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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Sumter County

Honorable Grace Gilchrist Knie, Circuit Court Judge

CHARLES SPENCER ANDERSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001011

APPENDIX

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**[THE FOLLOWING PCR EXHIBIT IS ON FILE WITH THIS COURT:
APPLICANT’S EXHIBIT 1 (PHOTO)]**

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
COUNTY OF SUMTER)

STATE OF SOUTH CAROLINA)

STATE,)

v.)

TRANSCRIPT OF RECORD
19-GS-43-810

CHARLES ANDERSON,)

DEFENDANT.)

September 28, 2020
Sumter, South Carolina

B E F O R E :

THE HONORABLE R. FERRELL COTHRAN, JR., JUDGE

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

BRONWYN K. MCELVEEN, ESQ.
Assistant Solicitor

CHARLES ANDERSON
Pro se Defendant

FRANCES B. RAY, RPR
Circuit Court Reporter

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(There were no exhibits submitted.)

1 THE COURT: My understanding, your
2 case is going to be first up. I have an
3 indictment here, 2019-GS-43-810, and in this
4 indictment -- are you planning on trying all four
5 counts, Madam Solicitor?

6 MS. MCELVEEN: Yes, Your Honor.

7 THE COURT: You've been indicted for:
8 Armed robbery, that allegedly occurred on May the
9 3rd, 2019, kidnapping, attempted murder, and
10 possession of a weapon during a violent crime. Do
11 you understand that?

12 THE DEFENDANT: Yes, I do, sir.

13 THE COURT: Okay. Do you have any
14 motions or anything you want me to consider before
15 we start the trial?

16 THE DEFENDANT: I do, but I have a
17 situation, Your Honor. I haven't received -- the
18 paper -- I haven't get a chance to look over my
19 discovery to prepare a proper defense for myself.
20 I was told I was going to be the second person on
21 the docket, but I'm here today. So I'm asking for
22 a continuance, 30 days, to get my indictment, I
23 mean, get my discovery 'cause I didn't go over my
24 discovery. The only thing right now I probably
25 really had that I look over but really being

1 denied 'cause of limitation of how Sumter-Lee
2 Detention Center is ran, is the body cam. I
3 haven't listened to the 9-1-1 call. I received
4 some, at least seven pages. I know my discovery
5 got to be more than that to really prepare a
6 proper defense. I don't even know what evidence
7 the State got on me, you know. I ain't have a
8 chance to really look it over to prepare a proper
9 defense for myself; and I'm at the mercy of the
10 courts to ask for a continuance, 30 days if
11 possible, to prepare, at least get my discovery.
12 I recently tried to file a Rule 5 where I can get
13 my discovery. I never had my discovery once.
14 Never went over my discovery with Justin Kata.

15 THE COURT: So you never went over
16 your discovery with your lawyer?

17 THE DEFENDANT: Never went over my
18 discovery.

19 THE COURT: This is your third lawyer?

20 THE DEFENDANT: This is my third
21 lawyer.

22 THE COURT: Did you go over discovery
23 with any of them?

24 THE DEFENDANT: Nah. No, sir. Only
25 thing they say was that the State will be taking

1 2019 case to trial and gave me -- if I can grab
2 what I have?

3 THE COURT: Sure.

4 THE DEFENDANT: Your Honor, this is
5 what I -- this is what I have to go up to try to
6 prepare. I know it gots to be more than this for
7 my motion. These papers right here, I got them
8 from Justin Kata. These papers don't got nothing
9 in it. It was in my folder. Well, it was in the
10 paper that he gave me for my discovery. I don't
11 know -- I don't understand what this is. It's not
12 mines 'cause it's dealing with October 16 in 2019
13 on a drug, drug lab, South Carolina Law
14 Enforcement Division, for forensic service of
15 laboratory report. So this is all I have.

16 THE COURT: So the stuff that you have
17 in your hand, where did you get that stuff from?

18 THE DEFENDANT: This, I got it from
19 Mr. Justin Kata, sir.

20 THE COURT: Okay. And when did you
21 get that from him?

22 THE DEFENDANT: I say between
23 September 18 and September 20, between the 18th
24 and the 20th. No, wrong.

25 THE COURT: And so -- and so tell me

1 what is the first -- tell me exactly document by
2 document what he got, provided you.

3 THE DEFENDANT: I have the Verizon
4 wireless work flow manager paper. I have the CAD
5 operation report, one page. I have the incident
6 investigation report, one page. I have the Sumter
7 County Sheriff Office investigation division,
8 which is three pages. Then it goes into somebody
9 else's paperwork.

10 THE COURT: Okay. And is somebody
11 else's name on the other paperwork?

12 THE DEFENDANT: No, it's a drug
13 analysis.

14 THE COURT: And whose name is on it?

15 THE DEFENDANT: Individual from SLED
16 Law enforcement, Millie Oswald, South Carolina Law
17 Enforcement Division for drug analysis by SLED
18 lab.

19 THE COURT: What lab number is on it?

20 THE DEFENDANT: L1920393, sir.

21 THE COURT: Does that have anything to
22 do with this case?

23 MS. MCELVEEN: No, sir, but I do see
24 there's a whole envelope of other materials over
25 there.

1 THE DEFENDANT: Yeah, that's not
2 about -- most I wrote -- I can show it if it can
3 be any problem?

4 MS. MCELVEEN: But I can ---

5 THE COURT: So let me hear --
6 Ms. McElveen, tell me what discovery that you have
7 that's subject to being discovered under Rule 5 or
8 Brady.

9 MS. MCELVEEN: Yes, sir, Your Honor.
10 And frankly, Your Honor, we provided this entire
11 packet to Mr. Murphy. Then it transferred to
12 Mr. Bridges and to Mr. Kata. All three of those
13 lawyers from what they disclosed at motions to go
14 off attorney, off of the attorney, disclosed that
15 they have gone over this Rule 5 with their
16 defendant. They've discussed plea offers and made
17 bond hearings using this material. He's had
18 multiple bond hearings and where he heard this
19 information as well. But also, Mr. Kata came over
20 and picked up supplemental -- I mean, he picked up
21 a copy of a disk so he could provide it to him,
22 but he did provide his whole file of information.
23 He just transferred it to Mr. Anderson. I have no
24 reason to believe Mr. Anderson has not had access
25 to his Rule 5. I even copied body worn camera and

1 personally delivered it over to the jail, and I
2 know that they've given him access to view those
3 videos. Ms. Herod is on the way to testify as to
4 the amount of access he's had to those videos.

5 But, Your Honor, when you did relieve
6 Mr. Kata, one of the conditions was that this
7 hearing, this case, would not be continued and
8 that. You know, his motion to be relieved at
9 first was denied by Judge Curtis August 18th.
10 Your Honor granted the motion September 16th and
11 Your Honor made very clear that you said then, are
12 there any concerns, do you have any reason to
13 think you need a continuance, no, no, no, no. Do
14 you have any reason to think you couldn't try it,
15 no, no, no, no, you realize what you're doing.
16 And Ms. Herod is here now, Your Honor, to testify
17 about how much access he's had. But Your Honor,
18 the defendant has had access to his Rule 5. He's
19 been provided it through multiple lawyers. He's
20 gone over it with multiple lawyers. He got it in
21 person. And we are here today, the State is ready
22 and Ms. Herod can testify as to what the jail has
23 allowed him access as far as the disks go.

24 THE COURT: Okay. So you have a list
25 of the Rule 5 stuff that you provided the lawyers

1 for him?

2 MS. MCELVEEN: Yes, sir, I have a ---

3 THE COURT: Read me that list, what
4 documents are on that list.

5 THE DEFENDANT: No, Your Honor.

6 (Document tendered to the Court.)

7 MS. MCELVEEN: Your Honor, this is the
8 hand delivered on the top, but then the originally
9 served materials are on the bottom two pages.

10 THE COURT: Okay. On this list is a
11 statement from Ferris Jones and consisting of one
12 page. Do you have that?

13 THE DEFENDANT: Yes, I have that from
14 -- yeah, I have that.

15 THE COURT: And Lewis Riviera dated
16 May the 3rd, 2019, two pages. You have that?

17 THE DEFENDANT: Yes, I do, sir.

18 THE COURT: Okay. And then your prior
19 criminal record, you got that.

20 THE DEFENDANT: No, I don't, sir.

21 THE COURT: Okay. That's your --
22 that's their criminal record or his criminal
23 record?

24 MS. MCELVEEN: That's his criminal
25 record, Your Honor.

1 THE COURT: Okay. Well, I assume you
2 know what trouble you've been in. I can provide
3 you that. That won't -- that's not admissible
4 anyway unless ---

5 THE DEFENDANT: Yeah -- sorry to cut
6 you off, sir. Your Honor, if I have my discovery,
7 Your Honor, I won't to be asking for a
8 continuation. It was never discussion -- I ain't
9 never had numerous bond hearings.

10 THE COURT: All right. Hang on a
11 minute. Now let me go through this.

12 THE DEFENDANT: Okay.

13 THE COURT: What -- No. 3, documents
14 and tangible objects available inspection. What
15 is that?

16 MS. MCELVEEN: Those are the disks
17 that, Your Honor, he has possession of. He has
18 three body worn camera disks, but he also has a
19 disk with pictures and the 9-1-1 call.

20 THE COURT: Okay.

21 MS. MCELVEEN: And we can print those
22 pictures out.

23 THE COURT: Is there any other
24 physical evidence? Is there any gun or anything
25 else?

1 MS. MCELVEEN: There are some cut zip
2 ties. Zip ties.

3 THE COURT: I'm sorry? Zip ties?

4 MS. MCELVEEN: Those zip ties -- yes,
5 sir -- that are in the pictures. You can see them
6 in the pictures, but it's zip ties.

7 THE COURT: Is there a gun?

8 MS. MCELVEEN: No, sir.

9 THE COURT: Okay. Is any other
10 tangible, any other objects or?

11 MS. MCELVEEN: Just the zip ties, Your
12 Honor, and those disks.

13 THE COURT: Okay. And what about
14 documents?

15 MS. MCELVEEN: No, sir, no other
16 documents.

17 THE COURT: Okay. And the county
18 incident investigative report, you got the
19 investigative report from the county?

20 THE DEFENDANT: From the county?

21 THE COURT: It says county incident.
22 That's from the Sheriff's Office.

23 THE DEFENDANT: Yes. I recently,
24 which I'll say three to four days ago, I had
25 recently from a order from you for the body cams,

1 ---

2 THE COURT: Right.

3 THE DEFENDANT: I was denied the
4 9-1-1. They wouldn't let me get that. So I never
5 got a chance to listen to the 9-1-1, review the
6 9-1-1. I'm stipulation -- I'm limited to actually
7 access the body cam due to the fact the
8 stipulation how the county got me on, Your Honor,
9 is if I'm viewing it -- every two hours I'm only
10 allowed to view it. If I have to use the restroom
11 or anything, leave out that room, my time is
12 terminated. So I had spoke to the Captain Lumpkin
13 to try to explain to him sometime nature call. I
14 can't control nature, you know. If I have to use
15 the bathroom and shit and being that I'm being
16 hindered to actually view my case and I have to
17 wait till tomorrow.

18 THE COURT: So while you were looking
19 at the tape, did you -- at that point did you get
20 up to go to the bathroom, they wouldn't let you
21 come back in?

22 THE DEFENDANT: Yes, I have them take
23 me to back. I couldn't hold it. They tell me my
24 time stopped.

25 THE COURT: So how long did you get to

1 watch the tape?

2 THE DEFENDANT: I'll say a good 45
3 minutes to view disk one. It's three disks. It's
4 disk one, disk two, and disk three.

5 THE COURT: And so you watched all
6 three of them?

7 THE DEFENDANT: No, I haven't, sir.

8 THE COURT: So which ones have you not
9 watched?

10 THE DEFENDANT: Right now I'm just
11 getting through with one. I had actually copied
12 down the three members Jones statement, personally
13 of through the six different videos that's on disk
14 one.

15 MS. MCELVEEN: And, Your Honor, there
16 should be only from what I know having watched it
17 myself, there are one, two, three -- there are 11
18 disks, I mean, there are 11 videos, but they are
19 only about 7 to maybe 14 minutes each, so it's not
20 like they're hours and hours of body worn camera
21 to watch. The first one has nothing on it. The
22 one in 831 and 318 are -- I mean, they're very
23 short clips. It sounds excessive, but each one
24 is -- I mean, the first one is, I think, maybe
25 two, three minutes of nothing; but then there are

1 maybe 14, 15 minutes to view. It's not -- they're
2 not lengthy videos, Your Honor.

3 THE DEFENDANT: Excuse me, Your Honor.
4 But as I'm going to write down and get accurate
5 the correct statement that they saying to Officer
6 Ward on her body cam, I might have to pause it and
7 write down to make sure everything is accurate and
8 I'm not missing out nothing, so I probably -- it's
9 a lot of ten minutes, so it's six on disk one.
10 I'm on to the interview where she's about to
11 interview the man, and I didn't really get through
12 that one because I was supposed to have been on
13 the second document so I thought I was going to
14 have more time to prepare for my case. And I had
15 recently submitted with the clerk of court a Rule
16 5 motion to have my full discovery while I know
17 what is -- what evidence have or what defense I
18 can prepare for myself for...

19 THE COURT: My understanding you made
20 a Rule 5 discovery. I understand ---

21 Solicitor, is there any anything that
22 he's not been given that he's entitled to?

23 MS. MCELVEEN: No, Your Honor. I
24 mean, everything I have that's on that sheet of
25 paper, those two sheets of paper, what we have.

1 We've provided him with the disks. It sounds like
2 he's halfway through the Louis Rivera statement to
3 Shante (ph) Ward is the fifth, is the fifth video.
4 And really, there's -- the videos after that are
5 relatively short except for Investigator Rulong,
6 or Sergeant, Lieutenant Rulong pulling him out of
7 the shed at which point he's taken into custody;
8 but there was some reluctance for him to go into
9 custody and that is what -- that's not actually in
10 reference to the crime itself; that's just how he
11 was apprehended. So he was physically present at
12 the scene on that one, but besides that, they're
13 relatively short videos, Your Honor.

14 THE DEFENDANT: Your Honor ---

15 MS. MCELVEEN: No more than 14
16 minutes, sir.

17 THE COURT: So how many videos are
18 there?

19 MS. MCELVEEN: There are 11 short
20 clips from one officer and two officers.

21 THE COURT: Is the State planning on
22 using all those in trial?

23 MS. MCELVEEN: No, sir. We plan on
24 using only one, two, three, four.

25 THE COURT: So what four are you

1 planning on using?

2 MS. MCELVEEN: The ones ending in 831,
3 one ending in 318, one ending in 933, one ending
4 in 841, and that's -- those are the only ones,
5 Your Honor.

6 THE COURT: Okay.

7 THE DEFENDANT: I don't ---

8 MS. MCELVEEN: And he's actually just
9 said that he has viewed all except for 841, so if
10 he's on the Louis Riviera statement video, he's
11 already reviewed three of the four videos we plan
12 on putting into evidence.

13 THE DEFENDANT: But, Your Honor, I
14 never got down Louis statement yet to know what he
15 actually say when I ---

16 MS. MCELVEEN: He just said he had the
17 statement, Your Honor.

18 THE COURT: Huh?

19 MS. MCELVEEN: He just said that he
20 had his written statement.

21 THE DEFENDANT: No, I said the female,
22 I had the female written statement. I wrote down
23 the female written statement on Mr. Lewis
24 statement.

25 THE COURT: How long is Mr. Riviera's

1 statement?

2 MS. MCELVEEN: The video?

3 THE COURT: Yes.

4 MS. MCELVEEN: I believe it's probably
5 14 minutes I think is the max.

6 THE COURT: Okay.

7 THE DEFENDANT: Your Honor, I wouldn't
8 even ask this. If I have all my evidence, I will
9 be ready for trial.

10 THE COURT: So when you say "all your
11 evidence," you reviewed the State's evidence and
12 they have provided you -- so you're telling -- how
13 many days have you been going to the room and
14 looking at the evidence?

15 THE DEFENDANT: So far it'd be three
16 days. Yesterday will be my third day.

17 THE COURT: So in three days -- and
18 how long have you sat there in three days?

19 THE DEFENDANT: All together without
20 me using, have to use the bathroom, two days. I
21 say all together it be within the three days four
22 hours probably, close to four hours.

23 THE COURT: Okay. So you can review
24 these tapes in four hours?

25 THE DEFENDANT: I didn't get all of

1 them. I was writing down the statement make sure
2 I had Ferris Jones, Ms. Ferris Jones, statement
3 down properly, correct, accurate, and without me
4 leaving or putting any of my words in it.

5 THE COURT: So you plan ---

6 THE DEFENDANT: Sorry, sir.

7 THE COURT: But in four hours, the
8 longest tape is 14 minutes. You had enough time
9 to look at it.

10 THE DEFENDANT: I mean, sir, I viewed
11 them, but it was -- all right. I was trying to
12 actually get down what she said.

13 THE COURT: She's gonna testify in
14 court.

15 THE DEFENDANT: Yeah, I know she's
16 gonna testify and ---

17 THE COURT: And you're going to be
18 able to sit based on the tapes and cross-examine
19 her.

20 THE DEFENDANT: I mean, but without me
21 actually going through understanding what she
22 said, I wouldn't have nothing really actually to
23 cross-examine on her progress.

24 THE COURT: You have four hours. How
25 long is her statement?

1 THE DEFENDANT: Her statement...

2 MS. MCELVEEN: There's a one page
3 written statement that she writes and reads ---

4 THE DEFENDANT: But on the ---

5 MS. MCELVEEN: --- in front of the
6 videos and that's ---

7 THE DEFENDANT: On the video it's
8 page -- it's almost two pages.

9 THE COURT: Yeah, but that'd take too
10 long to cover two pages. What else?

11 MS. MCELVEEN: It's only one page
12 statement, Your Honor.

13 THE DEFENDANT: Let me see. She made
14 two statements to police. One she get one before
15 she actually write the statement with Miss Shante
16 Ward ask her to go into depth so she already
17 quoted something -- after she gave her a little
18 brief of what took place, she actually went about
19 writing a statement. After she got done writing
20 her statement, Ms. Ward asked her to read it, to
21 read it back to her. She gave her statement back
22 to her, and she read her statement back to her. I
23 just wanted to -- I wrote that down. I got that
24 down.

25 THE COURT: Okay.

1 THE DEFENDANT: I never made it to
2 really actually to go over Mr. Louis statement.
3 That's the reason I ask for a continuance, Your
4 Honor.

5 THE COURT: Okay.

6 THE DEFENDANT: Because ---

7 THE COURT: And -- all right. As far
8 as you got -- what is this Verizon emergency
9 situation disclosure, three pages?

10 MS. MCELVEEN: Your Honor, he's got
11 that in his packet.

12 THE COURT: What is that?

13 MS. MCELVEEN: It's part of how they
14 located him, and they were trying to find him.
15 It's an apprehension.

16 THE COURT: All right. What about the
17 CAD report?

18 MS. MCELVEEN: He's got that. It's in
19 his packet in his hand, Your Honor.

20 THE DEFENDANT: Your Honor, I don't
21 have it. Your Honor, when I got my 2018 discovery
22 from Mr. Timothy Murphy, Timothy Murphy had me
23 sign.

24 THE COURT: 2018? This case didn't
25 happen till 2019.

1 THE DEFENDANT: Yeah, I'm sorry about
2 that.

3 MS. MCELVEEN: That's the other armed
4 robbery, Your Honor.

5 THE COURT: I don't care about 2018.

6 THE DEFENDANT: Your Honor, I don't, I
7 wouldn't be sitting here wasting your time, Your
8 Honor, and I'm sorry about the inconvenience.
9 Your Honor, I would not sit here and waste your
10 time and ask for a continuance if I had my
11 disclosure, Your Honor. And the folder, I don't
12 know what to challenge. I never seen my
13 indictment so all this motions up on what the
14 State is literally charged me for so I don't know
15 what evidence they got on me. I don't know ---

16 THE COURT: They got statement from
17 Miss Jones and ---

18 THE DEFENDANT: Yeah, I know they got
19 the statement from Miss Jones, the statement from
20 ---

21 THE COURT: Riviera.

22 THE DEFENDANT: --- Mr. Lewis. Beside
23 it they charge me with possession of firearm. I
24 don't know if they got a firearm or not until ---

25 THE COURT: They tell me they don't.

1 THE DEFENDANT: --- she just told me,
2 all right, I didn't know.

3 THE COURT: She doesn't have physical
4 firearm. I assume she's not going to put one in.
5 I know she's got a knife she's not going to put it
6 in evidence. I guess she's gonna through
7 witnesses, you know, determine whether you had a
8 firearm or not, I don't know.

9 THE DEFENDANT: Okay. I don't know if
10 they got -- I never got a chance to listen to the
11 9-1-1. Justin Kata brought it ---

12 THE COURT: So tell me about -- the
13 9-1-1 is not on here, is it?

14 MS. MCELVEEN: No, sir. The 9-1-1 --
15 well, that's part of -- that's the disk. That's
16 one of the four disks. I was mentioning the
17 tangible objects. And Mr. Kata did bring that to
18 him. He specifically got a copy from us, a second
19 copy, and we provided that disk to Mr. Kata who
20 took it out there to him. And that 9-1-1 call is
21 Miss Jones and it's maybe 17 minutes, and it's
22 easy to listen to, Your Honor. Quite frankly, it
23 doesn't have a lot of excitement.

24 THE DEFENDANT: But, I'm tired of ---

25 THE COURT: Why hadn't you listened to

1 that?

2 THE DEFENDANT: Because when they
3 brought it Captain Lumpkin and Lieutenant Sweat
4 told Kata they have to review it first before they
5 give it to me. Now, they -- when he brought me
6 these paper and he brought me the disk. They
7 allowed him to give my these papers, but they told
8 me I couldn't have the disk till author---

9 THE COURT: All right. He had the
10 disk, but you can listen to it.

11 THE DEFENDANT: I never got a chance
12 to listen to it. They actually gave it back to
13 Justin Kata and Kata left with it.

14 THE COURT: You know that?

15 MS. MCELVEEN: I don't know anything
16 about this, Your Honor. I know that Your Honor
17 signed the order ---

18 THE COURT: Is that the only thing you
19 haven't listened to is the disk?

20 THE DEFENDANT: Is the disk and
21 actually viewing my discovery, Your Honor. I
22 haven't -- she saying that I got my discovery,
23 Your Honor. I would not be sitting here asking
24 you for a continuance or we ---

25 THE COURT: I understand that, but

1 only -- you got discovery. You said you haven't
2 listened to all of it. So other than the 9-1-1
3 tape ---

4 THE DEFENDANT: And the papers,
5 whatever they have, whatever.

6 THE COURT: They've given you all the
7 papers they got.

8 THE DEFENDANT: They didn't, Your
9 Honor. Your Honor, I don't got them, sir. I
10 swear to God.

11 THE COURT: What do you mean you don't
12 have them? They don't have any paperwork right
13 here.

14 THE DEFENDANT: I don't -- the ones
15 she's, well, she got with all ---

16 MS. MCELVEEN: Your Honor ---

17 THE DEFENDANT: I know it got to be
18 more than this, Your Honor. To the operation call
19 log, I got one sheet with the call log. For the
20 record, I got ---

21 MS. MCELVEEN: Your Honor, there are
22 more CAD operations sheets right behind it.

23 THE DEFENDANT: Right behind it, yeah,
24 I'm about to -- I'm about to show all of them, the
25 lineup. I got one incident report.

1 THE COURT: That's not admissible
2 anyway.

3 THE DEFENDANT: I got -- it supposed
4 to be two pages -- well, all together with the
5 facts to Verizon, I got two and one. Then I got
6 ---

7 THE COURT: That was just -- that had
8 nothing to do with your crime. That was just in
9 finding you. That's not coming into trial.

10 MS. MCELVEEN: No, sir, it's not.

11 THE DEFENDANT: But -- okay. Because
12 it was ---

13 THE COURT: That's just how they found
14 you and arrest you.

15 THE DEFENDANT: Okay.

16 THE COURT: And that has nothing to do
17 with the trial or your guilt or innocence. That
18 won't come in.

19 THE DEFENDANT: That won't come in?

20 THE COURT: Huh-uh.

21 MS. MCELVEEN: No, sir.

22 THE DEFENDANT: Okay. Well, but the
23 investigation report of what's being said, that's
24 not either?

25 THE COURT: That's not coming in. You

1 got a copy of it, and you can cross-examine
2 whatever officers testify; but the report is not
3 coming into evidence. The officer has got to get
4 on the stand and say what he did.

5 THE DEFENDANT: Excuse me, say that
6 again, sir.

7 THE COURT: That report will not come
8 into evidence. The officer who gave it, whatever
9 facts and knowledge he has, he'll be on the
10 witness stand. They'll ask him questions and you
11 can cross-examine him, but the report itself won't
12 come in.

13 THE DEFENDANT: Okay, so ---

14 THE COURT: But you got a right -- you
15 can use the report to cross-examine him. You can
16 read the report. And he testifies to something
17 that's different than in that report, you can
18 point out to him that it's different; but the
19 report won't come in unless you put it in.

20 THE DEFENDANT: Unless I put it in?
21 Okay. But ---

22 THE COURT: And assuming they don't
23 object because that's all hearsay.

24 THE DEFENDANT: Okay.

25 THE COURT: The officer is going to

1 testify what he did or didn't do and so ---

2 THE DEFENDANT: So ---

3 THE COURT: And as far as the 9-1-1
4 tape is concerned, what I was planning on doing is
5 get this jury selected this afternoon and not
6 start till in the morning, and you can have
7 whatever time you need this evening and tonight to
8 review the 9-1-1 tape.

9 THE DEFENDANT: I don't have it, sir.

10 THE COURT: I'll be sure you have it.

11 MS. MCELVEEN: Yes, Your Honor. And
12 he -- the jail has it; it is there.

13 THE COURT: I'll be sure it's
14 available for you to review.

15 THE DEFENDANT: Your Honor, I'm not, I
16 just got -- I'm not prepared for trial yet, sir.

17 THE COURT: I understand that, but
18 you've had three lawyers and I told you that
19 you -- and it was a danger for you to represent
20 yourself.

21 THE DEFENDANT: Yeah, I know that,
22 sir.

23 THE COURT: But ---

24 THE DEFENDANT: Timothy Murphy, I
25 ain't -- I mean, Timothy Murphy retired. Jason

1 Bridges, it was a misunderstanding with Jason
2 Bridges. I just want a week out, two weeks
3 extension.

4 THE COURT: I can't continue this
5 case. This is the only trial ---

6 THE DEFENDANT: I don't want -- I
7 ain't prepared. I'm not ready for trial, Your
8 Honor, and I wasn't never offered a plea. If we
9 -- if I was offered a plea I wouldn't be here.

10 THE COURT: And I can't make them
11 offer you a plea. That's their call.

12 THE DEFENDANT: But she stated on the
13 record that she offered me numerous pleas, Your
14 Honor. I never been offered a plea.

15 MS. MCELVEEN: Mr. Anderson, I brought
16 you a letter to the jail with your plea offer and
17 resent it again when you asked for it.

18 THE DEFENDANT: No, you did not, Ms.
19 McElveen, and that's the God honest truth. God my
20 witness, no, you didn't. I wouldn't be here; I
21 would take the plea. I wouldn't be sitting here
22 being forced to go to trial.

23 MS. MCELVEEN: Your Honor, we would be
24 happy for a guilty plea. The offer was 25 years.
25 If he would like to plead guilty, the State is

1 still willing to accept a 25 year guilty plea for
2 a violent and most serious offense.

3 THE COURT: You know, you got an
4 option. They can recommend a plea. You can plead
5 guilty straight up, leave it to me as what time
6 you get, or you can go to trial and let a jury
7 decide whether you're guilty or innocent. If they
8 decide you're innocent, then as far as these
9 charges, they're over with. If they find you
10 guilty, it will be up to me based on the facts
11 what your sentence is. And you know what the
12 punishment of each one of these crimes carry. You
13 understand that.

14 THE DEFENDANT: All right. So the
15 body cam, is that, is it legitimate? How that
16 work? I don't understand that. Can you explain
17 that to me.

18 THE COURT: Do you have body cams and
19 how long are they? I thought y'all had provided
20 that to him.

21 MS. MCELVEEN: We did, and that's what
22 he reviewed for four hours, Your Honor, and there
23 is still -- there's only one more video that he
24 has not reviewed that we would plan on entering
25 into evidence, and that's the one where Officer

1 Rulong gets him to come out of the shed.

2 THE COURT: Okay. So what -- tell me
3 about these body cameras. Are they on one of the
4 disks?

5 MS. MCELVEEN: Yes, sir. They're on
6 three different disks. I guess the storage space
7 was too much. But he did state that he watched
8 the first ones up to Mr. Rivera. He was in the
9 middle of Mr. Rivera's statement which is the
10 third out of the four that we plan on using. The
11 fourth one would be Mr. Rul-- Investigator Rulong
12 or Officer Rulong pulling him or getting him to
13 come out of the shed.

14 THE COURT: Okay. So ---

15 MS. MCELVEEN: But he was physically
16 present for that interaction, Your Honor, for
17 the -- when he's brought out of the shed. That's
18 where he's arrested and put into custody, and he's
19 physically present at the scene so.

20 THE COURT: So how long will it take
21 to sit and watch the body cam? How long are they?

22 MS. MCELVEEN: Investigator Ru-- or
23 Officer Rulong is probably 30 minutes.

24 THE COURT: Okay.

25 MS. MCELVEEN: But Louis Rivera's

1 statement, the one that he is not physically
2 present for and he was reviewing, in the middle of
3 reviewing, it's pretty quick, Your Honor. I'd say
4 14 minutes.

5 THE COURT: Okay. What else?

6 MS. MCELVEEN: Fast, Your Honor. But
7 he was ---

8 THE COURT: So how many body cams are
9 there?

10 MS. MCELVEEN: There are 11, but the
11 State only plans on using four of them.

12 THE COURT: I understand that, but
13 he's got a right to look at all of them.

14 MS. MCELVEEN: Right. There are --
15 the ones with Mr. Rivera is the last one from the
16 scene. The one after Mr. Rivera is looking for
17 the defendant at a home with occupants that he is
18 not, where he is not, but then he is found in the
19 shed behind there. The next video body cam is
20 Rulong getting him out of the shed and convincing
21 him to come out unarmed. And then the one after
22 that is a consent to search the shed from the
23 owner which is a very brief yes. After that, the
24 homeowner does not know who the defendant when he
25 was arrested, very brief. The next one is the

1 defendant sitting in the car for ten seconds. The
2 next one is the officers approaching the shed
3 after the arrest and searching the shed, and
4 there's nothing there.

5 THE COURT: No evidence found, any, in
6 the shed?

7 MS. MCELVEEN: No, sir. I think it
8 was a shed that was used by many people in and out
9 is the impression we got. Nothing was found
10 specifically for Mr. Anderson. Nothing was taken
11 from the shed. Nothing was put into evidence from
12 the shed. The shed is just where he happened to
13 be located that evening and he was physically
14 present at that scene.

15 THE COURT: Okay.

16 THE DEFENDANT: Sir, everything that
17 they using as evidence, is any way I can have a
18 motion to compel and we gonna do hearings I see
19 I'm forced and I'm not really prepared for trial
20 yet, but...

21 THE COURT: Now they -- she told you
22 what you can use for evidence. I'll let you time
23 if you want to review any other this evening and
24 tonight. And we'll start, you know -- depends on
25 how the jury selection goes, we'll start in the

1 morning.

2 THE DEFENDANT: But, Your Honor, I'm
3 hindered with the pol-- all right, so this the
4 question. All right. By me trying to get certain
5 things, certain things subpoenaed on for behalf of
6 myself.

7 THE COURT: Like what?

8 THE DEFENDANT: My medical records.
9 There's a statement that supposed to be in here.
10 I guess they using it -- Justin Kata told me that
11 they using the detective statement about me
12 supposedly confession, I confessed to the crime,
13 which I wasn't read my Miranda rights.

14 THE COURT: You got any kind of
15 confession you plan on introducing?

16 MS. MCELVEEN: Your Honor, he
17 confessed to the crime while he was leaving the
18 bond hearing to Investigator Monahan after his
19 bond was denied; but we don't have a written
20 statement.

21 THE DEFENDANT: No.

22 MS. MCELVEEN: It's something that he
23 said to the investigator when he was leaving the
24 bond hearing after bond was denied. The
25 investigator is going to take the stand and

1 testify, and he has opportunity to cross-examine
2 him. I only know about it through the officer
3 testifying, telling me about it, and that's how I
4 plan on getting it out and that's how he have
5 opportunity to cross-examine.

6 THE DEFENDANT: Your Honor, I never
7 confessed to no crime. My Miranda rights wasn't
8 even read.

9 THE COURT: And before that statement
10 comes in, any alleged confession you made, I'll
11 have a Jackson v. Denno hearing outside the
12 presence of the jury and I will determine whether
13 that statement was voluntarily given or not based
14 on the facts they present to me, I mean, you
15 present me. You'll have a right to cross-examine
16 those officers and tell me anything you want and
17 I'll -- outside the presence of the jury before
18 the jury hears any of that, I will -- you have
19 certain rights under the law, and I will be sure
20 that based on I hear the evidence whether I'll let
21 them testify to that or not, okay. You -- and in
22 certain circumstances you aren't entitled to your
23 rights. They can't interrogate you. If you're --
24 first of all, you have to be in custody. If
25 you're in custody, then they can't interrogate you

1 without reading you your rights and you
2 understanding your rights and you consent to
3 giving the statement. But if they're not
4 interrogating you, I, they're -- which means that
5 they're not asking you questions about the crime,
6 that's not interrogation. If you just voluntarily
7 start talking and confess and they haven't asked
8 you questions, then they don't have to read you
9 your rights. You understand that?

10 THE DEFENDANT: Yeah.

11 THE COURT: It's only when they
12 interrogate you that you have to have an
13 understanding of your rights. They're not asking
14 you questions, then any statement you make, then
15 it may or may not come in; but those are the
16 standards that I'll review after I hear all the
17 evidence. But the jury won't hear any statements
18 you made because you'll have -- whatever point
19 they intend to offer it, I'll either do it before
20 we start the trial or during the trial, stop, send
21 the jury out, have a Jackson v. Denno hearing
22 before it comes in. Okay.

23 MS. MCELVEEN: Your Honor, at the next
24 break we were also hoping that Your Honor could go
25 over the Farettas warnings for a pro se defendant

1 and go over that, those.

2 THE COURT: I went over that with him.

3 I mean, I let him represent himself and he has a
4 constitutional right, you know. You have a right
5 to represent yourself, and I can't deny you that
6 right; but you know, it's crazy for the most part
7 to do that. I mean, you hadn't been trained in
8 the law. You -- once we start the trial you're
9 held by the same rules of evidence that, you know,
10 the other side is. And you know, you -- there's
11 certain defenses that a lawyer may be able to help
12 you with that you may not know about and the
13 elements of the crime and the elements of armed
14 robbery the State has to prove, the elements of
15 kidnapping, attempted murder, ---

16 THE DEFENDANT: Yeah.

17 THE COURT: --- is whether possession
18 of a weapon. And so you would have been far
19 better off having a lawyer to help you with that,
20 but you insisted that you wanted to do it
21 yourself. You have a right to represent yourself.

22 MS. MCELVEEN: And Your Honor, if
23 I'm -- I'm sorry.

24 THE DEFENDANT: So is it safe to say
25 if this being a hypothetical. There was attorney

1 that is willing to assist me on this matter, will
2 it be granted, or like a continuance for three
3 days he want to just go over and he's willing to
4 take my, take my case to assist me, then me not
5 going to trial without no attorney would the
6 courts honor that? 'Cause I think you're right,
7 it's a lot of things, it's a lot things I don't
8 understand and I don't -- I'm just confused about
9 a lot of things. It just...

10 THE COURT: Well, the problem is we --
11 you've been through three attorneys. I tried to
12 explain this to you back when I let Mr. Kata off
13 and now you tell me you want an attorney?

14 THE DEFENDANT: A paid attorney.

15 THE COURT: You don't have to -- I
16 can't give you a paid attorney.

17 THE DEFENDANT: No, I'm not asking the
18 Court to give me. I'm willing to obtain a paid
19 attorney. He just want ---

20 THE COURT: How are you gonna get an
21 attorney to take the case for you in the morning?

22 THE DEFENDANT: I ain't gonna get
23 that. That's why a two day continuance.

24 THE COURT: How long you been in jail?

25 THE DEFENDANT: I been in jail almost

1 17 months, sir.

2 THE COURT: And in the 17 months you
3 hadn't hired an attorney.

4 THE DEFENDANT: My family ain't had
5 the money.

6 THE COURT: So what's going to make
7 the difference now?

8 THE DEFENDANT: My niece was in a car
9 accident and she had -- I had spoken to them I
10 being forced to go to trial. They said they had
11 spoke to an attorney. He wanted to take the case.
12 That's how I know I was on court docket 'cause
13 said he spoke to the solicitor. He spoke to
14 Justin Kata make sure he wasn't on my case; and he
15 would take the case, but he didn't want to jump in
16 without actually having a chance to speak to me
17 over, go over the details of the case. But he
18 said if any way if I can get a continuance for two
19 or three days, he would have no problem taking my
20 case.

21 THE COURT: What's the attorney's
22 name?

23 THE DEFENDANT: Last name Mr. Deas.

24 MS. MCELVEEN: Mr. Deas. I spoke with
25 Mr. Deas on Friday and told him the circumstances

1 of the case being up for trial this week and prior
2 procedural history, and he said he was not going
3 to take that case.

4 THE DEFENDANT: Your Honor, he's --
5 sorry. He said he'd take the case. My family
6 gave him, is willing to give him 7500 down, and he
7 say he'll take the case for 7500.

8 THE COURT: Did they give him the
9 money?

10 MS. MCELVEEN: No, sir.

11 THE DEFENDANT: He told me to see if I
12 can get a continuance for two or three days. He
13 say he'd take the case. That's the reason why I
14 ask for a continuance, Your Honor.

15 THE COURT: Okay.

16 THE DEFENDANT: I'm sorry about the
17 inconvenience, I really am.

18 THE COURT: Well, I'll get him -- we
19 got another jury coming in at 11. Between 11:00
20 jury and 2:30 jury, I'll get him over here and
21 we'll talk about it.

22 THE DEFENDANT: Okay, sir.

23 MS. MCELVEEN: And Your Honor, at the
24 break, also, we do have the Department of Mental
25 Health findings that he is competent to stand

1 trial and he had the capacity to conform. We
2 would like to make these Court's exhibits at the
3 proper time, Your Honor.

4 THE COURT: Okay. We'll deal with
5 that after 11:00 jury coming.

6 MS. MCELVEEN: Thank you, Your Honor.

7 THE DEFENDANT: Is there any way you
8 can get a subpoena to my medical records too, sir,
9 'cause they say they won't release it to me
10 without -- they say they have to go through their
11 courtroom, Your Honor.

12 THE COURT: So what in your medical
13 records that you feel is going to be admissible?

14 THE DEFENDANT: Disputing what the
15 State is going to present saying my diagnosis on
16 their ---

17 MS. MCELVEEN: Your Honor, we don't
18 plan on presenting any information about his
19 mental health status.

20 THE DEFENDANT: Okay.

21 THE COURT: And the jury won't hear
22 anything about that.

23 THE DEFENDANT: Okay.

24 THE COURT: Okay. Unless you bring it
25 up. It's just a simple determination in front of

1 me whether you're competent to stand trial. Okay.

2 THE DEFENDANT: Okay, sir.

3 MS. MCELVEEN: Thank you, Your Honor.

4 THE COURT: All right. We'll deal
5 with this next jury panel and then we're going to
6 deal with Mr. Deas. So you can sit back over
7 there and watch and take whatever notes you need.

8 THE DEFENDANT: So the motion, if I
9 have any motions, give it to you later?

10 THE COURT: What motions do you have
11 that you haven't brought up to me?

12 THE DEFENDANT: I have a few. I have
13 suppression of all evidence.

14 THE COURT: All evidence?

15 THE DEFENDANT: All evidence by the
16 State, what they have against me. I have a bill
17 of particular to compel motion.

18 THE COURT: What you want them to
19 compel?

20 THE DEFENDANT: I want them to compel
21 all tangible evidence they got on me.

22 THE COURT: That's what they've
23 already done.

24 THE DEFENDANT: Yeah.

25 THE COURT: They've given you. They

1 told me there is no more except what they've given
2 you.

3 MS. MCELVEEN: And the zip ties, Your
4 Honor, that are in evidence.

5 THE COURT: Right.

6 MS. MCELVEEN: Just the zip ties.

7 THE DEFENDANT: And suppressions of
8 statement, Mr. Louis, Miss Jones' statement.

9 THE COURT: And so what grounds you
10 want to suppress them?

11 THE DEFENDANT: It's inconsistency
12 with the extending from the statement that they
13 actually made on affidavit.

14 THE COURT: Those statements they made
15 are not admissible, okay. They're gonna come to
16 court and testify.

17 THE DEFENDANT: Even if their
18 statement is different?

19 THE COURT: You can crosse-examine
20 them. You've got their statements; and if they
21 testify to something different, you can certainly
22 ask them about it. And if they -- if they admit
23 it, that it's different, then the statement is not
24 admissible. If they deny it's different, then it
25 may be admissible.

1 MS. MCELVEEN: Your Honor, we do plan
2 on admitting the written statements, but they're
3 gonna be here to put them in and testify
4 themselves on what they saw and witnesses saw.

5 THE COURT: They ain't coming in.

6 MS. MCELVEEN: The written statements?

7 THE COURT: The written statements are
8 not admissible unless they're inconsistent.

9 MS. MCELVEEN: Okay.

10 THE COURT: So it ain't coming in.

11 MS. MCELVEEN: Okay.

12 THE COURT: Their actual testimony is
13 in. If their written statement is inconsistent,
14 it comes in; but if it's consistent, then it don't
15 come in.

