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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Lexington County

Honorable David P Caraker, Jr, Circuit Court Judge

DAVANTA T. JOHNSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001059

APPENDIX

KATHRINE H. HUDGINS
Senior Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

D. RUSSELL BARLOW
Senior Assistant Deputy Attorney General
P.O. Box 11549
Columbia, SC 29211-1549

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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Defendant.

TRANSCRIPT OF RECORD
2018-GS-47-00018
2018-GS-47-00027
2018-GS-47-00028

Julie A. Cendroski,
Circuit Court Reporter III
Seventh Judicial Circuit

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EXHIBITS

MARKED ENTERED

NO EXHIBITS PROFFERED

1 THE STATE VS. DAVANTA T. JOHNSON

2 THE CLERK: Judge Benjamin, I can go ahead and
3 swear Mr. Johnson in?

4 THE COURT: Yes, ma'am.

5 THE CLERK: Mr. Johnson, can you raise your right
6 hand? Do you swear to tell the truth, the whole truth,
7 and nothing but the truth so help you God?

8 THE DEFENDANT: Yes, ma'am.

9 THE CLERK: Thank you.

10 THE COURT: Thank you. Hold on. How many, how
11 many counts is he pleading to?

12 MR. CONRAD: Your Honor, I count one, two, three,
13 four, five, six, seven, eight, nine. It should be a
14 total of nine. Let me recount again.

15 THE COURT: All righty. Well, talk slow.

16 MR. FARLEY: Yes, Your Honor. This is, this is
17 kind of like a global that we put together with the
18 Attorney General's office.

19 MR. CONRAD: That's correct, Your Honor. And I
20 can get started. Your Honor, this is John Conrad of the
21 Attorney General's office representing the State. This
22 is Davanta Johnson, who is represented by Andrew Farley
23 of the private bar. We're here for a guilty plea to a
24 total of nine counts, and I'll go through them right
25 now.

1 The first count is indictment number 2018-47-27,
2 count 14, and that's a conspiracy. He's going to plead
3 as indicted on that count.

4 Then there's 47 -- 2018 ---

5 THE COURT: Could you go over the penalty? I
6 think it's ten years on conspiracy.

7 MR. CONRAD: Conspiracy is zero to five years,
8 Your Honor.

9 THE COURT: Oh, zero to five.

10 MR. CONRAD: Yes, Your Honor. The next count is
11 indictment, the same indictment, 2018-47-27, count 15,
12 and that's an auto breaking, which is another zero to
13 five charge.

14 And then the last count for indictment
15 2018-47-27, is count 16, and that's a grand larceny over
16 10,000. And that is a zero to ten charge.

17 The next indictment is indictment number
18 2018-47-18, count one. And that was originally indicted
19 as an attempted murder. However, as far as today's plea
20 negotiations, the State has agreed to reduce that to an
21 assault and battery first degree.

22 And the next count is also part of that same
23 indictment, 2018-47-18, count two, and that's a
24 discharge into a dwelling. And that is -- the defendant
25 is going to plead to that as indicted as well. And I

1 believe that's a zero to ten charge.

2 Okay. Now, the next count and the next
3 indictment is 2018-47-28, count two. That was
4 originally indicted as a murder. As part of this plea
5 negotiation, the State has agreed to reduce it to
6 involuntary manslaughter.

7 And then the final indictment, there's two
8 counts ---

9 THE COURT: Now, voluntary, what is it minimum 3
10 to 20?

11 MR. CONRAD: I think it's actually 2 to 20 or 2
12 to 30, Your Honor.

13 THE COURT: 20 -- I mean, 2 to 30, yes, I got
14 that.

15 MR. CONRAD: Yes, Your Honor.

16 THE COURT: Two to -- is it -- I'll check it, but
17 I think it's 2 to 30.

18 MR. CONRAD: It's up to 30, Your Honor. Anything
19 on a ---

20 THE COURT: I know it was up to 30. I just
21 couldn't remember what the minimum was. Okay.

22 MR. CONRAD: And the final indictment is
23 2018-47-27. The first count is count 19. That is a
24 failure to stop for a blue light. That's up to three
25 years. The defendant will be pleading as indicted.

1 Then there is the same indictment, 2018-47-28 --
2 excuse me, 4727, count 18. That is a resisting arrest
3 with a deadly weapon. The defendant will be pleading
4 guilty to that as indicted. I believe that is 2 to 10
5 years, Your Honor.

6 And finally, and the final count is 2018-47-27,
7 count 20, and that's a possession of a stolen motor
8 vehicle between 2 and 10,000 value. The defendant will
9 be pleading to that as indicted. And that is a zero to
10 five charge, I believe, Your Honor.

11 And when the Court's ready, I can get started
12 with the facts. Oh, excuse me, my apologies. Finally,
13 as -- this is a negotiated plea. In addition to the
14 reductions that I already stated, the defendants and the
15 State have agreed to a negotiated 15-year sentence on
16 the voluntary manslaughter which will serve as a lead
17 set in all other charges to run concurrent.

18 In addition, the State has agreed to dismiss or
19 nolle prossed multiple other charges that the state
20 grand jury has indicted the defendant on.

21 THE COURT: All right.

22 MR. FARLEY: And, Your Honor, I would just say
23 that is the correct rendering, Your Honor.

24 THE COURT: All right. Mr. Farley, have you
25 explained to your client the charges contained in the

1 indictment, the possible punishment, and his
2 constitutional rights?

3 MR. FARLEY: I have, Your Honor. And just for
4 the record, I would say I've met with Mr. Johnson on
5 several different occasions since being appointed and we
6 have gone over this in detail and also worked with the
7 Attorney General's office very closely to reach this
8 which is being presented to you today.

9 THE COURT: Okay. And how does he wish to plea?

10 MR. FARLEY: To the charges that was listed by
11 the Attorney General's office, I'd say he wishes to
12 plead guilty. Mr. Johnson?

13 THE COURT: And do you agree with his decision to
14 plead guilty?

15 MR. FARLEY: I do, Your Honor.

16 THE COURT: All right. And, Mr. Farley, just one
17 thing. I don't see it in the paperwork, but he is
18 appearing via video conference virtually for this plea.
19 Have you discussed with him the right to appear in
20 person, if he wanted to appear in person? Is he waiving
21 his right to appear in person?

22 MR. FARLEY: That is my understanding, Your
23 Honor.

24 THE COURT: And I'll ask him that too again.

25 MR. FARLEY: Right. Certainly, we wanted to go

1 ahead and get this resolved as quickly as possible. I
2 was aware that he wanted to do the videoconferencing
3 pleas. I explained to Mr. Johnson that the quickest way
4 to do this would be by videoconference. And I think he
5 was -- he indicated the last time I spoke with him, he
6 was fine with that, so we proceeded to schedule it this
7 way.

8 THE COURT: All right, thank you.

9 All right. And you are Davanta Johnson?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: All right. And, sir, you are here to
12 plead guilty to these nine charges. And I'll go over
13 them again just so you and I can make sure we're all on
14 the same page. Breaking into a motor vehicle is five --
15 breaking into a motor vehicle, possession of a motor
16 vehicle, resisting arrest with a deadly weapon,
17 conspiracy, grand larceny over 10,000, discharging a
18 firearm into a dwelling, assault and battery first
19 degree, failure to stop for a blue light, and voluntary
20 manslaughter, which has been reduced. All right. I
21 think at some -- I think a couple of those have been
22 reduced, but the voluntary manslaughter has been reduced
23 from murder. Is that your understanding what you're
24 pleading to today?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: All right. And, sir, you -- you
2 understand that you have the right to appear in person
3 for these -- for this guilty plea. However, we are not
4 in person. We are appearing via videoconference via
5 Webex virtually. And are you waiving your right to
6 appear in person?

7 THE DEFENDANT: Yes, ma'am. I'm just ready to
8 get this over with.

9 THE COURT: All right. And so you understand, I
10 just have to go over all these questions with you. You
11 understand you do have the right to talk to your
12 attorney about it, and you feel comfortable waiving your
13 right to be in person?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: All right. And let me just say this,
16 if at any point in time, because one of the issues about
17 being in person is you're not next to your attorney. So
18 should you have any questions, stop me or whoever's
19 speaking and we will work it out where you can call your
20 attorney and talk to them on the phone privately and not
21 -- if you have any questions of him during this process.

