SC 29401
PETER M. MCCOY, JR.

(843) 459-8835
FAX (843) 459-8834
peter@mccoylawgrp.com

February 19, 2024

Jamel Raekwon Brown SCDC Inmate #00388867

Ridgeland Correctional Institution

5 Correctional Road

PO Box 2039

Ridgeland, SC 29936

Dear Jamel,

I wanted to send you a quick letter based on your call to my office this past Friday afternoon February 16, 2024. Thank you for taking the time to speak with my legal assistant Candy on the things that you have requested (bond motion/bond filing/payments that have been made to McCoy Law Group, LLC.). As always, we stand ready and willing to assist you in any manner possible. As you will recall, we were retained for the limited purpose of assisting you in a bond setting.

Our records indicate that we filed for a bond setting for you on August 8, 2022. On August 17, 2022, my office was notified by the clerk's office as well as from the solicitor that your case was set to plea and have an offer expire/accept or reject date on September 7, 2022. Later that same day on August 17, 2022, my office was notified that your court date had been moved to September 2, 2022. At this time, you indicated to my office that you wished for my office to be present at your plea, which we were happy to do. We waived any additional fee and we proceeded to have discussions with your current retained defense attorney, Rad Deaton, as well as the solicitor to prepare for your plea.

According to our records, your payments to my office are as follows (receipts attached):

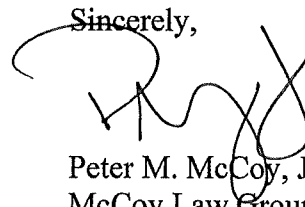
July 6, 2022-\$1,150.00
July 6, 2022-\$500.00
July 6, 2022-\$50.00
July 8, 2022-\$100.00
July 21, 2022-\$100.00
August 11, 2022-\$250.00

Total: \$2,150.00

It is always great to hear from you and we are here to answer any questions you may have or to discuss anything that is on your mind. Please reach out anytime, even on the weekends or after

hours if you need anything. Allison and I are available anytime you need us. We enjoy a great relationship with you and your family, and I look forward to speaking with you soon. Thank you for the trust you have placed in our firm to take an assist you with these issues. 107

Sincerely,



Peter M. McCoy, Jr.
McCoy Law Group, LLC.
15 Prioleau Street
Charleston, SC 29401
peter@mccoylawgrp.com

Enclosures: Motion/Filings/Receipts

STATE OF SOUTH CAROLINA)
 COUNTY OF CHARLESTON)

IN THE COURT OF GENERAL SESSIONS
 MOTION COVERSHEET

STATE OF SOUTH CAROLINA)

WARRANT/TICKET/
 INDICTMENT #'s

2021A1010200082

2020A1010205900

2021A1010200308

-vs-

K404392

JAMEL RAEKWON BROWN)
 DEFENDANT)

K404393

Solicitor: BENJAMIN CHAD SIMP, Bar No. _____ Address: 101 Meeting Street, Suite 400, Charleston, SC 29 Phone: 843-958-1900 E-mail: simpsonc@scsolicitor9.org	Defendant's Attorney: PETER M. MCCOY, JR., Bar No. 73866 Address: 15 Prioleau Street Charleston, SC 29401 Phone: 843-459-8835 E-mail: peter@mccoylelawgrp.com
---	--

- MOTION HEARING REQUESTED
 FORM MOTION, NO HEARING REQUESTED

SECTION I: Hearing Information

Nature of Motion: MOTION TO SET BOND

Estimated Time Needed: 15 MIN

Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type

- Written motion attached
 Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Peter M. McCoy, Jr.
 Signature of Solicitor Attorney for Defendant

AUGUST 8, 20
 Date submitted

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON)	
)	
STATE OF SOUTH CAROLINA,)	
)	
vs.	)	MOTION TO SET BOND
)	
JAMEL RAEKWON BROWN,)	
)	
Defendant.	)	Indictment #: 2020A1010205900
	)	2021A1010200082
	)	2021A1010200308
	)	K404392
	)	K404393
_____)	

TO: ASSISTANT SOLICITOR BENJAMIN CHAD SIMPSON:

YOU WILL PLEASE TAKE NOTICE that the Defendant through the undersigned attorney, will move before the Court of General Sessions, Ninth Judicial Circuit, on such date and at such time as the Court may provide, to set bond for the above-named Defendant. Defendant has been incarcerated since January 15, 2021, and Defendant has not had a bond set by the Circuit Court.

AND IT IS RESPECTFULLY SUBMITTED August 8, 2022, at Charleston, South Carolina.

McCoy Law Group, LLC

Peter M. McCoy, Jr.

 Peter M. McCoy, Jr.
 15 Prioleau Street
 Charleston, SC 29401
 Tel: 843-459-8835
 Fax: 843-459-8834
 Attorney for Defendant

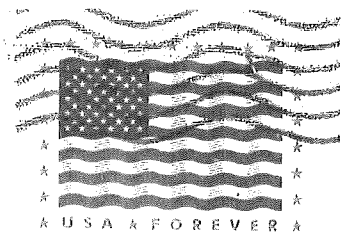
August 8, 2022

James Brown
110

10 Al Cannon Detention Center
3841 Leeds Avenue
North Charleston, SC 29405

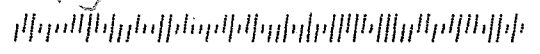
CHARLESTON, SC 29405

2 DEC 2021 PM 1 L



Rad S. Deaton
Deaton Law Firm
425 Red Bank Road
Goose Creek, SC 29445

29445-450525



1 STATE OF SOUTH CAROLINA) GENERAL SESSIONS
 2 COUNTY OF CHARLESTON) TRANSCRIPT OF RECORD

3 -----X
 4 STATE OF SOUTH CAROLINA,)
 5 vs.) Case No. 2021-GS-10-01724
 6 JAMEL RAEKWON BROWN,) 2021-GS-10-01726
 7 Defendant.)
 -----X

8 September 2, 2022

9 B E F O R E:

10 The Honorable Deadra L. Jefferson, Presiding Judge
 11 (Appearing Virtually)

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

13 Tyler Whitaker, Esq.
 Attorney for the Plaintiff

14 Rad Stuart Deaton, Esq.
 15 Peter McCoy, Esq.
 Attorney for the Defendant

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22 Recorded by: DCRP/Loraine Victoria

23 Transcribed by: Bobbi Fisher, RPR
 24 SC Official Court Reporter III
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I N D E X

DESCRIPTION	PAGE
Proceedings	3

E X H I B I T S

(None.)