16 MS. MCELVEEN: Okay.

17 THE DEFENDANT: All right. Excuse me,
18 sir, can I ask you one more question?

19 THE COURT: Yes, sir.

20 THE DEFENDANT: Just for curiosity, a
21 body cam, is it accurate, the body cam is like
22 accurate? The body has, like if I -- I did
23 something on body cam, the date and time will be
24 legitimate, that date and time that it supposed to
25 be?

1 THE COURT: I don't know the answer to
2 that because it depends on when it was set up.
3 The actual sound, the picture, is. I mean, it's
4 what it is. Now if it's been tampered with,
5 sometimes I've had police officers who didn't
6 change the time. The time may change like in
7 November the time is gonna change. They didn't --
8 so it's an hour off. But he'd have to explain
9 that. I can't tell you what's written on the
10 camera, the dates and the times, whether that's
11 hundred percent accurate or not. We have to deal
12 with that on case by case. But usually, you know,
13 what's in the picture is accurate. Now whether he
14 cut it off and cut it on, if there's gaps, that's
15 a other issue; but usually the picture itself is
16 accurate. Sometimes the date and the times aren't
17 accurate because when they were set up it wasn't.
18 It depends on the body cam. It depends on the
19 equipment. I don't know the answer to that.

20 THE DEFENDANT: Okay. 'Cause I --
21 yeah, that's all. I just wanted to know because
22 one of the body cam, it does have April 3rd, 2019,
23 with them on arriving scene at 8:56 so I was just
24 curious about that.

25 THE COURT: And they can testify to

1 that. You know, they'll have to testify about
2 that; but I don't know the answer to that,
3 whether, you know, that's something you can ask
4 them about.

5 THE DEFENDANT: Okay, sir.

6 THE COURT: Okay. Anything else
7 before I bring this jury in?

8 MS. MCELVEEN: Nothing, Your Honor.
9 Would you like to deal with the competency issue
10 later? He's put it on here.

11 THE COURT: Yeah. Let's deal with
12 this jury, then we'll ---

13 MS. MCELVEEN: Okay.

14 (WHEREUPON, a recess was taken from the
15 proceedings.)

16 MS. MCELVEEN: Your Honor, we were
17 just thinking that in order to facilitate the
18 defendant, we could over the lunch break take him
19 up to the courtroom where there are all the video,
20 all the TVs; and I can play the 9-1-1 call for him
21 in there, body worn cameras, and allow him to have
22 that viewing opportunity in addition to what he
23 already has had. But I want to make sure that he
24 had the opportunity again, especially to hear the
25 9-1-1 call, so I just wanted to give the Court

1 that chance that he can see those items before
2 that last selection.

3 THE COURT: You understand that?

4 THE DEFENDANT: Yeah, I understand
5 that. It's not gonna -- it's still gonna hinder
6 me from 'cause I'm -- barring everything at one
7 time.

8 THE COURT: I understand, but you had
9 ---

10 THE DEFENDANT: I mean, ---

11 THE COURT: --- 17 months. I ---

12 THE DEFENDANT: Actually, ---

13 THE COURT: I can -- if you want to do
14 that, I'll see that they do that. The other
15 option is taking you back to the jail and let you
16 see it. If you want another opportunity to view
17 it in the courtroom.

18 THE DEFENDANT: I mean, ---

19 THE COURT: What about Mr. Deas?

20 THE DEFENDANT: Mr. Deas is going to
21 take my case, Your Honor.

22 THE COURT: Where is he?

23 THE DEFENDANT: Where is he?

24 THE COURT: Can y'all call him and get
25 him over here?

1 THE CLERK: OF COURT: I'll be glad to,
2 Your Honor.

3 MS. MCELVEEN: Your Honor, I saw him
4 on the family court hallway this morning with
5 another matter. He might still be in the
6 building.

7 THE COURT: What I would like to do is
8 get him here if he's available.

9 THE CLERK: Your Honor, Mr. Deas is
10 here. He say he's on the second floor. What
11 floor?

12 THE DEPUTY: Yes, Your Honor. I ran
13 into him just now. He's on the second floor with
14 a case.

15 THE COURT: Okay. When he finishes --
16 I mean, don't go in the courtroom again -- but
17 when he finishes, I'd like him to have an
18 opportunity to go talk to you somewhere in this
19 building. After he converses with you, then I
20 need to see you and Mr. Deas and the solicitor
21 back in here. Okay?

22 MS. MCELVEEN: Yes, sir, Your Honor.

23 THE COURT: All right. So between --
24 in ten minutes somebody give me a status where
25 Mr. Deas is and what we can do about it.

1 MS. MCELVEEN: Also, Your Honor ---

2 THE DEFENDANT: I got a question.

3 THE COURT: Go ahead.

4 THE DEFENDANT: There's one more
5 question I wanted to ask when I get a chance. If
6 I wanted to challenge my indictment, how would I
7 go about doing that?

8 THE COURT: You just have to put
9 whatever -- you can either file a written motion
10 or you can challenge it on the record.

11 THE DEFENDANT: On the record? If --
12 'cause these is a bunch of motions that I had to
13 draft up while I was in the county jail, and one
14 of the motions was to challenge the face of my
15 indictment.

16 THE COURT: Okay. And you certainly
17 can file that and read it on the record, or do it
18 on the record.

19 THE DEFENDANT: Okay. So I can go
20 ahead and pull it out?

21 THE COURT: Yeah. How long is it
22 going to take?

23 THE DEFENDANT: I don't remember.
24 It's so -- I done draft so many motions, Your
25 Honor, I can't really tell you. I can look and

1 see and tell you while I can speak.

2 THE COURT: Okay, look then.

3 MS. MCELVEEN: Your Honor, while he
4 looks may I go up and grab another copy that I
5 have. I have the indictment, a copy that Your
6 Honor has, but I have one upstairs too.

7 THE COURT: You can have mine back.

8 MS. MCELVEEN: Okay, thank you.

9 THE COURT: Where is the original?

10 MS. MCELVEEN: The original is in the
11 drawer with the Clerk's Office.

12 THE COURT: Okay. You need -- here.

13 MS. MCELVEEN: The true billed copy.

14 THE COURT: So the clerk will have
15 that available this afternoon?

16 MS. MCELVEEN: Yes, Your Honor. I'll
17 pull it whenever the juror is, you know, the
18 clerk, happy to pull it if they want to.

19 THE COURT: Okay.

20 SOLICITOR FINNEY: Judge, would you go
21 ahead and order that we spend an hour in the
22 courtroom showing those four videos?

23 THE COURT: Yeah.

24 SOLICITOR FINNEY: We're going to set
25 it up then.

1 THE COURT: And we can go set it up
2 and let him look at that and then we'll see.
3 We'll go over that.

4 MS. MCELVEEN: I'll be right up.

5 And, Your Honor, I know I spoke
6 briefly with Mr. Campbell about this; but after
7 speaking with Ms. Herod, I know that y'all are
8 limited to 33 people in this room, but we really
9 need to bring ---

10 THE COURT: The limit is 35, but we're
11 going to bring 35 in here.

12 MS. MCELVEEN: Okay.

13 THE COURT: Now if we run into a
14 scenario that we can't get that many, we're going
15 to have to select as many as we can out of the 35,
16 or whoever we end up getting qualified. If we
17 can't seat a full jury, then we're going to have
18 to bring another group in the morning and finish
19 filling the jury.

20 MS. MCELVEEN: Okay, great. I just
21 want to make sure there's backup because, I mean,
22 I want to ---

23 THE COURT: He tells me he can't get
24 but 35 in here. We bring 35 in, go through the
25 strike process. If we can seat 14, ---

1 MS. MCELVEEN: Great.

2 THE COURT: --- that's great. If we
3 can't, we may have to have the next group. We
4 need to have them callback after 6 and then to
5 have, then have the computer select another 33 or
6 35 for the next day to come in and then we'll see
7 how many we got filled. Okay.

8 MS. MCELVEEN: Okay. Call back after
9 6 if we don't seat 14?

10 THE COURT: Right. We'll have
11 everybody call ---

12 (Off-the-record discussion.)

13 THE DEFENDANT: Your Honor, it's a
14 three page for the defects of a grand jury process
15 in tackling the indictment ---

16 THE COURT: Uh-huh.

17 THE DEFENDANT: --- where the
18 indictment was handed down for insignificant
19 circumstantial evidence where the State didn't
20 have no prior order to produce to the grand jury
21 for the grand jury to indict, as well as no
22 medical records that show any of the victims had
23 went to the hospital or received any type of
24 medical treatment for the charge of, to charge Mr.
25 Anderson with attempted murder. And on the

1 defects the face of the indictment that was never
2 signed by a foreman. It have something which
3 almost feel like my name is on it. Somebody had
4 like written Charles on it in cursive and did a;
5 and the form of the verdict, the true bill, the
6 true bill or no bill that supposed to come back
7 and the process for to indict, to get indictment
8 on me with no physical evidence is have to be some
9 type of deception to the grand jury having the
10 grand jury believe in that the State of South
11 Carolina or the county of Sumter do have physical
12 evidence to bring forth indictment on me.

13 THE COURT: Okay.

14 THE DEFENDANT: The second one motion
15 I ask, Your Honor ---

16 THE COURT: Wait, let me rule on that
17 one first.

18 THE DEFENDANT: Okay.

19 THE COURT: First of all, you're
20 explaining as far as the indictment possession of
21 a weapon during a violent crime, the State informs
22 me they don't actually have any gun or a deadly
23 weapon. Whether they -- I assume they're gonna
24 have testimony they're going to present by
25 witnesses who are going to say that you had one.

1 If that does not happen, then I will dismiss those
2 charges at that time. They have a right to
3 present circumstantial evidence, you know, and
4 whether the jury believes that or doesn't believe
5 that circumstantial evidence will be up to them.
6 So just the fact that they did not have a gun
7 doesn't in and of itself cause the indictment to
8 fail. They have a right to circumstantial
9 evidence. If they don't produce any
10 circumstantial evidence throughout the trial, then
11 I'll entertain your motion for dismissal at that
12 time.

13 THE DEFENDANT: Okay.

14 THE COURT: Now as far as the
15 indictment being signed by the foreperson and true
16 billed, I haven't seen one. If they can't produce
17 an indictment signed and true billed by the grand
18 jury, I don't have jurisdiction, this case will
19 not go forward. And we'll -- and I'll have one
20 this afternoon as soon as the Clerk's office
21 brings it up here.

22 THE DEFENDANT: Yeah, 'cause I had
23 one -- I had sent to Judge Blanding. I had
24 received two from Mr. Campbell, my 2018 one where
25 it came back with true bill and the one that was

1 sent to me for on the 2019.

2 THE COURT: And that's what I'm trying
3 you on is the 2019. That's what they call it.

4 THE DEFENDANT: Yeah, I have -- it was
5 no true bill on the face of it. I had sent it to
6 a judge to -- just to complain about the situation
7 and show him the difference 'cause I was informed
8 I had to go through magistrate court. I know that
9 I didn't have to go through the magistrate court,
10 I couldn't have sent it to a magistrate court
11 judge.

12 THE COURT: Okay.

13 THE DEFENDANT: But the indictment
14 Mr. Campbell had sent me copy of it, it had no
15 markings on the face of it, ---

16 THE COURT: Okay.

17 THE DEFENDANT: --- of the indictment.

18 THE COURT: I will look at it. The
19 copy that the solicitor has to present is just a
20 copy. The Clerk has the original, the one that's
21 been true billed, assuming. So I will look at
22 that as soon as they can get it up here and rule
23 on that motion at that time, okay, because I
24 haven't seen it. So once I see it, I'll rule on
25 whether we can go forward on it or not. Okay?

1 THE DEFENDANT: Yeah. Can I ask one
2 more, one more motion. I have -- it's a conflict
3 of interest, Your Honor. I did in 2019, July 1st
4 of 2019, did file a COL form on Ms. McElveen for
5 conspiracy against my rights, Title 18-241,
6 conspiracy against rights. And it raised, it
7 raised a conflict of interest because I did file a
8 1983 civil suit as well. I have copies of it.

9 THE COURT: Okay.

10 THE DEFENDANT: And she's
11 prosecution -- she's prosecuting my case and it's
12 gonna be personal. She went about taking the case
13 for very personal where it's to the point where I
14 know I state on record to you before, before
15 relieving my counsel of duty, that on the hearing
16 to relieve my counsel as a duty on August 18th of
17 2020, Solicitor Ms. McElveen did weigh in and
18 explain it to Judge Kristi why she felt that
19 Justin Kata shouldn't be relieved off my case and
20 how he did a great job. So it shows right there
21 that she's personalizing my case. It was a
22 hearing that was supposed to be for just me and my
23 lawyer. It wasn't for Ms. McElveen to either
24 intervene in or state her opinion on why Justin
25 Kata should be stayed, should be kept on my case.

1 And I felt that that was -- that was
2 unconstitutional. I felt my civil rights had been
3 violated, as well as my equal protection, because
4 she don't have no right to intervene in that and
5 I'm fearing -- and I just want to put on record
6 the conflict of interest. It's a strong conflict
7 of interest because I did file a 1983 42 USA civil
8 suit against her and which you see is her name is
9 on here with Justin Kata.

10 THE COURT: Where did you file that?

11 THE DEFENDANT: I filed this August,
12 August 31st of 2020, sir.

13 THE COURT: Where? What court did you
14 file it in?

15 THE DEFENDANT: United District Court.

16 THE COURT: Is it currently in the
17 District Court?

18 THE DEFENDANT: Yes, it is, sir.

19 THE COURT: Okay. And that will be,
20 you know, that's a civil action to be ruled on by
21 the federal judge. She doesn't have a conflict of
22 interest in that she doesn't represent you, nor
23 has she ever represented you. She represents the
24 State of South Carolina and then part of her
25 duties is to prosecute crime, and so she's

1 presenting evidence on behalf of the State against
2 you and so she doesn't have a conflict of interest
3 as far as that's concerned. The civil action you
4 filed against her will be taken up in federal
5 court.

6 THE DEFENDANT: Yes. It's a COL form
7 which is called color of law. I have filed that
8 too. I had also sent that to the Clerk of Court,
9 to Mr. Campbell can file it. I did seek federal
10 charges on it due to the fact that I did try to
11 file charges, and she can take it personal. She
12 can be selective at it where she'll do for another
13 case she'll go extremely beyond just to convict
14 me, you know. It's harsh as it is. With Justin,
15 it was -- she's willing to give me 25 years, which
16 is show that I never seen nothing in writing, but
17 it shows how to save the taxpayers their money.
18 If I wanted to plead out, she's willing to give me
19 25 years instead of ---

20 THE COURT: It's not up to her. It is
21 up to me as to what time you get. You asked for a
22 plea deal. My understanding you have a number of
23 charges ---

24 THE DEFENDANT: Yes, sir.

25 THE COURT: --- that you got, at least

1 two armed robberies. You got this attempted
2 murder. The deal is to run them all concurrent, I
3 assume, and you'll get a maximum of 25 years.
4 That's what she's recommending. Because
5 technically, you can stack them and you can get 25
6 years on each one, plus, so you'll be looking at a
7 long time. Her recommendation is flat cap of 25
8 years. She has the authority to make whatever
9 recommendation she wants to. It's not a
10 negotiated sentence in that it's negotiated
11 between you and her and then I have to take the
12 negotiations or reject them. But it's only a
13 recommendation. If you decided to plead guilty,
14 then it's me as a judge or any judge that you
15 plead before, after -- I don't know anything about
16 your case. I don't know anything about the facts.
17 I normally listen to both sides and listen to the
18 facts and issue a sentence that I think is
19 appropriate under the circumstances. It's up to
20 me as to how much time you get, not up to her.
21 She just made a cap of 25 years on all your
22 charges where you wouldn't ever get over 25 years,
23 you know, but technically, you can get -- stack
24 them on top of each other and you can get, I don't
25 know how many you got but, a bunch.

1 MS. MCELVEEN: Your Honor, we got 150
2 years between all of these charges.

3 THE COURT: Okay. You're looking at
4 150 ---

5 MS. MCELVEEN: No, I'm sorry, 130.
6 130.

7 THE DEFENDANT: That's crazy.

8 THE COURT: I mean, the legislature
9 says the punishment is in the times.

10 THE DEFENDANT: My 2018, Your Honor, I
11 ain't commit that crime.

12 THE COURT: And you haven't been --

13 THE DEFENDANT: I mean, they ain't
14 willing to -- they ain't willing to -- I've been
15 trying to -- I been waiting to go to trial on that
16 charge since August 23rd of 2018.

17 THE COURT: I understand.

18 THE DEFENDANT: And it's -- damn.

19 THE COURT: That will be dealt with.
20 That's not before me. Okay. So we'll give you
21 time to go look at this evidence. Talk to Mr.
22 Deas.

23 MS. MCELVEEN: Your Honor, I believe
24 Mr. Deas is on the way down here to this court.

25 THE COURT: I want you to talk to

1 Mr. Deas first before ---

2 THE DEFENDANT: All right.

3 THE COURT: You talk to him. Then
4 both of you will come back in here with Ms.
5 McElveen, and I'll discuss your representation,
6 okay. So we'll be in recess till I hear from
7 y'all.

8 MS. MCELVEEN: Okay. We'll get
9 upstairs cued up so that we can have viewing can
10 available for him.

11 THE COURT: Okay.

12 (Whereupon, a lunch break was taken.)

13 THE COURT: Are we waiting on the
14 indictment?

15 MS. MCELVEEN: Yes, sir.

16 THE COURT: Okay.

17 MS. MCELVEEN: It'll be quick. And,
18 if Your Honor wants, I could go ahead and put the
19 other case on the record, the one that we were
20 going to call for trial. There's a waiver
21 indictment on that one.

22 THE COURT: Okay.

23 MS. MCELVEEN: The kidnapping is not
24 listed on there anymore either. Your Honor, this
25 is the State of South Carolina v. Charles Spencer

1 Anderson. Mr. Anderson has indicated after we had
2 prepared for trial that he wishes to enter a
3 guilty plea to his two sets of charges. The one
4 charge that was being -- the one case that was
5 being called for trial is indictment
6 2019-GS-43-0810. Mr. Anderson indicates he wishes
7 to enter a guilty plea to that charge; and for all
8 of these charges, Your Honor, the concurrent
9 sentence of 20 years is a recommendation.

10 In exchange for his plea, the State is
11 dismissing a kidnapping charge in regards to that
12 incident; but he is pleading guilty to armed
13 robbery, attempted murder, possession of a weapon
14 during commission of a violent crime. He has
15 signed a waiver of sentencing sheet where he wish
16 to waive presentment of those charges. Out of an
17 abundance of caution and also an indictment has
18 been prepared indicating a waiver indictment for
19 those charges, again, out of an abundance of
20 caution. He has signed the back of that waiver
21 indictment and initialed the sentencing sheets.
22 And again, we are presenting kidnapping.

23 And then Your Honor also has in his
24 hands an indictment for -- indictment No.
25 2018-GS-43-0890 charging Mr. Anderson with armed

1 robbery and possession of a weapon during
2 commission of a violent crime dating from April
3 20th of 2018. He has indicated he wishes to enter
4 a guilty plea to those charges simultaneously,
5 again, with a recommendation of 20 years. And
6 the victim Mr. Louis Rivera is present in the
7 courtroom. He was ready to testify tomorrow, Your
8 Honor, along with another victim. She did not
9 wish to travel from out of town to come here just
10 for the plea, but she was going to be present to
11 testify. And we have also attempted to contact
12 Mr. Patel on as to this guilty plea today. We
13 have left him messages and tried to call and
14 supposedly leave him messages. Thank you, Your
15 Honor.

16 THE CLERK: Sir, raise your right
17 hand. State your name.

18 THE DEFENDANT: Charles Anderson.
19 WHEREUPON,

20 **CHARLES ANDERSON,**
21 having been duly sworn by the Clerk, testified
22 as follows:

23 THE COURT: Mr. Anderson, I want to
24 ask you some questions in a minute.

25 Solicitor, are these all the charges as

1 a result of this plea today, is there going to be
2 anything else pending against this defendant in
3 this county?

4 MS. MCELVEEN: No, sir.

5 THE COURT: So this will wrap up
6 everything?

7 MS. MCELVEEN: Yes, sir.

8 THE COURT: Is that your
9 understanding, Mr. Anderson?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And you want to plead
12 guilty?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And you and I have talked
15 about your attorney and the lack thereof and
16 everything else. Is there anything that you want,
17 you need explained to you as far as your legal
18 rights are concerned about this plea?

19 THE DEFENDANT: The (indiscernible)
20 ones are something.

21 THE COURT: Well, I got before me on
22 indictment 2019-GS-43-810. You've been indicted
23 for attempted murder and armed robbery. Each one
24 of those carry up to 30 years in prison and
25 possession of a weapon during the commission of a

1 violent crime, which is up to five years. You
2 understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: So based on this
5 indictment I can give you up to 65 years. You
6 understand that?

7 THE DEFENDANT: Yes, sir, I do, sir.

8 THE COURT: The attempted murder and
9 armed robbery are non-parolable offenses. You got
10 to serve 85 percent of it. You understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And you have initialed the
13 block that you're waiving presentment of this to
14 the grand jury. You don't have any issues about
15 the grand jury and the indictment; is that
16 correct?

17 THE DEFENDANT: That's correct.

18 THE COURT: On indictment 2018-GS-43,
19 it's for one count of armed robbery and one count
20 of possession of a weapon during a violent crime.
21 The armed robbery is 30 years; it's no parole and
22 possession of a weapon is 5, so that's 35 years.

23 THE DEFENDANT: Yes.

24 THE COURT: And you want to plead
25 guilty to that as well?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Okay. Has anybody
3 promised you anything or threatened you in any
4 way?

5 THE DEFENDANT: No, just the deal. I
6 was told 20 years.

7 THE COURT: Right. And they're going
8 to recommend that the most you can get, run it
9 concurrent, it's 20 years. You understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: But it's only a
12 recommendation, it's up to me. You understand
13 that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Okay. Now are you under
16 the influence of alcohol or drugs today?

17 THE DEFENDANT: No, I'm not, sir.

18 THE COURT: You got any mental
19 diseases that will keep you from understanding
20 what you're doing?

21 THE DEFENDANT: No, sir.

22 THE COURT: I understand that you've
23 had a mental evaluation as a result of this case.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you have a copy of

1 that, Madam ---

2 MS. MCELVEEN: I do, Your Honor.

3 THE COURT: Can I see it?

4 MS. MCELVEEN: Yes, sir, Your Honor.

5 Let me hand it up to you. Your Honor, let me run
6 upstairs. I must have left the packet of
7 information on my desk. Beg the Court's
8 indulgence. Wait, no, I'm sorry, it's right here.

9 THE COURT: Have you seen the copy of
10 that?

11 THE DEFENDANT: That's at the mental
12 health evaluation I took in Columbia? Yes, sir.

13 THE COURT: And you went to Columbia
14 and had the doctors evaluate you?

15 THE DEFENDANT: Yes, I did, sir.

16 THE COURT: Okay. And you've had a
17 chance to look at this report?

18 THE DEFENDANT: Yes, I did, sir.

19 THE COURT: Okay.

20 MS. MCELVEEN: And, Your Honor, there
21 are actually two reports in there, one saying that
22 he is competent to have a -- be put on trial, but
23 also that he had the capacity to conform. He was
24 found competent and capable of conforming.

25 THE COURT: All right. I have two

1 reports here, but Dr. Steadman-Lee found that you
2 were competent to stand trial, that you understood
3 the proceedings against you, that you were able to
4 help your attorney; and in fact, you have
5 represented yourself and made a number of
6 arguments under your behalf, as well as made a
7 number of motions which are clear that you do
8 understand the proceedings and I so find that you
9 are able to pleading guilty and/or standing trial.
10 And they found no mental abnormalities to prevent
11 you from knowing right from wrong, and in her
12 opinion you have no mental diseases that would
13 prevent you from understanding. So I find, and
14 based on -- I'll make a part of these as the
15 record -- that you are competent to stand trial.
16 Okay?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Now, in pleading guilty
19 you're giving up certain constitutional rights.
20 You have a constitutional right under the Fifth
21 Amendment to remain silent; but when you plead
22 guilty, you give that right up because you're
23 telling me you're guilty. You understand?

24 THE DEFENDANT: Okay.

25 THE COURT: You also have a

1 constitutional right to a jury trial. We're
2 prepared to give you one, and you have a right to
3 jury trial on both of these indictments. And in
4 that jury trial you would be presumed innocent.
5 The State would have the burden of proving you
6 guilty beyond a reasonable doubt to all 12 jurors.
7 You'd be able to sit in the courtroom and confront
8 each witness that would testify against you, which
9 means you can look them in the eye when they were
10 testifying. You have a right to cross-examine
11 each one of the State's witnesses. You can
12 subpoena witnesses to testify on your behalf. You
13 could put up any defenses you have to these
14 crimes; but when you plead guilty you're giving
15 all that up. You understand?

16 THE DEFENDANT: Yes, sir, I
17 understand.

18 THE COURT: You're giving up any
19 appeals that could come out of that trial by
20 pleading guilty. You understand that?

21 THE DEFENDANT: So you're saying...

22 THE COURT: Since you're not having a
23 trial ---

24 THE DEFENDANT: Yeah.

25 THE COURT: --- many times at trials a

1 legal issue may come up that you could appeal it.
2 Well, if you're not having a trial you're giving
3 up any appeals that could come out of that trial.
4 Now if you want to appeal this guilty plea today,
5 you got to file that appeal with the Clerk of
6 Court within ten days of today's date or you're
7 gonna give that up as well. You understand?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Okay. And you got any
10 questions concerning your rights that you want to
11 ask me about as far as your guilty plea?

12 THE DEFENDANT: No, I don't, sir.

13 THE COURT: Okay. The solicitor is
14 going to tell me about the facts in this case and
15 then I'm going to come back and ask you whether
16 that's correct or not. Okay?

17 THE DEFENDANT: Yes, sir.

18 MS. MCELVEEN: Yes, Your Honor. In
19 regards to the 2018 indictment, on April 20th of
20 2018 at approximately 10:45 p.m. officers with the
21 police department arrived at the Citgo on South
22 Guinyard Drive in the city of Sumter, made contact
23 with a Mr. Patel, an employee who was working the
24 register. He said that a male wearing red pants,
25 a black T-shirt, white shoes, and a black bandanna

1 covering his face came into the store with what he
2 believed to be a handgun wrapped in a red shirt.
3 The male pointed his hand at -- pointed the shirt
4 at Mr. Patel with his hand and demanded the money
5 in the register. He grabbed the amount in U.S.
6 currency and threw it at the subject and after
7 grabbing some of the money, the subject fled on
8 foot towards Walker Avenue.

9 Mr. Patel recognized the subject as a
10 customer who came into the store frequently; and
11 he was able to identify Mr. Charles Spencer
12 Anderson, this defendant, as the person who
13 committed the offense, after a six person photo
14 lineup. Upon his arrest, Mr. Anderson said that
15 he understood his Miranda rights and completed a
16 waiver of his rights and admitted to the robbery
17 incident. He was transported to the Sumter County
18 jail, and he was also charged with possession of a
19 weapon during commission of a violent crime.

20 As to the offense for which we were
21 about to have a trial, on May 3rd of 2019, Mr.
22 Anderson came into the Auto Zone where he used to
23 be an employee of McCalla Road. There Mr. Rivera,
24 along with another employee, Ms. Jones, were
25 working, about to close. This is the Auto Zone on

1 15 South here in Sumter County. Mr. Anderson came
2 in with a silver handgun, locked the front door.
3 He was not wearing anything over his face so Mr.
4 Rivera immediately recognized him as Charles. He
5 was wearing a black hat, black pants, and a red
6 shirt. At that point Mr. Anderson demanded that
7 Mr. Rivera zip tie the other co-worker's hands,
8 Ms. Jones' hands, and put her in the back hallway.
9 Mr. -- frankly, Mr. Rivera was very intelligent in
10 his response to this having served in the
11 military. He did zip tie one of her hands but
12 left the other one loose, and then at that point
13 Mr. Anderson pointed a gun at him, demanded that
14 Mr. Rivera empty the register drawers and go back
15 to the safe. The safe is a time safe. It
16 required a little bit of time. Mr. Rivera became
17 ansey, but eventually he did give him the money.

18 Mr. Anderson forced Mr. Rivera back to
19 where Ms. Jones was. At that point Mr. Anderson
20 pointed the gun to his head and pulled the trigger
21 twice but it clicked. Mr. Anderson told him then
22 when they were leave -- that he was leaving, that
23 he would kill both of them and kill her children
24 because he knew where they both lived and he knew
25 that she had children. Ms. Jones had seen Mr.

1 Anderson outside of her house the week prior, but
2 he left the scene at that point.

3 Law enforcement arrived. They
4 eventually were able to apprehend Mr. Anderson on
5 Sunday so it took a couple of days; and then he at
6 that point barricaded himself inside the shed in
7 the backyard, was threatening to do himself bodily
8 injury, but luckily, Officer Rulong was able to
9 talk him out of the shed safely without a weapon
10 and he was at that point arrested for armed
11 robbery, kidnapping, possession of a weapon during
12 commission of a violent crime, attempted murder.

13 He is not pleading guilty to that
14 kidnapping today, Your Honor. We have made a
15 recommendation of 20 years for all these offenses.
16 He does have a prior felony prohibitive weapons or
17 devices and possession of a weapon for unlawful
18 purposes from 2005 in New Jersey and then he also
19 has an aggravated assault and a robbery from 2008
20 also in New Jersey. That is the extent of his
21 criminal history at this time. But, Your Honor,
22 these are most serious strikes, I've explained
23 that Mr. Anderson, and they will be counted
24 against him for any future -- if he gets any other
25 crimes, Your Honor.

1 THE COURT: You've heard the facts the
2 solicitor gave me. Are those correct?

3 UNIDENTIFIED: You would ask him?

4 THE DEFENDANT: I didn't hear you,
5 sir.

6 THE COURT: The facts that the
7 solicitor gave me, are they correct?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: You're pleading guilty to
10 these charges because you are guilty?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Okay. Then I find there's
13 a factual basis. Your plea is freely and
14 voluntarily entered into and you've had advice of
15 competent counsel whom you tell me you're satis--
16 well, I'm sorry, you don't have -- you've had
17 three attorneys, but you represent yourself. So I
18 find you're pleading freely and voluntarily. And
19 you understand that the armed robbery and
20 attempted murder are most serious offenses so if
21 you ever get caught in the future, you're looking
22 at life without possibility of parole?

23 THE DEFENDANT: Yes, sir, she tell me
24 about that.

25 THE COURT: Anything you want to tell

1 me?

2 THE DEFENDANT: Yes. I'd like to
3 first begin by apologizing and ask forgiveness to
4 Mr. Rivera for my actions. I'm truly sorry. I
5 don't wish that on nobody, and I hope he can find
6 it to forgive me, you know, for the actions that I
7 did. I just want to say I'm truly sorry, the
8 mercy of the Court.

9 I try to strive and do -- live a
10 better life where it's crime free. I just ask for
11 mercy of the Court.

12 THE COURT: Okay. Solicitor, between
13 the first robbery that happened in April of 2018,
14 when was he arrested on that?

15 MS. MCELVEEN: Your Honor, he was
16 arrested on the April 20th, four days later, so
17 April 24th, 2018. He then was given a \$30,000
18 surety bond and he was arrested on May 5th, 2019,
19 so a little over a year later on another armed
20 robbery.

21 THE COURT: So he was out on bond ---

22 MS. MCELVEEN: Yes, sir, Your Honor.

23 THE COURT: --- when the second
24 occurred? Okay.

25 MS. MCELVEEN: After that second one I

1 did make a request that his bond be revoked, which
2 was granted by the Court. And Your Honor, I don't
3 know if Mr. Rivera would like to speak, but he is
4 present.

5 THE COURT: Okay. I'll be glad to
6 hear from him if he wants to.

7 THE VICTIM: Well, Your Honor, I hear
8 what you're saying, Charles, ---

9 MS. MCELVEEN: Speak to the Court.

10 THE VICTIM: Well, Your Honor, you
11 know, to me to hear the defendant say he's sorry
12 for his actions, it don't quite sit well with me.
13 I did nothing but help the gentleman. I pick him
14 for work, feed him, lend him my truck, tried to
15 give him a full-time position in my store. It was
16 belonged to me. But when he with that revolver
17 and robbed the store and myself and a young woman,
18 one of two, you know, it's like the ultimate
19 betrayal to me. I served this country. I got a
20 bronze star, and I lost a lot of comrades to fight
21 for this freedom. If it was me, Charles would not
22 see another day. I don't want, I don't want him
23 out. I want those kids to have a nice, safe
24 environment, know that nobody is going to target
25 them 'cause they're innocent at best. I want them

1 to have a happy life, also, the mother for their
2 safety. I wish that Mr. Anderson don't see the
3 day of the light. Thank you here for all. That's
4 my only, my only, my only thing. May God show you
5 mercy on your soul, Mr. Anderson.

6 THE DEFENDANT: It was a drug problem.
7 I'd never do that.

8 THE VICTIM: Mr. Anderson ---

9 THE DEFENDANT: I appreciate
10 everything you ever did, but I was only other
11 thing ---

12 THE VICTIM: Your Honor ---

13 THE DEFENDANT: --- I can ---

14 THE VICTIM: That's all I have to say.

15 THE DEFENDANT: I ask your
16 forgiveness.

17 THE VICTIM: You're forgiven on the
18 Lord, brother.

19 THE DEFENDANT: It was the drugs, you
20 know. That wasn't me. I appreciate everything
21 you did. That's why I apologize.

22 THE COURT: Okay, thank you, sir. I
23 appreciate you coming.

24 Anything else you want to tell me?

25 THE DEFENDANT: Yeah, Your Honor. I'm

1 sorry. I had a big drug problem, Your Honor, and
2 I really need help with my drug problem. Between
3 me not taking certain psych meds at the time and
4 doing drugs and alcohol, it really wasn't drugs,
5 it was me beside myself, the person who I really
6 am, you know. And I do need help for the drugs.
7 And yes, Mr. Rivera, he help me a lot. That's why
8 I'm truly sorry for it. It wasn't me in a right
9 state of mind and I ask leniency for the Court,
10 you know. These 15 years, these long years,
11 it's -- I got self-accountability for the wrong I
12 done, people I wronged. Even though I was on the
13 drugs, I could have try to get some help, but it
14 was the drugs that...

15 THE COURT: I understand that, and I
16 have a lot of people that come before me and made
17 bad choices, you know, and have a drug problem;
18 but you also made a choice to rob these people and
19 scare them terribly. You were out on bond and you
20 did it again and then, you know -- our
21 legislature, these are violent crimes and somebody
22 could have been killed. But the State, you know,
23 you're looking at a lot of time and they're giving
24 you the benefit of that plea recommendation of 20
25 years. And I hope, you know, that you'll use this

1 time to better yourself and to make a difference
2 and become a better person and hopefully you won't
3 have a drug problem when you get out.

4 On indictment 2018-GS-43-890 on
5 possession of a weapon during a violent crime, the
6 sentence of the Court is you're committed to the
7 State Department of Corrections for a term of 5
8 years. On the armed robbery the sentence of the
9 Court is you're committed to the State Department
10 of Corrections for a term of 20 years. They'll
11 run concurrent with each other and I'm giving you
12 credit for the time you served.

13 On indictment 2019-43-810 for
14 attempted murder, the sentence is 20 years with
15 credit for time served to run concurrent with all
16 other charges. And armed robbery, the sentence is
17 20 years to run concurrent with all other charges,
18 credit for time served. Possession of a weapon
19 during a violent crime is 5 years to run
20 concurrent with credit for time served to run with
21 all other charges. Good luck to you and I hope
22 you get out.

23 THE DEFENDANT: So I got 20 years?
24 Okay. Thank you, sir.

25 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *

C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE }

I, FRANCES B. RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Third Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 29th day of September, 2021.

Frances B. Ray

FRANCES B. RAY, RPR

STATE OF SOUTH CAROLINA

RECORDED

IN THE COURT OF COMMON PLEAS

County of Sumter

2021 SEP 23 PM 2:38

Charles Spencer Anderson #384121

JAMES C. CAMPBELL

CLERK OF COURT

Full name and prison number (if any) of Applicant SUMTER COUNTY, S.C.

2021-CP-43-1662

20-CP-43-

v.

APPLICATION FOR

State of South Carolina

POST-CONVICTION RELIEF

Barbara Singer
 DEPUTY CLERK OF COURT
 SUMTER COUNTY
 SOUTH CAROLINA

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Evans Corr. Inst.; 610 Highway-9 west
Bennettsville, South Carolina 29512
2. Name and location of Court which imposed sentence Sumter County
Court of General Session
3. Name(s) of co-defendant(s) (if any) NONE
↓
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2019A4310100291 (2019-GS-43-0810)
 - (b) (2018-GS-43-0890)

RECEIVED

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) Robbery Armed / Attempted Murder / Poss of weapon (2019)
- (b) Robbery Armed / Poss of weapon (2018) 20 yrs
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty INVOLUNTARY Guilty Plea
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
NO
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. N/A
- ii. ↓
- iii. ↓
- (b) the result in each such Court to which you appealed:
- i. N/A
- ii. ↓
- iii. ↓
- (c) the date of each such result:
- i. N/A
- ii. ↓
- iii. ↓
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. ↓
- iii. ↓
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) DON'T HAVE KNOWLEDGE ON How to file Appeal + the pandemic force a delay on my mail to clerk of ~~PA~~ Court; EVERY THING WAS SHUT DOWN in Kirkland, WAS SENTENCE 9-28-2020
- (b) WAS SENT TO Kirkland 10-1-2020

- (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) Involuntary Guilty Plea
- (c) violation of the 6th Amendment / NO Miranda Rights
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) SEE ATTACHMENTS (D)(E)(F) (Suppression of Evidence)
- (b) CHARGE(S) STATE CLAIM THEY'RE NO EVIDENCES
- (c) EVIDENCE ON VIDEO FROM 2018 Robbery clearly shows it's NOT Defendant
- (c) Counsel filed a GOS MOTION force to REPRESENT HIS SELF (Pro'se)
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

NO

↓

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

(a) which grounds have been presented:

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

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

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

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

(a) N/A
 (b) ↓
 (c) ↓

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

(a) your arraignment and plea? ~~NO~~ YES; BUT NEVER WAS ARRAIGNED
 (b) your trial, if any? NO / (9-28-2020) PRE TRIAL HEARING + Pick Jury
 (c) your sentencing? NO / (9-28-2020)
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

suppression of Evidence (deny): DISMISSAL of Indictment for defect on the face (NO Text)
 Bill: Conflict of Interest: Suppression of Witness Testimony (SEE ATTACHMENT)

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. Timothy Murphy address NOT AVAILABLE
 ii. Jason Bridges
 iii. Justin Kata
 (b) the proceedings at which each such attorney represented you:
 i. Timothy Murphy (NONE)
 ii. Jason Bridges (NONE)
 iii. Justin Kata (Bail Hearing only)

SENTENCE VACATED

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

(~~XXXXXX~~) Evidences clearly prove it's wasn't defendant, (Judge Cochran) Thru all Testimony from Witness + OFC WIT: And STATED it's NO Evidence by Solicitor

20. Are you now under sentence from any other court that you have not challenged? (SEE ATTACHMENT 1)

NO

STATE OF SOUTH CAROLINA)

County of Sumter)

VERIFICATION

I, Charles Spencer Anderson, 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.

Charles Anderson

SWORN to and subscribed before me this 23rd
day of August, 2021

S. Outlaw (L.S.)
Notary Public

My Commission Expires: 2/17/24

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

I, Charles Spencer Anderson, 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.

Charles Anderson
Applicant

SWORN or affirmed to and subscribed before me this

23rd day of August, _____.

S. Oelle
Notary Public

My Commission Expires: 2/17/24

10. STATE CONCISELY the GROUNDS ON WHICH YOU BASE⁸⁷ YOUR ALLEGATION that you are being held in custody UNLAWFULLY. (U.S. v. Strickland)

(a) (INEFFECTIVE ASSISTANCE OF COUNSEL)

These fail to do their due (Timothy Murphy; Jason Bridges; Justin Kata; diligence which they sworn to uphold their Oath of Office(s); which they sworn to fight for all clients to the best of their abilities, which was never done. (Timothy Murphy. Gave my Case Load to Mr. Jason Bridges, which he tried to get me to plea, to a 10 with 85%, that was never in written, where it's no evidence showing that I ever committed any Alleged crime; Same with Justin Kata, But He was talking about 0-25 Cap with out the State of South Carolina presenting any form of evidence on His client. I asked numerous times from both Counsels, for them to submit a Motion to Challenge the Indictment and Suppression of Evidences; I even wrote South Carolina Supreme Court (OFFICE OF DISCIPLINARY COUNSEL): On Both Counsel (Jason Bridges) + (Justin Kata); I also filed a Civil Complaint against My last Counsel Justin Kata; which he was taken off my Case 2 weeks before my Trial date; then I was denied the right to have a Counsel assistance. (Brady violation) also a violation of my Constitution Rights (6th Amendment) which is secured to me. So Not only did Judge Cothran violated my Due Process Clause, But also my Equal Protection Act as well, as well as the Above Individuals also.