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Okay. All right. So you just let me
24 know if for some reason if we need to stop and you need
25 to talk to him or if you don't, for whatever reason,

1 feel comfortable continuing, just let me know and we'll
2 work it out where you can speak with Mr. Farley, all
3 right?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: All right. And how old are you?

6 THE DEFENDANT: Twenty-five.

7 THE COURT: How far did you go in school?

8 THE DEFENDANT: Eighteen.

9 THE COURT: To high school graduate?

10 THE DEFENDANT: No. No, ma'am.

11 THE COURT: And are you on probation or parole
12 currently?

13 THE DEFENDANT: No, ma'am.

14 THE COURT: And within the last 24 hours have you
15 taken any medications, drugs, or alcohol?

16 THE DEFENDANT: No, ma'am.

17 THE COURT: All right. Listen closely to the
18 assistant attorney general as he states the facts in
19 these cases, because I'm gonna have to come back to you
20 and ask you some questions, okay?

21 THE DEFENDANT: Yes, ma'am.

22 MR. CONRAD: Thank you, Your Honor. And before I
23 go on, I know our victim advocate reached out, made
24 contact with the victim in the voluntary man -- or
25 murder and the victim's brother. I do not know if they

1 were actually able to make it on to the Webex. So is
2 there anybody who is a member of Daryl Goodwin's family
3 who is on? Just speak up and let us know. If you want
4 to talk, I think the Judge would move you over at the
5 appropriate time.

6 THE COURT: Tarrell, do you see anyone in the
7 waiting area?

8 THE CLERK: No, ma'am, there's no one in the
9 waiting area.

10 THE COURT: Thank you.

11 MR. CONRAD: Well, Your Honor, the State's still
12 comfortable to continue. The victim's family has been
13 notified, so we're okay to continue.

14 Your Honor, this case was a state grand jury
15 investigation that went by the name of taint. And this
16 involved a series of crimes over about a two-week span
17 that started in Lexington County and more or less
18 culminated in the death of an individual by the name of
19 Daryl Goodwin, which actually occurred in Richland
20 County. And I'll walk through it step-by-step to try to
21 give the large overview of what occurred here.

22 Your Honor, the -- and this involved a number of
23 co-defendants who all participated in these series of
24 crimes. Most of them, I believe including Mr. Johnson
25 here, have been identified as blood gang members. And

1 all of them more or less spent their time or residing or
2 came from the Cayce into West Columbia area of Lexington
3 County.

4 This sequence started back on March 30th of 2018,
5 and there was -- and this is conduct the defendant is
6 not going to be pleading guilty and the State has agreed
7 to dismiss, but I think for the Court's information I
8 need to give at least an overview of what happened.

9 There was a couple of burglaries of some auto
10 dealerships out in Lexington County near Santee, South
11 Carolina. And what the individuals who broke into those
12 car dealerships -- they broke in, they took keys and
13 then drove several cars out of the lot. The State --
14 the defendant was charged in those burglaries, along
15 with numerous accompanying crimes that have been
16 dismissed. The State's agreed to dismiss those, so he's
17 not pleading guilty to those.

18 I believe he pretty adamantly was assisting with
19 his defense attorney that he did not participate in the
20 burglaries, at least. But, there are several
21 automobiles stolen out of those car dealerships. And
22 those automobiles were used in several other crimes
23 which are not going forward today. But, essentially,
24 were all recovered by law enforcement across the area as
25 they were abandoned.

1 This led to, on the morning of April 8th of 2018,
2 I believe the defendant and his co-defendants all needed
3 or wanted a car to continue wherever they had planned to
4 go. So at about 5:30 in the morning at [REDACTED]
5 which is I believe up in the St. Andrews area, but lives
6 on the West End County side of the line, there was a red
7 Avalanche that was stolen. I believe the owner had
8 started it early to warm it up and left it in their
9 driveway. And then several individuals jumped in it and
10 took off.

11 That, that incident is what count 14 of
12 indictment 47-27 for conspiracy; count 15, the auto
13 breaking; and count 16, a grand larceny over 10,000 are
14 all related to it.

15 The red Avalanche was next spotted, I believe,
16 just a couple hours or just maybe an hour later up in
17 Newberry County where a -- and this is conduct which the
18 defendant is not pleading guilty to today, but there was
19 a white Impala stolen out of a gas station, Chevy
20 Impala. And on video there was a red Avalanche, almost
21 certainly the one stolen from Lexington, was seen where
22 a couple of individuals got out of the red Avalanche and
23 went over to the white Impala. So that all occurred the
24 morning of April 8th of 2016.

25 By about 8:30 in the morning, now we're back down

1 in Lexington County, there was an individual by the name
2 of Edie Palmer, who admitted that he was a member of the
3 Crip gang. And this was over on [REDACTED] in
4 West Columbia.

5 Mr. Palmer was sitting at a bus stop, I guess
6 waiting to go to school that morning, when several shots
7 rang out. And none of them hit Mr. Palmer, but he took
8 off and a couple, at least one or two of those shots
9 that were fired after he ran, were -- impacted the
10 building or house, excuse me, at [REDACTED] [REDACTED] [REDACTED]
11 [REDACTED]

12 There were witnesses, although no witness could
13 identify who was inside the car. The witnesses were
14 identified, and I believe Mr. Palmer, shots came from a
15 white Chevy Impala.

16 Now, Mr. Palmer, was -- I would describe his
17 cooperation as minimal at the most and I don't think he
18 wanted to have anything to do with this plea today, but
19 that's the -- was originally charged with attempted
20 murder. It's now a charge -- and also the discharge of
21 a firearm.

22 As the case was developing, and I'll talk about
23 the next facts in a second, several of the co-defendants
24 of Mr. Johnson were corroborated. And at least two of
25 them identified Mr. Davanta Johnson as the driver of the

1 white Impala during the shooting incident at [REDACTED]
2 [REDACTED]. And that's count -- indictment 2007 --
3 2018-47-18, count two and count one, and an assault and
4 battery first, which was reduced, and discharging into a
5 dwelling.

6 So those -- that's, that's the events all the way
7 up through the morning of April 8th of 2016. And all
8 those events occurred in Lexington County.

9 The next event was indictment number 2018-47-48,
10 count two originally charged with murder. He's pleading
11 to a voluntary manslaughter. And this incident occurred
12 later that night on the same day, April 8th, 2016,
13 around 8:30 p.m. This occurred at [REDACTED],
14 which is in Richland County.

15 And on that evening, Mr. Daryl Goodwin, who is
16 actually also invalidated as a blood gang member, which
17 is the same gang as the co-defendants in this case, was
18 outside the apartments. And there were several other
19 people ---

20 (Audio went silent.)

21 Can anyone hear me? Can you call her and tell
22 her I lost her?

23 UNKNOWN PERSON: I will. Hey, they lost you.

24 THE COURT: Okay. He's gonna let us know when he
25 can hear again?

1 UNKNOWN INDIVIDUAL: I can hear you now.

2 THE COURT: Yes, ma'am, I'm gonna assume so
3 because he's communicating via the chat. So he's --
4 yes, ma'am. But as I said, I'm recording it, so they're
5 running to have him. Yes, ma'am, I will reach out to
6 him via chat and see if he replies, if you'll give me
7 one moment. All right. Just hold on one second. Yes,
8 ma'am?

9 THE CLERK: Judge Benjamin?

10 THE COURT: Yes, ma'am.

11 THE CLERK: He has sound back. Conrad. He sent
12 the message stating the last thing he heard was Daryl
13 Goodwin was another blood member. That was the last
14 thing he heard, and the sound is now back.

15 THE COURT: All right, thank you.

16 MR. CONRAD: Okay, Your Honor. I'll review that
17 incident to the voluntary manslaughter. So that
18 occurred later in the evening after the West End county
19 shooting of Double Branch, specifically about 8:30 in
20 the evening on April 8th of 2016. That was at [REDACTED]
21 [REDACTED], which is an apartment complex.