COURT REPORTER LEGEND

Dash (--)	Indicates an interruption in speech
Ellipses (...)	Indicates trailing off in speech
(ph)	Indicates phonetic word
[Verbatim]	Indicates the word is said as written
(Indiscernible)	[Transcription] Indicates word(s) is not known due to audio recording quality

P R O C E E D I N G S

(The following proceedings started at 11:30 a.m.):

THE COURT: This is 2021-GS-10-1724, attempted armed robbery, Jamel Raekwon Brown; 2021-GS-10-1726, possession of a weapon during the commission of a violent crime.

The --

MR. DEATON: Your Honor --

THE COURT: -- 2021-1724 was indicted as an armed robbery; he's pleading to a lesser included offense. And possession of a weapon during the commission of a violent crime is as indicted.

Are there any recommendations or negotiations?

MS. WHITAKER: Your Honor, a negotiation of eight years.

MR. McCOY: And, Your Honor, he's got some family members, and Mr. McCoy is on this case as well, Judge. So if you don't mind, just -- they're walking in the courtroom right now.

Thank you, Your Honor.

THE COURT: You're welcome.

Does he have any record, Ms. Whitaker?

MS. WHITAKER: Yes, Your Honor. He has a 2016 unlawful carrying.

THE COURT: Was the victim notified?

MS. WHITAKER: Yes, Your Honor.

1 THE COURT: What is the victim's name for the
2 record?

3 MS. WHITAKER: Roy, R-o-y, Aytes, A-y-t-e-s.

4 THE COURT: I assume you have made him aware of the
5 negotiation?

6 MS. WHITAKER: Yes, Your Honor, and he is supportive
7 of the arrangement.

8 THE COURT: Any restitution?

9 MS. WHITAKER: No, ma'am.

10 THE COURT: Do both you and Mr. McCoy represent
11 Mr. Brown or just you, Mr. Deaton?

12 MR. DEATON: Both of us, Your Honor. I have been
13 representing Mr. Brown until -- since January of 2021.
14 And Mr. McCoy came on a couple of weeks ago.

15 THE COURT: Mr. Deaton, if you could answer and
16 respond for both the defendant and Mr. McCoy.

17 MR. DEATON: Sure.

18 THE COURT: Have you explained to your client the
19 charges contained in the indictment, the possible
20 punishment, and his constitutional rights?

21 MR. DEATON: I have, Your Honor.

22 THE COURT: Do you believe he understands the
23 charge, the punishment, and his rights?

24 MR. DEATON: I do, Your Honor.

25 THE COURT: Does he wish to plead guilty or not

1 guilty?

2 MR. DEATON: Guilty, Your Honor.

3 THE COURT: Do you agree with that decision?

4 MR. DEATON: Yes, Your Honor.

5 THE COURT: Has he ever been evaluated to determine
6 his competency?

7 MR. DEATON: Not to my knowledge, Your Honor.

8 THE COURT: Have you explained to him the violent
9 and most serious classification?

10 MR. DEATON: Yes, Your Honor.

11 THE COURT: Sir, raise your right hand to be sworn.
12 Can you hear me? I need you to get close to the
13 microphone.

14 And, Mr. McCoy, I assume you agree with
15 [indiscernible]?

16 MR. McCOY: I do, Your Honor.

17 JAMEL RAEKWON BROWN,

18 after having been duly sworn, was examined and
19 testified to as follows:

20 THE COURT: You can put your right hand down. State
21 your full name for the record.

22 THE DEFENDANT: Jamel Raekwon Brown.

23 THE COURT: Sir, how old are you?

24 THE DEFENDANT: I'm 24 years old.

25 THE COURT: How far have you gone in school?

1 THE DEFENDANT: I think about --

2 THE COURT: What was the last grade you completed?

3 THE DEFENDANT: I think, like, the 11th grade.

4 THE COURT: Do you have your GED?

5 THE DEFENDANT: No, ma'am.

6 THE COURT: Can you read and write?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Did you understand the sentence sheet?

9 THE DEFENDANT: [Indiscernible] yes, ma'am.

10 THE COURT: What was your last job?

11 THE DEFENDANT: Lead [indiscernible].

12 THE COURT: Where?

13 THE DEFENDANT: Oceanfront hotel over at the Isle of
14 Palms.

15 THE COURT: Are you married?

16 THE DEFENDANT: No, ma'am.

17 THE COURT: Do you have any children.

18 THE DEFENDANT: Yes, ma'am, I do. I have one child.

19 THE COURT: How old?

20 THE DEFENDANT: He is approximately three.

21 THE COURT: On the offense of attempted armed
22 robbery, how do you plead?

23 THE DEFENDANT: Guilty.

24 THE COURT: So you understand the maximum penalty is
25 20 years?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Do you understand that it's classified
3 as violent and most serious?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Do you understand that, if you receive
6 another most serious offense, you would be eligible for
7 life without parole?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: You may have discussed parole and parole
10 eligibility with your lawyer and with others, but until
11 you're sentenced, no one can tell you what, if ever, you
12 will be eligible for parole and under what conditions.
13 You should assume that any time you receive will be served
14 day per day. Do you understand?

15 THE DEFENDANT: [Indiscernible].

16 THE COURT: I'm sorry? I could not hear your whole
17 answer, sir.

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Sir, do you consent to your hearing
20 being held virtually?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: And has your lawyer -- have your lawyers
23 explained to you what a negotiated plea is?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Do you understand the Court's only

1 option is to accept or reject the plea?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: On the offense of possession of a weapon
4 during the commission of a violent crime, how do you
5 plead?

6 THE DEFENDANT: I plead guilty.

7 THE COURT: Do you understand that that penalty is a
8 mandatory five years, none of which can be suspended?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: I want you to listen carefully to the
11 facts.