(b) (INVOLUNTARY GUILTY PLEA) (U.S. v. Strickland)

On September 28, 2020; which was a Monday, the first day of my trial date, I started going through jury selection during COVID-19 pandemic: when I was on the 3rd trial Court docket; Some how I was push to first with out the Courts sending No form of Notification, that I been put on the Monday Sept. 28, 2020 Trial docket - 2 weeks after Counsel was taken off the defendant case load. I found out when I tried to attain a street attorney name (Mr. Deez); He said that he couldn't take my case because we can sue him if ~~we~~ he took my case, because I was the first on Sumter County, 3rd Circuit Court trial docket, And if the Judge will grant me a extension he would take my case. Upon after Judge Cothran entering the Court room; he sat down then asked Solicitor Mrs. Browyn K. McElveen what was she going to seek if defendant Charles Anderson lose trial how much time are you seeking to give Him? McElveen stated 150 years in prison. So after the defendant Charles Anderson submitted these following motions a the (Judge Ferral Cothran) failed ~~to vacate~~, not to be bias and dismiss the charge against the defendant when state Attorney stood up in Court as clearly stated that the STATE OF South Carolina and County of Sumter doesn't have any evidence against Charles Anderson: (Motions that been denied on Clear PREJUDICE) Also willing To VIOLATE HIS EQUAL PROTECT ACT AND DUE PROCESS AC THAT SECURED TO HIM BY THE SOUTH CAROLINA CONSTITUTION (ART: 1-Sec. (14)(1)(3)) MOTION(s) suppression OF PHYSICAL Evidences (deny) Dismissal OF Indictment (deny) Conflict of interest (deny) Suppression of weapon (deny) which State Does not have at all (suppression of witness ~~interest~~) ~~XXXXX~~ 2 OF 6 was Going to be railed Road ~~XXXXX~~

(C) BRANDY VIOLATION: VIOLATION OF 6th AMENDMENT

On September 28, 2020 defendant had a PRE-TRIAL HEARING; WHICH HE ASKED FOR AN EXTENSION TO ATTAIN A STREET ATTORNEY Private one; JUDGE COTHAN DENIED THE DEFENDANT HIS CONSTITUTION RIGHT THAT'S NOT ONLY SECURED TO HIM BY THE UNITED STATES OF AMERICA, BUT ALSO SOUTH CAROLINA DECLARATIONS OF RIGHTS: ARTICLE, 1 - SECTION (4)(1), (18)(3) 1868 = THE RIGHT TO BE ASSISTED BY A CHOSEN COUNSEL OF HIS CHOICE; BY THE JUDGE (FERRELL COTHAN) ACTING OR PROPAGATING IN THE PERFORMANCE OF (HIS/HER) PROFESSIONALISM, OR ACTING AS A BODY OF (COLOR OF LAW) OR COLOR OF ANY LAW; SHOULD NOT DENY NO CITIZEN OF THE UNITED STATES, THE RIGHTS THAT ARE SECURED TO HIM BY THE CONSTITUTION OF THE UNITED STATES OF AMERICA. IS IN CLEAR VIOLATION OF THE COLOR OF LAW (TITLE 18- USC- 241/242); BY DENYING ME RIGHT TO COUNSEL IN A CRIMINAL MATTER, BUT IS GROUNDS FOR THE DEFENDANT TO HAVE HIS WHOLE SENTENCE(S) (VACATED) AND CHARGES SUPPRESSED FROM HIS RECORD. (TITLE 18- USC: 241-242) APPLIES TO ANY OFFICER - STATE ATTORNEY - JUDGES - ETC. AS LONG AS IT SHOW(S) THAT THEY WERE ACTING IN THE PERFORMANCE OF THEIR (DUE DILIGENCE) DUTIES OF THEIR JOB DISCRETION IS IN VIOLATION OF "COLOR OF ANY LAW"; CHARLES ANDERSON WAS DENIED EQUAL PROTECTION AND DUE PROCESS AND HIS CIVIL RIGHTS WAS VIOLATED BECAUSE HE'S A BLACK MAN ACCUSED OF A CRIME IN A WHITE PREDOMINANT COMMUNITY; WITH NO EVIDENCES SHOWING HE (I) COMMITTED ANY CRIME. IF I WAS GRANTED A PRIVATE ATTORNEY I WILL NOT BE HEARD. STATE ATTORNEY CLEARLY STATED OR RECORDS THAT SHE DOESN'T HAVE ANY EVIDENCES AGAINST ME. (U.S. v. NASH 29 F.3d 1195)

~~COPIES~~

~~XXXXX~~ 3 OF 57

(D) (BRANDY VIOLATION) OF EVIDENCES:

Is impeachment evidence exculpatory under Brady; 3rd Circuit Court: Impeachment evidence, as well as exculpatory evidence, falls within the Brady Rule.

(Johnson v. Folin) Jan 16, 2013, 705 F. 3d 117; 2013 WL 163841

(Marshall v. Hendricks) 307, F. 3d 36; 2002 WL 31018600

(Brady v. Maryland) (May 13, 1963; 373 U.S. 83; 83 S.Ct 1194

Exculpatory materials Solicitor must disclose under [BRADY] include(s) impeachment of Evidence:

On September 28, 2020 The Solicitor clearly stated to Judge Ferrell Cothran that the state of South Carolina; and the County of Sumter (Solicitor) Mrs. Browyn K. McElveen that she has NO EVIDENCE(S) THAT I COMMITTED A CRIME ON A SUPPRESSION MOTION SUBMITTED BY DEFENDANT; BUT THE PREJUDICE OF THE; (FERRELL COTHAN) JUDGE AT PRETRIAL HEARING REFUSE TO DISMISS THE DEFENDANT CASE. THIS IS A CLEAR CARRIED OF MISTJUSTICE ON THE DEFENDANT BEHAIF; BY THE THE JUDGE, REGARDLESS OF DEFENDANT IGNORANCE OF LAW. JUDGE COTHAN JOB IS TO REMAIN IMPARTIALS (NOT BIAS); NOR (PREJUDICE OF THE COLOR OF THE DEFENDANT (CHARLES ANDERSON SKIN); IGNORANCE BY DEFENDANT CHARLES ANDERSON OF LACK OF KNOWLEDGE OF LAW IS EXCUSABLE FOR JUDGE COTHAN TO NEGLECT EVIDENCE THAT CLEARS ANDERSON OF CHARGES; TO SHOW A STRONG SINCE OF PROOF THAT NOT ONLY THE COUNTY OF SUMTER, BUT ALSO A RESPECTABLE JUDGE (FERRELL COTHAN) IS SHOWING CLEAR BIAS AND PREJUDICE TOWARD THE SKIN COLOR OF CHARLES ANDERSON; BY SIDING WITH THE SOLICITOR EVEN WHEN SHE CLEARLY 4 of 16 STATED ON RECORD ON 9-28-20 SHE HAS NO EVIDENCE (NO WEAPON EITHER)

(=) (COURTS ERROR] (COURTS ERROR OF 3rd Circuit)

An error is plain if it is "clear" or "obvious," affects substantial rights, and affects the fairness, integrity or public reputation of judicial proceedings;

September 28, 2020 "PRETRIAL HEARING"

STATE ATTORNEY CLEARLY STATED ON A SUPPRESSION HEARING THAT THE STATE OF SOUTH CAROLINA, AND COUNTY OF SUMTER DO NOT HAVE ANY EVIDENCE(S) SHOWING THAT "Charles Anderson" Committed a crime, LET alone have any form of weapon in their possession. DEFENDANT MOTION OF DISCLOSURE WILL ALSO SHOW THAT IT ISN'T ANY KIND OF EVIDENCE(S) THAT SHOWS IT WAS MR Charles Anderson that Committed the said crime. JUDGE COTHRAN JOB WAS TO DISMISS THE CHARGES WHEN ASSISTANCE STATE ATTORNEY (Browyn K. McElveen); clearly stated that the County of Sumter does not have evidence of defendant Charles S. Anderson. By not doing so is a clear error of the court and in the Judges decision of bias, and strong prejudice on His behalf. Defendants argues the ~~Miscarriage~~ miscarriage of justice held by the Courts of Sumter County 3rd Circuit Court Room on September 28, 2020: Deprivation of fundamental or constitutional RIGHT(S) Miscarriage of Justice state court(s) constitutional error actually prejudiced of unfairness upon the defendant. STATE ATTORNEY CLAIM SHE(S) HAS NO EVIDENCE

(F) (92) CONFLICT OF INTEREST

An "actual conflict of interest" arises, for purpose of claim of ineffective assistance of counsel arising from conflict of interest when a defense attorney places himself in a situation inherently conducive to divided loyalties (SEE MOTION OF DISCLOSURE) "NO EVIDENCE"

If a defense attorney owes duties to a party whose interest are adverse to those of the defendant (Charles Anderson) then an actual conflict exists, NOT only that element; But also defendant filed a civil complaint against His Attorney + STATE Attorney for violation of his constitutional rights. On September 28, 2020 during the defendant his pre-trial hearing + jury selection; defendant Charles Anderson submitted a Motion also on Conflict of Interest that the Solicitor have personalized this case against defendant, because Charles Anderson (defendant) did file a Complaint with district Court, also filed a Civil Complaint against this Solicitor (Assistance) Mrs. Brewyn K. McElveen; This one of the reason why defendant knew if he went forward with his case and the state of South Carolina and County of Sumter having NO Evidence, He still will be sentence to One hundred and fifty years (150 yrs) which state attorney was seeking to give defendant. So after the motion been presented at PRETRIAL Hearing Judge Cothran Denied, stating she's a state attorney, her job is to prosecute cases (Clear Case of Miscarriage of Justice) Even when she (Mrs. McElveen) stated she has no Evidence against the defendant: THE unfairness of (JUDGE Ferrell Cothran) GAVE the defendant (Charles Anderson NO options to plea guilty to something 6 of 12 he never Done or Do Life (150yrs in prison) with NO proof of evidence; If Attorney + Judge was never impartial or prejudice

19. (ATTACHMENT);(To) STATE CLEARLY THE RELIEF⁹³ YOU SEEK IN FILING THIS APPLICATION:

DEFENDANT (SEEKS) SENTENCE(S) VACATED; DUE TO THE
FACT THAT; JUDGE COTHMAN DID THROW ALL STATEMENTS
OUT (VICTIM(S)) AND (INVESTIGATION) OFFICER REPORT OUT. WHICH
WAS ONE OF THE MAIN REASON; THE DEFENDANT WAS ARRESTED
FOR. DEFENDANT RAISE FACTS, THAT THE STATE ATTORNEY DID
STOOD UP IN COURT AND STATED IN OPEN COURT. DURING THE
DEFENDANT (CHARLES ANDERSON) PRE-TRIAL HEARING; "ON A MOTION
TO SUPPRESSION EVIDENCE(S): STATED THAT THE STATE OF SOUTH
CAROLINA AND THE COUNTY OF SUMTER DOES NOT HAVE ANY FORM
EVIDENCE AGAINST THE DEFENDANT; NO WEAPON(S) IN POSSESSION
BY THE STATE: "POSSESSION IS 9-10 OF THE LAW"; ALSO 16-17-722
FILING OF FALSE REPORTS (KNOWLEDGE. OFFENSE. PENALTIES); It's
WASN'T SUFFICIENT EVIDENCE(S) TO SUPPORT DEFENDANT
CONVICTION(S) (INADEQUATE EVIDENCE(S)): DEFENDANT RAISED ISSUE
OF HOW HE EXPLAIN AND ARGUE; THE INEFFECTIVE OF HIS
COUNSEL. FAIL TO UPHOLD HIS OATH OF OFFICE(S) WHICH HE SWORN
TO UPHOLD. (September 28, 2020); AS WELL AS THE JUDGE
(Ferral Cothman) to remain impartial; WHICH HE FAILED TO
DO BY weighing Favorable for the Solicitor (Browyn K. McElveen)

~~11/11/20~~

⁹⁴ This IS A SWORN AFFIDAVIT IN SUPPORT THEREOF..

I, Charles S. Anderson, hereby apply for
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
INORDER THIS APPLICATION; AND THAT THE MATTERS AND
ALLEGATION(S) THEREIN SET FORTH ARE TRUE.

Charles Anderson
APPLICATION SIGNATURE

SWORN to and subscribed before me this 20th
day of September, 2021
Saxana Oulaw (L.S.)

MY COMMISSION EXPIRE(S) 2/17/2024

Poss. Weapon = Docket Number (2018)-GS-43-0890

D. Defendant Charles S. Anderson

argues that, at preliminary hearing he was represented by Timothy Murphy, who allow the State Attorney to present to the Judge that I have been identify by an impartial cover mask; which he never challenge and told me that I couldn't defend myself. But The person face is fully covered, and not once was the person that Robbed the Gas station face been partial uncovered. So this is perjury by the Same Solicitor I filed a Civil Complaint against. Mrs. Browyn K. McElveen. I have tatoos on both wrist and four arm. The person on video doesn't have any tatoos. But still I been force to plea to this charge when it's clear that I'm not the person on Camera. None of my finger prints, Nor DNA was found at the scene of the Crime. Plus the victim STATED TO OFFICER A. Teems that He Couldn't Identify the suspect. The defendant asked for a speedy trial on these charges, was denied his equal protection as well as his due process right to a Speedy trial, which is guarantee ~~to~~ defendant, His secured Rights by the constitution of the United state(s). On video it clearly shows that it wasn't me, But none of my Lawyers would fight for me. (NOT) Timothy Murphy + Jason Bridges + Justin Kata; when the video clearly shows that this person can't be Identify. But Each one of these attorney's was so willing for me to plea out. (Please) See video and I was force to plea out or do 150yr. which this prosecutor/Solicitor was so willing to give me. No one wanna do 150 years in prison, even though I never comitted the crime. It's very hard when the person that suppose to fight for you in Court is so willing to send you to state prison, also is a tough pill to swallow. But the sworn a Oath to do their Due diligence to their fullest. But if this been the case, Just one Motion by them would of cleared me of these charges (Motion) To Suppress all evidences. Dt. Mcfadden committed fraud through out the whole investigation, because I'm not 6 ft and 150 lbs, never was and never would be. I am 5'9 207lbs with tatoos on both wrist (Left wrist "Amy") and Right wrist "Jessie") (Right four arm NJ Faded) (EQUAL PROTECTION ACT (1968)

(2019) GS-43-0810: Hrm Robbery • Kid napping • Attempted of Murder • Possession of weapon:

To inform whomever that, if you check with South Carolina District Court of South Carolina, CLERK OF COURT MR. Robins THAT I DID SEEK TO FILE A Federal Complaint against the (Assistance) Solicitor Browyn K. McElveen (COL); not only against her, but also the Lead Dt. Willie McFadden, and Public defender Jason Bridges (was my attorney): Violation of (Color Of Law): Now this same solicitor was the one seeking to give me 50 years over what the max was on these charges. But I still filed it, and I also would like to inform the Appeals Court that I did file a Civil Complaint against this Solicitor (Mrs. Browyn K. McElveen) for violation of my Civil Rights on 8-18-20; at a release Counsel of his duties 608 motion which he filed: Judge Khrissy was the Judge and she allow Mrs. McElveen to weight in on why she should ~~not~~ ^{not} release Mr. Justin Kata of his duties. Even though he's one of the defendants of my Civil Complaint: My Constitution has been violated in so many forms that it's really sad. That these are the one's that, ~~I~~ sworn to uphold the LAW Truthfully.

Today 9-6-21 I argue for my freedom on what be wrongfully taken from me, by some real prejudice people. The state of South Carolina never present any form of evidence that the above crime(s) was committed by the defendant Charles Anderson. Even at the ~~defendant~~ defendant PreTrial hearing/Jury selection on (9.28.20); September 28, 2020, a Motion to suppress all physical evidences was Denied by Judge Ferrell Cothran; Even after State attorney Mrs. Browyn K. McElveen clearly stated on Record that the State of South Carolina and County of Sumter (DOES NOT) HAVE Any physical evidence that Charles S. Anderson committed a crime or any of the above charges. But instead of Judge Cothran being impartial, He was bias and clearly prejudice to the defendant of clearly unfairness by the Courts

Which the Judge was suppose to release the defendant⁹⁷ and dismiss all charges. But motion been denied.

With NO Proof that a Robbery ever took place, They're NO video footage to show the defendant was even at the crime scene, nor committed the said crime. Victims gives two different chains of events on how the Robbery happen, also 3 different descriptions of suspect. ① Blue jeans, Red shirt, Black cap. ② Black jeans, Red/Black shirt, Red baseball Cap ③ Black jeans, Red shirt, Red Cap walking down 15th South Interstate.

Defendant been 5 miles away when the Lead detective and Investigative of case lied to Verizon to get His GPS Location: Case # 190113493 (Analyst Name- Cheryl S. 5/4/19 01:08 EDT. (MDN 803-972-0922)

Which this LT. L. Monahan Badge 0424 stated to the analyst Mrs. Cheryl S that there was a Death involved. which they're never was any death, nor did anybody go to the hospital. But the Fax number it been sent to was (803-436-2018) It should be Records that From the door ofc knew that he was committing Prejury willingly by stating that their been a death involved when no one was Killed or Hurt. which has been Change in my Motion of disclosure. So if theirs no form of proof that a Robbery took place, then how a kid napping took place. If the state/County of Sumter dont have no footage/ Nor Cell tower showing that I was even at the scene. The attempt of Murder, it's no Medical Records to show or support any form of temped Murder. Law indicates to be charge with attempt of Murder, Some form of Medical Records or a firer arm was discharged in public.

Please understand that this is what Criminal Law states. So if no one was ever hurt, or went to the hospital and no evidence to support? why did the assistance Solicitor push to have me ~~convicted~~ convicted on these charges, even after she stated on 9-28-20 THAT SHE HAS NO EVIDENCE AGAINST DEFENDANT. IT IS NOT NO FORM OF MEDICAL RECORDS TO SUPPORT THE ATTEMPT MURDER. NONE OF THE VICTIMS MADE A STATEMENT ASKING OR HAD TO GO TO THE HOSPITAL?.

WHAT EVIDENCE DO THE STATE HAS TO CHARGE DEFENDANT WITH ATTEMPT MURDER?

ONCE AGAIN MISCARRIAGE OF JUSTICE

BUT McElveen knowing and willfully to convict with NO EVIDENCE showing defendant innocent. But because she personalize this case that the facts shows, that the defendant is innocent. Also there's NOT ANY FORM OF WEAPON FOUND; So if possession is 9-10th of the Law. Then How Can the state Attorney support a conviction with a fraud Indictment.

On 8-1-2019 Head Solicitor signs off on a Indictment that never existed, AND His Assistance Solicitor Browyn K. McElveen presented to the Court(s) of the third Circuit Court. When Law states that NO (PERSON) SHALL BE HELD TO ANSWER ANY CRIME IN COURT WITHOUT AN SIGN INDICTMENT BY FOURMAN/OR WAIVER OF PRESENTMENT OF INDICTMENT. WHICH IS WHAT I AM PRESENTING TO THE APPEALS COURT, CAUSE I HAVE A INDICTMENT PAPERS WITH NO MARKINGS, (NO BILL OR TRUE BILL)

(2019)-GS-43-USIO). BUT THE STATE ATTORNEY⁹⁹ MRS. BROWYN K. McElveen did present A FRAUD Indictment * (MISCARriage of Justice AND prosecution Misconduct) THIS is why my only two Court dates THAT I DEFENDANT ever had was, (ONE BOND HEARING) 15 months incarcerated and it was during the COVID-19 Pandemic; ② ~~AND~~ straight to Trial (9-28-2020); where defendant Charles S. Anderson Indictment was changed with a waiver of presentment of Indictment. Now please Correct me on this matter by Criminal Law states, in the absence of a Indictment, A WAIVER of Indictment must be presented or sentences shall be vacated. Explain to me why the County of Sumter and the State of South Carolina Sent me a sheet of my indictment with NO Markings, NOR Any Record testimonies MADE By AND Jurors, OR with Browyn K. McElveen presenting Any of the Above charges to the Grand Jury. So it's NO extention on the indictment, and the state has 90 Days to Indict. (~~PER~~ - South Carolina Criminal RULE(S))

So how it's, that I have (one) Indictment with the fourman signature on it (8-1-2019); But with NO TRUE Bill /or NO Bill; NOR any stamp showing that it went to the clerk of Court and was stamped also and sent to the defendant Anderson? But it does shows that someone signed it, a fourman sign but with NO verdict. The Second Indictment with different charges And me supposedly waving my presentment to the Grand Jury. But How Can I wave something that I already have been indicted for is the question?

(2014)-¹⁰⁰GS-43-0810. It's either two things, ① The state attorney and the Clerk of Court James Campbell presented fraud documents. Showing that I been indicted and wasn't. which is a clear violation of my Equal protection Act, as well as my Due Process.

② I was never Indicted and my Constitution was violated, And my Equal protection Clause, and Due Process has being violated?

SHE Personalize this case, and with clear disregard of the Fundamental of Criminal Law, which she sworn to uphold diligencely.

Then my 2018 case was never suppose to be a part of this case, because I asked for a speedy trial on that case. But just because I plea guilty Involuntary, being scared of getting 150 years in prison. But the change of a Indictment without a Grand Jury. Criminal Law states that when any defendant wavier of presentment of Grand Jury, He must be brought in front of the Clerk of Court and sign.

But 4th Criminal Procedure, Second Edition §(5.1)
(f) waiver in Indictment and Limited Indictment Jurisdictions:

In the [absence] of an Indictment, there must be a valid waiver of presentment (BUT DEFENDANT DID RECEIVED A SWORN AND SIGNED INDICTMENT WITH THE HEAD SOLICITOR [~~ERNEST~~ ERNEST A. FINNEY, III] SIGNATURE ON IT] ON AUGUST 1, 2019; WHICH WILL BE ENCLOSED WITH THIS ARGUMENT OF HOW THE HEAD SOLICITOR DOES NOT KNOW THAT EITHER HIS ASSISTANCE PRESENT A FRAUD DOCUMENT ON A INDICTMENT:

THIS IS GROUND(S) ALONE TO HAVE CHARLES .S. ANDERSON SENTENCE(S) VACATED!

(2017 GS-45-0010). WHICH I WOULD SHOW THAT I HAVE BOTH INDICTMENT(S); ONE SAYING THAT BEEN INDICTED, AND ONE STATING THAT I WAVED MY PRESENTMENT TO THE GRAND JURY: WHICH ONE IS IT, BECAUSE I BEEN INCARCERATED SINCE 5-5-19; WITH NO COURT DATE(S) BUT BEEN INFORMED BY JAMES CAMPBELL, THAT ON 8-1-2019, SIGNED BY A FOURMAN THAT I BEEN INDICTED. BUT ON 9-28-2020 - I HAVE A INDICTMENT THAT STATE(S) THAT I WAVED MY PRESENTMENT TO THE GRAND JURY: WHICH IS ONE OF MY FIRST MOTION(S) THAT BEEN PRESENT TO THE COURT(S) AT MY PRE-TRIAL HEARING! I AM NOT CHALLENGING THE INTEGRITY OF THE COURT(S), I AM CHALLENGING THE INTEGRITY OF MRS McElveen, THAT SHE(S) SO WILLING TO BREAK THE LAW(S) SHE SWORN TO UPHOLD, TO CONVICT ANY PERSON(S) OF COLOR. EVEN THOUGH LAWS STATE NO CAN BE HEID TO ANSWER ANY CRIME WITHOUT BEING INDICTED; EXPLAIN TO ME THEN, HOW I MADE IT TO MY TRIAL COURT; FIRST ON THE TRIAL COURT DOCKET IF I WASN'T INDICTED? OH MY BAD, MRS. McElveen state here ON THESE LEGAL DOCUMENTS THAT I WAVED MY WAVIER OF INDICTMENT TO PRESENTMENT TO THE GRAND JURY, BUT ON 9-28-2020: CHARLES SPENCER ANDERSON; WAS ON THE TRIAL DOCKET FOR COURT: BUT ASSISTANCE SOLICITOR AND HEAD SOLICITOR STATING ON THESE LEGAL DOCUMENTS THAT ON 8-1-2019 (August 1, 2019) I WAVIER MY PRESENTMENT TO THE GRAND JURY; THE QUESTION I ASK IS FOR THE COURT(S) CAUSE THE APPEALS WILL SURELY GET ALL OF THESE ELEMENT(S) ALSO ON HOW THE HEAD SOLICITOR AND ASSISTANCE FRAUD LEGAL DOCUMENT WHICH IS A CRIME AND MISCONDUCT OF OFFICE(S) BECAUSE I NEVER WAVIER PRESENTMENT TO THE GRAND JURY, WHEN ON 9-28-20 I PLACE A MOTION TO DISMISSAL OF INDICTMENT FOR DEFECT(S) ON THE FACE OF INDICTMENT: (SEPTEMBER 28, 2020) IN FRONT OF JUDGE FERRELL COTHRAN: WHICH SHOWS THAT THIS IS A CLEAR CASE OF PROSECUTION MISCONDUCT AND MISCARRIAGE OF JUSTICE: AND GROUNDS FOR VACATE OF DEFENDANT SENTENCE.

(2014-65-43-0810): THIS WAS THE REASON I SUBMITTED
THESE MOTION(S) BECAUSE I NEED PROOF THAT I DID
WHAT I'M CHARGED FOR, AND I KNEW THAT THE
STATE DID NOT HAVE ANY KIND OF EVIDENCE, CAUSE
I NEVER DONE IT. (YES) I WAS FORCED INTO TAKEN
THE PLEA OF 20 YEARS; OR DO 150 YEARS WHEN THE
JUDGE IS WILLING TO LOOKED THE OTHER WAY; IS A
REALLY SCARY THING. EVEN WHEN THE STATE ATTORNEY
TELLS HIM THEY DON'T HAVE ANY PHYSICAL EVIDENCE
SHOWING MR. ANDERSON COMMITTED THE CRIME,
WHO IN THEIR SOUND MIND ~~AVOID~~ ^{wouldn't} DO WHAT I DID,
IT'S NOT ANYTHING NOR EVIDENCE(S) SUPPORTING ANY
OF THESE CHARGE(S). BUT WHAT'S REALLY CRAZY IS
HOW THE HEAD SOLICITOR AND ASSISTANCE SOLICITOR,
IS WILLING FORGE LEGAL DOCUMENTS, AND PRESENT
FRAUD LEGAL DOCUMENT(S) TO THE COURT(S). IF YOU
DON'T BELIEVE ME LOOK FOR YOURSELF. AT BOTH
INDICTMENT THAT SUPPOSE TO BE HANDED DOWN
ON THE SAME DATE, ONE STATE(S) I BEEN INDICTED BY
THE GRAND & JURY ON 8-1-2019 AND SIGNED BY A
FORUMAN NAMED (CHARLES A) ON ARMED ROBBERY,
KID NAPPING + ATTEMPTED MURDER (NO MEDICAL RECORD) +
WEAPON POSSESSION (NO WEAPON IN CHAIN OF CUSTODY)
(WITH NO VIDEO FOOTAGE SHOWING ANY WEAPON) IN FILING
FALSE DOCUMENTS): BUT HEAD SOLICITOR SIGNED OFF ON
THIS INDICTMENT. BUT ONCE AGAIN ON 8-1-2019 I WAVED
A WAVIER OF PRESENTMENT TO THE GRAND JURY; AND
IT'S SIGNED BY THE HEAD SOLICITOR AND PRESENTED
TO THE COURT(S) BY ASSISTANCE SOLICITOR MR. BROWYN
K. McElveen; WHICH I HAVE A CIVIL COMPLAINT AGAINST
AIREADY IN THE FOURTH CIRCUIT APPEALS COURT.

BUT ONCE AGAIN ON SEPTEMBER I SUBMITTED A MOTION
OF DISMISSAL OF INDICTMENT, FOR DEFECTS OF THE
INDICTMENT, HOW DID I WAVE /WAVIER PRESENTMENT
TO GRAND JURY IF THIS WAS THE FIRST MOTION SUBMITTED
ON 9-28-2020 AT PRETRIAL HEARING ???

DUE TO THE FACT THAT DEFENDANT HAS A CIVIL COMPLAINT
AGAINST ASSISTANCE SOLICITOR, THIS IS A CLEAR CASE OF
DUE PROCESS AND EQUAL PROTECTION VIOLATION. THIS
SOLICITOR WAS SUPPOSE TO BE REMOVE FROM THE
CASE LOAD OF CHARLES ANDERSON. JUST BY THE JUDGE
REFUSING TO TAKE STATE ATTORNEY OFF ANDERSON CASE
IS A CLEAR CASE

(2014-65-45-0810). OF SELECTIVE PROSECUTION; AND
CLEAR ELEMENT OF PREJUDICE BY THE JUDGE TO KEEP ¹⁰³
THIS PERSON (ON CASE) MRS. McElveen. Violation of the
DEFENDANT(S) EQUAL PROTECTION CLAUSE, BUT BIAS BY
THE JUDGE TO ALLOW HER TO PROSECUTE THIS CASE WHEN
SHE WAS INFORMED OF THIS CIVIL CASE PENDING AGAINST
HER, DID VIOLATED BRADY ACT, (MALFEASANCE) AND VIOLATION
OF THE CHARLES ANDERSON DUE PROCESS; BY ALLOWING THE
SOLICITOR TO PROCEED WITH WANTING TO CONVICT THE
DEFENDANT WITH HAVING FULL KNOWLEDGE OF CIVIL
COMPLAINT AGAINST HER. IT WAS MALICE ATTENT BY THE
JUDGE COTHMAN, BECAUSE IT BEEN BROUGHT TO THE
ATTENTION OF THE COURT(S) BUT THAT MALEVOLENCE BY
A HONORABLE CIRCUIT COURT JUDGE (FERRELL COTHMAN)
SHOWS THAT HIS DISREGARD FOR THE HONOR OF HIS
OWN COURT ROOM AND THE LAW. THAT HE WOULD
ALLOW [MALICIOUS PROSECUTION] IN HIS COURT ROOM EVEN
AFTER IT BEEN BROUGHT TO HIS ATTENTION, AND HEARING
THAT HIS STATE ATTORNEY FAIL TO PRESENT EVIDENCE(S)
FOR ALL THESE ALLEGE CHARGES AGAINST CHARLE ANDERSON,
DEFENDANT ASK SENTENCE(S) TO BE VACATE:

DUE TO THE FACT THAT THE JUDGE (FERRELL COTHMAN) HAS
FAILED TO DUE HIS DUE DILIGENCE OF COURT OF LAW, AS
A HONORABLE VESSEL OF THE THIRD CIRCUIT COURT, TO
REMOVE SOLICITOR FROM PROSECUTOR OR PROSECUTING THIS
CASE, BY ALLOWING SOLICITOR TO PROSECUTE THIS CASE
IS A CLEAR CASE OF REVENGE (MALICIOUS PROSECUTION)
BY THE JUDGE HAVING KNOWLEDGE OF THIS ELEMENT, HE
IS JUST AS WRONG AS McElveen. Which is a STRONG FACT
OF PREJUDICE WITH A CLEAR DISREGARD OF THE CONSTITUTION
OF SOUTH CAROLINA (1868); BY DEPRIVING DEFENDANT HIS
DUE DILIGENCE OF HIS SECURED RIGHT(S) MANDATED BY THE
FEDERAL AND STATE CONSTITUTION, HE SHALL NOT BE [ABRIDGE],
NOR DEPRIVED, NOR DENY, THE RIGHTS SECURED TO HIM BY
THE CONSTITUTION (ART). 1 SEC: (14)(1)(3) & Federal Constitution
(8th)(14th)(6th) Amendment; Due Process And Equal Protection
Clause, by doing so is a clear violation of state and
Federal Constitution and it's a Civil Rights Violation
which the Judge did allow, even after I inform him
and the Courts of my Civil Complaint against
state Attorney. (Browyn K. McElveen)

(2019-GS-43-0810): SO I AM NOT CHALLENGING THE COURT(S)
Only the ¹⁰⁴INTEGRITY OF HONORABLE JUDGE COTHRAN ON TWO
ELEMENT(S), THAT WAS ALLOWED WHILE HE WAS ON THE
BENCH AND LOOKED THE OTHER WAY; WHICH SHOW(S)
HOW HE DISHONOR THE ROBE HE PUT(S) ON TO SERVE AND
PROTECT THE LAW HE SWORN TO SERVE DILIGENTLY.

SO WHY HE LOOK THE OTHER WAY WHEN ON 9-28-2020
STATED THAT THE COUNTY OF SUMTER DOES NOT HAVE
ANY EVIDENCE AGAINST ME. IS IT BECAUSE I AM [BLACK]
[MAN] WITH FACTS SHOWING I NEVER DID WHAT I WAS
ACCUSED OF. BUT BY ALLOWING THE STATE ATTORNEY TO
GET REVENGE; REALLY SHOWS THE TRUTH THAT HE WAS
PREJUDICE AND BIAS AND DIDN'T WANNA ACCEPT THE ELEMENT
OF TRUTH THAT THERE WAS NEVER ANY EVIDENCE. HE SHOWED
ALL FORM OF DISREGARD FOR MY EQUAL PROTECTION; BY
KNOWINGLY, AND HAVING KNOWLEDGE OF MY CIVIL COMPLAINT
AGAINST THE ASSISTANCE SOLICITOR "BROWYN K. McELVEEN
AND ALLOW HER TO GET HER [REVENGE] AND FORCE ME TO
PLEA TO A 20 YEAR SENTENCE WITH NO EVIDENCE(S) TO
SUPPORT THE CONVICTION: A CLEAR FORM OF PREJUDICE
BY THE HONORABLE JUDGE COTHRAN; WHERE'S THE TRUE
HONOR IN LOOKING THE OTHER WAY WHEN YOU TOOK A OATH
TO PROTECT AND SERVE. TRANSCRIPTS FROM 9-28-2020
WILL PROVE THAT MY EQUAL PROTECTION VIOLATED...
EVEN AFTER I SHOWED THE COURTS THE CIVIL COMPLAINT
AGAINST BROWYN K. McELVEEN. (SELECTIVE PROSECUTION)
GROUNDS FOR VACATE OF SENTENCE:

THIS IS A SWORN AFFIDAVIT IN SUPPORT THERE OF...

I _____, hereby apply for being duly sworn
UPON MY OATH, DEPOSE AND SAY THAT I HAVE ENCLOSED THE FORGOING
STATEMENT(S) TO THE BEST OF MY ABILITY AND ALL THE CONTENTS ARE
TRUTHFULLY, THAT INCLUDES EVERY GROUND KNOWN TO ME FOR VACATING
AND SETTING ASIDE OR CORRECTION(S) TO THE CONVICTION AND SENTENCE
ATTACKED IN ORDER TO THIS APPLICATION; AND THAT THE MATTER(S) AND
ALLEGATION(S); THEREIN SET FORTH ARE TRUE, AND WOULD BE PROSECUTED
FOR ALL PREJURY.

APPLICATION SIGNATURE

SWORN TO AND SUBSCRIBED BEFORE ME THIS _____
DAY OF, _____, _____ (L.S.)
MY COMMISSION EXPIRE(S) _____

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)
2022 JUL 19 PM 4:29)
CHARLES S. ANDERSON #38412MPBELL)
CLERK OF COURT)
Applicant,)
))
v.)
STATE OF SOUTH CAROLINA,)
))
Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Case No.: 2021-CP-43-1662

**RETURN AND PARTIAL MOTION TO
DISMISS THE APPLICATION
FOR POST-CONVICTION RELIEF**
(Counsel Already Appointed)

In response to Applicant Charles S. Anderson's post-conviction relief application filed on September 23, 2021, and received by Respondent the State of South Carolina on October 1, 2021, Respondent makes the following return¹ to the application and moves for summary dismissal of the claims of ineffective assistance of counsel, trial court error, and prosecutorial misconduct, and requests an evidentiary hearing solely on Applicant's claims of involuntary guilty plea pursuant to the Uniform Post-Conviction Procedures Act (S. C. Code Ann. § 17-27-10 et seq.) and the South Carolina Rules of Civil Procedure. In support of this return and partial motion to dismiss, Respondent offers the following:

¹ Respondent's return was due to be filed within sixty days of receipt. 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."). However, on the date the return was due to be served, the court reporter had not yet delivered the requested transcript for Applicant's plea and sentencing proceedings to the State. Since receipt and review of this transcript was necessary for the drafting and submission of a return, Respondent was unable to draft this return until the transcript was received. See S.C. Code Ann. § 17-27-70(a) (establishing that the Court may fix the time in which the State must respond and that "respondent shall file with its answer the record or portions thereof that are material to the questions raised in the application."); *Guinyard v. State*, 260 S.C. 220, 195 S.E.2d 392 (1973) (holding the trial court may extend the time for filing and that the time limit prescribed by the statute is not mandatory, but discretionary with the trial court.). Now, having received the transcript, Respondent submits this return to the application and asks the Court to consider it timely filed.

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections as a result of guilty pleas to several indictments arising from multiple incidents in Sumter, South Carolina.

On April 20, 2018, Applicant committed an armed robbery of Frederick's Citgo gas station in Sumter. The store clerk identified Applicant from a photographic lineup and noted that Applicant was a frequent customer of the store. As a result of this, the Sumter County Grand Jury indicted Applicant during its September 2018 term for armed robbery (2018-GS-43-0890 Ct. 1) and possession of a weapon during the commission of a violent crime (2018-GS-43-0890 Ct. 2). Applicant was arrested and subsequently released on bond.

Thereafter, on May 3, 2019, while he was out on bond, Applicant committed another armed robbery of an Auto Zone store in Sumter where he used to be employed. According to the victims, Applicant entered the store without anything concealing his identity and they were immediately able to identify Applicant as the robber. During the commission of this armed robbery, Applicant forced an employee to zip-tie another employee to restrain her, and then Applicant held a revolver to the head of an employee and pulled the trigger of the firearm. As a result of this, the Sumter County Grand Jury indicted Applicant during its August 2019 term for armed robbery (2019-GS-43-0810 Ct. 1), attempted murder (2019-GS-43-0810 Ct. 2), and possession of a weapon during the commission of a violent crime (2018-GS-43-0890 Ct. 3).

Applicant was originally represented by Timothy Murphy and Jason Bridges of the Third Circuit Public Defender's Office, as well as Justin Kata, Esquire, of the private bar. However, Applicant moved to relieve all counsels and following a colloquy with the court, Applicant made a knowing, voluntary, and intelligent decision to forgo his right to counsel and proceed *pro se*. Applicant also evaluated by the Department of Mental Health for competency and criminal

responsibility and found both competent to stand trial and capable of conforming his behavior to the requirements of the law.

On September 28, 2020, Applicant appeared before the Honorable R. Ferrell Cothran, Jr., circuit court judge, for a pre-trial motions hearing. The State was represented by Assistant Solicitor Bronwyn K. McElveen of the Third Circuit Solicitor's Office. At the start of the hearing, Applicant moved to continue his case, citing an inability to review discovery. Assistant Solicitor McElveen informed Judge Cothran that Applicant's prior attorneys had all been provided with full discovery numerous times and she affirmed that she had delivered discovery to Applicant personally at the detention center once he elected to proceed *pro se*. Applicant also referenced his desire to pursue motions to suppress all evidence, to dismiss the case, to quash the indictments, and to disqualify the Assistant Solicitor based on a purported conflict of interest stemming from a civil rights complaint Applicant filed against her. Judge Cothran either denied the motion or explained to Applicant that it was not the proper time to make such a motion and provided him with guidance on the appropriate time to make said motion.

After a break to allow Applicant to confer with another private attorney he was considering hiring, Applicant elected to forgo his right to a jury trial and accepted a plea offer from the State for a recommended aggregate sentence not to exceed twenty years of imprisonment for all charges.² Following a thorough plea colloquy, Applicant admitted his guilt to the offenses and Judge Cothran accepted his guilty pleas. In accordance with the plea agreement, Judge Cothran imposed an twenty years of imprisonment (twenty years of imprisonment for each armed robbery, twenty years of imprisonment for attempted murder, and five years of imprisonment for each

² As part of the plea agreement, the State also dismissed a kidnapping charge related to the 2019 armed robbery.

of a weapon during the commission of a crime of violence). Applicant did not pursue a direct appeal.

II. Current Action before the Court

In his application for post-conviction relief, Applicant alleges he is entitled to relief based on the following grounds:

10 (a) Ineffective assistance of counsel

11(a) (1) Trial counsel “fail[ed] to submit motions that would of cleared defendant of all charges State claim they’re no evidences”

(2) “They failed to do their due (Timothy Murphy, Jason Bridges, Justin kata) diligence which they sworn to uphold their oath of office(s), which they sworn to fight for all client to the best of their abilities, which was never done. (Timothy Murphy gave my case load to Mr. Jason Bridges, which he tried to get me to plea to a 10 with 85% that was never in written, where its not evidence showing that I ever committed any alleged crime; Same with Justin Kata, but we was talking about 0-25 Cap with out the State of South Carolina presenting any form of evidence on his client. I asked numerous times from both counsel for them to submit a motion to challenge the indictment and suppression of evidences; I even wrote South Carolina Supreme Court (Office of Disciplinary Counsel)); on both counsel (Jason Bridges) + (Justin Kata); I also filed a civil complaint against my last counsel Justin Kata, which he was taken off my case 2 weeks before my trial date, then I was denied the right to have counsel assistance (Brady violation) also a violation of my constitutional rights (6th Amendment)

which is secured to me; so not only did Judge Cothran violated my due process clause, but also my equal protection act as well, as well as the above individuals also.”

10 (b) Involuntary Guilty Plea

11(b) (1) “Evidence on video from 2018 robbery clearly shows its not defendant.”