22 Mr. Daryl Goodwin was outside with some other
23 individuals and two cars drove by and subsequently
24 multiple shots rang out from those cars. Our witnesses
25 did identify the cars as a red Chevy Avalanche and a

1 white Chevy Impala. And both cars fled after the shots
2 rang out.

3 Mr. Daryl Goodwin was the victim in the case.
4 After the cars had fled, he was discovered with a
5 gunshot wound to his head, and he would shortly pass
6 away. I think he was taken to the hospital and passed
7 away there. So that's the voluntary manslaughter.

8 And I'm gonna go ahead and cover the last
9 incident here, Your Honor, which occurred in the early
10 morning hours, just a couple hours, just a few hours
11 after the Marlboro Street shooting. And that was at
12 approximately 12:30 in the morning on April 9th of 2016.

13 After the shooting in Columbia, there was a BOLO
14 put out for that red Avalanche and white Chevy Impala
15 that, you know, multiple agencies were keeping an eye
16 out for it. Cayce police in Lexington County were
17 patrolling through the Cayce Aderonza Apartments and
18 they spotted a red Avalanche with a -- a red Chevy
19 Avalanche, which fit the description of the Marlboro
20 Street Shooting.

21 They approached the vehicle. It was unoccupied.
22 And discovered after running it that it was stolen.
23 Based off of its, you know, at that point what they
24 considered a likely connection with the shooting in
25 Columbia, they actually backed off and set up some

1 surveillance to see if anybody came out to retrieve the
2 vehicle or to see if maybe that white Impala might show
3 up.

4 In fact, it wasn't too long when a white Chevy
5 Impala did go into the apartment complex while it was
6 under surveillance from Cayce police. Based off the
7 totality of the circumstances and the matching of the
8 description of the shooting, they attempted to stop the
9 Impala. The Impala then attempted to flea.

10 In the process of the flea, it actually impacted
11 one of the police cars, which is where the resisting
12 arrest with a deadly weapon results from. There was a
13 short chase. The car wrecked. I believe there was a
14 foot passenger who was able to escape. However, Mr.
15 Davanta Johnson was arrested and he was the driver of
16 the white Impala when it wrecked.

17 So that would cover the failing to stop for a
18 blue light and a possession of a stolen motor vehicle, 2
19 to 10,000. And investigation did reveal that that white
20 Impala was the same Impala that had been stolen early
21 those morning hours up in Newberry County.

22 Your Honor, from there the investigation
23 continued. In the back seat of the Impala there was a
24 .22 caliber pistol recovered. As it turns out, shell
25 casings from that pistol matched both Double Branch,

1 shell casings found at the double branch location and at
2 the Marlboro location in Richland County.

3 From there, the various investigations identified
4 several co-defendants who were arrested, who then agreed
5 to cooperate. And at that point there are co-defendants
6 who identified Mr. Johnson, Davanta Johnson, as the
7 driver of the white Impala through most of the night,
8 including the chase at the end and the wreck. He
9 identified him as the driver during the drive-by
10 shooting at Marlboro Street and the drive-by shooting at
11 the Double Branch Road.

12 So based off that, Mr. Davanta Johnson was
13 charged with all the applicable crimes and is pleading
14 guilty to, in addition to the numerous ones that the
15 State is going to dismiss as a result of this plea. And
16 subsequently, Your Honor, and because of the
17 multi-county nature of this crime spree, there was a
18 state grand jury case initiated that was called taint,
19 I stated, and then took evidence for all these incidents
20 and ultimately issued numerous indictments for every
21 defendant and his co-defendants.

22 Your Honor, the -- what the State relays is the
23 fatal shooter in the Marlboro drive-by was a gentleman
24 with the name of Saquan Sindell. He pled guilty in
25 front of Judge Keesley back in December, I believe, of

1 last year. He received a 25-year sentence. The
2 information that the State has to present at trial, if
3 necessary, was that Mr. Sindell was a backseat passenger
4 to the vehicle driven by this defendant, Davanta
5 Johnson. And, excuse me. And also as the driver of the
6 white Impala during the drive-by at Double Branch Road
7 early the next -- early hours.

8 Okay, Your Honor, so that covers the facts of
9 this case. As I said, the negotiation is 15 years on
10 the voluntary manslaughter with everything else to run
11 concurrent.

12 One thing that I neglected that I just realized I
13 neglected so it's my fault, I believe technically
14 because -- I'm not sure which court technically --
15 jurisdiction is technically sitting in because this is
16 all virtual, so it's kind of new. We would technically
17 need a jurisdictional waiver for whichever account or
18 counts for the jurisdiction the Court is not technically
19 sitting in at the moment.

20 And I neglected to do the paperwork, but I can
21 followup with Mr. Farley and we can make sure we get
22 that paperwork done. And I'd also ask the Court to do
23 colloquy on the record with the defendant to make sure
24 he's okay with waiving that jurisdictional issue.
25 Beyond that, all I have is the defendant's record. And

1 I can answer any questions that the Court may have.

2 THE COURT: All right. Give me a second to
3 finish taking the plea and I will ask him -- since I am
4 serving a term in Richland County, he would have to
5 waive, he would have to waive his right to venue in
6 Lexington, even though he is in Lexington County. So do
7 you understand that, Mr. Johnson -- do you agree with
8 that Mr. Farley?

9 MR. FARLEY: Insofar as Mr. Conrad is right, but
10 I'll be honest, the virtual courtroom is so new I'm not
11 really sure about the jurisdiction myself.

12 THE COURT: Yeah. So this week my jurisdiction
13 is technically in Richland County. So, I ---

14 MR. FARLEY: I understand. I know how to do it
15 the old ways.

16 THE COURT: So I'll do it based on the
17 jurisdiction of the Court, and so he would have to waive
18 venue on the Lexington County charges, all right?

19 MR. FARLEY: All right. And I have not discussed
20 that with Mr. Johnson, but I don't see how that would be
21 a problem. I know Mr. Johnson is eager to have this put
22 behind him. And we believe that this is a good way to
23 resolve this very complex case.

24 THE COURT: All right, thank you.

25 All right. Mr. Johnson, you heard the assistant

1 attorney general state the facts on several different
2 incidents. Do you agree with the facts as stated, the
3 allegations as stated?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: And is that what you're pleading
6 guilty to?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Any portion of that that you need to
9 dispute?

10 THE DEFENDANT: No, ma'am.

11 THE COURT: All right. So you're pleading to --
12 and you just heard us have a conversation about venue.
13 And because it's virtual, it's a little odd, but I am
14 technically in Richland County and so -- and you're in
15 Lexington County, but the cases are being heard
16 jurisdictionally in Richland County. Do you waive your
17 right to have these heard in Lexington County?

18 THE DEFENDANT: It doesn't matter to me.

19 THE COURT: All right. So you waive your right
20 to have them heard in Lexington?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: And you're fine with us going forward
23 with me being in Richland instead of being in Lexington?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Okay. All right. Now, you, on the

1 breaking into motor vehicle, it carries five years. The
2 possession of a stolen motor vehicle carries five years.
3 The resisting arrest with a deadly weapon is two to ten.
4 Conspiracy is five years. Grand larceny is ten years.
5 Discharging a firearm in a dwelling is ten years.
6 Assault and battery first is ten years. Failure to stop
7 for a blue light is three years. And voluntary
8 manslaughter carries between 2 and 30 years.

9 I could run those all consecutive. You're
10 looking at a total of 88 years. Do you understand that?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Knowing that, do you still wish to
13 plead guilty?

14 THE DEFENDANT: No, ma'am.

15 THE COURT: Huh?

16 THE DEFENDANT: No, I do not.

17 THE COURT: Okay. So that's the total after the
18 total amount of time.

19 THE DEFENDANT: Oh, okay.

20 THE COURT: Yeah, that's the total amount of time
21 that all of these charges carry.

22 THE DEFENDANT: Okay.

23 THE COURT: So you're maximum exposure would be
24 88 years. I understand there's some negotiations. I'm
25 gonna go over that with you in a second, okay?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Okay. Do you understand that the 88
3 years is the total exposure you have based on the
4 charges in front of me?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Okay. Now, you all have negotiated a
7 plea to 15 years, and he has reduced some of the
8 charges. He's reduced the murder to voluntary. The A&B
9 first is a reduction. And there's something else that's
10 a reduction.