12 Ms. Whitaker?

13 MS. WHITAKER: Thank you, Your Honor. On
14 Wednesday -- on Wednesday, December 30th, 2020, at
15 3:17 p.m. at the St. Andrews --

16 THE COURT: Was it '20 or '21? The indictment date
17 is 7/30 [sic] of 2020.

18 MS. WHITAKER: Your Honor, I believe it's '20.

19 THE COURT: Mr. Deaton and Mr. McCoy, is that
20 accurate?

21 MR. DEATON: Yes, Your Honor.

22 THE COURT: One had 2020 and one had 2021. I'm
23 assuming there's a scrivener's error in one of them?

24 MR. DEATON: Yes, Your Honor. It's 2020.

25 THE COURT: So do we need to correct that?

1 MR. DEATON: Yes, Your Honor. He's been in
2 incarcerated since January 15th of 2021.

3 THE COURT: Okay. You may continue, Ms. Whitaker.

4 MS. WHITAKER: Thank you, Your Honor.

5 -- at the St. Andrews Regional Library, which is
6 located at 1735 North Woodmere Drive. The victim, Roy
7 Aytes, was a worker renovating the library. He reported
8 that a suspect approached him while he was on a break from
9 work, with a firearm, demanding his cell phone and wallet.

10 The suspect was wearing a black hoodie, a red and
11 white bandana, and blue jeans. This was identical
12 clothing to that reported being worn by the defendant on
13 this day by another person.

14 The victim handed his phone and said that his wallet
15 was in his Jeep. The victim was then escorted to the Jeep
16 with a gun pointed to the back of his head. As the victim
17 looked for his wallet in the Jeep, the suspect counted
18 down from ten out loud. The victim found the wallet and
19 gave it to the defendant. The victim then watched the
20 defendant flee on foot toward the woodline, which borders
21 a neighboring apartment complex.

22 The defendant's silver BMW SUV was located near the
23 crime scene. Prints taken from the victim's hard hat and
24 the driver's side door -- prints were taken from the
25 victim's hard hat and the driver's side door. The prints

1 from the hard hat matched the defendant.

2 THE COURT: [Indiscernible] you said. What BMW was
3 located near the scene?

4 MS. WHITAKER: The defendant's.

5 THE COURT: And what type of car?

6 MS. WHITAKER: It was a silver BMW SUV.

7 THE COURT: SUV. Okay.

8 Sir, do you agree with this review of the facts?

9 THE DEFENDANT: I agree, Your Honor.

10 THE COURT: Do you feel anything needs to be changed
11 or added to the facts?

12 THE DEFENDANT: No, ma'am.

13 THE COURT: Are you pleading guilty because you're
14 guilty?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: You're entitled to a jury trial. At a
17 jury trial, you're entitled to a presumption of innocence.
18 The State has the burden of proving your guilt beyond a
19 reasonable doubt. You have a right to confront and
20 cross-examine the State's witnesses, call your own
21 witnesses, present any defenses, challenge any statements,
22 and remain silent, and your silence could not be used
23 against you. Do you understand your rights?

24 THE DEFENDANT: Yes, ma'am, I do.

25 THE COURT: Do you understand you're giving up those

1 rights?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Are you relying on any deal that I have
4 not been told about?

5 THE DEFENDANT: No, ma'am.

6 THE COURT: Have you been satisfied with your
7 lawyers?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Have they done everything you have asked
10 or expected in representing you?

11 THE DEFENDANT: Yes, ma'am, they have.

12 THE COURT: Any complaints about their services?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Has anyone promised you anything to
15 plead guilty?

16 THE DEFENDANT: No, ma'am.

17 THE COURT: Has anyone threatened or coerced you to
18 plead guilty?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: Are you pleading guilty freely and
21 voluntarily and of your own will?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Have you understood my questions?

24 THE DEFENDANT: Yes, ma'am, I have.

25 THE COURT: Do you need to ask any questions?

1 THE DEFENDANT: No, ma'am.

2 THE COURT: Have you been truthful?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Do you understand that you have the
5 right to appeal this guilty plea and sentence, but you
6 have to do that in writing within ten days of today?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Do you understand that, if you cannot
9 afford a lawyer, one will be appointed to you?

10 THE DEFENDANT: Yes, ma'am, I do.

11 THE COURT: The plea has been qualified.

12 Anything further from the State?

13 MS. WHITAKER: No, Your Honor.

14 THE COURT: Anything further from the defense,
15 Mr. Deaton or Mr. McCoy?

16 MR. DEATON: Yes, Your Honor. I think both of us
17 have a little bit of something to say, Your Honor.

18 Mr. Brown is 24. As he stated, he worked at The
19 Palms on Isle of Palms as a janitor, his most recent job.

20 Judge, he's going to get credit for 595 days. He
21 was -- this happened in December of 2020, and he was
22 picked up in January of 2021 -- January 15th. He's been
23 incarcerated ever since.

24 His bond -- I was hired right before the bond
25 revocation hearing. Judge Young revoked his bonds that he

1 had on previous charges and declined to set bond on these.
2 Your Honor heard a similar motion, I think, in August or
3 September of last year where you decided the same thing,
4 Your Honor, and as such, we have worked hard to get this
5 case resolved with Assistant Solicitor Chad Simpson.

6 I have spent a lot of time with Mr. Brown, you know,
7 both talking to him on the phone and in person, discussing
8 these cases.

9 Judge, you know, Mr. Brown's -- he's young. This
10 happened when he was young. He's never been to prison.
11 He's worried about that. He's concerned about that. But
12 he is remorseful about what happened. He's told me that.

13 He's represented here today by me and Mr. McCoy, as
14 well as several members of his family. Both his sisters
15 and his father are present. And these individuals care a
16 lot about him. I have talked to these folks for months at
17 a time over the last couple of years of dealing with
18 Mr. Brown's case.

19 We believe we have resolved this in a manner that's
20 best for Mr. Brown. I think he's -- he's taken -- it's
21 taken a lot of courage to stand up, knowing he's going to
22 go to prison, and take responsibility for what he did.
23 And I believe, Your Honor, you know, he deserves to have
24 this plea accepted by Your Honor.