(2) Applicant asserts the State and Judge Cothran forced him to plead without sufficient evidence against him when the charges should have been dismissed (See attached sheets to the application)

10 (c) “Violation of the 6th Amendment/No Miranda Rights/Brady Violation (Miranda Violation)”

11(c) (1) “Counsel filed a 60s motion force to represent his self (pro se)”

(2) “Conflict of interest against Solicitor and Lawyer (civil suit)”

(3) Judge Cothran denied his constitutional rights by denying him his right to counsel to hire a private attorney

(4) Brady Violation/Court error – at a September 28, 2020 pre-trial hearing, the Solicitor told Judge Cothran there was no evidence Applicant committed a crime but his suppression motion was still denied

As requested relief, Applicant states he is seeking, “sentence vacated. Evidences clearly prove it’s wasn’t defendant (Judge Cothran) Thru all testimony from witness + OFC OUT: And STATED it’s no evidence by Solicitor SEE Transcripts FOR (9-28-2020) PRE-TRIAL HEARING (See Attachment).

Attached herewith and incorporated herein are the records of the Sumter County Clerk of Court regarding the underlying general sessions proceedings, the transcripts from Applicant’s plea

proceeding, and Applicant's records from the South Carolina Department of Corrections. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III. Response to and Motion to Dismiss Allegations of Ineffective Assistance of Counsel, Trial Court Error, and Prosecutorial Misconduct

In his application, Applicant raises numerous claims against his prior counsels, the plea judge, and the prosecutor.

Respondent moves for summary dismissal of these claims pursuant to § 17-27-70(c) of the South Carolina Code of Laws on the basis that Applicant is not entitled to post-conviction relief because there exists no genuine issue of material fact and Respondent is entitled to judgment as a matter of law. See Welch v. MacDougall, 246 S.C. 258, 260, 143 S.E.2d 455, 456 (1965) (requiring a PCR applicant to make a *prima facie* showing he is entitled to relief before the court will hold an evidentiary hearing). Because there is no question of law or fact to necessitate a hearing, Respondent requests the Court not hold a hearing in this matter, and, instead, summarily dismiss these claims. See S.C. Code Ann. § 17-27-70(b) (establishing procedure for summary disposition of PCR applications); Leamon v. State, 363 S.C. 432, 434, 611 S.E.2d 494, 495 (2005) (summary disposition appropriate when there is no need to develop facts and the applicant is not entitled to relief). Respondent moves for summary dismissal for the following reasons:

Response to Ineffective Assistance of Counsel Claims

Initially, as to Applicant's claims of ineffective assistance of counsel, Applicant elected to proceed *pro se* and voluntarily entered his guilty plea without counsel after relieving *three* separate attorneys. Accordingly, all of his claims regarding the performance of pre-trial counsels are moot and he is unable to establish that he is entitled to relief based on the performance of counsel he voluntarily elected to relieve.

Pursuant to both the United States Constitution and the South Carolina Constitution, a

criminal defendant brought to trial in South Carolina “must be afforded the right to the assistance of counsel before he can be validly convicted and punished by imprisonment.” Faretta v. California, 422 U.S. 806, 807 (1975); see S.C. Const. art. I, § 14 (“Any person charged with an offense shall enjoy the right . . . to be fully heard in his defense by himself or by his counsel or by both.”). However, “[t]he right to defend is personal.” Faretta, 422 U.S. at 834. As a result, a defendant is permitted to waive his right to counsel and represent himself during a trial in a *pro se* capacity. State v. Barnes, 407 S.C. 27, 35, 753 S.E.2d 545, 550 (2014). Thus, even though it ultimately may be detrimental for a defendant to personally conduct his own defense, that defendant’s choice to do so “must be honored out of that respect for the individual which is the lifeblood of the law.” State v. Thompson, 355 S.C. 255, 262, 584 S.E.2d 131, 134 (Ct. App. 2003) (citation and internal quotations omitted).

In order to invoke the right to self-representation, a defendant “must take affirmative steps” to advise the trial judge of his desire to proceed in that manner. Benitez v. United States, 521 F.3d 625, 632 (6th Cir. 2008); see United States v. Leggett, 81 F.3d 220, 224 (D.C. Cir. 1996) (“The law presumes that a defendant has not exercised his right to represent himself nor waived the right to counsel in the absence of an articulate and unmistakable demand by the defendant to proceed *pro se*.”). Therefore, if a defendant actually wishes to proceed *pro se* during trial, the defendant must *clearly and unequivocally* make an assertion of the right to self-representation *prior to trial*. Mazique, 419 S.C. at 291, 797 S.E.2d at 734; see State v. Reed, 332 S.C. 35, 41, 503 S.E.2d 747, 750 (1998) (“The right to proceed *pro se* must be clearly asserted by the defendant prior to trial.”). Significantly, the requirement for a clear and unequivocal assertion of the right to self-representation both “protect[s] against an inadvertent waiver of the right to counsel by a defendant’s occasional musings on the benefits of self-representation” and “prevents a defendant

from taking advantage of and manipulating the mutual exclusivity of the rights to counsel and self-representation.” United States v. Frazier-El, 204 F.3d 553, 558-559 (4th Cir. 2000) (citations and internal quotations omitted).

If a criminal defendant in South Carolina makes a proper request to exercise his right to self-representation, the trial judge must take steps to ensure the defendant is knowingly, voluntarily, and intelligently waiving his right to counsel, including by advising the defendant of his right to counsel and adequately warning him of the dangers and disadvantages of self-representation. See Barnes, 407 S.C. at 35, 753 S.E.2d at 550 (“So long as the defendant makes his request prior to trial, the only proper inquiry is that mandated by *Faretta*.”); see also Ex parte Jackson, 381 S.C. 253, 259, 672 S.E.2d 585, 588 (Ct. App. 2009) (“It is the trial court’s responsibility to determine whether there was a knowing and intelligent waiver [of the right to counsel] by the accused.” (citation omitted)). For a knowing and intelligent waiver to occur, the defendant must be “(1) advised of his right to counsel; and (2) adequately warned of the dangers of self-representation.” Osbey v. State, 425 S.C. 615, 619, 825 S.E.2d 48, 50 (2019). Moreover, Applicant is expressly barred from raising ineffective assistance claims about his own conduct. Faretta v. California, 422 U.S. 806, 834 n.46 (1975) (“Thus, whatever else may or may not be open to him on appeal, a defendant who elects to represent himself cannot thereafter complain that the quality of his own defense amounted to a denial of effective assistance of counsel.”).

Here, Applicant has failed to demonstrate that he was forced to proceed *pro se*. Rather, the record reveals that Applicant voluntarily elected to enter a guilty plea while self-represented after relieving three competent attorneys.

Moreover, since Applicant voluntarily elected to proceed *pro se* and enter a guilty plea without counsel, any claims regarding the performance of counsel that he elected to relief are

insufficient to sustain an application for post-conviction relief and should be dismissed as a matter of law. See United States v. Lawrence, 161 F.3d 250 (4th Cir. 1998) (“[t]he Sixth Amendment does not require a court to grant advisory counsel to a criminal defendant who chooses to exercise his right to self-representation by proceeding *pro se*”), United States v. Mikolajczyk, 137 F.3d 237 (5th Cir. 1998) (holding that, as the defendant “had no right to standby counsel, it seems unlikely that standby counsel’s failure to assist could be a violation of his Sixth Amendment rights”), and United States v. Bova, 350 F.3d 224 (1st Cir. 2003) (nothing that the defendant did not have the right both to “represent himself and to enjoy the benefit of standby appointed counsel”), Applicant’s decision to move to relieve his counsel and proceed as a *pro se* defendant precludes Applicant from maintaining an application for post-conviction relief based upon a claim of the ineffective assistance of counsel.

Accordingly, the State moves to dismiss these allegations of trial court error pursuant to Rule 12(b)(6), SCRCF, for failure to state a cognizable claim. The State further moves for summary dismissal of this claim pursuant to § 17-27-70 because there is no genuine issue of material fact which would necessitate an evidentiary hearing and these allegations should be dismissed as a matter of law.

Response to Trial Court Error Claims

Additionally, Applicant’s assertions of trial court error, including his assertions that the trial court erred for denying his motion to suppress and allowing him to proceed forward *pro se*, are not proper post-conviction relief claims.

Accordingly, Applicant’s claims of trial court error should be summarily dismissed for failure to state a cognizable claim under the Uniform Post-Conviction Procedure Act³ (the Act).

³ S.C. Code Ann. §§ 17-27-10 to -160.

An applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy....

S.C. Code Ann. § 17-27-20(A).

However, because an application for post-conviction relief is not a substitute for a direct appeal of trial court error, and because of the modern simplification of criminal jurisdiction jurisprudence in South Carolina, the *overwhelming* majority of cognizable claims fall under the broad umbrella of “ineffective assistance of counsel,” a contention under the Sixth Amendment of the United States Constitution. Direct appeal issues which could have been reviewed on appeal and were not objected to at trial or during guilty plea proceeding may only be presented to support a claim of ineffective assistance of counsel, not as a separate ground for relief. Hyman v. State, 278 S.C. 501, 502, 299 S.E.2d 330, 331 (1983).

Here, Applicant’s claims of trial court error neither support a cognizable claim for post-conviction relief under any of the statutory grounds nor constitute an appropriate basis for a finding of ineffective assistance of counsel where Applicant voluntarily proceeded *pro se* at his guilty plea

proceeding. Wolfe v. State, 326 S.C. 158, 162 n.2, 485 S.E.2d 367, 369 n.2 (1997); see Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (noting that allegations of trial court error are not cognizable on PCR); Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1975) (finding that alleged trial errors and sufficiency of evidence are direct appeal issues that are not cognizable PCR claims); Stepney v. State, 278 S.C. 47, 292 S.E.2d 41 (1982) (explaining that issues that could have been raised on direct appeal cannot be considered on PCR application absent claims of ineffective assistance of appellate counsel). These claims therefore are not properly before this Court. See, e.g., Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993) (“[PCR] is not a substitute for appeal or a place for asserting errors for the first time which could have been reviewed on direct appeal.”); S.C. Code Ann. § 17-27-20(B).

Accordingly, the State moves to dismiss these allegations of trial court error pursuant to Rule 12(b)(6), SCRPC, for failure to state a cognizable claim. The State further moves for summary dismissal of this claim pursuant to § 17-27-70 because there is no genuine issue of material fact which would necessitate an evidentiary hearing and these allegations should be dismissed as a matter of law.

Response to Prosecutorial Misconduct Claims

Finally, Applicant’s claims of prosecutorial misconduct also must be dismissed as they fail to present a genuine issue of law or fact to necessitate a hearing under Rule 12(b)(6), SCRPC, or § 17-27-70. As an initial matter, Respondent notes that while Applicant frames these issues as Brady and Miranda violations and a conflict of interest, the substance of Applicant’s complaints against the prosecutor center around his displeasure with being charged for crimes for which he asserts there is no evidence he committed. Moreover, he states that the prosecutor admitted this during his pre-trial motion to suppress hearing, thereby committing prosecutorial misconduct. This

claim is refuted by the record and should be dismissed as a matter of law.

Regarding any purported discovery claims, the prosecutor informed the Court that she personally delivered discovery to Applicant when he elected to proceed *pro se* upon relieving his third attorney, as evidenced in the transcript of his September 28, 2020, guilty plea proceeding. Applicant has failed to present any evidence as to what was improperly withheld by the State, and, accordingly, has not made a *prima facie* showing that he is entitled to a hearing on this ground. Any discovery-related claims should be dismissed as a matter of law.

Additionally, any claims regarding a purported conflict of interest of the prosecutor were addressed and denied by the trial court on the record during the September 28, 2020, hearing. Instead of proceeding to trial and appealing this ruling, Applicant elected to accept a favorable plea offer from the State, thereby waiving his right to challenge this issue further.

The State moves for summary dismissal of these claims of prosecutorial misconduct pursuant to § 17-27-70 because there is no genuine issue of material fact which would necessitate an evidentiary hearing and these allegations should be dismissed as a matter of law.

IV. Response to Claims of Involuntary Guilty Plea

Applicant also raises claims that his guilty plea was involuntarily entered. The records from Applicant's plea proceeding fully support that Applicant's guilty plea was entered freely, voluntarily, and knowingly. This allegation is without merit.

"A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed." Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 74 (1977)). "Indeed, where a thorough colloquy is conducted, courts must exercise caution in setting aside the guilty plea." Garren v. State, 423 S.C.

1, 12, 813 S.E.2d 704, 712 (2018); see Jamison v. State, 410 S.C. 456, 469-71, 765 S.E.2d 123, 129-30 (2014) (observing that “guilty plea[s] must be treated as final in the vast majority of cases” and instructing that caution must be exercised so as not to “undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea”). Statements made during the plea should be considered conclusive unless the defendant presents reasons why she should be allowed to depart from the truth of those statements. Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

In Applicant’s case, the record fully supports the knowing and voluntary nature of Applicant’s plea. Applicant indicated he understood the potential sentences for all indicted offenses and parole eligibility. Applicant further indicated he understood all of his constitutional rights, including his right to a trial by jury. He also told the plea court he was pleading guilty freely and voluntarily.

Accordingly, the record conclusively refutes Applicant’s allegation his plea was involuntary. However, allegations regarding the voluntariness of the plea may raise a question of fact which is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V. Any Future Amendments and Invocation of Discovery Process

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be

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

Pursuant to section 17-27-150 of the South Carolina Code, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Further, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. As noted above, the State reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to the State. See Love, 428 S.C. 231, 834 S.E.2d 196.

VI. Response to Any and All Other Allegations

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

VII. Request for Summary Dismissal of All Claims Beyond Involuntary Guilty Plea and an Evidentiary Hearing Solely on the Claim of Involuntary Guilty Plea

WHEREFORE, Respondent respectfully requests this Court convene an evidentiary hearing solely on Applicant's claims of involuntary guilty plea. As to all remaining claims, Respondent respectfully requests this Court summarily dismiss these claims for failure to present a genuine issue of law or fact necessitating an evidentiary hearing.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

By: 
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
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Telephone: (803) 734-3737

July 18, 2022

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

CHARLES ANDERSON, #384121

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent,

RECORDED

2022 JUL 19 PM 4:29

IN THE COURT OF COMMON PLEAS

JAMES C. CAMPBELL

CLERK OF COURT

SUMTER COUNTY, S.C.

2021-CP-43-1662

CERTIFICATE OF SERVICE BY MAIL

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

Mr. James Kristian Falk, Esquire
Falk Law Firm, LLC
Post Office Box 1058
Charleston, South Carolina 29402

DATED this 18th day of July, 2022.


Joshua Osborne, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF SUMTER	)	Case No.: 2021CP4301662
	)	
Charles S. Anderson,	)	
	)	
Applicant,	)	
	)	
vs.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	July 24, 2024
_____	)	

TRANSCRIPT OF POST-CONVICTION RELIEF HEARING

BEFORE THE HONORABLE GRACE GILCHRIST KNIE
Circuit Court Judge, presiding

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

For Applicant: Timothy Lee Griffin, Esquire
2338 Mount Vernon Dr.
Sumter, SC 29154

For Respondent: T. Cruise Mitchell, Esquire
SC Attorney General's Office
P.O. Box 11549
Columbia, SC 29211-1549

Recorded by:	DCRP
Transcribed by:	Teresa B. Johnson CVR-M-CM, RVR, RVR-M P.O. Box 2812 Greenville, SC 29602

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P R O C E E D I N G S

(Proceedings begin on the 24th day of July 2024,
at 10:36 a.m.)

THE COURT: The matter of Charles S. Anderson
versus the State. This is a piece -- a
post-conviction relief action, Civil Action
No. 21CP431662.

Counsel, if you will identify yourself for
the record, starting with counsel for the
applicant.

MR. GRIFFITH: Your Honor, Attorney Timothy
L. Griffith of the Sumter Bar, representing the
applicant.

THE COURT: Thank you.

MR. GRIFFITH: Your Honor, I am Assistant
Attorney General Cruise Mitchell on behalf of the
State of South Carolina.

THE COURT: Okay. Thank you.

Sir, you are Charles S. Anderson?

THE APPLICANT: Yes, ma'am.

THE COURT: Can you move the mic down a
little bit? You might be more comfortable. Okay.

Let me have you sworn in by the clerk. Okay?

THE BAILIFF: Raise your right hand, sir.
State your full name.

1 **THE APPLICANT:** Charles Spencer Anderson,
2 (The applicant is first duly sworn.)

3 **THE COURT:** Okay.

4 Mr. Anderson, I'm Judge Knie. It's a
5 pleasure to be here today with you. I'm
6 originally from the Upstate.

7 **THE APPLICANT:** Okay, ma'am.

8 **THE COURT:** Okay.

9 **THE APPLICANT:** Yes.

10 **THE COURT:** If at any time during the hearing
11 you want to talk to Mr. Griffith privately, you
12 just let me know that, and I can let you-all talk.
13 I can go off the bench, or you-all can go into
14 that room if you need to. Okay?

15 **THE APPLICANT:** Yes, ma'am.

16 **THE COURT:** All right.

17 Anything before we begin?

18 **MR. GRIFFITH:** Nothing from us, Your Honor.

19 **MR. MITCHELL:** Nothing from the state,
20 Your Honor.

21 **THE COURT:** Do you have the packet?

22 **MR. MITCHELL:** Yes.

23 **THE COURT:** Thank you.

24 **MR. MITCHELL:** May I approach?

25 **THE COURT:** Yes. All right.

1 Mr. Griffith, normally, I would hear from the
2 applicant first. But do you object to me getting
3 the procedural history from Mr. Mitchell?

4 **MR. GRIFFITH:** No objection, Your Honor.

5 **THE COURT:** Okay.

6 The procedural history, please.

7 **MR. MITCHELL:** Yes, Your Honor. May it
8 please the Court?

9 The Sumter County Grand Jury indicted
10 Applicant during its August 2019 term for armed
11 robbery, attempted murder, and possession of a
12 weapon during the commission of a violent crime.
13 Applicant was originally represented by Timothy
14 Murphy and Jason Bridges, formerly of the Third
15 Circuit Public Defender's Office, as well as
16 Justin Kata, Esquire, of the private bar.
17 However, Applicant moved to relieve all counsels
18 and proceeded pro se.

19 On September 28, 2020, Applicant appeared
20 before the Honorable R. Ferrell Cothran Jr. for a
21 pretrial motions hearing. The state was
22 represented by Assistant Solicitor Bronwyn K.
23 McElveen of the Third Circuit Solicitor's Office.

24 After a break to allow Applicant to confer
25 with another private attorney he was considering

1 hiring, Applicant elected to forego his right to a
2 jury trial and accepted a plea offer from the
3 state for a recommended aggregate sentence not to
4 exceed 20 years of imprisonment for all charges.

5 Following a thorough plea colloquy, Applicant
6 admitted his guilt to the offenses, and Judge
7 Cothran accepted his guilty pleas. In accordance
8 with the plea agreement, Judge Cothran imposed a
9 20-year sentence of imprisonment each for armed
10 robbery, 20 years' imprisonment for attempted
11 murder, and five years' imprisonment for
12 possession of a weapon during the commission of a
13 violent crime. Applicant did not file a direct
14 appeal.

15 And with that, Your Honor, I'll turn it over
16 to Mr. Griffith.

17 **THE COURT:** Mr. Griffith.

18 **MR. GRIFFITH:** Thank you, Your Honor. We
19 would call Mr. Charles Anderson, Your Honor. I'm
20 not sure whether you want him to come up there
21 or...

22 **THE COURT:** Well --

23 **MR. GRIFFITH:** Is there -- is there room for
24 a wheelchair?

25 **THE COURT:** There is if we roll the chair

1 back.

2 **MR. GRIFFITH:** Okay.

3 **THE COURT:** Might be easier, because you'll
4 be cross-examined --

5 **THE APPLICANT:** Okay.

6 **THE COURT:** -- probably. Okay?

7 Okay. Mr. Anderson, you just take your time.
8 Okay?

9 **THE APPLICANT:** Yes, ma'am.

10 **THE BAILIFF:** State your full name, sir, and
11 spell your last name for the record, please.

12 **THE APPLICANT:** Charles S. Anderson.
13 A-n-d-e-r-s-o-n.

14 **THE COURT:** Okay. Thank you, sir.

15 Just make yourself comfortable. Okay? You
16 can probably sit back a little bit. You've locked
17 the chair, though; it's not going to roll back.
18 Okay.

19 **THE APPLICANT:** Okay. Thank you.

20 **THE COURT:** Direct examination by
21 Mr. Griffith.

22 **MR. GRIFFITH:** Thank you, Your Honor.

23 **CHARLES ANDERSON**

24 having first been duly sworn, testifies as follows:

25 **DIRECT EXAMINATION**

1 **BY MR. GRIFFITH:**

2 **Q** Mr. Anderson, where are you currently
3 incarcerated, sir?

4 **A** At Evans Correctional Institution.

5 **Q** Okay.

6 What -- what city is that in?

7 **A** Bennettsville, South Carolina.

8 **Q** Okay.

9 And so how long have you been incarcerated,
10 sir?

11 **A** I've been incarcerated for five years and
12 some months now.

13 **Q** Okay. And -- five years.

14 You remember that you were -- you didn't go
15 to -- you were -- you were convicted because you pled
16 guilty; isn't that correct?

17 **A** Yeah. I was forced to plead guilty.

18 **Q** Okay. Well, let's get to that.

19 First, did you have an opportunity to see --
20 first of all, who was your attorney?

21 **A** It started off with Timothy Murphy. Timothy
22 Murphy had retired, so they took my case and gave it to
23 Mr. Jason Bridges.

24 **Q** Okay.

25 **A** Well, me and Jason Bridges seems -- it was a

1 discrepancy about my case. So he took his self -- he
2 took his self off my case. That's when they gave me
3 Justin Kata.

4 **Q** Okay.

5 And the state says that you dismissed or
6 fired your attorneys; is that true?

7 **A** No, it's not, sir. Only one attorney that
8 I -- I currently fired. And that was just Justin Kata.
9 I also went to South Carolina Supreme Disciplinary
10 Counsel on Justin Kata. I filed a disciplinary
11 complaint against him.

12 But me firing Timothy Murphy never took
13 place. Me firing Jason Bridges never took place. But
14 that's what it seemed like Ms. McElveen keep pushing
15 the issue, that I fired three attorneys just to prolong
16 my case.

17 **Q** All right.

18 And so what else do you know about your
19 attorneys that -- as far as how long they represented
20 you? Did the -- how long did Mr. Timothy Murphy
21 represent you? Do you remember?

22 **A** Timothy Murphy took my 2018 case. So that
23 been going on for a year before alleged 2019 robbery.
24 So I say Timothy Murphy represented me probably two
25 years.

1 **Q** Okay.

2 **A** Almost.

3 **Q** And how long did Mr. Bridges represent you?

4 **A** Mr. Bridges, I'll say no more than six
5 months.

6 **Q** Okay.

7 And then how long did your last attorney
8 represent you?

9 **A** A year.

10 **Q** A year. Okay.

11 And during the time when Mr. Murphy
12 represented you, when Mr. Bridges represented you, and
13 your last attorney, what -- did you have opportunities
14 to talk to them?

15 **A** It's a couple times I seen Timothy Murphy.
16 He probably was dropping in, seeing another client.
17 And due to the fact that me and his client that he was
18 seeing was on the same tier, he'd probably call me out;
19 let me know he's still waiting on the motion to
20 discovery. He ain't never get the motion to discovery
21 yet. And he'd get back with me.

22 **Q** Okay.

23 Now did you ever get to see your discovery
24 before the plea?

25 **A** No, I did not.

1 **Q** Okay.

2 So -- so none of the attorneys was able to
3 provide you with the evidence that was against you?

4 **A** No.

5 **Q** Do you know whether they had the evidence or
6 not or?

7 **A** I said -- I -- well, how would I phrase this?
8 I'm trying to maintain my composure. I'm kind of
9 nervous. You have to bear with me.

10 **Q** Oh, I understand. Take your time.

11 **THE COURT:** Sir, just --

12 **MR. GRIFFITH:** I know.

13 **THE COURT:** -- take a deep breath.

14 **BY MR. GRIFFITH:**

15 **Q** Yeah. Everybody's nervous sitting up there.

16 **A** Can you repeat the question again?

17 **Q** I wanted to know if -- whether or not you
18 knew if they had any evidence, that is to say, if you
19 knew the lawyers had any evidence to show you.

20 **A** Only thing I knew was what me and Jason
21 Bridges had discussed one day. He say it was a non --
22 supposedly a nondisclosed or a nonagreement, that's not
23 on paper, that the state offered me a 10 with 85 if I
24 plead straight out to a armed robbery. Ten with 85.
25 They'd drop the attempted murder down to assault. 2018

1 robbery -- armed robbery, they'd drop it down to common
2 law robbery.

3 Besides that -- and he showed some videos of
4 the 2018 case where -- where it shows the man whole
5 face covered.

6 **Q** Okay.

7 But the long and the short of it is, is you
8 never got to see any of your discovery --

9 **A** No. I --

10 **Q** -- is that right?

11 **A** -- never seen the 2019 new charges.

12 **Q** Okay.

13 Now you -- you remember when you went before
14 the Judge and pled guilty?

15 **A** Yes, I did, sir.

16 **Q** Now let's start talking about that. In your
17 complaint, you tell us that you were coerced into that
18 plea. So how long did you have to make up your mind?

19 **A** I had 60 seconds.

20 **Q** Okay. Tell us about it.

21 **A** During the course, I had put in a motion to
22 challenge my indictment because it was some
23 discrepancies about my indictment that I wanted to know
24 furthermore about. Because I know I ain't commit the
25 charges, so I was wondering how you come up with an

1 indictment with no evidence. So during the course of
2 me submitting -- submitting that to the judge -- y'all
3 pardon me.

4 Can I --

5 **Q** It's okay. You --

6 **A** -- I please have something to drink?

7 **Q** -- can take your time. Do you need a drink
8 of water?

9 **THE COURT:** You want some water?

10 **THE WITNESS:** Yes, ma'am.

11 **MR. GRIFFITH:** Take your time. We've got a
12 lot to cover.

13 **THE WITNESS:** I'm nervous. This is my first
14 time. Yes, thank you.

15 Excuse me, sir. Can you repeat that question
16 one more time?

17 **BY MR. GRIFFITH:**

18 **Q** Okay.

19 We're -- we're talking about when you did the
20 plea. And you were saying --

21 **A** Okay. Yes.

22 So it -- it was a situation where -- arrived
23 where the Judge say he don't know if he had
24 jurisdiction to hear my case. Because I raised
25 complaint about no true bill of indictment. So he told

1 the solicitor to go upstairs, take me to one of the
2 courtrooms, show me the rest of the video tapes, and
3 bring back the true-billed indictment by 12 o'clock.

4 So then, of course, I was supposed to been
5 taken to another courtroom and showed the 911 videos
6 and the rest of the evidence that they had that I
7 didn't see.

8 Q Okay.

9 A And go up to talk to a lawyer named --
10 attorney named Mr. Deas. 'Cause we are trying to
11 attain him. But I was told I was thrown on the court
12 docket. So my family wind up getting the money up to
13 attain a -- a private attorney for myself.

14 Q Mr. Deas?

15 A Mr. Deas. So when I explained to the Judge,
16 the Judge asked was Mr. Deas in the building. So he
17 had an officer to be able to find Mr. Deas, and told
18 them to take me to him, see is I can get him to take my
19 case. Because I was trying to get extension. But he
20 wouldn't give me extension.

21 So Mr. Deas basically saying he couldn't take
22 my case, because if he take my case, I could sue him
23 because I'm already -- I'm going to trial, and we ain't
24 have a chance to go over my case.

25 Q Right. He didn't have time to --

1 **A** So when he took me upstairs to speak to
2 Mr. Deas, before I get a chance to speak to Mr. Deas,
3 the assistant -- the head solicitor, the assistant
4 solicitor, Ms. Bronwyn McElveen, and Mr. Deas -- well,
5 they went and talk to him before I got a chance to
6 speak to him. And they-all went in the Judge's
7 chamber. Whatever they talk about, I don't know.
8 (Inaudible). When he come out, he don't want to
9 represent me no more.

10 **Q** Uh-huh.

11 **A** So now he asking me, why did I -- why did
12 didn't I keep Justin Kata as sitting in second seat? I
13 explained to him it'd be a conflict of interest because
14 I just filed a civil suit -- I have a lawsuit pending
15 against my attorney. So to have him go completely
16 represent me, I didn't feel comfortable.

17 So that's when they went in the -- the
18 Judge's changes. They came back out. The head
19 solicitor -- I don't know his name.

20 **Q** Mr. Finney?

21 **A** Mr. Finney. He said, "Okay. Here's your
22 chance right here. You can do 15 years. You got 60
23 seconds to sign, or you can do the 150." Now when they
24 tell me 150, I don't know what's going on. I don't
25 want to do no 150 years. All I'm thinking about my

1 family. I did -- I didn't do the crime. But I'm not
2 going to jail for no 150 years. That's one thing I
3 wasn't going to do. So --

4 Q Take some breaths there.

5 A (inaudible) made me mad.

6 Q I got you.

7 A So I had to come to terms with myself.

8 Q Yes.

9 A 'Cause if I would have told my mother that I
10 got 150 years for something I didn't do --

11 Q You need tissue? There's some tissue.

12 A -- it -- it would have killed my mom.

13 Q Okay.

14 A So I had to come to terms with myself and
15 tell myself, Either I'm going have to chance to come
16 home again or I'm not going to have the chance to come
17 home. I took the 20 years. I wasn't going to -- I was
18 going to do 150 years. But when I went back and did my
19 own study and research, the most time I could've got if
20 I went to trial and loss was 100 years. So it showed
21 me the solicitor was willing to give me 50 years over
22 the time my time carry. And it's not --

23 Q So -- well, let me -- let me ask you this
24 question. If he had said 100 years, that would --

25 A I wouldn't have took the --

1 **Q** -- still be pretty bad, wouldn't it?

2 **A** Yeah. It still. But at the end of the day,
3 it --

4 **Q** And so really, let me ask you a question
5 then. So basically, they told you, without the benefit
6 of having a trial, that you only had 60 seconds to
7 decide whether you were going to plead guilty or go to
8 trial. Is that what you're saying?

9 **A** Yeah. I had 60 seconds to either take it or
10 do 150 years. They would see to it I get to 150 years.

11 **Q** Okay.

12 And so --

13 **A** And that was the only thing that was on my
14 mind, is 150 years. 150 years. I mean --

15 **Q** Well --

16 **A** I'm almost 50 years old now.

17 **Q** Yeah.

18 **A** So I really can't do the 20 years -- it's
19 like a baby like sentence -- but I have a chance to get
20 home to my family.

21 **Q** Okay.

22 Now as far as that goes, knowing what you
23 know now, you know that it was only -- that it was 100
24 years, and knowing that --

25 **A** I would have took it to trial.

1 **Q** -- you felt like you were -- you were not
2 guilty, you may have been found innocent at trial,
3 would you have gone to trial rather than taking the
4 plea?

5 **A** Yeah, I would have went to trial.

6 **Q** Okay.

7 **A** Adequate representation where my lawyer -- I
8 mean, diligently -- with his due diligence to represent
9 me to the best of his ability that he can, yeah, from
10 what I -- with the stuff I discovered right now, yes, I
11 would have went to trial, seeing there's no -- it's
12 nothing showing that I committed crime, period.

13 And it -- it -- it kills me that the
14 integrity of you have a Rule 5, where it shows what
15 the -- what evidence they have on you. And there's
16 nothing in my Rule 5 showing that I commit any type of
17 crime. There's no DNA. DNA was taken. My DNA wasn't
18 on the scene. My fingerprints. There's no finger --
19 it's no photo, no picture of me showing me pointing and
20 presenting a gun. It was no firearm discharged in
21 public.

22 And I'm being charged with things -- it's
23 crazy, 'cause I don't -- I'm disfortunate. I don't --
24 can't afford no attorney, no street attorney. I only
25 can accept the attorney that is pointed to me. So it's

1 going to be a different ethical -- a fight situation,
2 than a street attorney than a public defender, it
3 seemed like.

4 Q Okay.

5 A Because anybody can go through it, anybody in
6 this courtroom can sit there and actually look at it
7 and be like what's he being charged for. There's
8 nothing that's actually in here pointing and showing
9 that a crime was committed, but just a whole bunch of
10 language saying that I did something. But there's no
11 evidence showing that I committed a crime, period. And
12 after I found that out -- see, I don't know nothing
13 about law. I don't know nothing about no direct
14 appeal. I'll just -- just worrying about getting home
15 to my family.

16 Q Right.

17 A So I bit the bullet. And I just went ahead
18 and said I did something that I didn't do in order for
19 me not to get 150 years.

20 Q Okay.

21 Now you said -- you mentioned a little bit
22 ago that they took you to another room and showed
23 you -- had you listen to the 911 --

24 A No. I ain't listen to nothing. The only
25 thing, they went in the Judge's chamber --

1 **Q** Okay.

2 **A** -- and came back out and say, "Here's your
3 chance."

4 **Q** Okay. All right.

5 Well, let's talk about some of the other
6 issues that you have in here. Basically, it says that
7 the trial counsel failed to submit motions that would
8 have cleared the defendant of all charges. State
9 claims that there's no evidence. Why don't you tell us
10 about that?

11 **A** Okay.

12 Is there anyway I can get -- I can get --

13 **Q** You -- you have --

14 **A** Yeah. It's a -- it's a -- it's a note. It's
15 a little tablet. If you can pull it out for me?

16 **MR. GRIFFITH:** May I approach --

17 **THE COURT:** Yes. Uh-huh.

18 **MR. GRIFFITH:** -- the witness, Your Honor?

19 **THE WITNESS:** That you can pull right here.
20 You'll pull this out for me? This. Right there.
21 Yeah.

22 **MR. GRIFFITH:** Let me get it to where I can
23 get in there. Way down in there. Of course, it's
24 on the bottom.

25 **THE WITNESS:** Sorry about that.

1 **MR. GRIFFITH:** This one?

2 **THE WITNESS:** Yes.

3 **MR. GRIFFITH:** The pad and the papers?

4 **THE WITNESS:** Yes.

5 Okay. Raise issues -- I raised issues
6 with -- see, I had contact Jason Bridges, I say
7 almost 24, 26 month [sic] ago, ask him if he can
8 send me a copy of my motion discovery. I told him
9 I didn't have neither one, not my 2018 or my 2019.
10 And can he explain to me why the state saying that
11 I fired him off my case as one of my attorneys?

12 In the process, Mr. Jason Bridges sent me my
13 2018 motion to discovery, my 2019 motion to
14 discovery. This is a year after I filed my PCR.
15 And he sent me a letter, I -- which I got in here,
16 telling me that I never fired him off my case,
17 that he took his self off my case.

18 Now the issue was he -- he actually bought me
19 a photo of the actual robbery of 2018, which I
20 don't know if the state got it to actually
21 where -- it don't show no photo of Citgo robbery
22 for the 2018.

23 And Ms. McElveen is a solicitor on the case.
24 Detective McFadden is the lead detective, and John
25 Miller.

1 Now the picture that they -- this newfound
2 discovery evidence that I just recently found, the
3 photo that's in the 2018 indictment case for the
4 robbery in 2018 is not the photos for the robbery
5 of the Citgo. Them photos is in a robbery that's
6 off of West Liberty Street, which is S&G grocery
7 store, which I'm not being in that charge. I'm
8 not being charged robbery for that.

9 And I say that's fraud. That's leading in
10 the courts to believe that -- in the affidavits,
11 that I was positively identified in the six-photo
12 lineup. And because of that photo out of that
13 store, it make it look like I was actually
14 identified in a six-photo lineup when that photo
15 is not from Citgo gas station.

16 Citgo gas station, the guy whole face is
17 covered. But on top of that, on his left arm, he
18 has no tattoos. And I explained this to Timothy
19 Murphy. I explained this to Jason Bridges.

20 I ain't really get a chance to talk to Justin
21 Kata about it because I see Justin Kata probably
22 once in a blue. He would stop by -- if he got a
23 client coming from court or somebody that was in
24 the county, he would stop by, ask to see how I'm
25 doing. He never had my paper with him. Work with

1 him, no. We wouldn't go over my case or nothing.
2 Ask me how I'm doing. He would tell me, "If I
3 tell you I could beat this at trial, I'd be
4 lying." This is what he used to always say to me.

5 So after I discovered this newfound
6 evidence -- I wish the Court can actually see this
7 photo. Because if you see the photo of the 2000
8 [sic] robbery, a Citgo, you'll see there's no way
9 impossible that his face was partially uncovered,
10 which Ms. McElveen -- which Timothy Murphy was at
11 my -- he was my -- my attorney then at my
12 preliminary hearing. They told the Judge that was
13 partial -- I was identified by a partially
14 uncovered mask. But in the -- in the video -- in
15 the photo of the robbery, it showed the assailant
16 and the subject whole face covered. So it was
17 impossible to identify.

18 Now I'm not a South Carolina resident. I
19 just moved down here in 2017. So I don't go to
20 that store frequently. The frequent store I go to
21 is the one that they got my photo in, which is S&G
22 store. So they also took my photo and sent it to
23 SLED for facial recognition. They took my motor
24 vehicle ID and they took the photo from out of S&G
25 store and sent it for a positive match. That's in

1 the motion to discovery.

2 SLED told Detective McFadden it's not -- how
3 I say it? -- it's not a positive -- a positive
4 match. It's a possible match, not a positive --
5 positivity match. It's not grounds for probable
6 cause for arrest. But instead, he still went
7 about arresting me where he's saying that the
8 victim in the store identified me.

9 Here it is the person that was robbing the
10 store, he touched the cash register. He touched
11 the door. He touched the counter. It was
12 clothing that was found with his DNA.

13 My DNA was taken. My fingerprints was taken.
14 None of them was shown on the scene. And even
15 though my DNA was legally attained, but it's
16 still -- none of them came back to me during chain
17 of custody, showed that I was the one that
18 committed that crime. And the thing that really I
19 question the most is, how is that this photo in
20 the 2018 discovery is led up to make the court to
21 believe that's what -- that's me in the store
22 that's being robbed, which is not the store. And
23 that's -- that's misleading the courts. And
24 believing something that's not true.

25 Because if you really see the -- the actually

1 photos from the crime scene, you got two different
2 crime scenes. You got Citgo on Guard -- Guignard.
3 And then you got this one on West Liberty.

4 **BY MR. GRIFFITH:**

5 **Q** Okay.

6 You know you and I were talking about a lot
7 of these things. And, I mean, of course, we're not
8 able to go over all the evidence here. But really to
9 make the statement of what you were just talking about,
10 you weren't provided discovery. And basically, you're
11 saying that the prosecutors and your lawyers presented
12 information that was not associated with the crime that
13 you were charged with? Is that what you're saying?

14 **A** Yeah. Basically what I'm saying, I'm saying
15 that the courts was mislead to believe that the -- the
16 materials and the tangible material that's in my Rule 5
17 is actually the place where the crime took place, and
18 my face is actually on that camera, which is not true.
19 That's misleading the courts. Because if you gone
20 bring charges on a person and charge them for one thing
21 but it's over here where the charge -- where the place
22 really took place on a robbery.

23 Like, for prime example, they saying that --
24 that same store, S&G store, prior to it supposedly --
25 it supposed to had been attempt to rob. Now the

1 description they gave of the person that robbed the
2 store is six foot 150 pounds. I'm five nine and 270
3 pounds. So it's a difference.

4 And you can see how it's investigation
5 misconduct. Because if my lawyer would have did or got
6 somebody investigated, he would have seen that
7 as defrauding the charges. You know, you accusing the
8 wrong person. You might need to do further
9 investigation.

10 **Q** Okay.

11 **A** No. I ain't trying to get nobody in trouble.
12 It's just right is right; wrong is wrong. I ain't no
13 angel. I ain't the perfect. You know, I did some bad
14 things. I'm not proud of it. May the Lord forgive me
15 for something.

16 But, I mean, I don't want to be locked up for
17 something I didn't do. Let me be accountable for
18 things that I did. If I didn't do something, please
19 just don't try to just close the case just to find
20 somebody because I got it on my record. I changed.

21 I came down in 2017. I went straight to
22 college. I was going to Central Carolina Tech for
23 megatronics. I lost all of that. Because...

24 **Q** Take your time.

25 While you're thinking about that, let me ask

1 you a couple of questions about Mr. Kata. When you --
2 when he stopped being your attorney, you -- you had
3 told the Judge that he had a conflict of interest.
4 Tell us a little bit about why you felt like he had a
5 conflict of interest. You had filed with the Office of
6 Disciplinary Counsel; is that correct?

7 **A** Yes, sir.

8 **Q** And -- and that was why you felt like he
9 was -- it was a conflict for him to continue to
10 represent you?

11 **A** The Rules of Professional Conduct states that
12 a -- a conflict of interest arise when an attorney
13 loyalty is no longer with his client. You know, his
14 loyalty was no longer with me. It was with the
15 solicitor.

16 It was to the point where -- see the Sixth
17 Amendment state that we have a right to effective
18 assistant of counsel, not ineffective. Once -- whew.

19 **Q** Take your time.

20 **A** We went to have my bail hearing. Justin Kata
21 stood up and said I've been a South Carolina resident
22 all my life. Know what that come from? He's not
23 taking the time to come and see me. He's not doing his
24 due diligence. Because if he did, he would have knew
25 that I wasn't born in South Carolina. I just moved to

1 South Carolina in 2017. South Carolina is not my
2 residence --

3 Q Right.

4 A -- all my life. And this is what he stated
5 to the bond judge, which was one of the elements of why
6 I got denied bond.

7 Q Well --

8 A On another note --

9 Q Okay.

10 A -- I showed -- the same discovery that Jason
11 Bridges gave me, I showed Justin Kata, the photo of the
12 2018 where I'm being accused of something that I didn't
13 do. Guy got no tattoos on his arm. He looking at the
14 photo. He looking at my arm. He looking at the photo.
15 He looking at my arm. So I asked him, "What is you
16 gone do about it?" Now this is photo from 2000 [sic]
17 robbery. That is not in that discovery. None of the
18 photos.