11 MR. CONRAD: Those are the only two.

12 THE COURT: What else?

13 MR. CONRAD: No, Judge, those are the only two
14 reductions.

15 THE COURT: Okay, those are the two reductions.
16 Is that your understanding, sir, of the negotiations?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: All right. Mr. Farley, that's your
19 understanding too?

20 MR. FARLEY: That's correct, Your Honor.

21 THE COURT: Fifteen years to run concurrent on
22 all the charges, reducing the voluntary -- I mean the
23 murder and the ABHAN to an A&B first and voluntary
24 manslaughter. That's your understanding?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: And yours also, Mr. Johnson? All
2 right. Mr. Johnson, the -- let's see, the voluntary
3 manslaughter is -- the voluntary manslaughter is
4 considered a violent most serious offense. And what
5 that means is under our two strike law on the most
6 serious offense, if you were to get convicted of another
7 charge and it was classified as a most serious, the
8 State could move before the court the life without
9 parole. Do you understand that?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: All right. And then in terms of
12 violent, you'll have to serve -- you'll be classified as
13 violent for purposes of the Department of Corrections
14 and you have to serve 85 percent of any sentence that
15 you get. Do you understand that?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: All right. Knowing that, do you
18 still wish to plead guilty?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: All right. And you understand when
21 you plead guilty -- and some of these charges, even the
22 failure to stop for a blue light and the possession of a
23 stolen motor vehicle and breaking into a motor vehicle,
24 all of those have what we call enhanced penalty
25 provisions. If you were to get another failure to stop

1 or another property crime, the penalties and the fines
2 could increase. You understand that?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Knowing that, you still wish to plead
5 guilty?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: All right. And you understand when
8 you plead guilty you give up certain important
9 constitutional rights? You have the right to a jury
10 trial. At a jury trial, the State would have to prove
11 you guilty beyond a reasonable doubt. You and your
12 attorney would have the opportunity to cross-examine any
13 witnesses that they would present. You would not have
14 to testify. The burden will be upon the State to prove
15 you guilty beyond a reasonable doubt. If you gave up
16 any incriminating -- if you gave any incriminating
17 statements, you would have the right to challenge the
18 admission of those statements, sir.

19 If you have any defenses that you wish to
20 advance, you would be -- you and your attorney would be
21 given an opportunity to do so; although, you are not
22 required to do so. You understand you have the right to
23 remain silent? If you chose not to testify at trial, I
24 would inform the jurors that they cannot hold that
25 against you. But, sir, by pleading guilty you waive

1 your right to a jury trial and you give up those other
2 important constitutional rights. Is that what you wish
3 to do?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: All right. And you've been
6 represented by Mr. Farley. Are you satisfied with his
7 representation?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: And have you met with him for as long
10 as necessary for him to properly represent you?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: And has -- and you've been able to
13 ask him all the questions you have, and you all have
14 gone over everything with this plea; is that correct?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: All right. And also, do you have any
17 questions of Mr. Farley today?

18 THE DEFENDANT: I want to know about the
19 non-violent, violent sentence, do they advance the A&B
20 85 or A&B 65 out?

21 THE COURT: For the manslaughter -- go ahead, Mr.
22 Farley, you can answer. The manslaughter carries -- he
23 can correct ---

24 THE DEFENDANT: I know that.

25 THE COURT: So the 15 is on the manslaughter,

1 right?

2 THE DEFENDANT: Yes.

3 THE COURT: So it's 85 percent on the man -- it's
4 85 percent on the manslaughter.

5 Mr. Farley, unmute yourself.

6 MR. FARLEY: I will say this, and I will defer to
7 Mr. Conrad and, of course, the Court for any
8 corrections, but my understanding is the, you know,
9 voluntary manslaughter is violent and that's the lead
10 offense that you're pleading to, so if everything is run
11 concurrently then that's gonna be the 85 percent at
12 violent.

13 THE DEFENDANT: All right.

14 MR. FARLEY: That's when we talked about, you
15 know, going into the sentence sheets.

16 THE DEFENDANT: Yep.

17 THE COURT: Do you understand that, sir?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Knowing that, you still wish to --
20 so, so the other stuff is just gonna be wrapped into the
21 manslaughter because it carries less than the -- it all
22 carries less than 15.

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Okay. So you understand that?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Knowing that, do you still wish to go
2 forward with this plea?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: All right. And do you have any other
5 questions of Mr. Farley?

6 THE DEFENDANT: No, ma'am.

7 THE COURT: Okay.

8 THE DEFENDANT: Oh, yeah, I do. I do. What's up
9 with my motion?

10 THE COURT: Hold on one second. I don't know
11 what that's about, so...

12 MR. FARLEY: Yeah. And, Mr. Johnson, I can
13 address that after the plea is finished, but this forum
14 would not be for that.

15 THE COURT: Yeah. You can't talk to him about
16 that. I meant about anything with the plea, okay?

17 THE DEFENDANT: All right.

18 THE COURT: Any other questions about the plea
19 or...

20 THE DEFENDANT: No.

21 THE COURT: Okay.

22 THE DEFENDANT: I don't have any questions.

23 THE COURT: Okay. Is anyone forcing you to plead
24 guilty today?

25 THE DEFENDANT: No, ma'am.

1 THE COURT: And are you pleading guilty of your
2 own free will?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Has anyone offered you anything in
5 exchange for your plea? I know they have this plea
6 offer, but other than that has anyone offered you
7 anything in exchange for your plea?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: All right. And so you're pleading
10 freely and voluntarily?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: No one's threatened you into
13 pleading?

14 THE DEFENDANT: No, ma'am.

15 THE COURT: All right. And have you understood
16 all of my questions?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Have you answered them truthfully?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: You understand you have the right to
21 appeal this guilty plea and sentence of the Court within
22 10 days?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: All right. I find that there's a
25 substantial factual basis for this plea. I also find

1 that the defendant's decision to plead guilty was
2 freely, voluntarily, and given; that he is represented
3 by counsel, who has indicated to me he's completely
4 satisfied with; he is waiving venue; and he is also
5 waiving his in-person -- his right to be in person for
6 this plea. I will accept the plea.

7 All right. His prior record, Mr. Conrad, or any
8 victims? Terrell, did any victims show up?

9 THE CLERK: No, ma'am, there's no one out there.

10 THE COURT: No one in the waiting area?

11 THE CLERK: No, ma'am.

12 THE COURT: Okay. Mr. Conrad, prior record?

13 MR. CONRAD: Thank you, Your Honor. It looks
14 like the only convictions he has are related to
15 actually, I believe, the same incident, which is a
16 driving under suspension, a leaving the scene of an
17 accident of an unattended vehicle. These are both
18 related to the incident that occurred at the Aderonza
19 complex because the dates in 2016 line up. So other
20 than that -- and I assume those were done in municipal
21 court or magistrate in Lexington. Other than that, I do
22 not see any other convictions on his record, Your Honor.
23 And I do know, and I'm sure Mr. Farley has the
24 exact number, Mr. Johnson is due a substantial amount of
25 credit for time, time served. I think he's been in jail

1 since the arresting incident in 2016, so he's got a
2 significant amount of time to be counted.

3 THE COURT: Mr. Farley, do you have the exact
4 amount of time?

5 MR. FARLEY: Your Honor, I don't know if I have
6 the exact amount of time. I think it's been about
7 four-and-a-half years, if I'm not mistaken. I know Mr.
8 Johnson's shaking his head.

9 THE COURT: What's the date of the arrest?

10 MR. FARLEY: Let me see if I have that, Your
11 Honor.

12 THE COURT: Let me see if I can find it.

13 MR. CONRAD: Let me look, Your Honor.

14 THE COURT: The clerk's records reflect that he
15 was arrested April the 30th, 2018.

16 MR. FARLEY: And it's my understanding he's been
17 incarcerated since that time, Your Honor.

18 MR. CONRAD: And I think what occurred was he was
19 originally arrested on local charges and then the state
20 grand jury indicted him in 2018. So I think he's due
21 the entire time since the arrest on the local charges in
22 2016. I'm looking for that exact arrest date, but it
23 would have been within a few -- a week or two after the
24 original incident in April of 2018 when the -- or,
25 excuse me, 2016.