25 Now, Mr. McCoy wants to address --

1 THE COURT: I have already accepted the plea.

2 MR. DEATON: I understand. I'm just talking about
3 the negotiation, Your Honor.

4 THE COURT: I have already accepted the plea.

5 MR. DEATON: Okay. But Mr. McCoy wants to address
6 one issue with Your Honor, if you don't mind. And I
7 apologize for the --

8 THE COURT: [Indiscernible].

9 MR. DEATON: -- for the lack of brevity.

10 MR. McCOY: Judge, thank you, and may it please the
11 Court?

12 Judge, as Mr. Deaton's already mentioned, I join him
13 and I join his family, who is back behind me to the left,
14 in today's court appearance and the plea that we're doing
15 here today.

16 Judge, my office, as well as myself, has spent a lot
17 of time with Mr. Brown. He is a sharp young man. He is a
18 smart young man. Most importantly, Your Honor, his heart
19 is in the right place. And that leads me to the issue
20 that we have that has come up this week.

21 Judge, there is a DSS kind of custody issue and
22 battle that's going on with his child that he mentioned to
23 you here today already. I know that's not before Your
24 Honor. I know that's not an issue that we face here today
25 in General Sessions and it be no means negates his want to

1 accept responsibility and plead guilty here today. That's
2 what we're here to do. But I thought it was important
3 enough for me to mention it to Your Honor.

4 Judge, he has been advised by a DSS attorney -- and
5 I believe, again, respectfully, that he has been advised
6 wrongfully -- that he -- if he were to get out of jail or
7 bond out of jail right now, would get custody of this
8 child. I have explained to him that it was a young lawyer
9 that said this to him, an inexperienced lawyer that said
10 this to him, and frankly, with the charges that he has
11 facing himself right now, as well as a sentence that he
12 has facing himself right now, that custody would not be
13 something that would be given to him, especially when he
14 is going to go to prison for these charges.

15 Mr. Brown understands that, Your Honor. He knows
16 that, and, again, wants to accept responsibility here
17 today. But he wants to do everything he can to fight for
18 this child, to make sure this child goes to a family
19 member of his, be it his mother or be it his sisters. And
20 I told him, Judge -- and Mr. Deaton has told him the same
21 thing -- we will gladly assist in any way possible, any
22 shape or form, to do such things.

23 Your Honor, his request -- and, again, I told him
24 this is not a situation that I think would happen, but he
25 has asked about staying in Charleston, not going and

1 serving his sentence yet, to work on this issue.

2 Again, I have assured him that Mr. Deaton and I will
3 help in any manner possible, and I told him the Court
4 would probably not entertain that type of request, but we
5 wanted to make it anyway, Judge.

6 And I wanted to tell you, Mr. Brown -- I tell you,
7 he's a smart guy. His heart's in the right place, and
8 we're proud to represent him here today.

9 THE COURT: Anything further from the State?

10 MS. WHITAKER: No, ma'am.

11 THE COURT: Mr. Brown, while your efforts to assist
12 in the custody situation with your child is commendable,
13 the Court has absolutely no control over the jail, who
14 stays there and who doesn't. And I'm a big believer of
15 staying in my lane. I don't allow them to come into my
16 lane, and I don't go in theirs. They have got a facility
17 they have got to run, and by State statute and
18 regulations, they run it the way they deem appropriate.

19 However -- so I cannot order that you remain in
20 Charleston. That is outside of my province or my
21 authority.

22 And in all likelihood, I have no control when
23 they're going to send you to R&E. They might do it today.
24 They might do it tomorrow. They might wait a week.
25 Depends on what's going on at the Department of

1 Corrections, whether there's been an outbreak of COVID,
2 whether they have had security issues. It's a whole lot
3 of variables that go into that equation, so I'm not going
4 to make any promises to you because they're not promises I
5 can enforce. And if I do that for you, which is a
6 non-conforming request, I have to do it for everybody, and
7 I'm not going to do that. So I don't want to mislead you.

8 However, if you want to participate in any DSS
9 proceeding -- the one great thing about COVID -- and we
10 did this before COVID on a smaller scale, but now we have
11 the ability to have the State support in terms of
12 providing us with a wonderful thing called Webex, which is
13 used throughout the state of South Carolina.

14 If you want to be present for any of your
15 proceedings, a family court judge just needs to be made
16 aware of that, and I'm certain they will make every
17 accommodation to allow you to observe the proceedings as
18 well as be present for them, and the State Department of
19 Corrections will accommodate your need -- your ability to
20 attend to the extent that they have available.

21 Again, you know, I don't know -- things change at
22 SCDC based on security concerns, health concerns, and
23 otherwise. Sometimes lockdowns occur and we have no
24 control over that. Again, I have no control over how the
25 Department of Corrections handles them.

1 So, again, while that is commendable to request it,
2 it's not one that I can grant. So I hope you understand
3 the logic of that and my ability to do it, because I don't
4 have the power to do it.

5 Consistent with the negotiated plea, sir, on the
6 attempted armed robbery, you're sentenced to the State
7 Department of Corrections for a period of eight years. On
8 the possession of a weapon during the commission of a
9 violent crime, five years. I'll run these sentences
10 concurrent. You'll get credit for [indiscernible],
11 calculated and applied by the Department of Corrections.
12 And I have also ordered the ATU because I think that will
13 be helpful to you and it will also ease you into -- it
14 will give you a buffer before you go to the facility that
15 you're probably going to be designated to go to.

16 MR. McCOY: Judge --

17 THE COURT: Okay?

18 MR. McCOY: -- briefly, is -- I have made this
19 request in federal court. I don't know if we do it in
20 state court. Is there a way to suggest, in state court, a
21 facility that he would go to, since this is new to him and
22 this is his first time going?

23 THE COURT: We have no control.

24 MR. McCOY: Okay. Thank you, Judge.

25 THE COURT: You're welcome.

1 Right now, because of security concerns,
2 [indiscernible] facilities in Mississippi, Alabama. I
3 have no control. The statute -- the legislature has been
4 very clear. The Department of Corrections runs their
5 facilities. We have no control over it.