19 So he looking at my arm. He looked at that.
20 He said, "Well, I'm gone talk to the solicitor about
21 it. Because you shouldn't be charged with this if
22 that's the case. You say you ain't do it, and there's
23 evidence showing that that's not you on video camera,
24 you don't got no problem." So he asked me to see the
25 photos. I said, "I'm a need these photos back because

1 I want to keep them for my record."

2 Two months go by, I say, "You hear anything
3 about what they going to do about the 2018 case?"

4 They said, "No. They ain't doing nothing
5 with it."

6 "What about the photos?"

7 "What photos?"

8 I'm like, "The photos I gave you, showing you
9 that -- that can clear me from the 2018 robbery."

10 "I don't know about the photos."

11 **Q** Okay.

12 Let me ask you then. After -- while
13 you're -- while you're sitting there and thinking about
14 going to trial, suddenly you didn't have a lawyer. And
15 you were representing yourself. You were looking for
16 another lawyer. You're going to try and hire Mr. Deas.
17 But at that time, you did not have a lawyer, correct?

18 **A** Correct, sir.

19 **Q** And so when the solicitor came out, you --
20 you didn't have the benefit of an attorney when he
21 started asking you if you wanted to take the -- the
22 plea or go to trial for 150 years? You said you didn't
23 have the benefit of an attorney with you?

24 **A** No, I didn't, sir. When I asked for
25 extension -- I explained to the judge that the Attorney

1 Deas said that he'd take my case. That's why I'm
2 asking for extension.

3 He said, "I'll give you a two-day extension.
4 He'll take the case."

5 So upon me asking -- which I got the motion
6 that I filed the clerk of court for an extension, which
7 I was denied, the solicitor, Ms. Bronwyn McElveen --
8 it's in -- in my transcripts where she said to the
9 judge, "Your Honor, you said that" -- which is ex
10 parte. You -- they already had this conversation.
11 "Your Honor, you said that you was not going to delay
12 this case, that you was going forward with this trial."

13 So after I got rid of Justin Kata, I went to
14 trial a week later. I was third on the court docket.
15 How is it after I get rid of my attorney now I'm first
16 on the court docket?

17 **Q** Yeah. Sometimes that's -- that's tough. I
18 mean, you -- you're on the docket. And -- and the ones
19 that are before you, they decide to plead guilty, so
20 that brings you up to the top.

21 **A** No. It came up. They saying the last two --
22 it's ironic. The last two caught COVID.

23 **Q** Okay. Okay. All right.

24 **A** It's just a coincidence. But still now when
25 the Judge tell Justin Kata to take everything he had

1 and turn it over to me, everything, I never get it. I
2 get some paperwork. He give me all the calls that was
3 made to the police, some other piece of paper with
4 somebody else information about SLED Drug Enforcement
5 Lab, which I got in front of the judge and I read it to
6 the judge --

7 Q Okay.

8 A -- the stuff that he had in there, and that
9 was basically it.

10 I mean, see, what I know now, if I'd've knew
11 then, I would have just went to trial.

12 Q Yeah.

13 A Because the state really had no evidence.
14 The State Attorney Brown stood up -- when I put the
15 motion to suppress all physical evidence that the State
16 of South Carolina had against me, she stood up and told
17 him, Judge, "Your Honor, we have no evidence. The only
18 thing we have is the twisty ties." So what did you
19 take through chain of custody? Something had to go
20 through chain of custody for you to charge me with
21 attempted murder, for you to charge me with possession
22 of a firearm. If you don't have no picture or you have
23 two individuals that's saying it with two chains of
24 events, which took place with the robbery, where the
25 judge felt that the statement was inconsistent, and

1 threw they -- they threw they statements out. So, I
2 mean...

3 **Q** All right.

4 Now let's -- let's come back and -- and talk
5 about another one of these you're talking about here.
6 You stated in here that they violated your Sixth
7 Amendment, Miranda --

8 **A** Miranda rights. Miranda wasn't read.

9 **Q** Excuse me?

10 **A** My Miranda rights was never read.

11 **Q** You -- you were never read your rights.

12 **A** No, I was never --

13 **Q** -- when you were arrested?

14 **A** -- read. I never signed nothing. And when I
15 asked about it, I was told they ain't doing an
16 investigation on me that -- it's in my transcripts.
17 Because I don't know nothing about it. I just asked.
18 Because Jason Bridges brought that to my attention.

19 **Q** Now, did you -- did you give a statement to
20 the police?

21 **A** Never gave no statement.

22 **Q** Oh, okay.

23 **A** They said I did.

24 **Q** Yeah.

25 **A** They said -- you had three different officers

1 saying three different things. You had one saying I
2 had a gun to my head, threatening to kill myself.

3 So they never brought me to the police
4 station. They took me straight to the county. And
5 when I get to the county, they put me right in suicide
6 watch. So I'm trying to figure out why I'm on a
7 suicide watch in a total suit for almost a month and a
8 half until when I go and see the psyche doctor. And
9 she tell me, "You don't know reason why you was on --
10 on psych evaluation?"

11 I said, "No."

12 "Well, the officer -- McCullough -- McCallum,
13 however you say his name, stated that you had a gun put
14 to your head, saying that you was gonna blow your
15 brains out and kill yourself." So I never knew nothing
16 about that.

17 Now on the day of my pretrial, this is what
18 made me put in a motion for suppress all physical
19 evidence that the State of South Carolina have against
20 me. Because you saying I had a gun to my head,
21 threatening to kill myself. But then again, you saying
22 you don't have no gun in evidence. So how are you
23 charging me with something when you don't got no photo.
24 You got two people saying that I did something, two
25 different chains of events, both from them drug

1 addicts.

2 **Q** Okay.

3 Do you have anything else you can tell us,
4 you want to add for the judge to know?

5 **A** Yes.

6 **Q** Go ahead.

7 **A** Just remind me of -- all right. This goes to
8 the 2018 case. Ms. McElveen. Brady verse Maryland.
9 These issues rise on recorded calls or the document
10 already with recordings from within the courtroom.
11 Also the police report with you have the arriving
12 officer and the investigation officer saying two
13 different things.

14 You have the arriving officer saying upon him
15 arriving at the scene, he was -- met with the victim.
16 The victim clearly stated to him it was an unidentified
17 black male. But here it is, you have Detective
18 McFadden stating that upon arriving, Officer Ateems
19 [phonetic] tell him that Mr. Charles Anderson was
20 positively identified by the victim. So you had two
21 different officers saying two different things in a --
22 in a -- in police report. And it's -- it's all in
23 black and white. But who's telling the truth now?

24 Because you got one saying it was no
25 individual identified and the victim never wrote a

1 statement corroborating what Detective McFadden said,
2 that I was identified.

3 Q Okay.

4 A But Ateems saying that it was no person
5 identified. It was "unidentified black male robbed the
6 store with the Citgo, and he ran down the street." So
7 I mean it -- it -- it asks you to question something.
8 Which officer is telling the truth, the arriving
9 officer or the detective? You know, 'cause both can't
10 be telling the truth with two different chains of
11 events.

12 So I would like to put all of this on -- on
13 record too. Detective McFadden, solicitor --

14 Q Okay. Go ahead. I just going to ask you one
15 more question on one of the things that you said.

16 Now you did not appeal your case?

17 A What you mean by "appeal"?

18 Q You didn't file an appeal?

19 A Ain't -- ain't a PCR an appeal?

20 Q No, not a PCR appeal, a direct appeal.

21 A I thought I had to go to trial. See somebody
22 told me I can't file a directed -- direct appeal
23 because I actually ain't go to trial and lose. And I
24 stopped. I pleaded out. So --

25 Q Okay. So --

1 **A** -- due to the fact I pleaded out, I was told
2 that I couldn't do a direct appeal.

3 **Q** Well, of course, you could. And Judge told
4 you you had 10 days to appeal your sentence. You
5 remember that?

6 **A** Yes, I had 10 days to appeal.

7 **Q** Did you understand it, though?

8 **A** No, I didn't.

9 **Q** Because you're not lawyer, right?

10 **A** I didn't understand. I was -- the 150 years,
11 they telling me that, that's the only thing. Anything
12 else didn't matter. It could be a whole bunch of
13 people. That's all I kept on seeing --

14 **Q** Okay.

15 **A** -- me doing 150 years for something I didn't
16 do.

17 **Q** Okay.

18 I just wanted to cover that before we went on
19 another thing. Go ahead.

20 **A** It goes to -- well, there's a couple of
21 issues I would like to address. And I ain't just one
22 to just chal- -- I wanted to challenge the procedures
23 of how my case was handled with, period. You know,
24 these issue arise on record cause is all documents
25 already with the recorded -- within the courtroom.

1 Also police report that should be recorded, stamped,
2 and documents, and the police data.

3 Bond hearing 2018 robbery case, 4/24/18,
4 Detective McFadden and solicitor Ms. McElveen clearly
5 stated to Honorable Judge -- Magistrate Judge that I
6 was identified by partially uncovered mask. I was
7 given a 30 -- \$30,000 bond.

8 Now within a month later, I went to my
9 preliminary hearing, which my lawyer was Timothy Murphy
10 at the time. Upon this time, to [sic] solicitor stated
11 to the judge that I was identified by a partially
12 uncovered mask. I went to say something. My attorney,
13 Timothy Murphy, told me not to say nothing because this
14 is not the time or place for fighting evidence. It's
15 for trial. So I kept quiet.

16 The sad thing is that you had the assistant
17 solicitor McElveen clearly state willinglyfully [sic],
18 knowing that perjury is a crime of punishment, but
19 still willingly went about telling the judge that I was
20 identified by a partially uncovered mask, which if you
21 see the crime scene photo and the video that took place
22 on April 24, 2018, you will clearly see that the
23 assailant in the video face is fully covered. Only
24 thing you can actually probably identify is the eyes on
25 the person.

1 Now the photos what is in my motion discovery
2 for my 2018 case is clearly show a black male, which
3 does not positivity identify me. It was sent to SLED.
4 SLED did it for facial recognition to identify the
5 person and told Detective McFadden that this is not
6 probable cause for arrest. Okay. Move forward.

7 Detective McFadden went about -- I don't know
8 what he told the judge, whether he came back with a
9 warrant. I was living on -- on 325 Bartlette Street.
10 They raided my mom house looking for me, and said that
11 I was charged with armed robbery, possession of a
12 firearm.

13 Now I know I didn't do it. I had a friend
14 out that ain't had no place to stay. I recently just
15 got my school refund from -- back from my college. So
16 me being the person that I am, I ain't want to see her
17 homeless on the street, so I went and got her a motel
18 room for a week. It costed 279. So in the course,
19 I was found out the motel room.

20 So they locked me up, took me down to the
21 station, questioned me. In the process, John Milton
22 was sitting across from me. And he showing me a photo.
23 The assailant, the alleged robber, whatever the case,
24 whole face is covered. So the issue I raise is that
25 fraud and deception was already brought about at the

1 probable cause hearing, or my preliminary hearing, when
2 Solicitor and Detective McFadden went about telling the
3 Judge that Charles Anderson was positively identified
4 in a six-photo lineup by a partially uncovered mask is
5 impossible.

6 And I felt that the Court was deceived to
7 believe that the photos, which is from S&G store, is
8 not the scene -- not the crime scene, not the place
9 where the -- where the robbery took place. It's a
10 whole different property, which I'm not being charged
11 for that. But they don't got no photos of what
12 actually took place with the photo of 2018.

13 Q Okay. All right.

14 Got anything else you want to help -- help --

15 A Yes.

16 Q -- help us with?

17 A Yes, I do.

18 Q Go ahead.

19 A Now -- but if the solicitor willing to go
20 about telling a little lie to the judge or a little lie
21 to begin the investigation of any case, or you're
22 investigating the case so you know if a detective bring
23 you something that's not right and you go along with
24 it, you just as guilty as them. Right is right; wrong
25 is wrong. And this is the same solicitor that's on my

1 2019 case.

2 So this is the reason why I raised the issue
3 for malicious prosecution, for the simple fact my 2018
4 case, she can't put the charges on me. It's nothing
5 showing that I committed a crime. So instead of
6 accepting accountability of false imprisonment -- I'm
7 not trying to sue nobody. I just want to go home. I
8 don't -- honestly, I don't -- I just want to go home to
9 my mom. My mom, she sick.

10 You know, if they would have did their job
11 properly, we wouldn't be here. I wouldn't be dealing
12 with ineffective assistance of counsel. I would've
13 been dealing with effectiveness because the counsel
14 would have seen that it's nothing in there where it
15 showed that my defendant commit a crime. It's no DNA.
16 You tell me it's no fingerprints. You telling me it's
17 no camera footage. It's nothing. No evidence. And
18 your state attorney get up and say, "Your Honor, all we
19 got is zip ties. We don't got no other evidence."
20 That's out of ridiculousness just to charge somebody
21 just to charge somebody because you messed up the first
22 2018 case. And that's what took place.

23 It took place from -- we say it's selective
24 prosecution. (Inaudible) because it start from the
25 police officer on the 2019, which Ms. Ward lead the

1 victim on to tell her what she said in her body cam.

2 "Don't forget to tell the issue about what he said
3 about the kids." A officer can't lead no witness on
4 what to say. That's selective prosecution. It's on
5 her body cam.

6 The second one is, you have also indicate
7 that I harm people, that people -- they went to 325
8 Bartlette Street where I used to live at. They were
9 searching the house. It's on the body cam, where
10 Shante Ward tell the lady of the house, "We looking for
11 Mr. Charles Anderson because he did something really --
12 he harmed some people really bad."

13 For the record, there was no ambulance ever
14 came to the scene on Shante Ward body cam, right there
15 in front of AutoZone. No ambulance ever pull up. So
16 why is I'm being charged with attempted murder if,
17 after they did the interview, everybody gets in their
18 car and go they separate ways? Nobody go to the
19 hospital. It was no gun discharged. It was no firearm
20 footage of me having a firearm, but I'm still being
21 charged for the attempted murder.

22 Second, the victim said, between nine and 15,
23 I was robbing them. This is -- I used to argue with
24 Justin Kata. It said, nine -- nine -- between 9 p.m.
25 and 9:15, I'm in the store robbing them. It's

1 impossible. Why? Because Shante Ward, the lead
2 investigation [sic], she was on the scene at 8:56. So
3 if I'm in the store robbing them between nine and 9:15,
4 why they ain't never walk out the store with me? Why I
5 wasn't caught in the store? You know what saying?
6 It's so -- it's inconsistencies in they statement so
7 bad.

8 And it's sad that you can just -- because I
9 got a criminal record, people change. My past is my
10 past. I can't change my past. I only can change my
11 future. You know, what I did, I was young and dumb. I
12 made bad decisions. You know, I'm a grown-up man. So
13 I changed. And I came to South Carolina to start over.

14 It shouldn't be everything I worked for --
15 hard for is thrown because of something I got on my
16 past record. And that's what it was. Detective
17 McFadden went and did a background check and seen that
18 I had an armed robbery on my record and said I fit the
19 description. That's -- that's profiling.

20 And I had an alibi. I was at work that
21 night. And I still lost my job, lost my house, and I
22 still went to jail.

23 So the reason why I felt that Justin Kata was
24 ineffective assistance of counsel, I felt that he could
25 have been more due diligent. He could have fulfilled

1 his oath of office that he sworn to uphold when he took
2 the bar to fight for all his clients' due diligence. I
3 don't know what relationship he got with Ms. McElveen,
4 but it's really seem that it's some type relationship
5 there for the simple fact that not one time we ever
6 went over my motion to discovery.

7 You know, and everything I asked him to do,
8 he wouldn't. He didn't want to do it. Is he gonna get
9 to it? "I'll be back to see you. Remind me. Have
10 your family call me." It's -- it's all -- but when you
11 look at the motion to discovery yourself, you'll see
12 why I'm arguing ineffective assistance of counsel.
13 Because a counsel that is effective and they see that
14 motion to discovery, they're gonna do their job
15 properly. What they gonna do is they're gonna exhaust
16 all they remedies.

17 "You charging him with armed robbery.
18 It ain't nothing that showing that he commit a robbery.
19 You've got attempted murders. No medical records. No
20 gun. You charge him with all of this, but it's nothing
21 in here corroborating why is you charging him with
22 attempted murder?" Challenge that. Motion to
23 suppress.

24 You can do that any given time during general
25 session, come to find out. But just when I asked him,

1 he, "You can't impress [sic] it. You can't submit no
2 motion right now. You gotta do it at trial."

3 I said, "What it's -- but it's showing that I
4 didn't commit to crime, but you're not willing to help
5 me."

6 "If I tell you that I could beat this at
7 trial, I'll be lying to you."

8 And on my mother head, I swear on my mother,
9 about lying, he's used to always say that to me. And I
10 never understood it until after a year, I realized he
11 wasn't really trying to help. Because every time he
12 came to me with no evidence, you offer me zero to 25.
13 "They say zero to 25. I know you ain't taking zero to
14 25, so we're going to trial."

15 But how can you go to trial with somebody
16 that you and him ain't never go over the case. "You
17 don't even know my case. You don't know nothing about
18 my case. How can I go to trial with you? How can we
19 actually say that you -- you prepare a proper defense
20 for me when we never sat down not one time to just
21 discuss a strategy on my case?"

22 Oh -- or he just come and say, "Yo, listen, I
23 think you should take this plea." That's what a lawyer
24 supposed to do, have your best entrance at hand at all
25 given times, no matter what, and not personalizing

1 nothing, even if I do have a disagreement, supposed to
2 be professional about it. You know what I'm saying?

3 The Sixth Amendment is -- is there for us to
4 have effective counsel, somebody that's going to fight
5 for you. I'm not asking you to do -- set all these
6 motions. It's not about me. It's about you having
7 integrity. Because if you got integrity, you can see,
8 "Man, they don't got nothing against you. I can't have
9 you cop out the something that I know the state don't
10 got nothing against you." That's integrity. And
11 that's effective assistance, not ineffective assistance
12 to where you're willing to get me to plea and there's
13 no evidence showing that I commit a crime.

14 That's not right right there. Not one bit.
15 And no person deserves to go through that. I don't
16 care what it is. If you needed an attorney, you don't
17 deserve to go through that.

18 **Q** Okay.

19 I think we've covered about all the grounds
20 that you had submitted. Is there anything else that
21 you think the court really needs to know?

22 **A** Yeah. I'm just trying to catch my composure
23 right now.

24 **Q** All right.

25 **A** I desires for fairness. You know, it

1 shouldn't be -- I just ask for the evidence. You know,
2 I really -- and sometimes I really do wish I would have
3 really went to trial with effective assistance of
4 counsel. You know, because I actually would have beat
5 it. It's just, I just got scared with 150 years.

6 And one of the reason why I -- I was --
7 wanted to raise the issue on malice prosecutions is for
8 the simple fact the vindictiveness of the solicitor,
9 Ms. McElveen. You know, she ain't really here to
10 defend herself, so I ain't really want to go on without
11 her being here. But it's like a pattern. It's from
12 the 2018 case to the 2019 case.

13 Once you commit perjury, perjury is perjury.
14 It don't -- it don't get right for you. It don't get
15 right for me. It's the law. You can't commit perjury,
16 you know, especially as a state official. And it -- it
17 breaks down to the color of law, which refer to the
18 government official a capacity of violating citizens'
19 right. The deprivation of rights under the color of
20 law means exactly what it said, deprivation [sic]the
21 person of their rights while acting in an official
22 capacity and with the power of the law as a weapon.

23 This has been occurring more and more as
24 something. And different federal agency weaponize and
25 misuse against different groups, deprivation of rights.

1 And this is something I have seek to file against the
2 solicitor. I -- I ain't know how to do it. So I sent
3 one to the head solicitor, you know. And it was under
4 the fact that August 18 of 2020 where it was to relieve
5 counsel of his duty and the solicitor weighed in on why
6 the judge shouldn't get rid of Justin Kata. It was to
7 the point where they cut the mic off, where I couldn't
8 hear what was the conversation about no more.

9 You know, she told the Judge, "Your Honor, he
10 was a good bail hearing. He did good at his bail
11 hearing." That's something between me and my attorney.
12 And I felt my attorney should have stepped in and
13 intervened on that or object. Because it wasn't -- it
14 wasn't no need for her to try to keep Justin Kata on my
15 case so bad. And that's -- it -- it raised some issues
16 on it of the conflict of the relationship between him
17 and the solicitor.

18 And I still question that is it a
19 relationship between my attorney and the solicitor.
20 Because if it is, then it's a stronger conflict of
21 interest, and it really need to be addressed.

22 Q Okay.

23 Thank you, Mr. Anderson. This attorney
24 general is gonna ask you some questions. Judge may
25 have some questions. Please answer any questions that

1 they may have.

2 **A** Yes, sir.

3 **THE COURT:** Okay.

4 Cross-examination, Mr. Mitchell.

5 **MR. MITCHELL:** Just very briefly, Your Honor.

6 **CROSS-EXAMINATION**

7 **BY MR. MITCHELL:**

8 **Q** Good morning, Mr. Anderson.

9 **A** Good morning, sir.

10 **Q** You testified that you pled guilty because
11 you were scared of facing 100 -- 100 -- 150 years?

12 **A** Yes, sir.

13 **Q** I just want to make sure you understand that
14 if you're successful here today, you go back on your
15 original charges and you face the maximum sentence on
16 each of those charges again. And you're -- okay.

17 **A** Yeah. I'm cool --

18 **Q** Just want to make sure you understand.

19 **A** Oh, yeah. Yeah. Yeah.

20 **Q** And so you pleaded guilty to two different
21 robberies, correct?

22 **A** Yes.

23 **Q** And at your guilty plea hearing, the
24 solicitor presented the facts that they were going to
25 present at trial, correct?

1 **A** Not that I remember. Can you recall?

2 Talking about when she say she was going --
3 the body camera?

4 **Q** Well, when the solicitor laid out the
5 facts -- the facts of the case and what they were going
6 to attempt to prove at trial. And then the Judge asked
7 you if you agreed with those facts, and you said "yes."
8 Do you remember that?

9 **A** Nah. Not really.

10 I remember he asking me did I accept the
11 plea. I remember that. I don't remember no -- what
12 you talking about other than that.

13 **MR. MITCHELL:** Your Honor, may I approach the
14 witness?

15 **THE COURT:** Yes. And if you will, identify
16 for me what you're referring to.

17 **MR. MITCHELL:** This is pages 69 -- 69 to 73,
18 Your Honor.

19 **THE COURT:** Thank you.

20 **THE WITNESS:** Can I -- I got one right there.
21 Can I get mines right here?

22 **MR. MITCHELL:** If you've got a transcript.

23 **THE WITNESS:** Yeah. I've got a transcript.

24 **MR. MITCHELL:** If you want to briefly read
25 that. You don't have to read it out loud.

1 Starting on 69 and going to -- starting right
2 here.

3 **THE COURT:** What line on page 69?

4 **MR. MITCHELL:** Line 18.

5 **THE COURT:** Thank you.

6 **THE WITNESS:** (Reviews document.)

7 That's the first time I've ever seen that.

8 (Reviews document.)

9 Nah. That's the first time, though.

10 **BY MR. MITCHELL:**

11 **Q** After those facts were read, the Judge asked
12 you if you heard the facts from the solicitor. And
13 then they -- and then the Judge asked you, the facts
14 that the solicitor gave, are they correct? And how did
15 you respond?

16 **A** I responded, "Yes, sir."

17 **Q** And then you pleaded guilty after that,
18 correct?

19 **A** No, I ain't pleaded guilty after that.

20 **Q** You didn't plead guilty after that?

21 **A** I had to -- I plead guilty before that.

22 **Q** Well --

23 **A** But I --

24 **MR. MITCHELL:** May I approach?

25 **THE WITNESS:** 'Cause that's when I was -- I

1 was -- I was --

2 **THE COURT:** Yes.

3 **THE WITNESS:** -- that what made me plead
4 guilty.

5 **BY MR. MITCHELL:**

6 **Q** Right after that, the Judge asked you, "And
7 you're pleading guilty to these charges because you are
8 guilty?" And then your response?

9 **A** Yeah. That's when the guilty plea -- she had
10 put the -- she submitted the guilty plea. That was --
11 when they told me I had 60 seconds to either take 20
12 years or take the 150 years. So by me sitting there --
13 I'm being honest with you. I was wrong. Yeah. I lied
14 to the Judge and said I did it, because I didn't want
15 to do 150 years.

16 Then the Judge told me, "I don't care what
17 she offer you. I can give you 65 years right now."
18 You know what it feel like to about to do 150 years or
19 65 years of your life for something that you didn't do?
20 Then you gotta figure out either I'm 'a go ahead and
21 admit to something that I didn't do where I can have a
22 chance to come home or never come home again. So
23 that's what I did. I -- I -- I -- that's what I did.

24 Because it's nothing showing that I committed
25 a crime. I know I didn't do 2018. I know I didn't do

1 the 2019. So I even had to get to the point...

2 Q Mr. Anderson, and before you --

3 A Yes, sir.

4 Q -- before you pled guilty, the Judge advised
5 you of certain rights you have and that you were
6 waiving them, correct?

7 A Me what --

8 Q Such as your --

9 A -- pleading guilty?

10 Q Such as your right to proceed to a jury
11 trial.

12 A After I put in the motion to suppress
13 physical evidence and the solicitor stood up there and
14 told the Judge, "Your Honor, the only thing we have is
15 twisty ties," and it was showing there was no evidence
16 I committed a crime and ain't nothing -- I -- I was
17 told the Judge supposed to intervene and at least, I
18 guess, correct the situation. Then I got scared.
19 Because there's nothing showing that I -- the state
20 said I don't got no -- no evidence that I committed
21 crime. And hearing that I'm still being forced to go
22 to trial, I got scared. I ain't know what to do.

23 Q But you waived your right to present a
24 defense at trial?

25 A I waived my right to not do 150 years or not

1 to do 65 years for something I didn't do, when it's
2 clearly showed that it's no evidence against me that I
3 committed a crime, period. And once I seen that he was
4 still willing to give me time when it's showing there's
5 no evidence against me, I wasn't doing no 150 years.
6 I -- I -- I'm almost 60 something years old when I come
7 home. At least I have a chance to come home. I didn't
8 do it. I still have a chance to come home and see my
9 family instead of me doing 150 years and me losing my
10 family.

11 Q And do you recall when you were discussing to
12 Judge Cothran before your plea about Ms. McElveen's
13 alleged conflict of interest?

14 A Yes. I -- I showed -- I filed a lawsuit
15 against Ms. McElveen, Justin Kata, Detective McFadden,
16 and, I -- I guess, Keith Geist. I got the paperwork
17 right there.

18 Q And you brought up -- you brought that up
19 with Judge Cothran at your plea?

20 A A conflict of interest. He told me she --
21 just because I'm suing her, she can still -- she can
22 still prosecute my case, no matter it's because I'm
23 suing her or not. And if I did try to file COL charges
24 in the federal -- federal court, he said it doesn't
25 matter. She could still prosecute.

1 **Q** So the Judge ruled there was no conflict?

2 **A** He ruled -- he told me she could still
3 prosecute my case.

4 **Q** Thank you, Mr. Anderson. That's all I have
5 for you.

6 **THE COURT:** Any redirect?

7 **MR. GRIFFITH:** No redirect, Your Honor.

8 **THE COURT:** Okay.

9 **MR. GRIFFITH:** My apologies.

10 **THE COURT:** Oh. Yes, sir.

11 Everybody, make sure your phones are off if
12 you've got them in here. Okay?

13 Okay. Mr. Anderson, I do not have any
14 questions for you at this time.

15 **THE APPLICANT:** Okay.

16 **THE COURT:** Okay. All right.

17 So gather up your things and you can come
18 back to counsel table.

19 **THE APPLICANT:** Okay.

20 **THE COURT:** All right.

21 **THE APPLICANT:** Can I please have some more
22 water?

23 **MR. GRIFFITH:** Your Honor, I have no further
24 witnesses. And I would rest my case.

25 **THE COURT:** Okay.

1 Well, let -- let's go ahead and put one thing
2 on the record. You-all approached me right before
3 we started this morning, and I don't think that
4 Mr. Anderson was in the courtroom at that time. I
5 think we were talking about the fact that -- is it
6 Kata or Kata?

7 **MR. MITCHELL:** I believe it's Kata.

8 **THE COURT:** -- that Mr. Kata is in another
9 court. And he's on his way here. And if -- we
10 were going to start the testimony without him.
11 But you also informed me that Ms. McElveen -- is
12 it Bronwyn?

13 **MR. MITCHELL:** Bronwyn.

14 **THE COURT:** -- Bronwyn McElveen is not
15 available this week. And so let -- let's hear
16 from y'all about that.

17 **MR. MITCHELL:** Your Honor, Mr. Anderson made
18 several allegations regarding Ms. Bronwyn
19 McElveen.

20 **THE COURT:** And not -- not nec- -- this is
21 just about scheduling her testimony.

22 **MR. MITCHELL:** Oh, okay.

23 **THE COURT:** Okay.

24 **MR. MITCHELL:** Well, I was going to argue
25 that maybe her testimony might not be --

1 **THE COURT:** I think that if you've listed her
2 as a witness --

3 **MR. MITCHELL:** Okay. Yes, Your Honor.

4 **THE COURT:** Okay.

5 So put on the record how y'all want me to
6 handle that, since she's not here.

7 **MR. MITCHELL:** So what I can do is, I can
8 reach out to Ms. McElveen and then figure out a
9 few dates and times where she would be available,
10 and then forward that information over to you, and
11 obviously, cc Mr. Griffith and Ms. McElveen. And
12 then we can try to get a time where we're all --
13 where we're all available.

14 **THE COURT:** Okay.

15 **MR. GRIFFITH:** Your Honor, please the Court.
16 I think it may be quite beneficial if Ms. McElveen
17 were provided the audio of the testimony that he
18 gave, if the state can provide that to her.

19 **MR. MITCHELL:** We can request a transcript.
20 And then as soon as we receive it, send it to
21 Ms. McElveen, Mr. Griffith, and the Court.

22 **THE COURT:** And you-all are referring not to
23 the transcript of record from September 28, 2020
24 plea hearing, but a transcript from this hearing?

25 **MR. MITCHELL:** Yes, Your Honor.

1 **MR. GRIFFITH:** Yes, Your Honor.

2 **THE COURT:** Okay.

3 And so I want to make sure that Mr. --
4 Mr. Anderson understands that. Okay. Because
5 after all of the testimony is received and the
6 evidence is received, I'm going to ask
7 Mr. Griffith if he has anything by way of reply.
8 Okay.

9 So he just said he rested, but he really
10 didn't. Okay. Because y'all are going to have
11 another bite at the apple.

12 **THE APPLICANT:** Okay.

13 **THE COURT:** And that's what I wanted to make
14 sure that Mr. Anderson understands since
15 Ms. McElveen is not here. But we're going to have
16 to reconvene the hearing. And it won't be here.
17 I've never held court here before.

18 **THE APPLICANT:** Okay.

19 **THE COURT:** And I'm not scheduled to come
20 back here this year unless they change my
21 schedule.

22 **THE APPLICANT:** Okay.

23 **THE COURT:** And I don't think I'm scheduled
24 to come here the first six months of next year
25 from what I've gathered. But they haven't posted

1 that one yet I don't think.

2 But Mr. Anderson, we'll work it in. And I'm
3 not going to make the decision until we get it
4 all.

5 **THE APPLICANT:** Okay.

6 So -- excuse me for cutting you off, ma'am.

7 **THE COURT:** But -- you didn't cut me off.
8 But you need to say it to your lawyer and let your
9 lawyer tell me.

10 **THE APPLICANT:** Okay.

11 **THE COURT:** Okay?

12 (The applicant consults with Mr. Griffith.)

13 **MR. MITCHELL:** And also Your Honor -- okay.

14 **MR. GRIFFITH:** Your Honor, he understands.
15 He just wanted to know if we would be having
16 another hearing. And I said yes.

17 **THE COURT:** I know this is very important to
18 you, sir. I just want to make sure you understand
19 what's going on. All right?

20 **THE APPLICANT:** Thank you, ma'am.

21 **MR. MITCHELL:** Generally, requesting a
22 transcript, it usually takes some time. So --

23 **THE COURT:** You'll have to negotiate with
24 madam court reporter.

25 **MR. MITCHELL:** Yes, Your Honor. I just want

1 to make sure that everyone understands that this
2 might not be -- since we need the transcript, it
3 might not be that quick.

4 **MR. GRIFFITH:** Though I think that it would
5 be very important for --

6 **MR. MITCHELL:** I -- I agree.

7 **MR. GRIFFITH:** -- his witness.

8 **THE COURT:** Sure. Okay. And for him. Okay.
9 All right.

10 So Mr. Griffith states that he has rested in
11 his primary case, so Mr. Mitchell.

12 **MR. MITCHELL:** Your Honor, the state calls
13 Mr. Timothy Murphy.

14 **THE COURT:** Please come forward.

15 **THE BAILIFF:** Raise your right hand, sir.
16 State your full name.

17 **THE WITNESS:** Timothy Ward Murphy.

18 **TIMOTHY MURPHY**

19 having first been duly sworn, testifies as follows:

20 **THE WITNESS:** I do.

21 **THE BAILIFF:** Thank you, sir. Step around
22 please.

23 State your full name and spell your last name
24 for the record, please, sir.

25 **THE APPLICANT:** Timothy Ward Murphy.

1 M-u-r-p-h-y.

2 **MR. MITCHELL:** Good afternoon --

3 **THE COURT:** Direct examination.

4 **DIRECT EXAMINATION**

5 **BY MR. MITCHELL:**

6 **Q** Good afternoon, Mr. Murphy.

7 **A** Good afternoon.

8 **Q** Did you represent Mr. Anderson at some point?

9 **A** Yes. I -- I was with the public defender
10 office from 2007 to 2019. And I first represented him
11 in 2018. I was the Chief County Public Defender at
12 that time. So when I got his file, I appointed him to
13 myself.

14 **Q** And eventually you had to end your
15 representation; is that correct?

16 **A** Right. I left the -- I decided to leave the
17 public defender office in October of 2019. And I left
18 the public defender office in December of 2019, the end
19 of December of that year.

20 **Q** And going back to your representation of
21 Mr. Anderson, did you meet with him during the course
22 of your representation?

23 **A** Right. Yes. In 2018, while he was in the
24 Sumter Lee Regional Detention Center, I met with him, I
25 believe, two or three times, to discuss that particular

1 armed robbery. I represented him at the preliminary
2 hearing. And we were able to successfully get him a
3 bond for that charge. So I represented him there.

4 And we had substantive discussions about that
5 particular allegation.

6 **Q** The 2018 allegation?

7 **A** Yes.

8 **Q** And then was Mr. Anderson rearrested while he
9 was out on bond?

10 **A** Yes. When he got out -- out on bond, we -- I
11 really didn't have much contact with him until he was
12 rearrested. He was rearrested sometime in May. And I
13 met with him at the end of May of 2019. I met with him
14 twice in July of 2019 while he was still incarcerated.
15 And then I met with him again at the end of August
16 2019. And those -- those meetings were primarily
17 focused on trying to work out some sort of plea deal
18 with the solicitor's office.

19 I also wrote to him a couple times. I
20 believe three times, I wrote letters to him. Because
21 he would call the office. I was -- I was employed both
22 by the public defender office, and I also had a private
23 firm. And he would call. Sometimes he would call my
24 private firm and leave a message.

25 And he was -- he -- he was quite interested

1 in trying to work out a plea deal to the second 2019
2 charge. But I didn't have -- as I recall, I didn't
3 have discovery on either case yet. And so I advised
4 him that without the discovery, we weren't going to --
5 I mean, I -- I wasn't going to try to work something
6 out when I didn't know what the cases were -- the cases
7 were like.

8 And then at -- towards the end of July, he --
9 I -- I knew he had made a statement at some point. And
10 towards the end of July, we were discussing his
11 involvement in the 2019 armed robbery. And he
12 indicated that he -- he had been -- first, he indicated
13 he had been under the influence of narcotics or drugs.
14 And then he indicated that he had -- he had been
15 diagnosed as a schizophrenic.

16 So at that point, I approached the solicitor.
17 And I said, "Look, you know, he's obviously -- you
18 know, he -- he appears to me to be very imbalanced, I'd
19 say." And I was concerned about his mental health. I
20 thought it would be appropriate to have his -- to have
21 him looked at professionally. And therefore, it was
22 around that time I filed a motion for a competency
23 evaluation in September. And -- and Ms. McElveen
24 agreed.

25 And then about -- it was less than a month

1 later, I made the decision to separate from the public
2 defender office. I had probably between 90 and 110
3 cases at that point. And we -- we were still pretty
4 early -- although we had the 2018 case, we were still
5 pretty early in -- in the second case. So my thought
6 process was it really wasn't any -- and I hadn't
7 received discovery yet. So my thought process was in
8 regard to that case, you know, it wasn't close to being
9 resolved.

10 So I -- I emphasized keeping those cases that
11 I thought were close to resolution between October and
12 December. I had a murder trial that was coming up and
13 a -- I think, two murder cases that I -- I thought
14 would resolve before then, and then a couple of other
15 cases that were of lesser -- kind of lesser crimes. I
16 mean, they're all important, but lesser crimes.

17 And I started reassigning the cases in that
18 October timeframe so that the individuals I assigned
19 them to inside the public defender office would have an
20 opportunity to -- to work on them. When I -- when I
21 assigned cases, I would sit down with the public
22 defender and brief them, like where we were. And so
23 I -- I assigned it to Mr. Bridges, who was in our
24 office at the time.

25 Q And when you say you didn't have discovery,

1 was that for -- did you not receive discovery for both
2 the 2018 and 2019 cases?

3 **A** I don't -- I -- I think I received partial
4 discovery for the 2018 case. I remember reading a
5 police report. I don't remember -- Mr. Anderson's
6 talked about videos and stuff. I did not receive that
7 in 2018. I think -- I think it was just a copy of the
8 police report. I remember looking at something and
9 receiving something. But I -- I didn't receive full
10 discovery for the 2018 case, no. And -- what I would
11 consider full -- full discovery. And I -- I had not
12 received the discovery for the 2019 case yet.

13 **Q** Anything you would have received, would you
14 have shared that with Mr. Anderson?

15 **A** Yes.

16 And like I had said before, we had had pretty
17 substantive conversations about the 2018 armed robbery.
18 He had always denied involvement in it. I don't have a
19 recollection about -- I mean, he's testified about
20 partial cover or full cover, or whatever. I -- I
21 remember that the individual was masked and that they
22 also had a witness who said that he could identify
23 Mr. Anderson. But it was so early in the process, I
24 hadn't really begun doing what I would call substantive
25 work on the case.

1 **Q** You testified that Mr. Anderson was --
2 indicated he wanted a plea deal for the 2019 case?

3 **A** Yes. He was --

4 **Q** So he --

5 **A** -- he was --

6 **Q** -- never indicated to you --

7 **A** -- he was adamant that he wanted to work out
8 something.

9 And now I will say this, his -- his -- I had
10 to explain to him, "Look, you're -- you know, it's an
11 armed robbery. It's a 10-year mandatory minimum.
12 Okay?"

13 And he would offer like, "Well, can I -- you
14 know, can I go to rehab?" One -- one suggestion he
15 had -- and the reason I remember is because in one of
16 the letters of -- of my response to him references it,
17 is, you know, he wanted to go on probation for 10
18 years, something like that. So he would -- he would
19 offer.

20 And I -- so I never brought -- I really never
21 engaged with the solicitor because Mr. Anderson just
22 wasn't there as far as understanding that they were
23 going to be -- he was going to -- he was going to go to
24 prison for a significant period of time, in my
25 judgment, if he pled guilty the second armed robbery.

1 In my judgment, based on my understanding of the second
2 armed robbery, based on the preliminary hearing, I
3 hadn't -- I hadn't received the discovery. But my
4 understanding was that was a strong case for the
5 solicitor, the second one.

6 The first one, you know, I -- I -- I -- I was
7 still up in the air on. I didn't -- you know, I didn't
8 know. I mean, it seemed to me a mask. You know, we --
9 we might have ID'd that a little different. But the
10 second one was clearly problematic from -- from a
11 defense point of view.

12 Q And he had other charges resulting from that
13 2019 besides just armed robbery, correct?

14 A Well, he had the other charges, but the armed
15 robbery was -- was -- it was all part of the same
16 package. Yeah. And that -- that was a much more
17 serious allegation. I mean, they're all serious, but
18 that was.

19 Q And you had not received discovery from the
20 2019 --

21 A No, no --

22 Q -- by the time you handed off the case to
23 Mr. Bridges?

24 A No, I don't believe so. No.

25 Q And did you get the results of the eval, the

1 mental health eval back before --

2 **A** No. I -- I don't know that that was done
3 until after I had left the public defender office.

4 **Q** All right.

5 Thank you, Mr. Murphy. I believe that's all
6 I have for you.

7 **A** You're welcome.

8 **THE COURT:** Cross-examination.

9 **CROSS-EXAMINATION**

10 **BY MR. GRIFFITH:**

11 **Q** Mr. Murphy, thank you for being here.

12 **A** You're welcome.

13 **Q** People still confuse us.

14 But, Mr. Murphy, I wanted to just ask you a
15 couple of questions.

16 **A** Sure.

17 **Q** You had just said that you didn't have
18 discovery on the 2019 but you had some on the 2018?

19 **A** I'm not a hundred percent sure.

20 **Q** I -- I -- I -- I believe I had more than what
21 was presented at the preliminary hearing. And I think
22 I had a rough -- either a blotter entry or something
23 like that. Because we -- we discussed -- we had a very
24 substantive discussion about the tattoos and everything
25 while he was still in jail in 2018. Because I -- you

1 know, when he was talking about it, I remembered all
2 that. And I also remember in specific regard to our
3 discussions about pleas. And after he was arrested
4 again 2019, he was very adamant that he -- he would not
5 plead to the 2018 armed robbery.