1 THE COURT: So he was arrested in '16?

2 MR. CONRAD: The incident occurred in April of
3 2016, Your Honor. I think he was arrested within a
4 couple of weeks of the original incident and charged.
5 Most of what you've heard today were for local charges,
6 and I see he's disagreeing with me, so I'll let him
7 talk.

8 THE DEFENDANT: Please, Your Honor?

9 THE COURT: Yes, sir.

10 THE DEFENDANT: Ms. Benjamin, I got arrested the
11 same night it occurred, April the 8th, the same night.

12 MR. CONRAD: That's right. He was arrested after
13 the brief car chase.

14 THE DEFENDANT: After that I've been locked away
15 ever since then, 2016 all the way up until now. I've
16 been in all of that.

17 MR. CONRAD: I believe he's due credit since that
18 day, April 8th of 2016.

19 THE COURT: April of 2016 to today, so that would
20 be -- I'm calculating. 2,014 days? He's been in jail
21 since 2016?

22 MR. FARLEY: That's correct.

23 MR. CONRAD: That's correct.

24 THE COURT: Okay. All right. So that's 2,014.
25 All right.

1 All right, Mr. Farley.

2 MR. FARLEY: Thank you, Your Honor. Again, as
3 you heard, Mr. Johnson is 25 years old. He's certainly
4 been incarcerated for quite some time on these charges.
5 And they did start on the local level and then go to the
6 state grand jury.

7 Certainly, this has been a very long and arduous
8 process for Mr. Johnson. It's been certainly a lot of
9 charges that we've had to deal with. However, we've
10 been working pretty closely with the Attorney General's
11 office. And I do believe, and I think that in our
12 meeting with Mr. Johnson and I discussing this with him
13 at length, I think that this is apparently the best way
14 to resolve the myriad of charges that Mr. Johnson has
15 been facing for the last few years and hopefully get
16 him, you know, on the road to a resolution. And,
17 certainly, out of -- at least out of Lexington Detention
18 Center.

19 So I think Mr. Johnson is not only ready to
20 accept the responsibility for this, but also to just
21 move on with his life and go to the next chapter, as it
22 were. So we would certainly ask the Court to accept
23 this negotiated plea.

24 THE COURT: All right. Anything else?

25 MR. FARLEY: No, Your Honor.

1 MR. CONRAD: Nothing from the State, Your Honor.

2 THE COURT: All right. So he's been in jail
3 five-and-a-half years, it looks like. All right.

4 All right. On indictment 2018-GS-47-28, count
5 two, sir, you'll be sentenced to the state Department of
6 Corrections for 15 years.

7 On indictment 2018-GS-47-27, count 20 and count
8 15 and count 14, you'll be sentenced to the state
9 Department of Corrections for five years.

10 On 2018-GS-47-27, count 19, it's three years.

11 On 2018-GS-47-27, count 18, is ten years.

12 2018-GS-47-27, count 16, is also ten years.

13 On 2018-GS-47-18, count two, is ten years.

14 And 2018-GS-47-18, count one, is ten years.

15 All sentences will run concurrent. He will be
16 given credit for 2,014 days that he has already served
17 on the sentence. And I believe that is everything that
18 I marked off. All right, thank you.

19 MR. CONRAD: Thank you, Your Honor.

20 THE COURT: All right.

21 (Hearing concluded at 2:52 p.m.)

22

23 --- THIS ENDS REQUESTED TRANSCRIPT ---

24

25

1 COURT REPORTER CERTIFICATE
2

3 I, the undersigned Julie A. Cendroski, Court
4 Reporter for the Seventh Judicial Circuit Court of the
5 State of South Carolina, do hereby certify that to the
6 best of my ability from the Digital Court Reporter
7 Program, the foregoing is a true, accurate, and complete
8 transcript of record of all the proceedings and evidence
9 introduced in the hearing and/or trial of the captioned
10 case, relative to appeal, in the court of GENERAL
11 SESSIONS for Richland County, South Carolina, on the
12 21st day of October, 2021.

13 I do further certify that I am neither of kin,
14 counsel, nor interest to any party hereto. This was
15 transcribed from the Digital Court Reporter Program.
16
17
18
19

20 s/Julie A Ceendroski
21 Julie A. Cendroski
22 Circuit Court Reporter III
23 Seventh Judicial Circuit
24
25

STATE GRAND JURY OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA)

VS.)

DAVANTA TERRANCE JOHNSON,)
 (A/K/A "CHEDDAR"),)
 TYREE DAYQUAN GEIGER,)
 NASIIR ALI SHAHEED DANIELS,)
 WILLIAM ANTHONY BURRELL, JR.,)
 (A/K/A "AJ"),)

DEFENDANTS.)

CASE NO. 2018-GS-47-27

**INDICTMENT FOR
 ILLEGAL GANGS**

Conspiracy
 S.C. Code Ann. § 16-17-410
 (2 Counts)

Burglary, Second Degree (Violent)
 S.C. Code Ann. § 16-11-312(B)
 (2 Counts)

Petit Larceny
 S.C. Code Ann. § 16-13-30(A)
 (1 Count)

Breaking Into Motor Vehicles
 S.C. Code Ann. § 16-13-160
 (6 Counts)

Grand Larceny (\$10,000 or More)
 S.C. Code Ann. § 16-13-30(B)
 (2 Counts)

Possession of a Stolen Vehicle
 S.C. Code Ann. § 16-21-80
 (5 Counts)

Resisting Arrest with a Deadly
 Weapon
 S.C. Code Ann. § 16-3-625
 (1 Count)

Failure to Stop for a Blue Light
 S.C. Code Ann § 56-5-750(B)
 (1 Count)

At a session of the State Grand Jury of South Carolina, convened in Columbia, South Carolina on April 19, 2018, the State Grand Jurors present upon their oath:

**COUNT ONE
CONSPIRACY
S.C. Code Ann. §16-17-410**

That DAVANTA TERRANCE JOHNSON (A/K/A “CHEDDAR”), WILLIAM ANTHONY BURRELL, JR. (A/K/A “AJ”), TYREE DAYQUAN GEIGER, and NASIIR ALI SHAHEED DANIELS did in Lexington County on or about March 30, 2016 unlawfully, willfully, and knowingly unite, combine conspire, confederate, agree and have tacit understanding with one or more persons for the purpose of accomplishing an unlawful object; to wit: committing the crimes of burglary, breaking into a motor vehicle, and grand larceny; all in violation of Section 16-17-410 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

**COUNT TWO
BURGLARY, SECOND DEGREE (VIOLENT)
S.C. Code Ann. §16-11-312(B)**

That DAVANTA TERRANCE JOHNSON (A/K/A “CHEDDAR”), WILLIAM ANTHONY BURRELL, JR. (A/K/A “AJ”), TYREE DAYQUAN GEIGER, and NASIIR ALI SHAHEED DANIELS did in Lexington County on or about March 30, 2016 willfully and unlawfully enter a building in the nighttime, without consent of the owner, and with intent to commit a crime therein, to wit: the Non-Stop Auto Sales building located at [REDACTED], [REDACTED], in violation of Section 16-11-312(B) of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

**COUNT THREE
PETIT LARCENY
S.C. Code Ann. §16-13-30(A)**

That DAVANTA TERRANCE JOHNSON (A/K/A "CHEDDAR"), WILLIAM ANTHONY BURRELL, JR. (A/K/A "AJ"), TYREE DAYQUAN GEIGER, and NASIIR ALI SHAHEED DANIELS did in Lexington County on or about March 30, 2016 willfully and unlawfully take and carry away the goods, chattels, instruments, or other personalty from Non-Stop Auto Sales, valued at less than Two Thousand Dollars (\$2,000), with the intent to permanently deprive the owner of such property, in violation of Section 16-13-30(A) of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