6 MR. McCOY: Yes, ma'am. Just wanted to make the
7 request. Thank you, Judge.

8 MS. WHITAKER: Thank you, Your Honor.

9 THE COURT: [Indiscernible] R&E and I have ordered
10 the ATU. That may give him, you know, some treatment in a
11 different facility before he goes to -- but I really don't
12 have any idea how they're doing this right now. There are
13 a lot of variables. There's COVID, there's a lot of
14 security concerns. It's a lot of moving parts. So once
15 he goes to R&E, he'll know exactly where he's being
16 assigned. But like I said, there are people that are in
17 Mississippi right now because of some things that have
18 happened, so I really have no way of knowing, and I would
19 never want to mislead him by giving him some sort of
20 guarantee or even suggesting that I have the ability to
21 even have any influence regarding that.

22 MR. McCOY: Yes, ma'am. We appreciate that. Thank
23 you, Judge.

24 MR. DEATON: Thank you, Your Honor.

25 MS. WHITAKER: Thank you, Your Honor.

1 THE COURT: I think you have to be straight with
2 people, and I don't want him going somewhere thinking
3 something, and then he gets there and they tell him
4 something different and then he feels like we have been
5 dishonest with him and somehow --

6 MR. McCOY: And we appreciate that, Judge. We do.
7 Thank you.

8 MR. DEATON: Thank you, Your Honor.

9 MS. WHITAKER: Thank you, Your Honor.

10 THE COURT: You're welcome. Have a good day.

11 (The above matter concluded at 11:50 a.m.)
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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

RECORD SUMMARY REPORT DATED 08/28/23

C069653

BROWN, JAMEL RAEKWON FBI # 3MAKTELVN SID# SC02242941 SCDC # 388867

OFFENDER TYPE.: ADULT-STRAIGHT SENTENCE

INSTITUTION . . : LIEBER CORRECTIONAL INST.

SECURITY/CUST.: CL GENERAL POPULATION

CURR INCARC SENT...: 8 YRS 0 MOS 0 DYS

CENTRAL MONITORING.: YES

SOCIAL SECURITY #...: [REDACTED]

DORM.....: AA0012B

RACE....:B SEX...:M

PROJ MAXOUT DATE: 11/01/2027

PROJ PAROLE DATE: 00/00/0000

EWC JOB...: WARDKEEPER ASSISTANT

EDUC PGM.: NO CURR EDUC PROGRAM

EWC LEVEL: 3F5 EEC LEVEL:

ASSIGNMENT...: BLDG DETAIL

CURRENT PROGRAM...: NO CURRENT PROGRAM

AGE...: 25 DATE OF BIRTH...: [REDACTED]

PREVIOUS NUMBERS:

** NO PREVIOUS NUMBERS **

CURRENT OFFENSES	SENTENCE			SENTENCE			
	YRS	MOS	DYS	COUNTY	START	V/NV	CATEGORY
ATTEMPTED ARMED ROBBERY	8	0	0	CHARLESTON	1/15/2021	V	4
FIREARMS PROVISION	5	0	0	CHARLESTON	1/15/2021	N	3

PRIOR COMMITMENTS OVER 90 DAYS:
 NO PRIOR COMMITMENTS OVER 90 DAYS

DETAINERS (HOLD, WANTED, NOTIFY):
 NO DETAINERS
 NO DETAINERS

ESCAPES:
 NO ESCAPE HISTORY

CRIMINAL CHARGES:
 NO CRIMINAL CHARGES WHILE IN CUSTODY
 NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

5/ 2/23	POSSESSION OF A WEAPON	CONVICTED	MAJOR
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NON-ASSAULTIVE DISCIPLINARIES:

5/ 2/23	STG AFFILIATION	NOT GUILTY	MAJOR
5/ 2/23	DAMAGE, LOSS, DESTRUCT/DEF	CONVICTED	MAJOR
5/ 2/23	POSS. OR/ATTEMPT TO POSS	CONVICTED	MAJOR
5/ 2/23	USE, POSS NARC, MARIJ, UNAU	DROPPED	MAJOR

HISTORY OF MOVEMENTS:

6/ 5/23	LIEBER	INCARCERATED	RETURN FROM COURT
6/ 5/23	SUMTER CO	AUTH ABSENCE (AWL)	TO COURT
1/17/23	LIEBER	INCARCERATED	RETURN FROM COURT
1/17/23	CLARENDON CO	AUTH ABSENCE (AWL)	TO COURT
11/22/22	LIEBER	INCARCERATED	ADMINISTRATIVE
9/ 7/22	KIRKLAND	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
WARDKEEPER ASSISTANT	05/24/23	0/ 0/ 0		3F5
WARDKEEPER ASSISTANT	05/01/23	5/23/23	ASLT/DRUG/MAJOR DISC	2F5
GENERAL WORKER	01/12/23	4/28/23	LATERAL TRANSFER	2F5
WARDKEEPER ASSISTANT	11/14/22	11/22/22	INSTIT TRANSFER	2F5

HISTORY OF EARNED EDUCATION CREDITS:

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
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NO SCHOOL ASSIGNMENTS
 ***** END OF REPORT *****

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CERTIFICATE OF TRANSCRIBER

CASE NAME/NUMBER: State v. Jamel Raekwon Brown
2021-GS-10-01724; 01726

DATE OF HEARING: 9/2/22

COURT REPORTER/MONITOR: DCRP/Lorraine Victoria

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

Bobbi Fisher

/s/ Bobbi Fisher_____

Bobbi Fisher, RPR and Certified Transcriber

Date Submitted:

NOTE: PURSUANT TO RULE 607(h)(1)(B), SCACR, "A COURT REPORTER SHALL RECEIVE THE FEE OF \$1.00 PER PAGE FOR FURNISHING A COPY OF A PREVIOUSLY PREPARED TRANSCRIPT." ALL REQUESTS FOR COPIES OF THE ATTACHED TRANSCRIPT (FORM 800) FROM OPPOSING PARTY OR NON-PARTIES MUST BE SENT TO THIS REPORTER AT BFISHER@SCCOURTS.ORG.

DEATON

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E-MAIL: rdeaton@deatonlaw.net

August 17, 2022

VIA HAND DELIVERY

Mr. Jamel Raekwon Brown, #0001537086
C/O Al Cannon Detention Center
3841 Leeds Avenue
North Charleston, SC 29405

RE: State of South Carolina v. Jamel Raekwon Brown
CHARGE: Burglary Second Degree, Domestic Violence First Degree,
Armed Robbery while armed with deadly weapon, Possession
of a weapon during violent crime
WARRANT NOS.: 2020A1010205900, 2021A1010200082, K404392, K404393

Dear Jamel:

As you are aware, you have indicated you would accept the guilty plea to attempted armed robbery offered by the solicitor with a negotiated sentence of eight (8) years. The solicitor sent over the sentencing sheets for your case and scheduled this matter for a plea on September 2, 2022, at 9:30 a.m. Attached is a copy of the notice of plea.