6 And you know, again, now his -- his desires
7 for sentences were not realistic. But his -- we talked
8 more about the 2019 and his culpability in that armed
9 robbery. We never talked -- I mean, he never admitted
10 anything. He -- he indicated consistent with what he
11 said today, is that he was not involved in the 2018
12 armed robbery.

13 Q So -- but as far as the discovery, did you
14 have any discovery that you went over with him?

15 A I had something. It -- it might have been
16 that report. I mean, I -- because I know we talked
17 about it in detail.

18 Q Okay.

19 So at the preliminary hearing --

20 A And you know what? In all honesty, it might
21 have just been the information at the preliminary
22 hearing. I mean, it might have been that in my notes.
23 I mean, maybe that was it.

24 But I remember having a very -- the first
25 armed robbery, we had a very substantive discussion.

1 Because at the bond hearing, I mean, you know, he was
2 able to get a bond. Because I -- I didn't -- my
3 takeaway from the '18 armed robbery was I didn't think
4 it was all that strong --

5 Q Okay.

6 A -- based on the information I had.

7 Q And you -- you talked about the -- the
8 partial mask thing. Did you ever actually see that
9 picture?

10 A I never -- I didn't see any pictures, no
11 videos. I had never -- I didn't receive that through
12 discovery by the time I had left.

13 Q All right.

14 Do you have -- you mentioned meetings and
15 you -- you named certain ones and certain months. Do
16 you have any kind of record of that?

17 A You know, I do. It's on my home computer. I
18 got it from the public defender office, the first time
19 this was scheduled. I tried to print it this morning,
20 and my home printer doesn't have any ink. So what I
21 did was I reviewed it this morning before I went to
22 work and before I came here. So that's why it's so
23 fresh in my mind is I just looked at it.

24 Q Okay. Yeah. Because you were saying some
25 pretty specific days --

1 **A** Yeah.

2 **Q** -- and things like that. So I just wondered.

3 **A** Well, I -- my memory's not that good.

4 **Q** Okay. Well, let me see what else I have.

5 But, of course, you were not his attorney
6 when it came time for the plea; is that correct?

7 **A** That is correct.

8 **Q** And you were never fired by him; is that
9 correct?

10 **A** No, I re- -- I reassigned his case to
11 Mr. Bridges. Our -- when an individual applies for
12 representation from the public defender office, they
13 get a public defender, not necessarily the public
14 defender of their choice.

15 **Q** Right.

16 **A** And I felt it was in his interest to have
17 somebody that could bone up on his case, since I was
18 leaving.

19 **Q** Okay. Just second. (Pause)

20 But one of the -- one of the things that
21 really struck me was that you said that you never
22 really got the full discovery. So you personally could
23 not have shown him the discovery; is that correct?

24 **A** No. I couldn't have.

25 **Q** Okay.

1 **A** No. I -- I didn't. The videos and all that,
2 no, I -- in October, I had not -- I did not have it by
3 then.

4 **Q** Okay.

5 So it's possible that he never saw any
6 discovery?

7 **A** It's possible he didn't see discovery from
8 me.

9 **Q** Well, yeah.

10 **A** I can't --

11 **Q** If he didn't see it from you --

12 **A** I can't speak to after October of 2019.

13 **Q** Okay.

14 Well, then, it's possible that you never
15 showed him all the discovery?

16 **A** I -- I -- I did not show him all the
17 discovery --

18 **Q** Okay.

19 **A** -- because I didn't have it.

20 **Q** Okay.

21 Thank you. I have no further questions. But
22 thank you.

23 **A** You're welcome.

24 **THE COURT:** Any redirect?

25 **MR. MITCHELL:** No redirect, Your Honor.

1 **THE COURT:** Okay.

2 Any objection to this witness being excused?

3 **MR. MITCHELL:** None from the state?

4 **MR. GRIFFITH:** No objection, Your Honor.

5 **THE COURT:** Okay.

6 Thank you, sir. You may be excused.

7 **THE WITNESS:** Thank you, ma'am.

8 **THE COURT:** Next witness.

9 **MR. MITCHELL:** Your Honor, the state calls
10 Mr. Jason Bridges.

11 **THE COURT:** And just for planning purposes,
12 folks, after Mr. Bridges testifies, that's when we
13 would break for lunch. Okay. I don't know what
14 y'all have for the afternoon, but that would be
15 the plan. Okay? And maybe that'll give Mr. Kata
16 time to get here.

17 **MR. MITCHELL:** Yes, Your Honor. He texted me
18 for the -- about noon and said he's just leaving
19 Columbia. So --

20 **THE COURT:** Okay.

21 **MR. MITCHELL:** -- I think that'll work.

22 **THE COURT:** Well, that'll work out if we come
23 back and -- well, let's see how long -- I'm
24 getting ahead of myself. Let's see how long this
25 testimony takes. Okay?

1 **MR. MITCHELL:** Yes, Your Honor.

2 **THE BAILIFF:** Raise your left hand and raise
3 your right hand and state your full name.

4 **THE WITNESS:** Jason Edward Bridges.

5 **JASON BRIDGES**

6 having first been duly sworn, testifies as follows:

7 **THE WITNESS:** I do.

8 **THE BAILIFF:** Thank you. Step around, sir.
9 State your full name and spell your last name
10 for the record, please, sir.

11 **THE WITNESS:** Jason Edward Bridges.
12 B-r-i-d-g-e-s.

13 **THE COURT:** Direct exam -- excuse me, direct
14 examination. Go ahead.

15 **DIRECT EXAMINATION**

16 **BY MR. MITCHELL:**

17 **Q** Good afternoon, Mr. Bridges.

18 **A** Good afternoon, Mr. Mitchell.

19 **Q** Did you represent Mr. Anderson at one point?

20 **A** I did.

21 **Q** And do you remember when you were appointed?

22 **A** Yes. So the case got transferred to me from
23 Mr. Timothy Murphy, who was the chief public defender
24 in Sumter County. At the time, I was an assistant
25 public defender. He was -- Mr. Murphy was leaving our

1 office at the end of that year, so he was transferring
2 some of the cases. And Mr. Anderson's both 2018 and
3 2019 cases were transferred to me.

4 **Q** And during your representation, did you meet
5 with Mr. Anderson?

6 **A** Yes. I -- he was at the Sumter County
7 Detention Center the entire time I represented him. I
8 believe we had three to four meetings in person, and
9 there was some correspondence letters as well.

10 **Q** And did you receive the discovery in this
11 case?

12 **A** So there's two different cases. So the 2018
13 case, I know I -- I received full discovery and
14 reviewed that with Mr. Anderson. That was what was
15 testified to about videos. Actually, I think I brought
16 my computer and tried to play it -- what I had for him.

17 The 2019 case, I can't say for certain I
18 received the full discovery. I -- I did receive some.
19 I know I received -- there was witness statements.
20 There was police reports. I'm not sure if I gave
21 Mr. Anderson a physical copy of that, but I did discuss
22 it with him.

23 **Q** So anything you had received, you would have
24 reviewed with Mr. Anderson?

25 **A** Yes.

1 **Q** And there's been testimony that there's --
2 there's been no evidence in this case. Is -- is --
3 from your review of the discovery, would you -- how
4 would you -- can you explain the state's evidence in
5 this case?

6 **A** Sure. So for the 2018 case, it was like a
7 convenience or gas station robbery. There was security
8 footage. But it has been testified -- I mean, the --
9 the suspect in that case, you cannot see their face.
10 It was concealed. There was some other evidence about,
11 you know, how they apprehended Mr. Anderson. But
12 that -- substantively, what's been told in here about
13 that was my understanding the evidence.

14 The 2019 case, it was different. It was a
15 store I believe that Mr. Anderson had previously worked
16 at. And the employees there identified him in their
17 statements. That -- that was -- it was real -- I -- it
18 was the -- the bulk of the evidence was the witness
19 statements that said that he robbed the store and --
20 and bound them. That's where you're talking about the
21 zip ties, that he bound them with zip ties.

22 And there was a police report. Mr. Anderson
23 mentioned about a statement. The police alleged that
24 he confessed to this at some point at the jail. And --
25 and he was not Mirandized. I was, you know, looking

1 into potentially that could be a trial issue. But I
2 did share that information with him that -- you know, I
3 think that was in a police report. So there were
4 police reports about that crime. There were witness
5 statements about that crime. I'm not aware of any
6 videos of that 2019 case.

7 **Q** And the victims indicated that the suspect
8 was -- he didn't have a mask on?

9 **A** Yeah. They were -- oh, you're talking about
10 the 2019 case?

11 **Q** Yeah. Yeah.

12 **A** Yeah. They were able to identify him. I
13 believe it was a store that he had worked at, so they
14 were very familiar with him.

15 **Q** And so you've reviewed everything that you
16 had that you had received from the state with
17 Mr. Anderson?

18 **A** Yes.

19 And you know that -- again, I don't -- I
20 can't say for sure if that was the completion of the
21 2019 case discovery because I was relieved in early
22 2020. So you know, if additional materials went to
23 Mr. Kata, I didn't know. But our office certainly
24 would have given everything that I had to Mr. Kata once
25 he was appointed.

1 **Q** And how does your representation end with
2 Mr. Anderson?

3 **A** Yeah. So the -- the first meeting was -- as
4 Mr. Murphy has mentioned, there was a pending Blair and
5 McNaughton evaluations. Those had come back and the
6 finding of competency and finding of responsibility.
7 So, you know, my first kind of -- I was discussing that
8 with Mr. Anderson and what that meant that, you know,
9 the case could move forward, potentially there could be
10 a trial or a plea. We had some discussions about him
11 potentially challenging that, but particularly the
12 McNaughton part.

13 So, you know, I was assessing it. Do I -- do
14 I get a funding order for a second evaluation? I would
15 need some records from him. We -- we had a good
16 discussion about that.

17 And he also expressed some interest in -- in
18 a plea offer, similar to what Mr. Murphy said. You
19 know, he -- he wanted nonviolent parole eligible with a
20 particular emphasis on drug treatment for everything.
21 I -- I had preliminary -- I never got an official
22 written offer from Ms. McElveen or anything like that.
23 But I did ask her like if that would be possible. And
24 she said at least for the 2019 case, he would have to
25 plead to armed robbery as charged, which, of course,

1 that has a mandatory minimum of 10 years. I think
2 that's what he -- he tried to explain about. But that
3 was not an official plea offer. You know, we never
4 actually went as far as him accepting it or anything
5 like that. Why are our relation- -- our -- our
6 representation -- my representation ended?

7 So I received a very lengthy letter from him.
8 It was about 14 pages long. This was in December of
9 2019. And it -- it had all these allegations about
10 color of law. And -- and -- and there were some things
11 in there -- my understanding was from that letter was
12 he thought I was acting improperly, and he didn't want
13 me to represent him. But I -- I didn't fully
14 understand the letter. It was -- it was rather
15 convoluted. And given the mental health, you know,
16 challenges we had here, I wasn't exactly sure what to
17 make of it.

18 So I went to the jail in January. I think
19 this was right around Christmas break. And then we had
20 a really good, productive meeting. And I was there
21 about an hour. And we discussed, you know, possible
22 defenses, things like that, and particularly trying to
23 get mental health records for him. And I told him I'd
24 be back the next day with -- because I need a release
25 of record so I could, you know, have that for -- for

1 any expert that we hired.

2 And then when I went there the next day, it
3 was totally different. He was very angry at me. He
4 was very angry. He claimed that I deprived him of his
5 first and second appearance, and he kept going on about
6 that. And I tried to explain to him that in Sumter, if
7 people are in jail, they don't bring them for first or
8 second appearance. It's simply a matter, you know,
9 about status of counsel and things like that. And he
10 continued to get very agitated.

11 And then at one point he said, if -- you
12 know, he stormed out of the room. And he said -- right
13 before he stormed out of the room, he said, "I have to
14 leave this room or I'm going to hit you in the face."
15 And he did -- I mean, he left the room. And I
16 perceived that as a threat to my safety.

17 And so I -- you know, I had also felt like
18 this is, you know, our -- our -- my relationship with
19 him had broken down at that point. I didn't think I
20 could effectively represent him if I was worried for my
21 physical safety. So I moved to be relieved.

22 I believe it was January 15 or January 16, we
23 had a hearing in front of Judge McFadden. Mr. Anderson
24 was present. Now -- now it was initiated by me. I
25 mean, I did initiate that -- the hearing. My

1 understanding is Mr. Anderson did not oppose me being
2 relieved. And then I was relieved. And Mr. Kata was
3 appointed. And that was the end of my representation.

4 **Q** So you never told Mr. Anderson -- did you
5 ever tell Mr. Anderson there was a firm plea offer in
6 this case?

7 **A** No. I -- I told him, what the solicitor told
8 me at best would be an open plea to at least one count
9 of armed robbery. And the best-case scenario there
10 would be a 10-year sentence based on the mandatory
11 minimum under the law.

12 **MR. MITCHELL:** That's all the questions I
13 have, Your Honor.

14 Thank you, Mr. Bridges.

15 **THE COURT:** Thank you.

16 Cross-examination.

17 **MR. GRIFFITH:** Thank you, Your Honor. Please
18 the Court.

19 **CROSS-EXAMINATION**

20 **BY MR. GRIFFITH:**

21 **Q** Mr. Bridges, thank you for coming, again.

22 So really, according to your statement, you
23 never had the full discovery for the 2019 either; is
24 that -- to the best of your knowledge?

25 **A** Yeah. I mean, I can't be a hundred percent I

1 had the full. I mean, I had some police reports. I
2 had some witness statements. I think there maybe was a
3 photo of the twist ties that was mentioned. But yeah,
4 there could have been more information that -- I was
5 not sure that that that was complete by the time I left
6 representation.

7 Q Okay.

8 So you cannot say that you did not show him
9 all of the discovery?

10 A Yeah. I showed him everything I had. But
11 yeah, I'm not sure if I had all of it.

12 Q Okay.

13 And -- but you did go over a bunch of witness
14 statements, you said?

15 A I did review that in the 2019 case. You
16 know, I think that's where he was saying there was
17 inconsis- -- I mean, we -- we did -- I discussed it
18 with him. We said -- we were talking about potential
19 challenges maybe to that testimony.

20 Q Now all the meetings you had with him, were
21 they-all at the jail?

22 A Yes. It was -- he was -- because he when he
23 was rearrested in 2019, I think that he didn't get bond
24 for that. And he was --

25 Q Okay.

1 **A** -- there for that.

2 **Q** And did you have any record of those
3 meetings?

4 **A** As I -- that -- that would be with the public
5 defender's office where I'm no longer employed. But
6 yeah, there -- there would have been records in our
7 system.

8 **Q** Okay.

9 So when you were -- represented him, was this
10 after the preliminary hearings that he'd already had
11 or --

12 **A** Oh, yes. Yeah, I -- like I said, all -- all
13 that had already happened. His bond hearings had
14 already happened. Now I only represented him for
15 about -- it was probably from late October until
16 January. So, you know, I didn't do -- other than that
17 motion be relieved, we didn't have, you know -- there
18 was discussion about, you know, Could we do a bond
19 hearing later, or other pretrial-type suppression
20 motions? But we -- I just kind of never got that far.

21 **Q** Okay. All right.

22 But he never fired you; is that correct?

23 **A** No. I did -- I did move to be relieved on my
24 own accord.

25 **Q** So he never -- he's not the one who fired

1 you? You were never fired?

2 **A** No. I was relieved by Judge McFadden.

3 **MR. GRIFFITH:** Okay.

4 That's -- that's all the questions I have,
5 Your Honor.

6 **THE COURT:** Any redirect?

7 **MR. MITCHELL:** Just one question, Your Honor.

8 **REDIRECT EXAMINATION**

9 **BY MR. MITCHELL:**

10 **Q** And Mr. Bridges, did you represent
11 Mr. Anderson at his guilty plea?

12 **A** No. I would say I was relieved in
13 January 2020. And my understanding from the testimony
14 is the guilty plea was a year after that.

15 **MR. MITCHELL:** That's all I have, Your Honor.

16 **THE COURT:** Okay. All right. Thank you.
17 Any objection to Mr. Bridges being excused?

18 **MR. MITCHELL:** None from the state,
19 Your Honor.

20 **MR. GRIFFITH:** None, Your Honor.

21 **THE COURT:** Okay.
22 Thank you. Good to see you. You are free to
23 go.

24 All right. And so we will now break for
25 lunch and resume at two o'clock.

1 **MR. GRIFFITH:** Thank you, Your Honor.

2 **THE COURT:** All right. Thank you.

3 **MR. MITCHELL:** Yes, Your Honor.

4 (A lunch recess is taken.)

5 **THE COURT:** Okay.

6 Counsel, if you-all are ready to proceed, we
7 are back on the record -- sorry.

8 Counsel, if you all are ready to proceed,
9 we're back on the record with regard to the matter
10 of Charles S. Anderson v. State, Respondent. This
11 is a post-conviction relief action, Civil Action
12 No. 21CP431662.

13 I am Grace Knie, Circuit Court Judge from the
14 Seventh Judicial Circuit.

15 Counsel, when we last broke before lunch, the
16 respondent was presenting their case.
17 Mr. Mitchell had called as witnesses Timothy W.
18 Murphy and Jason E. Bridges.

19 Mr. Mitchell, are you ready?

20 **MR. MITCHELL:** Yes, Your Honor.

21 **THE COURT:** Okay. Thank you.

22 And, of course, Mr. Anderson is in the
23 courtroom.

24 **THE APPLICANT:** Yes, ma'am.

25 **THE COURT:** Okay. All right.

1 Thank you.

2 **THE APPLICANT:** You're welcome.

3 **MR. MITCHELL:** May it please the Court?

4 **THE COURT:** Yes.

5 **MR. MITCHELL:** The state calls Mr. Justin
6 Kata to the stand.

7 **THE COURT:** Please come forward, sir.

8 **THE BAILIFF:** Place your left hand on --
9 place your left hand on the Bible and raise your
10 right. State your full name.

11 **THE WITNESS:** Justin Kata, K-a-t-a.

12 **JUSTIN KATA**

13 having first been duly sworn, testifies as follows:

14 **THE WITNESS:** I do.

15 **THE BAILIFF:** Thank you, sir. Step around,
16 sir.

17 State your full name and spell your last name
18 for the record, please, sir.

19 **THE WITNESS:** Sure. Justin Kata, K-a-t-a.

20 **THE COURT:** Okay.

21 This is direct examination.

22 **DIRECT EXAMINATION**

23 **BY MR. MITCHELL:**

24 **Q** Good afternoon, Mr. Kata.

25 **A** Good afternoon.

1 **Q** Did you represent Mr. Anderson at one point?

2 **A** I did.

3 **Q** And these were -- were they two separate
4 charges, two -- stemming from different incidents?

5 **A** That's correct.

6 **Q** And were you appointed in this case?

7 **A** No. I was retained.

8 **Q** You were retained?

9 **A** If I recall. Well, no, no, no. I apologize.
10 I was appointed. I was appointed. I apologize.

11 **Q** And you were his third attorney in this case?

12 **A** I believe so.

13 **Q** And during your representation of
14 Mr. Anderson, did you meet with him?

15 **A** I did.

16 **Q** Do you know about how many times?

17 **A** I don't recall exactly. He was at the Sumter
18 Lee Regional Detention Center. And I met with him a
19 number of times prior.

20 **Q** During those meetings, did you review the
21 discovery with him?

22 **A** We did.

23 **Q** And did you have the full discovery for both
24 the 2018 and 2019 cases?

25 **A** I did.

1 **Q** And everything you had, you went over with
2 Mr. Anderson?

3 **A** That's correct.

4 **Q** And did -- was this going to be set up for a
5 jury trial?

6 **A** We were scheduled for trial, if I recall
7 correctly. But he had had an offer made.

8 **Q** Did he ever indicate a desire to go to jury
9 trial?

10 **A** Not really. I mean, he didn't like the plea
11 offer. But one case was strong and the other case was
12 much weaker. So I mean, he had -- he took a lot of
13 issue with the weaker case, which is understandable.
14 But the -- the -- the stronger case was the one that
15 was taking the forefront.

16 **Q** And the state's evidence in the 2019 case was
17 strong?

18 **A** Yes.

19 **Q** Can you describe some of the evidence in that
20 case?

21 **A** I mean, the strongest evidence that they had
22 was -- it was a -- he had entered into his workplace
23 and essentially zip tied his coworkers to commit a
24 robbery. And I mean, they knew him. They had -- they
25 were saying his name. Like identification was pretty

1 strong. And they were all participating witnesses?

2 Q And that's the case that he was trying to --

3 A That is the case --

4 Q -- negotiate a plea deal?

5 A Correct. That is the case that was going to
6 be called to trial.

7 Q And how did your representation of
8 Mr. Anderson come to an end?

9 A I presented him the offer. We were reviewing
10 the discovery, going over everything, you know, and
11 trying to weigh out, you know, Is it a plea or is it a
12 trial? He became very frustrated and indicated that he
13 did not want me to be his attorney anymore. I filed a
14 motion to determine status of counsel. And we had a
15 hearing in front of Judge Cothran, where I was
16 ultimately relieved.

17 Q And so you did not represent Mr. Anderson at
18 his plea hearing?

19 A I did not.

20 Q And did you work with Solicitor McElveen
21 against Mr. Anderson's interests?

22 A No.

23 Q I think that's all the question I have for
24 you, Mr. Kata. Thank you.

25 A Thank you.

1 **THE COURT:** Cross-examination, Mr. Griffith.

2 **CROSS-EXAMINATION**

3 **BY MR. GRIFFITH:**

4 **Q** Good afternoon, Mr. Kata.

5 **A** Good afternoon.

6 **Q** Thank you for coming.

7 **A** Sorry I'm late.

8 **Q** You had like a family law case that was going
9 on. You never know what's going to happen there.

10 **A** That's right.

11 **Q** So Mr. Kata, you represented Mr. Anderson.
12 You were the final attorney before -- as you went
13 toward the trial; is that correct?

14 **A** That's correct.

15 **Q** And did Mr. Kata fire you? Or did you ask to
16 be relieved? What happened?

17 **A** I mean, he said he didn't want me to be his
18 lawyer anymore. I filed and moved for a status of
19 counsel, and I was relieved, I mean.

20 **Q** Okay.

21 **A** If you want to say "fired me," sure. It
22 doesn't matter.

23 **Q** Okay.

24 **A** Call it whatever you want.

25 **Q** Well, he was -- when he testified, he said

1 that he only fired one attorney. He had not fired his
2 others.

3 **A** Oh, okay.

4 **Q** That would be you.

5 **A** Well, I was relieved.

6 **Q** Just wanted to get it on the record straight.

7 **A** Sure.

8 **Q** Go ahead.

9 **A** Oh, I was relieved.

10 **Q** Okay.

11 Now you were appointed 608. Do you have any
12 kind of way yourself that you store meetings with
13 clients? I mean, you probably use the CID, right?

14 **A** Usually.

15 **Q** Okay.

16 Did you record any of these meetings, that is
17 to say make notes of them?

18 **A** Yeah. I do. Yeah.

19 **Q** Okay.

20 Was this back when they paid you by the hour
21 or after the contract thing?

22 **A** I am not sure. I think it was after they
23 switched it to the flat rate.

24 **Q** Oh, okay. I just wondered because --

25 **A** Pretty sure it was -- it switched.

1 **Q** Because then it would be, you'd really be
2 interested in getting those times in. Okay.

3 **A** Right. I believe it was after, but I -- I
4 don't know.

5 **Q** Okay.

6 So do you believe that you had the complete
7 discovery to show to Mr. Anderson?

8 **A** Yes.

9 **Q** And did you go over that with him?

10 **A** I did.

11 **Q** Looking through the discovery, did you have
12 an opinion as to whether or not he would be found
13 guilty in a trial?

14 **A** I mean, if the witnesses that had written
15 what they wrote, describing their coworker coming into
16 the -- I guess was an AutoZone, I think is what it was,
17 or some car shop, if they would have taken the stand
18 and testified, I mean, I think it would have been a
19 tough -- tough sell on not guilty.

20 **Q** Tough to overcome?

21 **A** Yeah. I think that would have been hard.
22 There would have been -- they were -- they would have
23 been --

24 **Q** Okay. We'll --

25 **A** -- very credible witnesses.

1 **Q** I'm sorry. I didn't mean to interrupt you.

2 **A** That's okay.

3 **Q** What kind of an offer did you have?

4 **A** I -- I want to say I think it was 20 years --

5 **Q** Okay.

6 **A** -- I think, was the offer. I think -- I
7 wasn't at the plea. But I think it was the same thing
8 that he pled to. I don't think they upped it any.

9 **Q** Okay.

10 **A** What they offered me, they offered him, was
11 my recollection.

12 **Q** Now to help me understand what happened, you
13 were relieved, then he had no attorney, right?

14 **A** Correct.

15 **Q** And so then did he himself begin to negotiate
16 with the solicitor or be --

17 **A** I -- I -- I have no idea. I closed my file.

18 **Q** Okay.

19 **A** Yeah. I don't know. I wasn't here for the
20 plea.

21 **Q** Okay.

22 So you --

23 **A** I -- I didn't participate in anything
24 afterward.

25 **Q** Okay.

1 So you didn't --

2 **A** I don't know. I don't know what negotiations
3 went on post.

4 **Q** Okay.

5 **A** I didn't talk to the state about it. I
6 just -- I moved on with life.

7 **Q** Okay.

8 So you were not present -- you have no --

9 **A** No.

10 **Q** -- no knowledge of what occurred after that?

11 **A** Okay.

12 **Q** Well, that makes sense. Okay. Just seeing,
13 looking at my notes here.

14 So as far as you knew, you had all of the
15 discovery for the 2019 case?

16 **A** As far as I knew, yes.

17 **Q** And you showed all of that --

18 **A** I did.

19 **Q** -- to Mr. Anderson? You did? Okay.

20 You were -- you had nothing to do with the
21 plea other than sharing -- telling him an offer?

22 **A** Correct.

23 **Q** Okay. All right. I have no further
24 questions then. Thank you.

25 **A** Thank you.

1 **THE COURT:** Any redirect?

2 **MR. MITCHELL:** No redirect, Your Honor.

3 **THE COURT:** Any objection to this witness
4 being excused?

5 **MR. MITCHELL:** No --

6 **MR. GRIFFITH:** No objection.

7 **MR. MITCHELL:** -- objection, Your Honor.

8 **THE COURT:** Okay.

9 Thank you. You may be excused.

10 Okay, Mr. Mitchell.

11 **MR. MITCHELL:** Your Honor, that concludes the
12 testimony the state will present today. I believe
13 we were keeping the record open for the testimony
14 of Solicitor Bronwyn McElveen.

15 **MR. GRIFFITH:** Your Honor, I have spoken to
16 Mr. Anderson about a possible hearing. And he
17 says that he would happily agree to doing it via
18 WebEx, or however the Court would decide to do it.

19 **THE COURT:** Okay.

20 **MR. GRIFFITH:** And we wanted to put that on
21 the record in case you needed.

22 **THE COURT:** Okay.

23 Mr. Anderson --

24 **THE APPLICANT:** Yes, ma'am.

25 **THE COURT:** I -- I -- I like to do hearings

1 in person because I -- I -- I mean -- but I
2 understand.

3 **THE APPLICANT:** No. I'm sorry for cutting
4 you off.

5 **THE COURT:** So we'll -- we'll figure it out.

6 **THE APPLICANT:** Yeah.

7 **THE COURT:** And it's probably going to have
8 to be during a week that I'm either doing -- if we
9 do it via WebEx, that I'm already doing some other
10 WebEx Common Pleas Nonjury or we'll do it during a
11 chambers week, an administrative week for me.
12 Okay? And I have those every so often. I'm not
13 sure when my next one is. But we'll need to
14 coordinate that with the witness. All right?

15 **MR. MITCHELL:** Yes, Your Honor.

16 **THE COURT:** Okay.

17 **MR. GRIFFITH:** He did indicate to me that
18 he'd rather do it there because he's freezing to
19 death here.

20 **THE COURT:** And he would not be the only one
21 freezing to death. Okay.

22 So anyway -- and we need -- if y'all are
23 going to request the transcript, then we'll need
24 to time it after that is received. Okay?

25 **MR. MITCHELL:** Yes, Your Honor. I'll --

1 first thing, I'll request the transcript. And
2 then I'll keep you-all updated on the status of
3 that. And then once we receive the transcript,
4 we'll go from there.

5 **THE COURT:** Okay.

6 **MR. GRIFFITH:** Thank you, Your Honor.

7 **THE COURT:** And so, Mr. Anderson --

8 **THE APPLICANT:** Yes, ma'am.

9 **THE COURT:** -- sir, it's been a pleasure
10 today. And I will look forward to resuming this
11 once we get all of our ducks in a row.

12 **THE APPLICANT:** Okay.

13 **THE COURT:** Okay. Thank you.

14 **THE APPLICANT:** You're welcome, ma'am.

15 **THE COURT:** All right.

16 That will conclude the hearing at this time,
17 leaving the record open, though.

18 **MR. MITCHELL:** Thank you, Your Honor.

19 **THE COURT:** Okay.

20 **MR. GRIFFITH:** Thank you, Your Honor.

21 **THE COURT:** All right.

22 (Proceedings conclude at 2:42 p.m.)
23
24
25

CERTIFICATE

1
2 I, the undersigned, Teresa B. Johnson, Official
3 Court Reporter, who listened to the digital recording
4 created by DCRP, do hereby certify that said hearing is
5 a true, correct, and verbatim transcript of said
6 recorded, discernible proceedings, except for the
7 portions noted where no transcript was possible due to
8 the lack of discernible wording, noted by (inaudible):
9 2 times.

10 I do further certify that I am not a relative,
11 employee, attorney, or counsel of any of the parties
12 connected with the action, nor am I financially or
13 otherwise interested in the outcome of the action.

14
15 Dated: 09/23/2024

16
17 /s/Teresa B. Johnson

18 Teresa B. Johnson

19 Official Court Reporter
20
21
22
23
24
25

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SUMTER) COURT OF COMMON PLEAS NONJURY

3
4 CHARLES SPENCER ANDERSON,) TRANSCRIPT
5 APPLICANT,) OF
6 vs.) RECORD
7 STATE OF SOUTH CAROLINA,)
8 DEFENDANT.) 2021-CP-43-1662

9
10 April 2nd, 2025

11
12 B E F O R E:

13 THE HONORABLE GRACE GILCHRIST KNIE, Judge.
14

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

16 TIMOTHY LEE GRIFFITH
17 ESQ.
Attorney for the Applicant

18 CRUISE MITCHELL
19 ASSISTANT ATTORNEY GENERAL
20 Attorney for the State

21
22
23 Pamela E. Green
24 Circuit Court Reporter
25

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P R O C E E D I N G S

THE COURT: Okay. Good afternoon, everyone, and welcome.

I'm Judge Knie and our court reporter is Mrs. Green.

We are on the record with regard to a PCR matter, post-conviction relief matter, on the application of Mr. Charles Spencer Anderson. This is Civil Action Number 21-CP-43-1662. The is picking up on my term of PCR Court from July the 22nd of 2024. It was actually in the Third Circuit but I was in Sumter.

Let me have counsel identify themselves for the record starting with counsel for the applicant.

MR. GRIFFITH: Attorney Timothy Griffith, Your Honor, for the applicant, Mr. Charles Anderson.

THE COURT: Okay. And good, good afternoon, Mr. Anderson.

THE APPLICANT: Good afternoon, ma'am.

How you---

THE COURT: How are you, sir?

THE APPLICANT: I'm blessed.

How you doing?

THE COURT: I'm good.

THE APPLICANT: That's good.

THE COURT: I hope it's warmer in here---

1 THE APPLICANT: Yes, it is.

2 THE COURT: ---than the last time I saw you in a
3 courtroom.

4 MR. GRIFFITH: Remember last time you were freezing?

5 THE APPLICANT: Yes.

6 THE COURT: Do you remember that?

7 THE APPLICANT: We were freezing.

8 THE COURT: Yeah.

9 THE APPLICANT: Yes, I remember that. Thank you,
10 ma'am.

11 THE COURT: Okay. Y'all be seated.

12 Yes, and counsel for the State.

13 MR. MITCHELL: Yes, Your Honor. I'm assistant
14 attorney general Cruise Mitchell on behalf of the State of
15 South Carolina.

16 THE COURT: Good afternoon, Mr. Mitchell.

17 Okay. And so, when we had the hearing in Sumter, one
18 of the witnesses was unavailable I think because of
19 vacation or court. I can't remember.

20 MR. MITCHELL: I can't remember the exact reason,
21 Your Honor. But, yes, the, the witness, Ms. Bronwyn
22 McElveen, had prosecuted the case. She was unavailable
23 that term. So, the record was left open to receive her
24 testimony.

25 THE COURT: Okay. And so we've tried to get it

1 scheduled a couple of times and I'm really glad that we're
2 able to do it today, and then, after this, will that
3 conclude all of the evidence?

4 MR. MITCHELL: The State will be resting at that
5 time, Your Honor.

6 THE COURT: Okay. And so then, Mr. Griffith, are you
7 prepared to continue with any other testimony?

8 MR. GRIFFITH: Yes, Your Honor.

9 My client would like to testify again actually but
10 --.

11 MR. MITCHELL: Your Honor, the State would object to
12 Mr. Anderson testifying again. The record was left open
13 in this case solely to get the testimony of Ms. McElveen.

14 The applicant rested his case on July 22nd, 2024.
15 All three of the subpoenaed witnesses, his three prior
16 attorneys, have already testified in this case. So
17 they're unavailable now to refute any testimony he may
18 bring today.

19 Your Honor, he's rested his case and his opportunity
20 to present evidence has passed. So, the State would
21 request that you deny any new testimony or evidence.

22 MR. GRIFFITH: Your Honor, my, my client had asked --
23 has asked that he be able to add -- address the Court
24 again.

25 THE COURT: Okay. So, let me, of course, the

1 applicant -- you, you have to think about it---

2 MR. GRIFFITH: This is on his case.

3 THE COURT: ---in reverse order.

4 The applicant is the movant and this is a civil
5 action and normally he would be allowed to reply.

6 And so, Mr. Griffith, I will allow, over
7 Mr. Mitchell's objection, Mr. Anderson to reply to
8 testimony as to this witness.

9 Okay?

10 MR. GRIFFITH: Okay. Thank you, Your Honor.

11 THE COURT: Got it?

12 MR. GRIFFITH: Yes. Yes.

13 THE COURT: Okay. All right. And so my law clerk's
14 gonna have to move. She's in the witness seat.

15 But, anyway, we'll -- in just a minute. You don't
16 need to move now. We'll, we'll take a break and let them
17 get their thoughts together.

18 Okay?

19 Okay. And so the -- let me make sure that the
20 witness is ready.

21 Ms. McElveen, can you hear me?

22 (Pause.)

23 THE COURT: Okay. Ms. McElveen, bear with us.

24 Okay. Can you hear us?

25 (WHEREUPON, the witness nods affirmatively.)

1 THE COURT: Thumbs up.

2 Okay. And so our tech person had to come in
3 yesterday for WebEx to reconnect something that we had
4 disconnected unbeknownst to us. And so you're calling
5 them.

6 Okay. Y'all just bear with us.

7 Okay?

8 MR. GRIFFITH: Okay.

9 THE COURT: Mr. Griffith, have you had time to talk
10 to Mr. Anderson today?

11 MR. GRIFFITH: He and I talked just briefly, Your
12 Honor.

13 THE COURT: Okay. Well, y'all can make the best use
14 of your time now if you want to.

15 MR. GRIFFITH: Yeah.

16 THE COURT: Just make sure that mic's turned off. If
17 it's, if it's green, it's on.

18 Okay. Thank you.

19 (Pause.)

20 THE COURT: Ms. McElveen, can you speak again?

21 THE WITNESS: I'm sorry, Your Honor.

22 Can you hear me?

23 THE COURT: We got it.

24 Okay. Okay.

25 THE WITNESS: Great.

1 THE COURT: Yeah, I have a smart law clerk and
2 administrative assistant.

3 THE WITNESS: Let me close the door to my office so
4 the office doesn't have to hear my hearing. Excuse me.

5 THE COURT: Okay.

6 THE WITNESS: Thank you, Your Honor.

7 THE COURT: Okay. And so are y'all ready to proceed?

8 MR. MITCHELL: Yes, Your Honor.

9 THE WITNESS: Yes, Your Honor.

10 MR. GRIFFITH: Yes, Your Honor.

11 THE COURT: Okay. Let me swear the witness.

12 All right. Ma'am, if you'll raise your right-hand.

13 BRONWYN MCELVEEN, being first
14 duly sworn, testified as follows:

15 THE COURT: Okay. Thank you. You may put down your
16 hand.

17 And so this would be your witness---

18 MR. MITCHELL: Yes, Your Honor.

19 THE COURT: ---Mr. Mitchell?

20 MR. MITCHELL: The State would call Ms. Bronwyn
21 McElveen to the stand.

22 THE COURT: Okay. Ma'am, you are now on direct
23 examination. Thank you.

24 MR. MITCHELL: Your Honor, do you mind if I sit down
25 so I can---

1 THE COURT: No, or you can come up to the podium.
2 However you're more comfortable.

3 MR. MITCHELL: Okay. I just have the video on. So,
4 it wouldn't work from there unless -- well, I could bring
5 my -- I'll just sit here.

6 THE COURT: Okay. You're fine sitting.

7 MR. MITCHELL: All right. Thank you, Your Honor.

8 THE COURT: Okay.

9 DIRECT EXAMINATION

10 BY MR. MITCHELL:

11 Q. Good afternoon, Ms. McElveen.

12 A. Good afternoon.

13 Q. Ms. McElveen, where were you employed at the time of
14 Mr. Anderson's guilty plea?

15 A. I've been at the Third Circuit Solicitor's Office
16 since 2009. Been here the whole time.

17 Q. And you -- were you the prosecutor on this case?

18 A. Yes, sir, I was.

19 Q. And were there two -- there were two different sets
20 of charges stemming from this guilty plea.

21 Is that correct?

22 A. Yes, sir, there were.

23 Q. And I know it's been a long time, Ms. McElveen.

24 But to the best of your recollection, can you briefly
25 explain the underlying facts of the two incidents and the

1 evidence?

2 A. I do remember -- and I was trying to actually find my
3 closed files, which are actually across the street at the
4 old courthouse.

5 But I do remember that this defendant went into an
6 auto parts store and zip tied the employees' hands
7 together and held them at gunpoint and demanded money. I
8 think he previously worked there. They were able to
9 identify him and then he went across the street to a gas
10 station. Officers did locate him. There were zip ties
11 found. The two employees came in ready to testify at
12 trial.

13 That's the case that was prepared for trial. I want
14 to say that was a 2019 indictment if I recall correctly.

15 Q. And, Ms. McElveen, do you, do you recall how many
16 attorneys Mr. Anderson had prior to the guilty plea?

17 THE WITNESS: I beg the Court's indulgence one second
18 if I may?

19 THE COURT: Yes, ma'am, take your time.

20 THE WITNESS: I -- thank you and I'm sorry. I'm kind
21 of going by our online records just because it has moved
22 into a more permanent holding space.

23 It appears that he had attorney Jason Bridges at one
24 point who was a public defender at the time.

25 Beg the Court's indulgence a little longer.

1 That's the Citgo case. He was the defense attorney
2 involving a gas station armed robbery and a possession of
3 a weapon during commission of a violent crime. That was
4 from 2018. He had attorney Jason Bridges on those charges
5 at one point.

6 And then he also had -- I'm pulling up the 2019
7 charges. It appears he had Justin Kata as the defense
8 attorney on the 2019 charges. I'm also going to go to the
9 public index, which frankly keeps even better records for
10 who the attorneys were---

11 Q. Well---

12 A. ---during this. I mean I can't---

13 Q. Ms --

14 A. ---probably testify to that. That's right. Thank
15 you.

16 Q. Well, would you be surprised if Timothy Murphy was
17 also his attorney?

18 A. Absolutely not.

19 As I recall, I think Timothy Murphy got substituted
20 in after Jason Bridges. Mr. Murphy was a wonderful
21 private -- public defender for a long time in our circuit.

22 Q. Ms. McElveen, do you recall how the plea negotiations
23 went in this case?

24 A. I do remember. I think we offered -- I think we
25 ended up offering about 20 years to start with. Mr.

230 Bronwyn McElveen - Direct examination
By Mr. Mitchell

1 Anderson was identifiable by the victims and then I think
2 we ended up -- I believe actually a lesser. I believe it
3 was 18 years. Then he ended up pleading guilty before
4 trial after we were ready and ended up getting 20 years.

5 Mr. Anderson, I recall, was given the opportunity to
6 enter a guilty plea -- beg the Court's indulgence.
7 Forgive me. I'm trying to make sure that my memory serves
8 me correctly about Mr. Anderson and our plea negotiations.

9 I think Mr. Anderson was offered -- I remember
10 talking with Mr. Murphy at length about him and about
11 multiple sets of charges. Also, frankly, Attorney Stephen
12 Story it looks like had Mr. Anderson at one point too it
13 looks like on some even older charges too. So, he had
14 multiple members of our public defender's bar representing
15 him.

16 Q. I believe those may of been from---

17 A. Originally, originally, in 2018, for the first set of
18 armed robbery charges, I offered Mr. -- I offered
19 Mr. Murphy to dismiss the possession of a weapon during
20 commission of a violent crime in exchange for the
21 defendant's plea to an armed robbery. That was before he
22 got the second set of charges.

23 It appears that, after the second set of charges, I
24 would dismiss the two attempted murder cases and the
25 kidnapping charges, allowing him to plead to both of the

1 armed robbery cases, and the possession of a weapon during
2 commission of a violent crime. I was happy to dismiss
3 those sets of charges. I think he was very hung up on two
4 attempted murder charges.