**COUNT FOUR
BURGLARY, SECOND DEGREE (VIOLENT)
S.C. Code Ann. §16-11-312(B)**

That DAVANTA TERRANCE JOHNSON (A/K/A "CHEDDAR"), WILLIAM ANTHONY BURRELL, JR. (A/K/A "AJ"), TYREE DAYQUAN GEIGER, and NASIIR ALI SHAHEED DANIELS did in Lexington County on or about March 30, 2016 willfully and unlawfully enter a building in the nighttime, without consent of the owner, and with intent to commit a crime therein, to wit: the Lucas Automotive building located at [REDACTED], in violation of Section 16-11-312(B) of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT FIVE
GRAND LARCENY (\$10,000 OR MORE)
S.C. Code Ann. §16-13-30(B)

That DAVANTA TERRANCE JOHNSON (A/K/A "CHEDDAR"), WILLIAM ANTHONY BURRELL, JR. (A/K/A "AJ"), TYREE DAYQUAN GEIGER, and NASIIR ALI SHAHEED DANIELS did in Lexington County on or about March 30, 2016 willfully and unlawfully take and carry away the goods, chattels, instruments, or other personalty of Lucas Automotive, valued at more than Ten Thousand Dollars (\$10,000), with the intent to permanently deprive the owner of such property, in violation of Section 16-13-30(B) of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT SIX
BREAKING INTO A MOTOR VEHICLE
S.C. Code Ann. §16-13-160

That DAVANTA TERRANCE JOHNSON (A/K/A "CHEDDAR"), WILLIAM ANTHONY BURRELL, JR. (A/K/A "AJ"), TYREE DAYQUAN GEIGER, and NASIIR ALI SHAHEED DANIELS did in Lexington County on or about March 30, 2016 willfully and unlawfully break into a motor vehicle owned by Lucas Automotive, to wit: a blue 2000 Cadillac bearing VIN: 1G6KY5497YU206057, with the intent to steal it or anything of value therefrom in violation of Section 16-13-160 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT SEVEN
BREAKING INTO A MOTOR VEHICLE
S.C. Code Ann. §16-13-160

That DAVANTA TERRANCE JOHNSON (A/K/A "CHEDDAR"), WILLIAM ANTHONY BURRELL, JR. (A/K/A "AJ"), TYREE DAYQUAN GEIGER, and NASIIR ALI SHAHEED DANIELS did in Lexington County on or about March 30, 2016 willfully and unlawfully break into a motor vehicle owned by Lucas Automotive, to wit: a gold 2005 Cadillac bearing VIN: 1G6KD57Y05U116002, with the intent to steal it or anything of value therefrom in violation of Section 16-13-160 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT EIGHT
BREAKING INTO A MOTOR VEHICLE
S.C. Code Ann. §16-13-160

That DAVANTA TERRANCE JOHNSON (A/K/A "CHEDDAR"), WILLIAM ANTHONY BURRELL, JR. (A/K/A "AJ"), TYREE DAYQUAN GEIGER, and NASIIR ALI SHAHEED DANIELS did in Lexington County on or about March 30, 2016 willfully and unlawfully break into a motor vehicle owned by Lucas Automotive, to wit: a green 2002 Land Rover bearing VIN: SALTL12412A736641, with the intent to steal it or anything of value therefrom in violation of Section 16-13-160 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT NINE
BREAKING INTO A MOTOR VEHICLE
S.C. Code Ann. §16-13-160

That DAVANTA TERRANCE JOHNSON (A/K/A "CHEDDAR"), WILLIAM ANTHONY BURRELL, JR. (A/K/A "AJ"), TYREE DAYQUAN GEIGER, and NASIIR ALI SHAHEED DANIELS did in Lexington County on or about March 30, 2016 willfully and unlawfully break into a motor vehicle owned by Lucas Automotive, to wit: a gold 2001 Mercury Sable bearing VIN: 1MEFM55S61G641764, with the intent to steal it or anything of value therefrom in violation of Section 16-13-160 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT TEN
BREAKING INTO A MOTOR VEHICLE
S.C. Code Ann. §16-13-160

That DAVANTA TERRANCE JOHNSON (A/K/A "CHEDDAR"), WILLIAM ANTHONY BURRELL, JR. (A/K/A "AJ"), TYREE DAYQUAN GEIGER, and NASIIR ALI SHAHEED DANIELS did in Lexington County on or about March 30, 2016 willfully and unlawfully break into a motor vehicle owned by Lucas Automotive, to wit: a white 2001 Oldsmobile Alero bearing VIN: 1G3NK52T21C148106, with the intent to steal it or anything of value therefrom in violation of Section 16-13-160 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT ELEVEN
POSSESSION OF A STOLEN VEHICLE (\$2,000 - \$10,000)
S.C. Code Ann. §16-21-80

That NASIIR ALI SHAHEED DANIELS did in Lexington County between March 30, 2016 and April 1, 2016 willfully and unlawfully receive, possess, sell, conceal, or dispose of a stolen vehicle, valued at more than Two Thousand Dollars, he not being entitled to the possession of a gold 2001 Mercury Sable owned by Lucas Automotive, knowing it to be stolen or converted under circumstances constituting a crime, in violation of Section 16-21-80 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT TWELVE
POSSESSION OF A STOLEN VEHICLE (\$2,000 - \$10,000)
S.C. Code Ann. §16-21-80

That WILLIAM ANTHONY BURRELL, JR. (A/K/A "AJ") did in Lexington County between March 30, 2016 and April 1, 2016 willfully and unlawfully receive, possess, sell, conceal, or dispose of a stolen vehicle, valued at more than Two Thousand Dollars, he not being entitled to the possession of a green 2002 Land Rover owned by Lucas Automotive, knowing it to be stolen or converted under circumstances constituting a crime, in violation of Section 16-21-80 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT THIRTEEN
POSSESSION OF A STOLEN VEHICLE (\$2,000 - \$10,000)
S.C. Code Ann. §16-21-80

That TYREE DAYQUAN GEIGER did in Lexington County between March 30, 2016 and April 9, 2016 willfully and unlawfully receive, possess, sell, conceal, or dispose of a stolen vehicle, valued at more than Two Thousand Dollars, he not being entitled to the possession of a white 2001 Oldsmobile Alero owned by Lucas Automotive, knowing it to be stolen or converted under circumstances constituting a crime, in violation of Section 16-21-80 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT FOURTEEN
CONSPIRACY
S.C. Code Ann. §16-17-410

That DAVANTA TERRANCE JOHNSON (A/K/A "CHEDDAR"), TYREE DAYQUAN GEIGER, and NASIIR ALI SHAHEED DANIELS did in Lexington County on or about April 8, 2016 unlawfully, willfully, and knowingly unite, combine conspire, confederate, agree and have tacit understanding with one or more persons for the purpose of breaking into and stealing a motor vehicle, all in violation of Section 16-17-410 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT FIFTEEN
BREAKING INTO A MOTOR VEHICLE
S.C. Code Ann. §16-13-160

That DAVANTA TERRANCE JOHNSON (A/K/A "CHEDDAR"), TYREE DAYQUAN GEIGER, and NASIIR ALI SHAHEED DANIELS did in Lexington County on or about April 8, 2016 unlawfully break into a motor vehicle, to wit: a red 2007 Chevrolet Avalanche, with the intent to steal the same or anything of value therefrom in violation of Section 16-13-160 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT SIXTEEN
GRAND LARCENY (\$10,000 OR MORE)
S.C. Code Ann. §16-13-30(B)

That DAVANTA TERRANCE JOHNSON (A/K/A "CHEDDAR"), TYREE DAYQUAN GEIGER, and NASIIR ALI SHAHEED DANIELS did in Lexington County on or about April 8, 2016 unlawfully take and carry away the goods, chattels, instruments, or other personalty of another, valued at Ten Thousand Dollars or more, with the intent to deprive the owner permanently of such property in violation of Section 16-13-30(B) of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT SEVENTEEN
POSSESSION OF A STOLEN VEHICLE (\$10,000 OR MORE)
S.C. Code Ann. §16-21-80

That TYREE DAYQUAN GEIGER did in Lexington County between April 8, 2016 and April 9, 2016 willfully and unlawfully receive, possess, sell, conceal, or dispose of a stolen vehicle, valued at more than Ten Thousand Dollars, he not being entitled to the possession of a red 2007 Chevrolet Avalanche, knowing it to be stolen or converted under circumstances constituting a crime, in violation of Section 16-21-80 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT EIGHTEEN
RESISTING ARREST WITH DEADLY WEAPON
S.C. Code Ann. §16-3-625