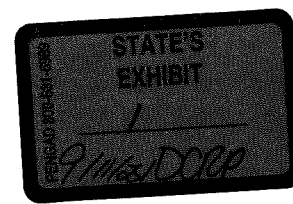
Please inform your family members of the date and time for the plea so that they may attend if they so desire.

I was mistaken in the previously discussed potential offer, but that hasn't impacted the agreed upon sentence in this case.

Assistant Solicitor Chad Simpson has offered to dismiss the following charges:

DISMISS:	Domestic Violence 1st Degree	(0-10 years)
	Unlawful Carrying of a Pistol	(0-1 year)
	Burglary 2nd Degree Non-Violent	(0-10 years)

In exchange for the dismissal of those charges, he will, if you will accept it, attempt to obtain permission to offer you:



REDUCTION:	Armed Robbery	(10-30 years)
PLEAD GUILTY:	Attempted Armed Robbery	(0-20 years)
	Possession of a Weapon during the Commission of a Violent Crime	(5 years)

He will attempt to, if you will accept, the following:

SENTENCE:	Attempted Armed Robbery	(8 years)
	Possession of a Weapon during the Commission of a Violent Crime	(5 years)

**THESE OFFENSES WOULD RUN CONCURRENT,
MEANING THAT THEY WOULD RUN TOGETHER.**

**I ORIGINALLY THOUGHT HE WAS GOING TO OFFER
TO DISMISS THE POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT CRIME OFFENSE,
BUT WITH HIM RUNNING IT CONCURRENT, IT DOES
NOT IMPACT YOUR SENTENCE AT ALL.**

As a most serious offense, a plea to Attempted Armed Robbery would constitute a strike under the mandatory life statute. This means that if you receive another most serious offense, in your lifetime, you could receive a mandatory life sentence.

Although this is a rough estimate, you should receive credit for five hundred ninety-five (595) days in jail on these charges which should put your projected release date to be November 3, 2027. This is not a "guaranteed" release date, but merely a projection using the calculator provided by the South Carolina Department of Corrections.

I believe this is a great resolution for you under all the facts and circumstances and look forward to resolving this case on September 2, 2022.

Again, please notify your family members of the date and time for the plea so that they may attend if they so choose. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,


Rad S. Deaton

/rsd

Enclosures

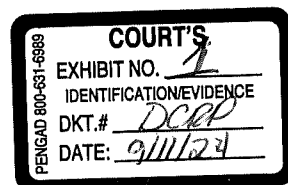
~~Hydrochlorothiazide 12.5 mg~~

Ziprasidone 20 mg

Mirtazapine 30 mg

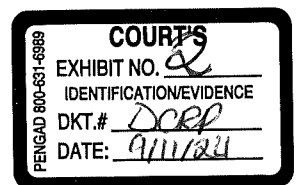
Mirtazapine 15 mg

Anxiety Depression
Mental Illness
Unspecified Mood (Affective)
Disorder



In¹³⁶voluntary Plea

1. My Guilty Plea was ~~not~~ unknowing and involuntary as a result of taking misrepresentation immediately prior to guilty Plea. (Page 5) plea transcript
2. Counsel "gave up my rights" by Pleading me in guilty, before i ~~was~~ was sworn in, which led the Judge to accept Plea before i plead guilty!
3. Guilty Plea was obtained in violation of ~~my~~ my Sixth and fourteenth amendment rights.
4. Failure to inform Petitioner of affirmative defenses and incompetency to enter Plea.
5. Plea was not knowing and voluntary because attorney did not advise me of weapon offenses until after i decided to accept Plea.
6. Both Counsels contacted me through a telephone call at the local detention center and persuaded me to take Plea moments prior to plea hearing. plea transcript
7. During Plea hearing the Judge asked Me (Page 11)
"Any complaints about their services"? I responded with "yes mam". But Judge did not acknowledge me and continued.



Incompetent to Stand Plea

- * I was Presently suffering from a mental disease or defect rendering ~~me~~ ^{me} mentally incompetent to the extent that ~~is~~ ^{is} unable to understand the nature and consequences of the proceedings against ~~me~~ ^{me} or to assist ~~me~~ ^{me} property in ~~my~~ ^{my} defense.
- * I am diagnosed as Level 4 (four) Mental health which is the highest category!
- * ID "At the time" Suffer from traits such as: "Autism Spectrum disorders" and "Psychotic disorder," "Specified Anxiety disorder."
- * I did not have the capacity to understand the Proceedings or assist Counsel along with my competency. "At the time"
- * I also have usually odd side effects such as: Psychotic thought Process, Problems with executive functioning, disorganized thinking, Paranoid Beliefs about defense Counsel and much MORE.

138. Ineffective Assistance Counsel

- In the month of December 2021 I released Counsel of his duty but he remanded on my case.
- Counsel informed that this was a 5 year Plea and that the only charge on file would be "Attempted Armed robbery"
- After declining Plea several times Counsel then contacted My new attorney and Persuaded him to contact me about this Plea.
- After I accepted plea through my 2nd attorney obtained for a 5 year Plea. Documentations read that it was a 8 year Plea and that they were keeping a charge that i was told would be dismissed.
- Counsel Refused to send My motion of discovery home to my family where they could help me prepare for trial.
- My ~~2nd~~ New counsel recieved \$2,150.00 to present me in bond-hearing which he then decided to make me accept a 5 year Plea which was not the correct information.
- My Sixth and fourteenth amendments have been Violated.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
)	
Jamel Raekwon Brown, #388867	)	CASE NO. 2023-CP-10-03365
)	
Applicant,)	
)	
v.	)	ORDER OF DISMISSAL
)	
State of South Carolina,)	
)	
Respondent.)	
)	

2025 MAR -3 AM 11:03
 FILED
 CLERK OF COURT

This matter is before the Court by way of an application for post-conviction relief filed by Jamel Raekwon Brown (Applicant) on July 13, 2023. Respondent made its return requesting an evidentiary hearing. On September 11, 2024, an evidentiary hearing convened before the Honorable Michael G. Nettles. Applicant was present and represented by Christopher L. Murphy, Esquire. Assistant Attorney General Danielle Dixon represented Respondent. At the hearing, Applicant testified on his behalf and called as witnesses his father Jamel Brown, Sr; and plea counsel Rad Deaton. Following a review of the records and the testimony and evidence presented at the hearing, this Court finds Applicant did not meet his burden of proof. Thus, this Court denies relief and dismisses this application with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving an eight-year sentence. In June 2021, the Charleston County Grand Jury indicted Applicant for armed robbery (2021-GS-10-01724) and possession of a weapon during a violent crime (2021-GS-10-01726). These charges arose from an armed robbery of Roy Aytes on December 30, 2020.