5 So, I, I, I, I, I reached out to the victim on the first
6 set of armed robberies just to make sure that we still
7 wanted to follow through with those charges. I think we
8 even talked to mental health about a mental health
9 evaluation order for Mr. Anderson at one point.

10 After speaking further with the victims, and knowing
11 that Mr. Anderson came back competent and passed a
12 *M'Naghten* evaluation, I offered to reduce the first armed
13 robbery to common law robbery. However, Mr. Anderson had
14 admitted to the detective in that interview that he did it
15 because of a drug addiction.

16 For the second set of charges, the ones from 2019, I
17 offered to dismiss the kidnapping and attempted murder
18 charges in exchange for his plea to the armed robbery, a
19 reduced ABHAN, assault and battery high and aggravated,
20 and possession of a weapon during the commission of a
21 violent crime.

22 It looks like I was -- then Mr. Anderson --
23 Mr. Bridges took over for Mr. Murphy. We kind of held
24 with the same offers. I -- he asked me to reduce the
25 strong armed robbery. I told him no but then I offered to

1 let the strong armed robbery case run consecutively to the
2 other set of charges to give him a probationary term with
3 drug court.

4 So I eventually started talking to Jason Bridges and
5 then I started speaking with Mr. Kata about charges
6 involving Mr. Anderson. I essentially forwarded my
7 previous plea negotiations to Mr. Kata at that point.

8 So, I'm sorry. There -- there's a progressive plea
9 offer through three different attorneys.

10 Q. And presumably Mr. Anderson rejected those plea
11 offers?

12 A. He did. He did reject them.

13 Q. And then, finally, y'all were about to get ready to
14 go to trial on the 2019 charges, which was from the, the
15 AutoZone correct?

16 A. Correct.

17 That's from the AutoZone. That was our stronger
18 case. That was the case I prepared for trial and
19 Mr. Anderson was easily identified by the victim witnesses
20 in that case and there were -- there was evidence of the
21 zip ties and he was located close by and they were able to
22 identify him.

23 Q. And, Ms. McElveen, was Mr. Anderson represented at
24 that -- when he finally agreed to plead guilty?

25 A. He did.

1 It looks like, in July of 2020, I actually ended up
2 sending some more discovery to Mr. Kata and offered a 25
3 year cap at that point when I was dealing with lawyer
4 number three instead of a 30 year cap basically reducing
5 the potential sentence to 25 instead of 30 years.

6 Mr. Anderson wrote a magistrate judge. I
7 communicated -- I forwarded his communications to his
8 attorney about that.

9 And, Your Honor, we did proceed in 2020 frankly with
10 some online hearings, some WebEx hearings, the best we
11 could. I finally served trial notice for later in the
12 year of 2020 and, in September, 2020, he indicated --
13 Mr. Anderson indicated he had some information for law
14 enforcement.

15 I told him that we would happily send law enforcement
16 by after the trial of this case, that that would not be
17 used as a basis to reduce his sentence.

18 And so we did eventually prepare for a trial on the
19 AutoZone case and the plea offer was rejected. Looks like
20 we pled him on September 28th, 2020, and I'm looking
21 at -- I was communicating with his lawyer September 2nd,
22 2020, about that letter he wrote from jail and we ended
23 up preparing that trial for 20 -- for September, 2020.

24 Q. And on September 20th, do you know whether
25 Mr. Anderson had an attorney or was he pro se?

1 A. Mr. Anderson was represented by Justin Kata at that
2 plea---

3 Q. would you be surprised if---

4 A. ---because --.

5 Q. ---Mr. Kata had been relieved prior to Mr.---

6 A. Forgive me. I'm---

7 Q. ---Anderson's guilty plea?

8 A. I'm looking now. It looks like Mr. Kata -- we had a
9 zoom link -- forgive me. I'm sorry. I'm trying to piece
10 this all together.

11 It appears that Mr. Kata was relieved right before
12 trial upon Mr. Anderson's request.

13 Q. And then on the day of -- the day you were prepared
14 to go to trial on the 2019 charges is when you offer a
15 recommended sentence of 20 years concurrent?

16 A. Yes, sir.

17 Q. And Mr. Anderson accepted that plea?

18 A. He did eventually accept that plea. It included both
19 of the armed robberies. So, he did end up pleading guilty
20 to both of those armed robbery charges.

21 Q. And prior to Mr. Anderson's plea, did you turn over
22 all of the discovery to Mr. Anderson's prior attorneys?

23 A. Absolutely.

24 I turned the discovery over multiple times. Usually
25 the Public Defender's Office would share the same packet

1 of Rule 5. However, I provided information again to
2 Mr. Justin Kata. So, I did provide that discovery at
3 least two times on both sets of charges to multiple
4 attorneys and I am --.

5 I think -- there's actually a -- looks like Mr.,
6 Mr. Anderson made a motion to relieve his counsel back
7 during COVID. I do, I do know that there's a waiver of a
8 right to an in person court appearance with his motion to
9 relieve his own counsel.

10 So, I do know that we did that over -- I think it
11 looks like remote communication technology where we were
12 set up to do it that way in case the jail or allowing the
13 jail, jail to be on lockdown occasionally if someone got
14 COVID. So, we do have that paperwork and I know he's the
15 one that made that request.

16 Q. And do you recall, at the guilty plea, that the issue
17 with this discovery -- Mr. Anderson did bring that up
18 during the plea. I know it's been a while.

19 A. It has but, as I recall, I do remember -- I read this
20 transcript. He said there was an issue -- may I ask for
21 some clarification about the issue with discovery so that
22 I can more clearly---

23 Q. Yeah.

24 So he was alleging---

25 A. ---address it?

1 Q. He was alleging---

2 A. He was given---

3 Q. He was alleging he hadn't received all of the
4 discovery prior to the guilty plea.

5 A. And --.

6 Q. Go ahead.

7 A. I'm sorry.

8 First of all, the judge certainly addressed that at
9 his guilty plea. But also I can give you dates. We
10 have -- let's see.

11 Discovery was provided to Mr. Murphy July 22nd,
12 2019, on the 2019 armed robbery. We also provided
13 discovery to Mr. Kata as well in 2020 it appears and
14 that's on the 2019 sets of charges. And then, as to the
15 2018 sets of charges, we provided discovery in -- on
16 August 29th, 2018, to Mr. Murphy at that time as well.

17 Q. So, prior to the plea, Mr. Anderson did have the full
18 discovery in his possession?

19 A. Absolutely. And we worked the case up for trial.

20 So, we continued to disclose information to and from
21 counsel until counsel was relieved and up -- we continued
22 that duty until the time of trial.

23 Q. Ms. McElveen, I think that's all the questions I have
24 for you.

25 A. Thank you and I'm sorry I don't have my physical

1 file. I just -- it's, it's over in the depths of the old
2 courthouse and -- but thank you for this opportunity to
3 speak and I appreciate it.

4 Q. No worries. Thank you, Ms. McElveen.

5 THE COURT: Mr. Griffith.

6 CROSS-EXAMINATION

7 BY MR. GRIFFITH:

8 Q. Ms. McElveen, thank you very much for working with us
9 on this video appearance here. We all---

10 THE COURT: Mr. Griffith, you may have to move that
11 mic a little closer to your -- to you, okay, if you can.

12 MR. GRIFFITH: I'll move closer. The mountain will
13 not come to Muhammad. So, Muhammad will go to the
14 mountain.

15 THE COURT: Okay. Yes, sir.

16 Q. Well, thank you very much for cooperating here and,
17 and being on this video. It's been a long time.

18 In the mean time, Mr. Anderson says that, according
19 to his lawyers, that you did not hand over all of the
20 discovery.

21 What can you give us to rebut that?

22 A. We were prepared to go to trial. Those issues were
23 addressed by a judge in 2020 at the time of the motion to
24 be relieved when Mr. Anderson was on a trial list. We had
25 complied with discovery requirements at that time.

1 Q. Okay. And as far as offers were concerned, did you
2 say that there was a zero to 25 -- a 25 cap at one time?

3 A. At one point there was, yes, sir, it appears so to
4 Mr. Kata in prepared -- in preparation of trial.

5 Q. Okay. I don't really have any more questions but
6 Mr. Anderson -- oh, no, wait a minute. The -- what about
7 the -- I'll have Mr. Anderson rebut some of these things
8 if the Court would allow, Your Honor.

9 THE COURT: Okay. Anything on redirect,
10 Mr. Mitchell?

11 MR. MITCHELL: No, Your Honor.

12 THE COURT: Okay. Any objection to allowing this
13 witness to step down and be excused?

14 MR. GRIFFITH: No objection, Your Honor.

15 MR. MITCHELL: No objection, Your Honor.

16 THE COURT: Okay. Ms. McElveen, thank you very much
17 for your time. It's nice to see you even though it's on
18 WebEx. Take care.

19 THE WITNESS: Thank you so much.

20 Is it okay if I stay in here and just mute myself
21 and---

22 THE COURT: Sure.

23 THE WITNESS: ---listen?

24 THE COURT: You're, you're welcome to stay just like
25 any other trial.

1 okay?

2 THE WITNESS: Thank you.

3 THE COURT: Okay. Anything else, Mr. Mitchell?

4 MR. MITCHELL: No, Your Honor. At this time the
5 State rests.

6 THE COURT: Okay. And so I'm going to let y'all make
7 a summary, a closing for me if you want to.

8 okay?

9 But I, I understand Mr. Mitchell's objecting to
10 Mr. Anderson addressing the Court again. But in that
11 there is additional evidence, I think that that is only
12 proper.

13 And, Mr. Anderson, I hate to ask you to come all the
14 way up here. But if, if Mr. Mitchell decides to
15 cross-examine you, it's gonna be easier for him to do it
16 if you're on the witness stand and it's---

17 THE APPLICANT: Oh, no, I don't mind.

18 THE COURT: ---way over here?

19 okay?

20 THE APPLICANT: I don't mind, ma'am. Yes.

21 THE COURT: Okay. And so you'll come over here to
22 this chair---

23 THE APPLICANT: Do you mind if I get some water real
24 quick?

25 THE COURT: ---and Mr. Griffith -- yes.

1 THE APPLICANT: Can I get some water?

2 THE COURT: There's water up here. There's water up
3 here for you.

4 THE APPLICANT: Okay. Thank you.

5 THE COURT: Just take your time, sir.
6 okay?

7 THE APPLICANT: Yes.

8 THE COURT: You don't have to get in a hurry. We've
9 got lots of time.

10 Sir, there's water right there for you.
11 okay?

12 THE APPLICANT: Yes. Thank you, Your Honor.

13 THE COURT: Yes, sir.

14 If you'll make yourself comfortable.

15 You are Charles Spencer, S-P-E-N-C-E-R, Anderson,
16 sir?

17 THE WITNESS: Yes, ma'am.

18 THE COURT: I need to place you under oath again.
19 If you'll raise your right-hand?

20 CHARLES ANDERSON, being first duly
21 sworn, testified as follows:

22 THE COURT: Okay. Thank you, sir.

23 This, again, is gonna be direct examination by your
24 legal counsel, okay, and, after this, if Mr. Mitchell
25 wants to ask you questions, he will have an opportunity to

1 do so and then Mr. Griffith will have an opportunity to
2 reply to that.

3 okay?

4 MR. GRIFFITH: Thank you, Your Honor.

5 THE COURT: All right.

6 THE WITNESS: Can I ask you a short question, Your
7 Honor?

8 I can't -- I only can testify to what Ms. McElveen
9 was just saying, not what my lawyers and none of them,
10 right?

11 THE COURT: Well, that was my rule and I would
12 appreciate it although I know it may be difficult.

13 THE WITNESS: Okay.

14 THE COURT: We'll see if Mr. Mitchell, what his
15 response is to your testimony.

16 Okay. I won't interfere.

17 THE WITNESS: Okay.

18 THE COURT: Okay?

19 THE WITNESS: Yes.

20 THE COURT: All right. Just answer your lawyer's
21 questions.

22 THE WITNESS: Okay.

23 MR. GRIFFITH: All right. Thank you.

24 DIRECT EXAMINATION

25 BY MR. GRIFFITH:

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1 Q. Mr. Anderson, you've been sworn in and did -- you
2 have indicated to me that there were some additional items
3 that you wanted to point out to the Court --

4 A. Yes.

5 Q. -- one of which was -- some of which had to do with
6 Ms. McElveen.

7 So, if we can address those first, that would be
8 great.

9 A. Yes. To -- okay. Dealing with hearing of the two --
10 before I move forward with the lack of evidence and,
11 pardon me, real quick, the lack of evidence and not my
12 full motion discovery---

13 Q. Okay. Move this forward a little bit so I can hear
14 you better.

15 A. Lack of evidence, evidence and my full disclosure.

16 It was an issue within September 28th of 2020,
17 pretrial hearing. I had requested my full motion
18 discovery and I asked the judge for extension due to the
19 fact that I didn't have my Rule 5. I ain't had the whole
20 Rule 5, which contains the 2018 robbery case which is part
21 of it.

22 Q. Okay.

23 A. If -- I got more from my discovery right here.

24 It's not one video of my 2018 robbery, not one, and
25 it's police reports of the communication between the

1 victim and I guess the arriving officer where he described
2 as an individual face whole cover.

3 Now, what do I do have in my motion discovery of my
4 2018 charge that Solicitor Browning (sic) say she gave me
5 the full discovery is two pictures which I had stated
6 before when I got up on the stand about misleading new
7 found discovered evidence and it's a picture. This from
8 the 2018 robbery.

9 This is a photograph of me which---

10 MR. GRIFFITH: May, may I approach him, Your Honor?

11 THE COURT: Yes, sir.

12 A. ---which was sent to SLED for identification on a
13 robbery suspect.

14 Now, it went to SLED and SLED came back and told
15 Detective Willie McFadden it's a possible match but not a
16 positive identified match. It is not grounds for probable
17 cause.

18 MR. GRIFFITH: If it please the Court, Your Honor?

19 THE COURT: If you'll show that to Mr. Mitchell.

20 Okay?

21 A. Um.

22 THE COURT: Mr. Mitchell, any objection?

23 MR. MITCHELL: Your Honor, I would just object on the
24 basis that this is not properly authenticated.

25 THE COURT: Mr. Griffith -- well, first, let's have

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1 it marked for identification.

2 okay. we'll have the clerk mark it---

3 THE WITNESS: That's it.

4 THE COURT: ---as Applicant's 1 for identification
5 and then we all have to quit talking so she can mark it.

6 okay?

7 (WHEREUPON, the photograph was marked as Applicant's
8 Exhibit No. 1 for identification purposes only at this
9 time.)

10 THE COURT: Okay. Lay a foundation for that. Ask
11 him how he got it or does that depict what he looked like
12 at the time. I -- is that supposed to be Mr. Anderson?

13 Q. Mr. Anderson, is this a picture of you?

14 A. Yeah, that's a picture of my driving license.

15 Q. Okay. Where did it come from?

16 A. It came from I guess Detective Mc -- Willie McFadden
17 sent it to SLED to get a recognition of them putting --
18 this picture right here.

19 Q. And where did you get this piece of paper?

20 A. I got that from Timothy Bridges. I had requested,
21 asked him can he send me my full motion discovery. I'll
22 say around about June of 2022 I asked him is any way I
23 can -- cause he's the one that showed me the video.

24 Q. Okay.

25 A. Can I receive my whole motion discovery and the video

1 of the robbery is not shown. This, this is what's shown
2 of another store. I didn't rob the store. But they -- if
3 you see it, it says that the S&G -- that's the S&G Grocery
4 Store in the back -- that's the store. It's not the Citgo
5 Gas Station on Guignard.

6 So, why is these photos -- I'm trying to figure out
7 and understand why is these photos in my discovery of a
8 robbery that I didn't commit and I'm not charged with---

9 Q. Well---

10 A. ---another -- none of the photos of the actual
11 robbery where the guy whole face is covered, which is
12 impossible for them to identify which I had documents to
13 show in this underlying that---

14 THE COURT: Okay. Let's, let's back up.

15 THE WITNESS: Okay.

16 THE COURT: Okay. So, you got the photograph from --
17 who is Timothy -- I, I see a Timothy Murphy and a Jason
18 Bridges.

19 THE WITNESS: Jason Bridges.

20 THE COURT: Not Timothy Bridges?

21 THE WITNESS: Not Timothy Bridges. Them who---

22 THE COURT: Okay. So Jason Bridges is an attorney?

23 THE WITNESS: Yes, he's my public defender down
24 there.

25 THE COURT: Okay. I got it.

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1 And he gave that to you?

2 (WHEREUPON, the witness nods affirmatively.)

3 THE COURT: Any objection, Mr. Mitchell?

4 MR. MITCHELL: No objection.

5 THE COURT: Okay. So, Applicant's No. 1 is in.

6 But was there -- there were more exhibits previously,
7 weren't there?

8 MR. GRIFFITH: Yeah, he's got --.

9 THE COURT: No, no, no, no, no.

10 MR. GRIFFITH: Oh, from a---

11 THE COURT: At the---

12 MR. GRIFFITH: ---previous hearing?

13 You remember if there -- were there -- did we give
14 them any---

15 MR. MITCHELL: I don't---

16 MR. GRIFFITH: ---previous exhibits then?

17 I don't remember doing it.

18 MR. MITCHELL: I don't believe any exhibits were---

19 THE COURT: Okay. Well, anyway, this will be
20 Applicant's 1 as of April the 2nd of 2025 hearing,
21 supplemental proceeding.

22 MR. GRIFFITH: Thank you, Your Honor.

23 THE COURT: Okay. Thank you.

24 (WHEREUPON, Applicant's Exhibit No. 1 was received
25 into evidence at this time.)

1 MR. GRIFFITH: So, as a finder of fact, of course he
2 wants you to see that.

3 THE COURT: Yes, I'm -- I see it. Thank you.

4 THE WITNESS: Okay.

5 THE COURT: Okay.

6 MR. GRIFFITH: Okay. But he has more.

7 THE COURT: Okay. I'll just keep it right here.

8 THE WITNESS: That---

9 Q. Now, first, Mr., Mr. Anderson, let me try and get us
10 focused a little bit because we're kind of going off the
11 road a little bit here. We want to know about Ms.
12 McElveen and what she testified there as to---

13 THE COURT: You need to be in a mic --

14 MR. GRIFFITH: Oh, sorry.

15 THE COURT: -- in order---

16 MR. GRIFFITH: I'm so sorry.

17 THE COURT: Okay. Just to make sure that we're
18 picking it up. Thank you.

19 But if you need to approach him again, just talk very
20 loudly.

21 MR. GRIFFITH: Oh, certainly.

22 THE COURT: Thank you.

23 Q. We -- I, I want to try and focus you a little bit
24 toward what Ms. McElveen was talking about and the areas
25 that she was talking about where you were telling me that

1 she withheld some pertinent evidence---

2 A. Tangible evidence.

3 Q. ---from handing it over to your attorneys.

4 Is that what you're telling me?

5 A. No.

6 what I'm saying is -- what I'm telling you is there

7 are action video of the robbery --

8 Q. Okay.

9 A. -- is not in my motion discovery period and I'm
10 trying to figure out why it's not in there, why is the
11 State not -- I keep requesting this. I requested it
12 numerous times. It's to the point I even put a motion to
13 compel.

14 Q. well, let me ask you another question and just to --
15 so we can clear things up.

16 was that video available during your trial?

17 A. Yes, it was.

18 Q. Okay. All right.

19 A. No, hold on. Let me clear up before I say yes, sir.

20 what you mean was it available?

21 was it shown by the State---

22 Q. was it shown---

23 A. ---to the judge?

24 Q. ---by the State---

25 A. No, it wasn't.

1 Q. ---or did your attorney have a copy of it?

2 A. No.

3 Q. Did you see it?

4 A. No.

5 Q. Well, you were saying that it was -- that it was
6 available to -- where was it available?

7 You saw it and you saw it where?

8 A. Well, I didn't see the video.

9 Q. Oh, okay. You didn't see it.

10 All right.

11 A. I'm saying the video -- cause this is, this is not
12 Citgo robbery. This right here is a whole nother store.
13 When I read the back -- when I actually got to the points
14 where I---

15 Q. Okay. Let me---

16 A. ---really went through it and wrote -- and read it,
17 it said this photo -- the first photo is from the most
18 recent photo from S&G Grocery Store located at 502 West
19 Liberty Street, Sumter, South Carolina.

20 Q. Okay. Let me ask you a specific question and
21 determine -- to try and get it tuned to where we totally
22 understand.

23 So, what you're saying is, is that there was a video
24 but that the solicitor never showed that video to your
25 attorneys and they didn't use the video in the trial.

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1 Is that what you're telling me?

2 A. Yes. Because if they used the video in the file, it
3 clearly show it wasn't me.

4 Q. Okay. So, you're -- you believe there's some new
5 evidence---

6 A. Yes, and which I stated the last time---

7 Q. ---which would be---

8 A. ---new found discovered evidence. It will be shown
9 that my innocent.

10 Q. Okay. Now tell us some more, Mr. Anderson.

11 Tell us what else you want us to know about what
12 Mr. Bronwyn McElveen just talked to us about -- Ms.
13 McElveen.

14 A. Okay. Then it goes into -- first of all, I was never
15 offered a plea and, two, I actually were presented, which
16 I suppose to been on the third court docket for trial for
17 the 2019 robbery.

18 Upon me going to trial, I had put in extension
19 because I didn't have my full motion discovery. I asked
20 the judge can he grant me at least 30(a) extension or two
21 weeks where I can obtain my full discovery and obtain a, a
22 lawyer because, at the time, I felt it was a conflict of
23 interest between me and Mr. Justin Kata cause I had went
24 about filing a 19 -- 1983 civil suit against the
25 solicitor, my lawyer, and the detective.

1 So, I asked the judge, to try to get a better
2 understanding, of would it be a conflict of interest and
3 he explained to me. So, upon the Honorable Judge Cochran
4 (sic) hearing my motion, I put in a motion for suppression
5 of all physical evidence.

6 Q. Uh-huh. (Affirmative).

7 A. Cochran looked at Mr. McElveen -- asked Ms. McElveen
8 did she have any physical evidence against me. The
9 solicitor stated she didn't have none but some zip ties.

10 So, I raised the issue about chain of custody
11 because, if you got the zip ties, the zip ties suppose to
12 go through chain of custody cause it's evidence. It's
13 nothing showing in my motion discovery of my 2000
14 discovery where I had to get my family to pay for it for
15 Freedom of Information Act showing no zip ties. It's no
16 forms of no zip ties.

17 So, she stated Judge Cochran no, she didn't have no
18 evidence. But here she stated that she had a whole bunch
19 of evidence.

20 Q. Uh-huh. (Affirmative).

21 A. Then I challenged the gun because there's no chain of
22 custody. So, you charging me with a firearm.

23 Q. Okay. Let -- I'm trying to help us focus into where
24 Ms. McElveen---

25 A. She saying it's evidence. It's the State---

1 Q. She---

2 A. It was -- it was -- it's -- it was two statements
3 that was given by the victims, which Judge Cochran
4 dismissed with it -- threw out for inadmissible after I
5 put the motion to, to suppress witness testimony, which
6 you'll see it in my transcripts from the 2000 -- I mean
7 September 28th of 2020.

8 Now, I was never offered a plea. I wasn't given my
9 full motion discovery. That's why my first time up there
10 I put on record about prosecution misconduct, which is
11 also a *Brady* violation, withholding evidence from the
12 defendant. I requested this numerous time and the
13 solicitor, Ms. McElveen, still refused to give it to me.

14 I went through all three of my attorneys, between
15 Timothy Murphy, Jason Bridges, and Justin Kata. Each
16 one -- I thought they was lying when they say the State
17 didn't give them they full discovery. My -- they didn't
18 give my full motion.

19 I, I still -- I always thought they was just telling
20 me -- just wasn't working for me. But when I heard them
21 say it theyselves (sic), it convinced me to believe that
22 they was telling me the truth because, after my niece sent
23 me my motion discovery and I went through it, I don't see
24 nothing about Citgo Gas Station on perjinst (phonetic)
25 Cedric (phonetic) pictures of it.

1 Only thing I see so far is DNA and fingerprints was
2 taken, which I have right, right here, which I like to
3 present. DNA was taken and it didn't come back to Charles
4 Anderson.

5 Q. Uh-huh. (Affirmative).

6 Right here, which is the chain of evidence---

7 MR. GRIFFITH: May I approach, Your Honor?

8 A. You see chain of evidence when they took DNA. They
9 took fingerprints.

10 Hold on. It's more, sir. I just haven't -- sorry
11 about the high. I'm discombobulated and things are messed
12 up. I apologize about that.

13 THE COURT: Sir, just take your time.

14 Okay?

15 THE WITNESS: Yes, ma'am.

16 MR. GRIFFITH: Uh-huh. (Affirmative).

17 A. There go the DNA test that I double -- agreed to.
18 But my DNA was taken and here's the video footage which
19 will show that the video contained. That's what made me
20 see -- when I looked at it, it show that the video that
21 was submitted into evidence. But it's not in my motion of
22 discovery period. So that's what made me raise the issue
23 or questions.

24 Q. So, so, part of your complaint is that you did not
25 receive any video footage but they showed it at the trial

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1 are you saying?

2 A. No, they did not. It was nothing shown at no trial.

3 Q. Okay. And so, if they didn't use it at the trial,
4 but here you -- you're looking at this inventory chain of
5 custody report and it said DVD containing video footage,
6 and so you're -- you want to know what happened to that
7 video.

8 Is that what you're asking?

9 A. Yes. Because that video can either -- as it favored
10 of the defense. It's very unfavorable what the defense
11 because here's the, here's the -- a, a document from an
12 arresting officer where he stated that, upon demand, whole
13 face was covered.

14 So, how can you identify a person if they face
15 covered?

16 Why you won't show me the visit -- the video?

17 If the person face is partially uncovered or is
18 identified by Charles Anderson, I mean it's very
19 important. Right is right, wrong is wrong at the end of
20 the day.

21 You know --

22 Q. Uh-huh. (Affirmative).

23 A. -- you know, this is my due process. I have the
24 right to actually get my whole discovery. The State
25 shouldn't be able and had a right to withheld no evidence

1 against the defense and this is one of the reasons why I
2 raise ineffective assistance of counsel because my
3 attorney allowed -- no one fought for me to get my whole
4 motion discovery.

5 Q. So --.

6 A. They didn't---

7 Q. So you're saying -- and, and what -- it -- just to
8 help you, that is to say, and make it clear in my mind,
9 you're saying that, that evidence report shows that there
10 was a DVD video, that there was video, but you never got
11 it but you believed that that would have proved you, you
12 did not do the case?

13 It would of been exculpatory evidence in other words?

14 In other words, it would, would show that it wasn't
15 you.

16 Is that what you're saying?

17 A. Yes, sir.

18 Q. Okay. Let me---

19 A. Yes, sir.

20 Q. ---have that back then.

21 A. Yes, sir.

22 Like this right here---

23 Q. So let me -- first let me---

24 A. Okay.

25 Q. ---ask you a question.

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1 where'd you get this piece of paper?

2 A. From the Freedom of Information Act. Well, my niece
3 sent it to me from my motion of discoveries.

4 MR. GRIFFITH: Your Honor, we would submit this as
5 being part of evidence showing that there was a DVD. I
6 showed it to Mr. Mitchell.

7 THE COURT: Any objection, Mr. Mitchell?

8 MR. MITCHELL: No objection, Your Honor.

9 THE COURT: Okay. So that will be Applicant's
10 Exhibit No. 2 --

11 MR. GRIFFITH: Here you go.

12 THE COURT: -- without objection.

13 I'll have the court reporter mark it.

14 (WHEREUPON, the inventory and chain of custody was
15 marked as Applicant's Exhibit No. 2 and received into
16 evidence at this time.)

17 THE COURT: Okay. Thank you, ma'am.

18 Q. And so your argument there is that a DVD existed that
19 was a video of inside the store?

20 A. Yes.

21 Q. And that you never got it and you believed it's
22 because it showed that it wasn't you?

23 Is that what you're saying to the Court?

24 A. Yes.

25 Q. Okay. All right. Who---

1 A. It -- I was -- if they gave me a fair trial, I felt
2 that, without the video being present and I'm going
3 through so many loops and obstacles to obtain this video,
4 which I was still trying to obtain before I came to court
5 today, I was trying to figure out a way I can get that
6 video just to show that it wasn't me.

7 Q. Okay. That sounds good.

8 Okay. What else can you -- what else would you like
9 to tell the Court---

10 A. Um.

11 Q. ---at this time concerning Ms. McElveen---

12 A. McElveen --

13 Q. ---part of it?

14 A. Okay. We move on to -- on 9/28/2020 when -- during
15 the course of me picking the trial, I had a chance to
16 submit certain motions. One of the motions I submit was
17 the defects of the indictment, to squash an indictment.

18 You have McElveen indicated that the clerk of
19 court -- hold on.

20 Before I go on, Your Honor, can I ask a question
21 please?

22 THE COURT: You---

23 THE WITNESS: I got---

24 THE COURT: Ask Mr. Griffith.

25 THE WITNESS: Okay. So, this the question I wanted

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1 to ask cause, over the last few weeks---

2 THE COURT: Just---

3 THE WITNESS: ---I been doing a couple research.

4 THE COURT: Okay.

5 THE WITNESS: So --.

6 THE COURT: Confer with your lawyer for just a
7 minute.

8 Okay?

9 Turn that mic off please.

10 (WHEREUPON, an off-the-record discussion was held
11 with the applicant and Mr. Griffith at this time.)

12 THE COURT: Okay. Counsel, you had an opportunity to
13 confer with your client?

14 MR. GRIFFITH: Yes, Your Honor. Thank you.

15 THE COURT: Okay. Please continue.

16 A. Um.

17 Q. Okay. Go ahead, Mr. Anderson.

18 A. Okay. One of my issues was with the -- about the
19 true bill and it certain things I wanted to read, read.

20 It say the true bill indictment is a fundamental
21 requirement for felony prosecution. In the absent, it can
22 raise serious jurisdictional issues as ineffective
23 assistance of counsel.

24 Failure -- if I fail to challenge the defects on the
25 indictment or suppress new evidence, I open the door for a

1 lot of things.

2 For one, the indictment copy -- the copy of an
3 indictment provided by the clerk of court should be
4 identical to the one the judge got. So -- or the judge
5 possessed.

6 Any discrepancy raise serious concerns about the
7 integrity of the indictment, clerk of court to the judge.
8 The official indictment bearing a true bill seal should be
9 presented to the judge as the basis of a Court
10 jurisdiction.

11 Solicitor claimed that it is in the drawer. When the
12 judge -- it's in my transcripts right here at Page 53 of
13 9/28/2020, I raised the issue of circumstantial evidence
14 of how, if the solicitor stood up in front of the judge
15 and told the judge that she had no physical evidence
16 against me in the 2019 robbery case but two alleged
17 victims saying I did something to them.

18 She stood up in front of the Court and told the judge
19 no, Your Honor, I have no -- I have no physical evidence.
20 All I have is zip ties.

21 So, the question made me ask the judge, Mr. Cochran,
22 if the state attorney says she have no physical evidence
23 against me, then what did you take to the Grand Jury to
24 get a true bill indictment?

25 So, on -- and upon me submitting that request, this

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1 is the response by Judge Cochran.

2 The Courts: Now, as far as the indictment being
3 signed by the fore, foreperson and true billed, the judge
4 say he haven't seen one. If they can't produce the
5 indictment signed and true billed by the Grand Jury, this
6 what Judge Cochran say, I don't have jurisdiction to hear
7 this case.

8 He told the solicitor to take me back upstairs and
9 let me finish watching the evidence cause I didn't see
10 all -- that's one of my arguments is I didn't -- they take
11 me to trial and I didn't see the evidence against me.

12 So, I didn't know how to prepare my defense or fight
13 for myself because --.

14 Q. Now, now, Mr. Anderson, at that time you were what we
15 call pro se. You were representing yourself.

16 Isn't that correct?

17 A. I was forced to go pro se. I asked the judge for
18 attorney, solicitor weighed in that Your Honor, you say
19 you wasn't gonna give him no extension, that you was gon'
20 go straight through with the trial, and Your Honor
21 Mr. Charles Anderson had fired all three of his attorneys,
22 which I never fired none of them, and it's transcripts
23 that show that I never fired none of them.

24 So, I asked for another attorney that was -- we was
25 hiring named Deeds and Deeds wouldn't take my case because

1 I suppose to been third on the court docket, but, when he
2 find out, he told my nephew that I was going to court
3 Monday, which would be first on the court docket, and if
4 he take my case, I could sue him because he never had time
5 to go over my case with me.

6 So, he asked me to ask the judge, if I could get
7 extension, he'll take my case.

8 So, upon that, that's when I asked the judge for
9 extension. I was trying to hire attorney. But Ms.
10 McElveen weighed and said Your Honor, he's been prolonging
11 this case for long. He had three attorneys. He fired all
12 three attorneys, which I never fired none of them, and it
13 was, it was testified to that.

14 Q. Okay. So, what else can you tell the Court
15 concerning your grounds as to prosecutorial misconduct,
16 that is by attorney McElveen, assistant solicitor
17 McElveen?

18 A. I have it written down for you.

19 Prosecutor -- due to missing video or the State don't
20 want to show it cause it favored the defense, and these
21 misleading photos, this is a photo saying this is how I
22 was identified in a six photo lineup with a store that's
23 not being robbed. Even though it's attempted robbed, the
24 description that they gave on this robbery was the person
25 was 6-foot, 155 pounds. I'm 5'9" and I weighed 205 pounds

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1 at that time and this is -- everything is documented.

2 Q. Okay. Okay. Can you give us any other information?

3 A. Yes.

4 Them the misleading photos I was talking about. The
5 Brady violation comes about, which is grounds to vacate
6 sentences.

7 It's failure to disclose exculpatory evidence, the
8 2018 robbery, Citgo Gas Station, the State has failed to
9 provide original recording of the 2018 robbery despite
10 re -- repeated requests and suppression of evidence motion
11 as well on 9/28/2020 at Mr. Charles Anderson pretrial
12 hearing.

13 This video exculpatory had -- this video is
14 exculpatory as it will show the actual events of the
15 robbery potential -- potentially demonstrating potentially
16 access of lack of evidence, *Brady versus Maryland*, 373
17 U.S. 83, 1963, required the prosecutors/solicitor to
18 disclose any and all exculpatory evidence to the defense.

19 And as far as ineffective assistance of counsel,
20 that's -- my three counsels, as they doing they due
21 diligent, they would of actually seen that it was no video
22 of -- nothing showing of the robbery that I'm actually
23 being charged for.

24 Q. Okay. Okay. Do, do you want to cover any other
25 ground --

1 A. Um.

2 Q. -- as to, as to McElveen?

3 A. Yes.

4 I mean I raised the issue of the conflict of
5 interest. The reason why I raised incident of -- issue
6 about conflict of interest and prosecutorial mis,
7 misconduct, prosecutorial misconduct, presenting and
8 misleading evidence, *Berger versus United States*, 295 U.S.
9 78, 1935.

10 The U.S. Supreme Court have highlight the prosecutor
11 duty is to seek justice, not merely to just convict, but
12 emphasize the ethic obligations of prosecutors. *State*
13 *versus Quattlebaum*, 338 S.C. 441, 527 S.E.2d 105, 2000.

14 The South Carolina Supreme Court deal with
15 prosecution misconduct. This -- hold on.

16 This is a strong ground in a case dealing with
17 misleading information, *State versus Rivers*. 386 S.C.
18 556, 689 S.E.2d 693.

19 Let me make sure I get this right, sir.

20 It's potential bias. The State attorney office may
21 less inclined legally pursue my defense in a criminal
22 case. There is a risk of information being shared between
23 the civil attorney and potentially purgist (phonetic) --
24 prejudice to my right.

25 This is one of the issue I raise on a conflict of

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1 interest. Even though I, I went to the 1983 and filed a
2 1983 against the solicitor, detective, and my lawyer, they
3 was given an attorney by the state.

4 So, that attorney that they was given by the State,
5 they hadn't discussed my case, which would show a
6 conflict.

7 A 1983 civil acts against the solicitor and the
8 detective in a criminal case can absolutely create a
9 conflict of interest for the state attorney office.
10 Here's why.

11 Adverse interest.

12 1983 lawsuit alleged that these individuals, under
13 the color of any state law, violated my constitutional
14 right. The state attorney office have a duty to defend
15 these individuals, individuals in a civil suit.
16 Simultaneously, they are prosecuting me in a criminal
17 case. This is create inherent conflict role.

18 Q. Well, let's, let's try to focus back toward
19 prosecutor misconduct and things having to do with Ms.
20 McElveen.

21 Do you have anything else you could focus us toward
22 Ms. McElveen, assistant solicitor Mc -- Ms. McElveen?

23 A. Yes.

24 Yes, the fact that I was took it over the -- well, I
25 was given three indictments. One indictment -- this is my

1 first one I wrote the clerk of court, Mr. James Campbell,
2 and I asked him do I have indictment and he sent me this
3 right here and upon it is no marking. But I don't know.

4 That's my -- I never signed this indictment.

5 Q. Okay.

6 A. First state South Carolina criminal rules, I know you
7 suppose to serve this---

8 MR. GRIFFITH: May I approach, Your Honor?

9 THE COURT: Yes.

10 A. I never signed this indictment.

11 Q. Let me see it.

12 A. But it look like my name on it and I was indicted
13 August 1st of 2019. So, if you saying I'm indicted
14 August 1st of 2019, then why is no true bill in front of
15 the judge?

16 Q. This one was taken before the Grand Jury and it's
17 signed by the foreperson of the Grand Jury. Actually
18 you -- this the -- isn't signed. You would sign it unless
19 you're waiving it being presented to the Grand Jury.

20 A. So, like they saying, the criminal court, another one
21 saying where she say I waive my presentment to the Grand
22 Jury.

23 THE COURT: What indictment number is he referring to
24 please?

25 I have a copy of the sentencing sheets and the

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By Mr. Griffith

1 indictments are attached. The Indictment Number is 810
2 for kidnapping, attempted murder, and possession of a
3 weapon during the commission of a violent crime.

4 810 at the end?

5 I'm sorry.

6 So, I have 890.

7 was that dismissed?

8 No, I have 810.

9 But the kidnapping was dismissed, right?

10 THE WITNESS: The kidnapping was dismissed.

11 THE COURT: Okay.

12 THE WITNESS: Yes, ma'am.

13 THE COURT: So it was attempted murder and possession
14 of a weapon and burg first, right?

15 THE WITNESS: Yes, ma'am.

16 THE COURT: Okay.

17 THE WITNESS: Okay. See---

18 THE COURT: All right. Thank you.

19 MR. GRIFFITH: Can I---

20 THE WITNESS: This is---

21 MR. GRIFFITH: I just turned this mic off so I --
22 cause he was asking me about this piece of paper. I just
23 wanted to be sure he understands that.

24 THE COURT: Yes, sir.

25 (WHEREUPON, an off-the-record discussion was held

1 with the applicant and Mr. Griffith at this time.)

2 A. All right. This is the, the front page of my motion
3 of discovery---

4 Q. All right.

5 A. ---which would show from one to five, eight to zero
6 of everything that's in my motion of discovery, my Rule 5.

7 You won't see no true bill indictment on that. You
8 won't see no indictment on this paper.

9 So, I mean the question raised on both of my 2018
10 motion of discovery and my 2019. I can show you both of
11 them and you won't see nothing that show that it's a true
12 bill within the lineup of everything that's suppose to be
13 in that motion of discovery.

14 Q. Okay. You want, you want to add anything else?

15 A. Nah, just *State versus -- Evans versus State*, this
16 case dealing with the Grand Jury proceedings and the
17 releasing of impeachment document, which relate to and
18 wading to the value creation of indictment.

19 This case is good to understand that the appointments
20 of a Grand Jury process is between 16 and 23 peers that
21 weigh in and first city -- South Carolina criminal rules,
22 after the foreman and indictment come back with a true
23 bill, it's -- or the recording, and it's video recorded
24 and sent to the clerk of court -- well, sent to the judge
25 and the judge is notified that it came back with a true

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1 bill and it go to the clerk of court.

2 So, when I wrote to clerk of court asking for a true
3 bill, which I have the letter that back when James
4 Campbell and asking for the Grand Jury minutes transcript,
5 which is right here, it's no, no true bill and there's no
6 transcripts of the Grand Jury.

7 MR. GRIFFITH: May I approach, Your Honor?

8 Okay. So, you got this from the clerk of court,
9 James Campbell?

10 A. Yeah, cause I wrote to ask him about the true bill.

11 Q. All right.

12 A. I want to know about -- he said he told me the
13 indictment he sent me is the indictment he sent me. This
14 was the same indictment that I was sitting on front of the
15 judge.

16 Q. Okay.

17 A. That's why the judge stated there's no true bill---

18 Q. And let me show this---

19 A. ---and there was no true bill sitting in front of
20 him?

21 THE COURT: Okay.

22 (Pause.)

23 THE WITNESS: *Owens versus State* --.

24 THE COURT: Okay. One second.

25 THE WITNESS: I got you.

1 THE COURT: What, what document is this please?

2 MR. GRIFFITH: No. 3.

3 THE COURT: And what is it?

4 It's a letter from---

5 MR. GRIFFITH: It's a letter from the clerk of court
6 who is in Sumter County.

7 THE COURT: Mr. Campbell, yes.

8 MR. GRIFFITH: Mr. Campbell.

9 THE COURT: Okay. And what is the date of the letter
10 please?

11 MR. GRIFFITH: I'll hand it to you.

12 THE COURT: Okay. It's March the 29th of 2021 and it
13 is a letter entitled -- addressed to Mr. Anderson at Evans
14 Correctional Institute in Bennettsville that there are no
15 tran -- there are no transcripts of Grand Jury minutes.
16 The Clerk's Office does not retain any Court transcripts.
17 You would have to request them from the court reporter for
18 a fee and it enclosed copies of warrants, indictments, and
19 the PCR application.