That DAVANTA TERRANCE JOHNSON (A/K/A “CHEDDAR”) did in Lexington County on or about April 9, 2016, while in possession of a deadly weapon, willfully and unlawfully resist the lawful efforts of a law enforcement officer to arrest him or another person with the use or threat of use of a deadly weapon against the officer in violation of Section 16-3-625 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT NINETEEN
FAILURE TO STOP FOR BLUE LIGHT
S.C. Code Ann. § 56-5-750

That DAVANTA TERRANCE JOHNSON (A/K/A “CHEDDAR”) did in Lexington County on or about April 9, 2016 willfully and unlawfully fail to stop the motor vehicle that he was driving on a road, street or highway of the State of South Carolina when he was signaled by a law enforcement officer by means of a siren or flashing light in violation of § 56-5-750, Code of Laws of South Carolina (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT TWENTY
POSSESSION OF A STOLEN VEHICLE (\$2,000 - \$10,000)
S.C. Code Ann. §16-21-80

That DAVANTA TERRANCE JOHNSON (A/K/A “CHEDDAR”) did in Lexington County between April 8, 2016 and April 9, 2016 willfully and unlawfully receive, possess, sell, conceal, or dispose of a stolen vehicle, valued at more than Two Thousand Dollars, he not being entitled to the possession of a white 2007 Chevrolet Impala, knowing it to be stolen or converted under circumstances constituting a crime, in violation of Section 16-21-80 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

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

A True Bill



FOREMAN

Alan Wilson
ALAN WILSON (jr)
ATTORNEY GENERAL

FILED

OCT 12 2021

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

JAMES R. PARKS
CLERK, STATE GRAND JURY

IN THE COURT OF GENERAL SESSIONS

STATE

VS.

INDICTMENT/CASE#: 201-⁸GS-47-27(Count 14)

DAVANTA TERRANCE JOHNSON

AKA: CHEDDAR

Race: B Sex: M Age: 25

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

DL#* SID#

A/W#:

Direct Presentment

Date of Offense: 03/30/2016

S.C. Code §: 16-17-0410

CDR Code #: 0049

SENTENCE SHEET*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Conspiracy

In violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Solicitor

100051

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed 2 years

and/or to pay a fine of \$ 0; provided that upon the service of 0 days/months/years/Time Served and or payment

of \$ 0; plus costs and assessments as applicable*; the balance is suspended with probation for 0

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC. 2014 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

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

STATE VS. DAVANTA TERRANCE JOHNSONINDICTMENT/CASE#: 2018 -GS- 47 - 27 (Count 14)**SPECIAL CONDITIONS:**☐ PTUP after _____ months/years**And Other Terms Listed Below:**

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

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	\$ _____
§14-1-206 (Assessments 107.5%)			\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)		\$100	\$ _____
§14-1-211 (A)(2)(DUI Surcharge)		\$100	\$ <u>100.00</u>
§56-5-2995 (DUI Assessment)		\$12	\$ _____
§56-1-286 (DUI Breath Test)		\$25	\$ _____
§14-1-212 (Law Enforce. Funding)		\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)		\$150	\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)		\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)		\$40/ea	\$ _____
3% to County (if paid in installments)		TBD	\$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees		\$500	\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD	\$ _____
TOTAL			\$ <u>128.75</u>

Clerk of Court/Deputy Clerk: Margaret J. Serr
Court Reporter: DCRPPresiding Judge: hms
Judge Code: 216
Sentence Date: 10-12-21

FILED

547

STATE OF SOUTH CAROLINA

OCT 12 2021

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington

JAMES R. PARKS
CLERK, STATE GRAND JURY

STATE

VS.

INDICTMENT/CASE#: 2017-GS-47-27(Count 15)

DAVANTA TERRANCE JOHNSON

AKA: CHEDDAR

Race: B Sex: M Age: 25

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

DL#* SID#

AW#:

Direct Presentment

Date of Offense: 04/08/2016

S.C. Code §: 16-13-0160

CDR Code #: 0258

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Breaking into a Motor Vehicle

In violation of § 16-13-0160 of the S.C. Code of Laws, bearing CDR Code # 0258

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

100051

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOP. 2014 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

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

STATE VS. DAVANTA TERRANCE JOHNSONINDICTMENT/CASE#: 2018 -GS- 47 - 37 (Count 18)**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

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

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____ Beginning	\$ _____
§14-1-206 (Assessments 107.5%)		\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ _____
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ <u>100.00</u>
§56-5-2995 (DUI Assessment)	\$12	\$ _____
§56-1-286 (DUI Breath Test)	\$25	\$ _____
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
3% to County (if paid in installments)	TBD	\$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ _____
TOTAL		\$ <u>128.75</u>

Clerk of Court/Deputy Clerk: Marjorie J. Self
Court Reporter: DCRPPresiding Judge: h/12
Judge Code: 2161
Sentence Date: 10-12-21

FILED**OCT 12 2021**

10/15

STATE OF SOUTH CAROLINA

COUNTY OF Lexington**JAMES R. PARKS
CLERK, STATE GRAND JURY**

STATE

VS.

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018-GS-47-27 (Count 16)

DAVANTA TERRANCE JOHNSON

AKA: CHEDDARRace: B Sex: M Age: 25DOB: [REDACTED] SS#: [REDACTED]

Address: _____

City, State, Zip: _____

DL#* _____ SID# _____

AW#:

Direct Presentment

Date of Offense: 04/08/2016S.C. Code §: 16-13-0030CDR Code #: 3421**SENTENCE SHEET***CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Grand LarcenyIn violation of § 16-13-0030 of the S.C. Code of Laws, bearing CDR Code # 3421☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Solicitor

100051

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 10 days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ yearsand/or to pay a fine of \$ —; provided that upon the service of — days/months/years/Time Served and or payment of \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOP.
days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

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

STATE VS. DAVANTA TERRANCE JOHNSONINDICTMENT/CASE#: 2018 -GS- 47 - 27(COUNT 1B)**SPECIAL CONDITIONS:**☐ PTUP after _____ months/years**And Other Terms Listed Below:**

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

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	\$ _____
§14-1-206 (Assessments 107.5%)			\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)		\$100	\$ _____
§14-1-211 (A)(2)(DUI Surcharge)		\$100	\$ <u>100.00</u>
§56-5-2995 (DUI Assessment)		\$12	\$ _____
§56-1-288 (DUI Breath Test)		\$25	\$ _____
§14-1-212 (Law Enforce. Funding)		\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)		\$150	\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)		\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)		\$40/ea	\$ _____
3% to County (if paid in installments)		TBD	\$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees		\$500	\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD	\$ _____
TOTAL			\$ <u>138.75</u>

Clerk of Court/Deputy Clerk: _____
Court Reporter: _____Margaret J. Seft
DCRPPresiding Judge: _____
Judge Code: _____
Sentence Date: _____h/2
2161
10-12-21

FILED 10

OCT 12 2023

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

IN THE COURT OF GENERAL SESSIONS

STATE

VS.