On September 2, 2022, Applicant appeared before the Honorable Deadra L. Jefferson and pled guilty pursuant to a negotiated sentence to the weapon charge and, on the armed robbery

charge, the lesser-included offense of attempted armed robbery. Rad S. Deaton and Peter McCoy, Esquires, represented Applicant. Assistant Solicitor Tyler Whitaker represented the State. Judge Jefferson accepted the negotiations and sentenced Applicant concurrently to eight years for attempted armed robbery and five years for the weapon charge. Applicant did not appeal.

CURRENT APPLICATION

On July 13, 2023, Applicant filed this application for post-conviction relief (PCR) alleging:

Ineffective assistance of counsel:

- a. Counsel failed to “properly prepare [Applicant] for the plea deal.” Counsel did not go over and discuss the case to prepare him for a plea deal.
- b. Applicant “released counsel of his duty [but] he remained on [the] case.”

At the hearing, Applicant proceeded on the foregoing allegations. Applicant also alleged his plea was involuntary because he believed he was getting five years and he was incompetent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the records before it, including the Charleston County Clerk of Court records of the underlying conviction; Applicant’s records from the South Carolina Department of Corrections; the plea transcript; and the records from this PCR action. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. After a careful review, this Court finds Applicant has failed to carry his burden of proof. Below are this Court’s findings of fact and conclusions of law as required by section 17 27-80 of the South Carolina Code (2017).

Ineffective Assistance of Counsel / Involuntary Plea

In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). To establish ineffective assistance of counsel,

Applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) Applicant was prejudiced by counsel's deficient performance. Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). Under the first prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. at 117, 386 S.E.2d at 625. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment," and the applicant must overcome this presumption to receive relief. Id. at 117-18, 386 S.E.2d at 625. Second, the applicant must show "a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. When reviewing a guilty plea, the Strickland deficiency prong remains unchanged—Applicant must show that counsel's representation fell below an objective standard of reasonableness. Hill, 474 U.S. at 58–59. To show prejudice, Applicant must show a reasonable probability "that, but for counsel's [alleged] errors, he would not have pled guilty and would have insisted on going to trial." Id. at 59. To be knowing and voluntary, the defendant must be advised of the constitutional rights he is waiving, including the right to a jury trial, the right to confront one's accusers, and the privilege against self-incrimination. Boykin, 395 U.S. at 243.

Failed to prepare Applicant for plea

Applicant first contends counsel was ineffective for not properly preparing him for the plea deal. Specifically, he contends counsel failed to discuss and go over the case before the plea. This Court finds Applicant did not prove this ground. At the PCR hearing, Applicant testified he talked with plea counsel Rad Deaton frequently on the phone. He stated counsel sent him discovery, discussed evidence, and discussed potential defenses. When asked if there was any time Deaton was not available, Applicant responded "No." Applicant testified he understood that armed

robbery carried ten to thirty years and that this was a negotiated plea. When asked what affirmative defense he had, Applicant responded that counsel “should have had [his] back.”

Deaton likewise recalled having plenty of conversations with Applicant. He testified he was unable to meet with him as frequently at jail due to COVID restrictions, but he met with Applicant at the jail between three to five times. Deaton testified he reviewed the discovery, discussed it with Applicant, and explained to Applicant his options regarding a trial.

This Court finds counsel’s foregoing testimony credible. This Court further finds counsel met with Applicant a sufficient number of times and adequately explained the case to him. Critically, Applicant himself admitted Deaton spoke with him several times, reviewed discovery with him, and discussed defenses. This Court further find Applicant has failed to set forth what more counsel should have done or discussed with him that would have changed his decision to accept the negotiated plea. Applicant has thus failed to meet his burden of proving deficiency or prejudice, and this claim is denied.

Remained on Applicant’s case

Applicant next contends counsel was ineffective for remaining on Applicant’s case when Applicant wanted him removed. Applicant did not prove this ground. At the PCR hearing, Applicant testified that although he initially retained Deaton, he later retained Peter McCoy, Esquire, to proceed with a bond hearing and eventually a trial. He stated he wanted McCoy to become his lawyer, and he told Deaton he did *not* want Deaton to continue to represent him. He stated Deaton did not discuss substitution of counsel or how to be relieved. Applicant stated Deaton appeared at his plea hearing, and he spoke to Deaton and told him he was not sure he wanted to plea. He explained he wanted to make bond, get released, and begin preparing for trial. Applicant recalled speaking to both Deaton and McCoy at the time of the plea.

Deaton recalled Applicant wanted him to file a motion for a bond hearing, but Deaton did not believe it would be successful and told him he would not get bond. Deaton stated he negotiated a plea with the solicitor, and about one to two weeks before it was set to expire, McCoy filed a notice of appearance. He stated he and McCoy had a conversation with Applicant the week of the plea. According to Deaton, Applicant said he did not want a trial but he also did not want to plea “right now.” Deaton also recalled receiving a letter from Applicant about eight months before the plea indicating he wanted a new attorney and he wanted his money back; Deaton told Applicant he could retain new counsel but he would not get a refund.

This Court finds Applicant did not prove counsel was ineffective in this regard. Initially, this Court notes Applicant relayed to the plea court that he was satisfied with his attorneys and they had done everything he asked or expected in representing him. (Tr. 11). Further, counsel had an ethical duty to represent Applicant until he was relieved. Counsel negotiated a favorable deal that Applicant chose to accept. Applicant has not shown Deaton’s actions fell below prevailing professional norms, nor has he shown he would have *not* accepted the plea had Deaton not remained as counsel. This claim is thus denied.