20 Okay. Any objection to this---

21 MR. MITCHELL: No objection, Your Honor.

22 THE COURT: ---Mr. Mitchell?

23 So this would be Applicant's No. 3. But let's let
24 her mark it and then I have a question.

25 MR. GRIFFITH: Okay.

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By Mr. Griffith

1 (WHEREUPON, the letter and other documents were
2 marked as Applicant's Exhibit No. 3 and received into
3 evidence at this time.)

4 THE COURT: Okay. Thank you.

5 Now, how is this tied to the assistant solicitor's
6 testimony?

7 MR. MITCHELL: Your Honor, my client believes that he
8 should receive the transcript of the Grand Jury. And so
9 he's (sic) wants to submit that as proof of his attempt to
10 acquire that---

11 THE COURT: Okay.

12 MR. GRIFFITH: ---and that he was told that it wasn't
13 available to him.

14 THE COURT: Okay. Thank you. Let's move along.
15 Okay?

16 MR. GRIFFITH: Okay.

17 THE WITNESS: Yes.

18 Q. Go ahead, Mr. Anderson.

19 A. Also -- I mean, from my knowledge as -- I'm observing
20 my motion discovery, I don't see nothing in here
21 indicating it showing that I commit a crime.

22 Q. Okay. Now, Mr. Anderson, if you will answer any
23 questions that the attorney general may have.

24 A. Yes, sir.

25 THE COURT: This would be cross-examination.

1 CROSS-EXAMINATION

2 BY MR. MITCHELL:

3 Q. Mr. Anderson, you pled guilty in this case, correct?

4 A. Not voluntary.

5 Q. But you did plead guilty, correct?

6 A. It wasn't voluntary. I done it duress.

7 Q. But there wasn't---

8 A. I was---

9 Q. There wasn't a trial cause you pled guilty, correct?

10 A. I start a trial. I started picking my jury.

11 MR. MITCHELL: Your Honor, no further questions.

12 THE COURT: Okay. Anything on---

13 MR. GRIFFITH: Nothing further---

14 THE COURT: ---reply?

15 MR. GRIFFITH: ---Your Honor. Nothing further, Your
16 Honor.

17 THE COURT: Okay. All right. Thank you.

18 Okay. Mr. Anderson, I'm gonna ask you to step down.

19 Okay. Watch your step, sir.

20 THE WITNESS: Thank you, ma'am.

21 THE COURT: Be careful.

22 Okay. Counsel, I'm beyond -- as soon as Mr. Anderson
23 is back at the table I will allow you all to make your
24 summations for me.

25 okay.

1 THE WITNESS: Thank you, Your Honor.

2 THE COURT: Yes, sir, watch your step now.

3 Okay. Don't get in a hurry.

4 MR. GRIFFITH: Take your time.

5 THE COURT: Okay. Summations.

6 MR. MITCHELL: Just briefly, Your Honor.

7 Your Honor, as an initial matter, Mr. Anderson
8 pleaded guilty to charges stemming from two different
9 armed robberies. Mr. Anderson was facing upwards of a
10 hundred years in prison and received a very favorable plea
11 deal of 20 years.

12 Importantly, Your Honor, all three of Mr. Anderson's
13 prior attorneys were relieved, were relieved prior to the
14 plea and Mr. Anderson was pro se at the actual plea.

15 In regards to the failure to review discovery, Your
16 Honor, all three attorneys, Mr. Murphy, Mr. Bridges, and
17 Mr. Kata, testified they reviewed all of the discovery
18 they had received at the point of their respective
19 representations with Mr. Anderson.

20 Ms. McElveen testified that she provided all three
21 attorneys with discovery and Mr. Anderson had the
22 discovery at the time of the guilty plea.

23 Your Honor, the record for Mr. Anderson's guilty plea
24 corroborates this. The, the issue with the discovery is,
25 is frankly about 50 pages of the, of the guilty plea

1 transcript.

2 Ms. McElveen states, again, I mean at the guilty
3 plea, that she had provided everything including the
4 videos. Ms. McElveen even gave her the opportunity --
5 gave Mr. Anderson the opportunity to review all the video
6 that day including anything he alleged she did not have.
7 Mr. Anderson -- that's on Page 45, Your Honor, I believe
8 and -- but prior to that, Mr. Anderson a -- agreed to
9 accept the guilty plea.

10 So, therefore, he waived any defense he could have
11 anyway and lack of evidence in this, in the case, Your
12 Honor, is not a grounds for a PCR.

13 Mr. Anderson -- Judge Cothran, during his colloquy,
14 went through and went through almost each piece of
15 evidence, *Jackson v. Denno*. He explained to Mr. Anderson
16 that he could do that at trial. All these issues that Mr.
17 Anderson testified to he could have raised these at trial
18 had he chosen to.

19 He waived his right to present this defense at jury
20 trial. Therefore, he can't be prejudiced by this anyway
21 since he waived any, any right to present his defense,
22 and, for that -- those reasons, Your Honor, his
23 application should be denied.

24 THE COURT: Thank you.

25 Mr. Griffith.

1 MR. GRIFFITH: Your Honor, Mr. Anderson contends
2 that, as far as the pleading guilty, that he was forced to
3 do so. This is his opinion, Your Honor, and, as well,
4 Your Honor, he has testified that all three of his
5 attorneys told him that they did not have his full
6 discovery.

7 Also having submitted the DVD talking about the video
8 evidence on there, he said he never saw a video. That is
9 to say he hasn't received one since he asked for this.
10 I'm not sure whether he's clear as to whether there was
11 video. But he says it was never presented at trial.

12 But, Your Honor, we would ask that you consider, of
13 course, the facts and make the ruling on what you've come
14 to hear.

15 THE COURT: Okay. Thank you very much.

16 All right. So, I now, with the benefit of all of the
17 evidence, am going to review everything again, Mr.
18 Anderson.

19 Do you understand?

20 THE APPLICANT: Yes, ma'am.

21 THE COURT: I, I do have my copy of the documents,
22 the file that I had in Sumter. I, I do appreciate having
23 these documents. They're very helpful to me. I've got a
24 transcript of your plea hearing but even before it, with
25 Judge Cothran, the pretrial matters that y'all were taking

1 up.

2 THE APPLICANT: Yes.

3 THE COURT: Okay. I have your application, sir, and
4 I have the return from the State and then I have the
5 sentencing sheets and the, the indictments as well as
6 other information.

7 I will also have a copy made for me of the exhibits
8 today.

9 okay?

10 THE APPLICANT: Yes, ma'am.

11 THE COURT: Thank you all and, Mr. Anderson, I know
12 you don't understand this. But usually what I do is I'm
13 going to issue written instructions to the lawyers via
14 electronic mail, via email, and instruct one of them to
15 base an order on my instructions.

16 okay?

17 THE APPLICANT: Okay.

18 THE COURT: And then it takes a little while to get
19 it to them and then get it back and everybody has to
20 review it and then it will be signed and filed in Sumter
21 at the Clerk's Office under this case number ending in
22 1662 before you get a copy of it.

23 okay?

24 THE APPLICANT: Okay.

25 THE COURT: And I know it's important to everyone

1 involved and I just wanted to explain the business end of
2 it.

3 okay?

4 THE APPLICANT: Okay.

5 THE COURT: I do wish everyone the very best.

6 Thank you all for your efforts in coming here today.

7 That will conclude the hearing at this time.

8 MR. GRIFFITH: Thank you, Your Honor.

9 THE APPLICANT: Thank you, ma'am. You have a blessed
10 day. Safe travels.

11 THE COURT: Thank you, sir.

12 MS. MCELVEEN: Thank you, judge.

13 MR. MITCHELL: Thank you, Your Honor.

14 THE COURT: Okay. Thank you all. Nice to see you
15 all.

16 MR. GRIFFITH: Thank you, Ms. McElveen.

17 MS. MCELVEEN: Thank you, Mr. Griffith.

18 THE COURT: All right.

19

20 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

21

22

23

24

25

C E R T I F I C A T E

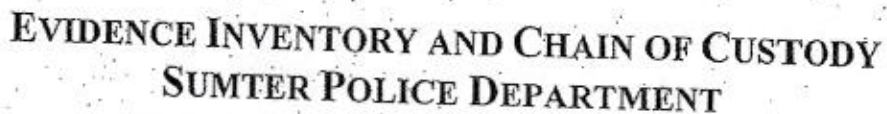
I, Pamela E. Green, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas Nonjury for Sumter County, South Carolina, on the 2nd day of April, 2025.

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

May 29th, 2025



PAMELA E. GREEN, Court Reporter



4/23/2018
Date

Amanda Snapp
Printed / Typed Name

Signature

Item	Date	Relinquished by:	Received by:	Reason for transfer:
1-2	4.21-18	Relinquished by: Printed Name: <u>M.M. Yates</u> Signature: <u>[Signature]</u>	Received by: Printed Name: _____ Signature: _____	Evidence
Item	Date	Relinquished by: Printed Name: _____ Signature: _____	Received by: Printed Name: _____ Signature: _____	Reason for transfer
Item	Date	Relinquished by: Printed Name: _____ Signature: _____	Received by: Printed Name: _____ Signature: _____	Reason for transfer
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Item	Date	Relinquished by: Printed Name: _____ Signature: _____	Received by: Printed Name: _____ Signature: _____	Reason for transfer

19-GS-43-810

March 29, 2021

Charles Anderson #384121

Evans Correctional Inst.

610 Hwy 9, West

Bennettsville, SC 29512

Dear Mr. Anderson;

Enclosed are the copies of your warrants, Rule 5 Motions, Indictments and the PCR Application that you requested. There's no transcripts of Grand Jury minutes. The Clerk's Office don't retain any court transcripts. You would have to request them from the court reporter for a fee.

Sincerely,

Clerk of Court Office

Applicant
Exhibit 3

Circuit Court Reporter
Frances B. Ray
2216 Timberlane Drive
Florence, SC 29506



State of South Carolina
The Circuit Court of the Seventh Judicial Circuit

Grace Gilchrist Knie
Judge

180 Magnolia Street
Spartanburg, SC 29306
Phone: (864) 596-2285
Fax: (864) 562-4234
gkniej@sccourts.org

May 8, 2025
Via USPS

Sumter County Clerk of Court
Attn: Common Pleas Division
215 N. Harvin St.
Sumter, SC 29150

Dear Clerk:

Please see the attached Order for Dismissal on Charles Spencer Anderson v. State 2021-CP-43-1662. Once you receive this Order and have clocked it please email or mail me a copy for our records at gkniesc@sccourts.org.

Sincerely,

Ashley B. Searcy
Administrative Assistant to
The Honorable Grace G. Knie
S.C. Circuit Court Judge
7th Judicial Circuit

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Charles Spencer Anderson, SCDC #384121,

Case No. 2021-CP-43-01662

Applicant,

v.

ORDER OF DISMISSAL

State of South Carolina,

Respondent.

CERTIFIED TRUE COPY
OF ORIGINAL FILED

Sherry H. Hov
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

I. INTRODUCTION

The matter before this Court is an action for post-conviction relief (PCR) commenced by Charles Spencer Anderson (“Applicant”) on September 23, 2021. On July 22, 2024, a hearing into the matter was convened before the Honorable Grace Gilchrist Knie at the Sumter County Courthouse. Applicant was present and represented by Timothy Lee Griffith, Esquire. Assistant Attorney General T. Cruise Mitchell represented the State. At the evidentiary hearing, testimony was taken from Applicant, Timothy W. Murphy (“Counsel Murphy”), Jason E. Bridges (“Counsel Bridges”), and Justin M. Kata (“Counsel Kata”). At the conclusion of the hearing, this Court allowed the parties to leave the record open for the testimony of Deputy Solicitor Bronwyn K. McElveen. The parties reconvened on April 2, 2025, at the Spartanburg County Courthouse for the additional testimony. Applicant was present along with his counsel, Timothy Griffith. Assistant Attorney General T. Cruise Mitchell again represented the State of South Carolina. Deputy Solicitor Bronwyn K. McElveen was present via Webex. At the hearing, testimony was taken from Deputy Solicitor McElveen and Applicant. Applicant placed into evidence three Exhibits.

After hearing the testimony at the PCR hearing and upon full review of the record, this Court finds Applicant's allegations regarding ineffective assistance of counsel and prosecutorial misconduct are without merit. For the reasons discussed below, this Court denies relief and dismisses this action with prejudice.

II. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections as a result of guilty pleas to several indictments arising from multiple incidents in Sumter, South Carolina. On April 20, 2018, Applicant committed an armed robbery of Frederick's Citgo gas station in Sumter. The store clerk identified Applicant from a photographic lineup and noted that Applicant was a frequent customer of the store. As a result of this, the Sumter County Grand Jury indicted Applicant during its September 2018 term for armed robbery (2018-GS-43-0890 Ct. 1) and possession of a weapon during the commission of a violent crime (2018-GS-43-0890 Ct. 2). Applicant was arrested and subsequently released on bond.

Thereafter, on May 3, 2019, while he was out on bond, Applicant committed another armed robbery of an Auto Zone store in Sumter where he used to be employed. According to the victims, Applicant entered the store without anything concealing his identity and they were immediately able to identify Applicant as the robber. During the commission of this armed robbery, Applicant forced an employee to zip-tie another employee to restrain her, and then Applicant held a revolver to the head of an employee and pulled the trigger of the firearm. As a result of this, the Sumter County Grand Jury indicted Applicant during its August 2019 term for armed robbery (2019-GS-43-0810 Ct. 1), attempted murder (2019-GS-43-0810 Ct. 2), and possession of a weapon during the commission of a violent crime (2018-GS-43-0890 Ct. 3).

Applicant was originally represented by Timothy Murphy and Jason Bridges of the Third Circuit Public Defender's Office, as well as Justin Kata, Esquire, of the private bar. However, Applicant moved to relieve all counsels and following a colloquy with the court, Applicant made a knowing, voluntary, and intelligent decision to forgo his right to counsel and proceed *pro se*. Applicant also evaluated by the Department of Mental Health for competency and criminal responsibility and found both competent to stand trial and capable of conforming his behavior to the requirements of the law.

On September 28, 2020, Applicant appeared before the Honorable R. Ferrell Cothran, Jr., circuit court judge, for a pre-trial motions hearing. The State was represented by Assistant Solicitor Bronwyn K. McElveen of the Third Circuit Solicitor's Office. At the start of the hearing, Applicant moved to continue his case, citing an inability to review discovery. Assistant Solicitor McElveen informed Judge Cothran that Applicant's prior attorneys had all been provided with full discovery numerous times and she affirmed that she had delivered discovery to Applicant personally at the detention center once he elected to proceed *pro se*. Applicant also referenced his desire to pursue motions to suppress all evidence, to dismiss the case, to quash the indictments, and to disqualify the Assistant Solicitor based on a purported conflict of interest stemming from a civil rights complaint Applicant filed against her. Judge Cothran either denied the motion or explained to Applicant that it was not the proper time to make such a motion and provided him with guidance on the appropriate time to make said motion.

After a break to allow Applicant to confer with another private attorney he was considering hiring, Applicant elected to forgo his right to a jury trial and accepted a plea offer from the State for a recommended aggregate sentence not to exceed twenty years of imprisonment for all

charges.¹ Following a thorough plea colloquy, Applicant admitted his guilt to the offenses and Judge Cothran accepted his guilty pleas. In accordance with the plea agreement, Judge Cothran imposed an twenty years of imprisonment (twenty years of imprisonment for each armed robbery, twenty years of imprisonment for attempted murder, and five years of imprisonment for each possession of a weapon during the commission of a crime of violence). Applicant did not pursue a direct appeal.

III. CURRENT APPLICATION

Applicant commenced this PCR application on September 23, 2021 . In his application Applicant alleged he was entitled to relief based on the following grounds:

1. Ineffective assistance of counsel for
 - a. Trial counsel “fail[ed] to submit motions that would of cleared defendant of all charges State claim they’re no evidences”
 - b. They failed to do their due (Timothy Murphy, Jason Bridges, Justin kata) diligence which they sworn to uphold their oath of office(s), which they sworn to fight for all client to the best of their abilities, which was never done. (Timothy Murphy gave my case load to Mr. Jason Bridges, which he tried to get me to plea to a 10 with 85% that was never in written, where its not evidence showing that I ever committed any alleged crime; Same with Justin Kata, but we was talking about 0-25 Cap with out the State of South Carolina presenting any form of evidence on his client. I asked numerous times from both counsel for them to submit a motion to challenge the indictment and suppression of evidences; I even wrote South Carolina Supreme Court (Office of Disciplinary Counsel)); on both counsel (Jason Bridges) + (Justin Kata); I also filed a civil complaint against my last counsel Justin Kata, which he was taken off my case 2 weeks before my trial date, then I was denied the right to have counsel assistance (Brady violation) also a violation of my constitutional rights (6th Amendment) which is secured to me; so not only did Judge Cothran violated my due process clause, but also my equal protection act as well, as well as the above individuals also.”
2. Involuntary Guilty Plea
 - a. Evidence on video from 2018 robbery clearly shows its not defendant.”
 - b. Applicant asserts the State and Judge Cothran forced him to plead without sufficient evidence against him when the charges should have been dismissed (See attached sheets to the application)
3. “Violation of 6th Amendment/No Miranda Rights/*Brady* Violation (Miranda Violation)”
 - a. “Counsel filed a 60s motion force to represent his self (pro se)”

¹ As part of the plea agreement, the State also dismissed a kidnapping charge related to the 2019 armed robbery.

- b. “Conflict of interest against Solicitor and Lawyer (civil suit)”
- c. Judge Cothran denied his constitutional rights by denying him his right to counsel to hire a private attorney
- d. Brady Violation/Court error – at a September 28, 2020 pre-trial hearing, the Solicitor told Judge Cothran there was no evidence Applicant committed a crime but his suppression motion was still denied

IV. INEFFECTIVE ASSISTANCE OF COUNSEL, GENERALLY

Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right, and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

The reviewing court applies the two-part test outlined in *Strickland v. Washington* to determine whether counsel’s conduct “was so ineffective as to require reversal” of the applicant’s conviction. 466 U.S. 668, 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel’s performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel’s deficient performance. *Id.* at 687–88; *accord. Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. *Strickland*, 466 U.S. at 700; *see also Bell v. Cone*, 535 U.S. 685, 695 (2002) (explaining that “[w]ithout proof of both deficient performance and prejudice to the defense, . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable” (citation and internal quotation marks omitted)).

The applicant has the burden of establishing both deficiency and prejudice in order to be entitled to relief. *Hughes v. State*, 346 S.C. 554, 558, 552 S.E.2d 315, 317 (2001); Rule 71.1(e), SCRPC. To prove deficient performance, the applicant must establish that, in light of all the

circumstances, the acts or omissions complained of “were outside the wide range of competence” demanded of attorneys in criminal cases. *Strickland*, 466 U.S. at 688. To prove prejudice, the applicant must establish “a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Id.* at 694. A reasonable probability is a probability “sufficient to undermine confidence in the outcome.” *Id.* Significantly, “the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged.” *Id.* at 696.

V. FINDINGS OF FACT & CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the PCR hearing, observed the witnesses, passed upon their credibility, and weighed their testimony accordingly. After hearing the testimony presented and considering the legal arguments by counsel, as well as the record in this action incorporated by way of the State’s return, this Court finds Applicant’s claims to be without merit. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings of facts and conclusions of law based upon all of the probative evidence presented.

Allegations Regarding Ineffective Assistance of Counsel and Brady Violation

Applicant alleges his three prior attorneys—Counsel Murphy, Counsel Bridges, and Counsel Kata—never provided him with or reviewed discovery with him. Applicant further alleges a *Brady*² violation and prosecutorial misconduct for failing to turn over discovery materials.

At the evidentiary hearing, Applicant testified none of his three attorneys provided or reviewed discovery with him. Applicant avers that had he been provided with the discovery materials he has since reviewed, he would have proceeded to trial. Applicant claims there is no

² *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963).

evidence he committed the crime. Applicant submitted three exhibits from the discovery he claims to have never reviewed which allegedly shows he did not commit the 2018 Citgo robbery.

Counsel Murphy testified that he began representing Applicant in 2018 after he was arrested on his first set of charges. Counsel Murphy represented Applicant at his preliminary hearing on those charges and was able to successfully get him a bond on that charge. Counsel Murphy explained that while out bond, Applicant was rearrested in 2019 after committing the armed robbery at the AutoZone. Counsel Murphy explained Applicant was adamant he wanted to work out a plea deal regarding the 2019 charges; however, they had not yet received discovery on those charges. Counsel Murphy testified he would have shared any discovery he received up to that point with Applicant. Counsel Murphy stated that Applicant informed him he was under the influence of narcotics during the armed robbery and he had been diagnosed with schizophrenia. Counsel Murphy was concerned about Applicant's mental health competency and he filed a motion for competency evaluation. It was at this time that Counsel Murphy left the public defenders office and the case was reassigned to Counsel Bridges.

Counsel Bridges explained that after the cases were transferred to him, he met with Applicant three to four times in person. Counsel Bridges explained he received the full discovery for the 2018 charges but was not certain he received the full discovery on the 2019 charges. Counsel Bridges recalled showing videos pertaining to his 2018 charges to Applicant. Counsel Bridges explained that he reviewed all of the discovery he had received with Applicant. Counsel Bridges explained there were videos of the 2018 robbery in which the perpetrator is wearing a mask and cannot be identified. Regarding the 2019 robbery, the State's case was much stronger. There were several witness statements directly implicating Applicant in the robbery of the AutoZone as well as an incriminating statement Applicant made to law enforcement. Counsel

Bridges noted he did not believe Applicant was mirandized when he made that statement and believed that could potentially be a trial issue. Counsel Bridges testified he shared all this information with Applicant. Counsel Bridges reiterated that he shared everything he received from the State with Applicant. Counsel Bridges testified his relationship with Applicant ended after Applicant threatened to hit him in the face during one of their meetings. Counsel Bridges moved to be relieved following this incident.

Counsel Kata testified he recalled meeting with Applicant several times prior in which he reviewed discovery with him. Counsel Kata explained he had the full discovery on both sets of charges and reviewed it in full with Applicant. Counsel Kata explained Applicant took umbrage with the evidence in the 2018 case; however, the 2019 case was much stronger in that it consisted of several eye witnesses, who were personally familiar with Applicant, stating he committed the attempted murder and armed robbery. Counsel Kata explained Applicant desired a plea deal for the 2019 charges, but was upset about the offer from the State. Counsel Kata explained their relationship came to an end when he presented a plea offer to Applicant which he did not like. Applicant told him he no longer wanted Counsel Kata representing him and Counsel Kata was relieved following a hearing in front of Judge Cothran.

Deputy Solicitor Bronwyn McElveen testified she was the prosecutor on the case for both sets of charges. Solicitor McElveen testified she shared the discovery with all three of Applicant's previous attorneys. Solicitor McElveen explained that, after Applicant decided to proceed *pro se*, the trial for the 2019 charges was about to begin when Applicant decided to plead guilty upon receiving a plea offer of twenty years, to be served concurrently for both sets of charges. Solicitor McElveen testified she did not withhold any evidence from Applicant.

This Court finds the testimony of Counsels and Solicitor McElveen regarding the discovery process to be credible, and finds Applicant's testimony on this matter to be not credible. This Court finds the testimony of Counsels and Deputy Solicitor McElveen, together with the record of Applicant's guilty plea, demonstrates that the State provided Applicant with full discovery and that Counsels adequately reviewed the discovery materials with him. Therefore, Applicant has failed establish that Counsels were deficient or that a *Brady* violation occurred.

Furthermore, Applicant has failed to prove he was prejudiced by any alleged deficiency in Counsel's failure to review discovery with him. Applicant cites to materials in his discovery that allegedly exonerate him. Notably, the materials he references pertain solely to the 2018 Citgo robbery. Those charges account for only one of his armed robbery convictions, for which the sentences for those convictions runs concurrently with the sentences imposed for the 2019 AutoZone robbery to which he also pled guilty. As Deputy Solicitor McElveen explained at the guilty plea hearing, the State had ample evidence on which to convict Applicant had he gone to trial. Regarding the 2018 Citgo robbery, Applicant entered the store wearing red pants, a black T-shirt, white shoes, and a black bandanna covering his pants. Applicant pointed what appeared to be a firearm wrapped in a shirt at the man working the register demanding money. The store clerk handed over money from the register and Applicant fled. The Store clerk identified Applicant from a photographic lineup and noted that Applicant was a frequent customer of the store. (GP Tr. 69–70).

Regarding the 2019 convictions, Applicant committed another armed robbery of an AutoZone where he used to be employed. According to the victims, Applicant entered the store without anything concealing his identity and they were immediately able to identify Applicant as the robber. During the commission of the armed robbery, he forced an employee to zip-tie another

employee to restrain her, and then Applicant held a revolver to the head of an employee and twice pulled the trigger of the firearm. The firearm did not go off. (GP Tr. 69–72).

This Court finds Applicant's allegation that the State had no evidence against him to be without merit. Importantly, after Deputy Solicitor McElveen recited the facts at Applicant's guilty plea, Applicant affirmed, under oath, these facts were true. (GP. Tr. 73). (Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual . . . , a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed." *Dalton v. State*, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Blackledge v. Allison*, 431 U.S. 63, 74 (1977); see also *Jamison v. State*, 410 S.C. 456, 469–71, 765 S.E.2d 123, 129–30 (2014)). Admissions made during a guilty plea should be considered conclusive unless an applicant presents valid reasons why he should be allowed to depart from the truth of his statements. *Id.* at 137–38, 654 S.E.2d at 874; see also *Blackledge*, 431 U.S. at 73–74 (pointing out that representations made by a defendant, his lawyer, and the prosecutor at a guilty plea hearing, as well as any findings made by the judge accepting the plea, constitute a "formidable barrier in any subsequent collateral proceedings").

Additionally, Applicant's allegation that he did not receive discovery was addressed at the time of his guilty plea. At the outset of the plea hearing, Applicant moved for a continuance claiming he had been unable to review discovery. (GP Tr. 3–4). In response, Solicitor McElveen informed the plea court that full discovery had been provided to each of Applicant's previous attorneys and confirmed that she had personally delivered the discovery materials to Applicant at the detention center after he elected to proceed pro se. (GP Tr. 7–8).

The plea judge offered Applicant an opportunity to review the videos he claimed were missing from his discovery while at the courthouse. (GP Tr. 32). The record of this exchange

during the guilty plea hearing further corroborates the testimony of Counsels and Deputy Solicitor McElveen that Applicant was, in fact, provided with full discovery prior to entering his guilty plea. Thus, this Court finds Applicant has failed to prove deficiency and prejudice as to this allegation.

This Court further finds since Applicant voluntarily elected to proceed *pro se* and enter a guilty plea without counsel, any claims regarding the performance of counsel that he elected to relief are insufficient to sustain an application for post-conviction relief and should be dismissed as a matter of law. *See United States v. Lawrence*, 161 F.3d 250 (4th Cir. 1998) (“[t]he Sixth Amendment does not require a court to grant advisory counsel to a criminal defendant who chooses to exercise his right to self-representation by proceeding *pro se*”), *United States v. Mikolajczyk*, 137 F.3d 237 (5th Cir. 1998) (holding that, as the defendant “had no right to standby counsel, it seems unlikely that standby counsel’s failure to assist could be a violation of his Sixth Amendment rights”), and *United States v. Bova*, 350 F.3d 224 (1st Cir. 2003) (nothing that the defendant did not have the right both to “represent himself and to enjoy the benefit of standby appointed counsel”), Applicant’s decision to move to relieve his counsel and proceed as a *pro se* defendant precludes Applicant from maintaining an application for post-conviction relief based upon a claim of the ineffective assistance of counsel.

Accordingly, this Court finds this allegation is DENIED.

Involuntary Guilty Plea

Applicant contends his guilty plea was coerced because the State had no evidence and Judge Cothran forced him to plead guilty. This Court finds this allegation is without merit. This Court finds Applicant knew the nature of the charges against him, the terms of the plea agreement, and the consequences of pleading guilty pursuant to the requirements of *Boykin* and *Pittman*. The plea transcript reflects Applicant understood the proceedings, interacted intelligently with the plea

court, and entered his guilty plea knowingly and voluntarily. Moreover, any possible deficiency or error by counsel was cured by the information conveyed at the plea hearing.

At the guilty plea hearing, the plea judge conducted a thorough plea colloquy with Applicant. The judge advised Applicant of the maximum possible sentences for each charge and clearly explained the terms of the plea agreement. (GP Tr. 63–65). Additionally, Applicant affirmed under oath that he was knowingly and voluntarily waiving his right to a jury trial, and that no one had threatened him or made any promises beyond the terms of the plea agreement. (GP Tr. 65; 67–68). Applicant then freely and voluntarily pleaded guilty to the charges. (GP Tr. 73).

Because a guilty plea is a “solemn, judicial admission of the truth of the charges against an individual . . . , a criminal inmate’s right to contest the validity of such a plea is usually, but not invariably, foreclosed.” *Dalton v. State*, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Blackledge v. Allison*, 431 U.S. 63, 74 (1977); see also *Jamison v. State*, 410 S.C. 456, 469–71, 765 S.E.2d 123, 129–30 (2014) (observing that “guilty plea[s] must be treated as final in the vast majority of cases” and instructing that caution must be exercised so as not to “undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea”). This Court finds Applicant failed to “present[] [any] valid reasons why he should be allowed to depart from the truth of [the] statements” made during the plea proceeding. *Dalton*, 376 S.C. at 137–38, 654 S.E.2d 874; see *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975) (finding that the accuracy and truth of an accused’s statements at a guilty plea proceeding are “conclusively” established unless he makes some reasonable allegation why this should not be so), *overruled on other grounds by United States v. Whitley*, 759 F.2d 327 (4th Cir. 1985).

Surmounting *Strickland*’s high bar is never an easy task, and the strong societal interest in finality has “special force with respect to convictions based on guilty pleas.” *Lee*, 582 U.S. ___,

137 S. Ct. at 1967; *cf. Hill*, 474 U.S. at 58 (“[R]equiring a ‘prejudice’ showing from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel ‘will serve the fundamental interest in the finality of guilty pleas.’ ”) Based on the evidence presented at the PCR hearing and the record of the plea proceeding, this Court finds Applicant’s plea was freely, knowingly, and voluntarily entered into. Accordingly, Applicant’s request for relief by way of this allegation is DENIED.

Allegations of Trial Court Error

Applicant additionally makes various allegations of trial court error, including a claim that the plea judge denied him the right to retain private counsel. This Court finds these allegations are without merit.

At the guilty plea hearing, Applicant state he intended to hire private counsel, Mr. Deas. (GP Tr. 36–38). In response, Solicitor McElveen informed the court that she had spoken with Mr. Deas, who had indicated he would not be taking the case. (GP Tr. 39). The plea judge then ordered a recess to allow Applicant to speak with Mr. Deas regarding his representation. (GP Tr. 59–60). The record clearly refutes Applicant’s allegation the plea judge prevented him from retaining private counsel; to the contrary, the judge afforded him the opportunity to pursue that representation during the hearing.

Additionally, this Court finds Applicant’s assertions of trial court error, including his assertions that the trial court erred for denying his motion to suppress and allowing his to proceed forward *pro se*, are not proper post-conviction relief claims. Applicant’s claims of trial court error shall be summarily dismissed for failure to state a cognizable claim under the Uniform Post-Conviction Procedure Act³ (the Act). An applicant may commence a post-conviction relief action

³ S.C. Code Ann. §§ 17-27-10 to -160.

on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy....

S.C. Code Ann. § 17-27-20(A).

However, because an application for post-conviction relief is not a substitute for a direct appeal of trial court error, and because of the modern simplification of criminal jurisdiction jurisprudence in South Carolina, the *overwhelming* majority of cognizable claims fall under the broad umbrella of “ineffective assistance of counsel,” a contention under the Sixth Amendment of the United States Constitution. Direct appeal issues which could have been reviewed on appeal and were not objected to at trial or during guilty plea proceeding may only be presented to support a claim of ineffective assistance of counsel, not as a separate ground for relief. *Hyman v. State*, 278 S.C. 501, 502, 299 S.E.2d 330, 331 (1983).

Here, Applicant’s claims of trial court error neither support a cognizable claim for post-conviction relief under any of the statutory grounds nor constitute an appropriate basis for a finding of ineffective assistance of counsel where Applicant voluntarily proceeded *pro se* at his guilty plea

proceeding. *Wolfe v. State*, 326 S.C. 158, 162 n.2, 485 S.E.2d 367, 369 n.2 (1997); see *Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (noting that allegations of trial court error are not cognizable on PCR); *Simmons v. State*, 264 S.C. 417, 215 S.E.2d 883 (1975) (finding that alleged trial errors and sufficiency of evidence are direct appeal issues that are not cognizable PCR claims); *Stepney v. State*, 278 S.C. 47, 292 S.E.2d 41 (1982) (explaining that issues that could have been raised on direct appeal cannot be considered on PCR application absent claims of ineffective assistance of appellate counsel). These claims therefore are not properly before this Court. See, e.g., *Drayton v. Evatt*, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993) (“[PCR] is not a substitute for appeal or a place for asserting errors for the first time which could have been reviewed on direct appeal.”); S.C. Code Ann. § 17-27-20(B).

Accordingly, this allegation is DENIED.

VI. CONCLUSION

Based on the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. This Court finds Counsel was not deficient in any manner, nor was Applicant prejudiced by Counsel’s representation. This Court finds Applicant freely, knowingly, and voluntarily pleaded guilty. Therefore, this Court denies relief on all allegations and dismisses this PCR action with prejudice.

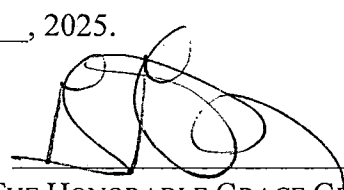
Applicant must file and serve a notice of appeal within thirty days from PCR counsel’s receipt of written notice of entry of judgment to secure the appropriate appellate review pursuant to Rule 203, SCACR. Applicant has a right to appellate counsel’s assistance in seeking review of the denial of PCR. *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). Rule 71.1(g), SCRCR, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a

notice of appeal on Applicant's behalf. Applicant is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. The application for post-conviction relief be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of the State.

AND IT IS SO ORDERED this 8 day of May, 2025.



THE HONORABLE GRACE GILCHRIST KNIE
Presiding Judge
Third Judicial Circuit

Spartanburg, South Carolina

WITNESSES

Willie J. McFadden Sumter Police Dept.

T Sims Sumter Police Dept.

ARREST WARRANT NUMBER

2018A4320100318 2018A4320100321

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 9/27/18

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-43-0890

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

SEPTEMBER

TERM

2018

THE STATE

vs.

CHARLES SPENCER ANDERSON

Indictment for

Robbery / Armed Robbery, robbery while armed or
allegedly armed with a deadly weapon

Possession of a Weapon during Commission of a Violent
Crime

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF SUMTER)

Robbery / Armed Robbery, robbery while armed or allegedly
armed with a deadly weapon
Poss. Weapon During Commission of a Violent Crime

At a Court of General Sessions, convened on September 27, 2018 the Grand Jurors of
SUMTER County present upon their oath:

**CERTIFIED TRUE COPY
OF ORIGINAL FILE**
Barbara Singer
**DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA**

COUNT ONE
ARMED ROBBERY

That on or about April 20, 2018, in Sumter County, South Carolina, the Defendant, Charles Spencer Anderson, at 283 South Guignard Drive, Sumter, South Carolina, 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 other 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 Frederick's Citgo, with the intent to permanently deprive the victim of possession thereof, in violation of Section 16-11-330(A) of the South Carolina Code of Laws, 1976, as amended.

COUNT TWO
POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That Charles Spencer Anderson did in Sumter County, on or about April 20, 2018, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

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

Solicitor

Ernest A. Fin III

WITNESSES

Shantell L. Ward Sumter County Sheriff

G Herod Sumter County Sheriff

ARREST WARRANT NUMBER

2019A4310100291

2019A4310100293

2019A4310100294

ACTION OF GRAND JURY

Defendant hereby waives presentment to the Sumter County Grand Jury.

Charles Anderson

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2019-GS-43-0810**The State of South Carolina****County of SUMTER****COURT OF GENERAL SESSIONS****AUGUST****TERM****2019****THE STATE**

vs.

CHARLES SPENCER ANDERSON**Indictment for**Robbery / Armed Robbery, robbery while armed or
allegedly armed with a deadly weapon

Attempted Murder

Possession of a Weapon during Commission of a Violent
Crime*Ernest A. Finney III***ERNEST A. FINNEY, III, SOLICITOR**

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SUMTER)

INDICTMENT FOR

Robbery / Armed Robbery, robbery while armed or allegedly
 armed with a deadly weapon
 Kidnapping
 Attempted Murder
 Possession of a Weapon During Commission of a Violent Crime

At a Court of General Sessions, convened on August 1, 2019 the Grand Jurors of SUMTER County present upon their oath:

Barbara Liniger
 DEPUTY CLERK OF COURT
 SUMTER COUNTY
 SOUTH CAROLINA

COUNT ONE ARMED ROBBERY

That on or about May 3, 2019, in Sumter County, South Carolina, the Defendant, Charles Spencer Anderson, at 1255 Pocalla Road, Sumter, South Carolina, 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 other 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 Auto Zone and/or its employee(s), with the intent to permanently deprive the victim of possession thereof, in violation of Section 16-11-330(A) of the South Carolina Code of Laws, 1976, as amended.

COUNT TWO ATTEMPTED MURDER

That Charles Spencer Anderson did in Sumter on or about May 3, 2019, with intent to kill, attempt to kill another person, Luis R. Solis and/or Ferris Jones, with malice aforethought, either express or implied, by holding a revolver to the victim(s) head and pulling the trigger; in violation of Section 16-3-29 of the Code of Laws of South Carolina (1976), as amended.

COUNT THREE POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That Charles Spencer Anderson did in Sumter County, on or about May 3, 2019, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

COUNTY OF 302
STATE

Sumter

VS.

Charles Spencer Anderson

AKA:

Race: Black Sex: M Age: 44

DOB: [REDACTED]

Address: [REDACTED]

SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ §17-25-45 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

McElveen, Bronwyn K

SC Bar#

Defendant

Bridges, Jason Edward
Attorney for Defendant

SCB102009

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§14-1-206 (Assessments 107.5%)

§14-1-211(A)(1) (Conv. Surcharge)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso (Public Def/Probation)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114(BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

INDICTMENT/CASE#: 2018-GS-43-0890

A/W#: 2018A4320100318

Date of Offense: 4/20/2018

S.C. Code §16-11-0330(A)

CDR Code #: [REDACTED]

Barbara L. Bridges
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

☐ CONVICTED OF or ☒ PLEADS

Presiding Judge

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Sumter

303

Syr

VS.

Charles Spencer Anderson

AKA:

Race: Black Sex: M Age: 44

DOB:

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☐ CONVICTED OF or ☒ PLEADS

TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC

w/minor 1st or Lewd Act)

☐ §17-25-45The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation. ☐ Negotiated Sentence. ☒ Recommendation by the State.

ATTEST:

McElveen, Bronwyn K

SC Bar#

Defendant

Bridges, Jason Edward
Attorney for Defendant

SCB102009

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

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

_____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§14-1-206 (Assessments 107.5 %)

§14-1-211(A)(1) (Conv. Surcharge)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso (Public Def/Probation)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114(BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel.

Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code:

Sentence Date:

COUNTY OF 304
STATE

Sumter

VS.

Charles Spencer Anderson

AKA:

Race: Black Sex: M Age: 44

DOB: [REDACTED]

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45

w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. CA (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.ATTEST: [Signature]76083Charles AndersonPRO SE

78873

McElveen, Bronwyn K

SC Bar#

Defendant

Kata, Justin M.
Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

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

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

James C. Campbell
Frances B. Ray

SCCA/217 (04/2018)

INDICTMENT/CASE#: 2019-GS-43-0810

A/W#: 2019A4310100291

Date of Offense: 5/3/2019

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139 CERTIFIED TRUE COPY
OF ORIGINAL FILE

SENTENCE SHEET

Deborah Shaper
 DEPUTY CLERK OF COURT
 SUMTER COUNTY LEADS
 SOUTH CAROLINA
☐ CONVICTED OF

Presiding Judge

Judge Code:

Sentence Date:

2147
9-28-20

COUNTY OF
STATE

Sumter

VS.

Charles Spencer Anderson

AKA:

Race: Black Sex: M Age: 44

DL#: 104635693

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Murder / Attempted Murder

INDICTMENT/CASE#: 2019-GS-43-0810

A/W#: 2019A4310100293

Date of Offense: 5/3/2019

S.C. Code § : 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)The charge is: ☐ As Indicted. ☐ Lesser Included Offense. ☒ Defendant Waives Presentment to Grand Jury. CA (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation. ☐ Negotiated Sentence. ☒ Recommendation by the State.

ATTEST:

McElveen, Bronwyn K

SC Bar#

Defendant

Kata, Justin M.
Attorney for Defendant

78873

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§14-1-206 (Assessments 107.5 %)

§14-1-211(A)(1) (Conv. Surcharge)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso (Public Def/Probation)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114(BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: Attu☐ Appointed PD or appointed other counsel.

Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Sumter

VS.

Charles Spencer Anderson

AKA:

Race: Black Sex: M Age: 44

DOB: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/ minor 1st or Lewd Act)The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. CA (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

McElveen, Bronwyn K

SC Bar#

Defendant

Kata, Justin M.
Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.**Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.**

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

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

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019-GS-43-0810

A/W#: 2019A4310100294

Date of Offense: 5/3/2019

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

Presiding Judge

Judge Code:

Sentence Date:

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