Involuntary plea – sentence

Applicant next contends his plea was involuntary because he thought he was getting five years. This allegation patently lacks merit. This Court finds credible Deaton’s testimony that he explained the plea and did not tell Applicant it would be a five-year sentence. Further, the plea transcript itself supports that Applicant understood the sentence. At the plea hearing, the solicitor explained it was a negotiated sentence of eight years. (Tr. 3). Applicant told the Court he understood armed robbery carried up to twenty years, his attorneys had explained what a negotiated plea meant, and he understood the weapon charge carried “a mandatory five years, none

of which can be suspended.” (Tr. 6-8). Applicant likewise told the Court he understood he was waiving constitutional rights by pleading guilty. (Tr. 10-11). Based on the foregoing, this Court finds Applicant knowingly, voluntarily, and freely entered his plea with an understanding of the sentence he faced. This claim is thus denied.

Involuntary plea – competence

Finally, Applicant contends his plea was involuntary due to mental incompetence. Applicant did not prove this ground. “To prevail in a PCR action, the petitioner must prove by a preponderance of the evidence he was incompetent when he entered his guilty plea.” Lee v. State, 396 S.C. 314, 320, 721 S.E.2d 442, 446 (Ct. App. 2011). The test of competency to enter a plea is the same as required to stand trial.” Id. “The accused must have sufficient capability to consult with his lawyer with a reasonable degree of rational understanding and have a rational as well as factual understanding of the proceedings against him.” Id. “[W]hen competency to enter a plea is at issue, a PCR applicant need only show there was a reasonable probability he was incompetent at the time of his plea.” Ramirez v. State, 419 S.C. 14, 23, 795 S.E.2d 841, 846 (2017)

At the PCR hearing, Applicant testified he had PTSD, depression, high anxiety, and bipolar disorder. Counsel testified Applicant told him about his depression and anxiety, but counsel had no concerns about Applicant’s mental competency. This Court finds counsel’s forgoing testimony credible. This Court further finds that based on the foregoing credible testimony, counsel was not deficient. See Lee, 396 S.C. at 322, 721 S.E.2d at 447 (“Plea counsel could not be deficient if she had no indication of Lee’s mental status.”); Jeter v. State, 308 S.C. 230, 233, 417 S.E.2d 594, 596 (1992) (“We find trial counsel reasonably relied on his own perceptions, particularly since counsel was familiar with the petitioner from previous representation. The family who testified at the PCR hearing never raised their concerns regarding the petitioner’s competency to the defense

attorney.”). Applicant has not presented any evidence of mental incompetency and thus failed to show a reasonable probability he was incompetent at the time of his plea. This claim is thus denied.

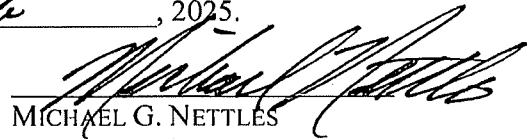
CONCLUSION

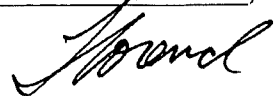
Based on the foregoing, this Court concludes Applicant has not established any constitutional violations that would require this Court to grant relief. Thus, this application is denied and dismissed with prejudice. Should Applicant wish to appeal, he must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. See Rule 203, SCACR. Applicant has the right to an appellate counsel’s assistance in seeking review of the denial of PCR. Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991). If Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on applicant’s behalf. Rule 71.1(g), SCRCP. Attention is directed to Rule 243, SCACR, for appellate procedures.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED THIS 24 day of Feb, 2025.


 MICHAEL G. NETTLES
 Presiding Judge
 Ninth Judicial Circuit

2-24-25, South Carolina


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BCS/0375769
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2020-16730

ARREST WARRANT NUMBER

K404392

DATE OF ARREST

01/15/2021

ACTION OF GRAND JURY

TRUE BILL

Adriana Stinger JUN 7 2021
Foreperson of Grand Jury Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2021-GS-10-01724

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS

JUNE TERM 2021

THE STATE

VS.

JAMEL RAEKWON BROWN A.K.A.
B/M DOB: [REDACTED]

Indictment for

ARMED ROBBERY

SC Code: § 16-11-0330(A)
CDR Code: 0139

FILED

6/14/2021 11:23:35 AM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON


INDICTMENT

At a Court of General Sessions, convened June 2021, the Grand Jurors of Charleston County present upon their oath:

ARMED ROBBERY

That on or about December 30, 2021, in Charleston County, South Carolina, the Defendant, Jamel Raekwon Brown, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Roy Tyler Aytes with the intent to permanently deprive the victim of possession thereof, in violation of §16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

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



CHAD SIMPSON
ASSISTANT SOLICITOR

148

BCS/0375769
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2020-16730

ARREST WARRANT NUMBER

K404393

DATE OF ARREST

01/15/2021

ACTION OF GRAND JURY

TRUE BILL

Marianna King JUN 7 2021
Foreperson of Grand Jury Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2021-GS-10-01726

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS

JUNE TERM 2021

THE STATE

VS.

JAMEL RAEKWON BROWN A.K.A.
B/M DOB: [REDACTED]

Indictment for

POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT
CRIME

SC Code: § 16-23-0490
CDR Code: 0549

FILED

6/14/2021 11:23:35 AM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA

INDICTMENT

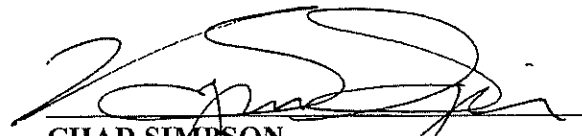
COUNTY OF CHARLESTON

At a Court of General Sessions, convened June 2021, the Grand Jurors of Charleston County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That in Charleston County, South Carolina, on or about December 30, 2020, the Defendant, Jamel Raekwon Brown, did possess a firearm or did visibly display what appeared to be a firearm or did visibly display a knife during the commission of or attempted commission of a violent crime, to wit: Armed Robbery; in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

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



CHAD SIMPSON
ASSISTANT SOLICITOR