JAMES R. PARKS
CLERK, STATE GRAND JURYINDICTMENT/CASE#: 201⁸-GS-47-27(Count 18)

DAVANTA TERRANCE JOHNSON

AKA: CHEDDAR

Race: B Sex: M Age: 25

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

DL#* SID#

A/W#:

Direct Presentment

Date of Offense: 04/09/2016

S.C. Code §: 16-03-0625

CDR Code #: 2352

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Resisting Arrest with a Deadly Weapon

In violation of § 16-03-0625 of the S.C. Code of Laws, bearing CDR Code # 2352

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

100051

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 10 days/months/years/Time Served ☐ Youthful Offender Act not to exceed 1 years

and/or to pay a fine of \$1; provided that upon the service of 7 days/months/years/Time Served and or payment

of \$1; plus costs and assessments as applicable*; the balance is suspended with probation for 1

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.

days/months

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

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

STATE VS. DAVANTA TERRANCE JOHNSON INDICTMENT/CASE#: 2018 -GS- 47 - 27(Court 18)**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

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

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	_____	\$ _____
§14-1-206 (Assessments 107.5%)				\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)		\$100		\$ _____
§14-1-211 (A)(2)(DUI Surcharge)		\$100		\$ <u>100.00</u>
§56-5-2995 (DUI Assessment)		\$12		\$ _____
§56-1-286 (DUI Breath Test)		\$25		\$ _____
§14-1-212 (Law Enforce. Funding)		\$25		\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)		\$150		\$ _____
§34-11-70(b)and(c), and 34-11-80(c)and(d) (Admin Fraud Check Court Costs)		\$41		\$ _____
§50-21-114 (BUI Breath Test Fee)		\$50		\$ _____
§56-5-2942(J) (Vehicle Assessment)		\$40/ea		\$ _____
3% to County (if paid in installments)		TBD		\$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees		\$500		\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD		\$ _____
TOTAL				\$ <u>128.75</u>

Clerk of Court/Deputy Clerk: _____
Court Reporter: _____Margaret J. Self
D.C.R.P.Presiding Judge: _____
Judge Code: _____
Sentence Date: _____216
10-12-21

FILED

345

STATE OF SOUTH CAROLINA

OCT 12 2021

IN THE COURT OF GENERAL SESSIONS

COUNTY OF LEXINGTON

JAMES R. PARKS
CLERK, STATE GRAND JURY

STATE

VS.

INDICTMENT/CASE#: 201⁷-GS-47-27(Count 19)

DAVANTA TERRANCE JOHNSON

AKA: CHEDDAR

Race: B Sex: M Age: 25

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

DL#* SID#

A/W#: Direct Presentment

Date of Offense: 04/09/2016

S.C. Code §: 56-05-750

CDR Code #: 0065

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Failure to Stop for Blue Lights

In violation of § 56-05-0750 of the S.C. Code of Laws, bearing CDR Code # 0065

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

100051

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 3 days/months/years/Time Served ☐ Youthful Offender Act not to exceed 1 years

and/or to pay a fine of \$ 0 provided that upon the service of 0 days/months/years/Time Served and or payment

of \$ 0; plus costs and assessments as applicable*; the balance is suspended with probation for 0

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOP.
2014 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

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

STATE VS. DAVANTA TERRANCE JOHNSONINDICTMENT/CASE#: 2018 -GS- 47 - 27(Count 15)**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

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

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	\$ _____
§14-1-206 (Assessments 107.5%)			\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100		\$ _____
§14-1-211 (A)(2)(DUI Surcharge)	\$100		\$ <u>100.00</u>
§56-5-2995 (DUI Assessment)	\$12		\$ _____
§56-1-286 (DUI Breath Test)	\$25		\$ _____
§14-1-212 (Law Enforce. Funding)	\$25		\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150		\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41		\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50		\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea		\$ _____
3% to County (if paid in installments)	TBD		\$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500		\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD		\$ _____
TOTAL			\$ <u>128.75</u>

 Clerk of Court/Deputy Clerk: Margaret J. Self
 Court Reporter: DLRP

 Presiding Judge: WJ
 Judge Code: 2161
 Sentence Date: 10-12-2021

FILED

OCT 12 2021

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

JAMES R. PARKS
CLERK, STATE GRAND JURY

IN THE COURT OF GENERAL SESSIONS

STATE

VS.

INDICTMENT/CASE#: 2018-GS-47 - 27(Count 20)

DAVANTA TERRANCE JOHNSON

AKA: CHEDDAR

Race: B Sex: M Age: 25

DOB: [REDACTED] SS# [REDACTED]

Address:

City, State, Zip:

DL#* SID#

AW#:

Direct Presentment

Date of Offense:

04/09/2021

S.C. Code §:

16-21-0080

CDR Code #:

3467

SENTENCE SHEET

0.545

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Possession of a Stolen Motor Vehicle \$2000-\$10000

In violation of § 16-21-0080 of the S.C. Code of Laws, bearing CDR Code # 3467

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

100051

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.☒ 2014 days days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

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

STATE VS. DAVANTA TERRANCE JOHNSONINDICTMENT/CASE#: 2018 -GS- 47 - 27(Count 20)**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

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

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____ Beginning	\$ _____
§14-1-206 (Assessments 107.5%)		\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ _____
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ <u>100.00</u>
§56-5-2995 (DUI Assessment)	\$12	\$ _____
§56-1-286 (DUI Breath Test)	\$25	\$ _____
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$ _____
§34-11-70(b)and(c), and 34-11-80(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
3% to County (If paid in installments)	TBD	\$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ _____
TOTAL		\$ <u>128.75</u>

 Clerk of Court/Deputy Clerk: Margaret J. Self
 Court Reporter: DCRP

 Presiding Judge: [Signature]
 Judge Code: 2167
 Sentence Date: 10-12-21

FEB 15 2018

James R. Parks
Clerk, State Grand Jury

STATE GRAND JURY OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA

VS.

DAVANTA TERRANCE JOHNSON,
(A/K/A "CHEDDAR")

DEFENDANT.

CASE NO. 2018-GS-47-18**INDICTMENT FOR
ILLEGAL GANGS**Attempted Murder
S.C. Code Ann. § 16-3-29
(2 Counts)Discharging a Firearm into a Dwelling
S.C. Code Ann. § 16-23-440
(2 Counts)

At a session of the State Grand Jury of South Carolina, convened in Columbia, South Carolina on February 14, 2018, the State Grand Jurors present upon their oath:

**COUNT ONE
ATTEMPTED MURDER
S.C. Code Ann. §16-3-29**

That DAVANTA TERRANCE JOHNSON (A/K/A "CHEDDAR") did in Lexington County on or about April 8, 2016, with intent to kill and with malice aforethought, either expressed or implied, attempt to kill Enoch Palmer in violation of Section 16-3-29 of the South Carolina Code of Laws (1976), as amended, such crime involving a criminal gang or a pattern of criminal gang activity.

**COUNT TWO
DISCHARGING A FIREARM INTO A DWELLING
S.C. Code Ann. §16-23-440**

That DAVANTA TERRANCE JOHNSON (A/K/A "CHEDDAR") did in Lexington County, on or about April 8, 2016, unlawfully discharge a firearm or cause a firearm to be discharged into a dwelling house or other building or enclosure regularly

occupied by persons, to wit: [REDACTED] in the West Columbia area of Lexington County, in violation of Section 16-23-440 of the South Carolina Code of Laws (1976), as amended, such crime involving criminal gang activity or a pattern of criminal gang activity.

**COUNT THREE
ATTEMPTED MURDER
S.C. Code Ann. §16-3-29**

That DAVANTA TERRANCE JOHNSON (A/K/A "CHEDDAR") did in Lexington County on or about April 8, 2016, with intent to kill and with malice aforethought, either expressed or implied, attempt to kill Tevin Fountain in violation of Section 16-3-29 of the South Carolina Code of Laws (1976), as amended, such crime involving a criminal gang or a pattern of criminal gang activity.

**COUNT FOUR
DISCHARGING A FIREARM INTO A DWELLING
S.C. Code Ann. §16-23-440**

That DAVANTA TERRANCE JOHNSON (A/K/A "CHEDDAR") did in Lexington County, on or about April 8, 2016, unlawfully discharge a firearm or cause a firearm to be discharged into a dwelling house or other building or enclosure regularly occupied by persons, to wit: [REDACTED] [REDACTED] in the Gaston area of Lexington County, in violation of Section 16-23-440 of the South Carolina Code of Laws (1976), as amended, such crime involving criminal gang activity or a pattern of criminal gang activity.

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


ALAN WILSON (jr)
ATTORNEY GENERAL

A TRUE Bill

FOREMAN

FILED**OCT 12 2021**

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

STATE

VS.

**JAMES R. PARKS
CLERK, STATE GRAND JURY**

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 201⁸-GS-47-18 (Count 1)

DAVANTA TERRANCE JOHNSON

AKA: CHEDDARRace: B Sex: M Age: 25DOB: [REDACTED] SS#: [REDACTED]

Address: _____

City, State, Zip: _____

DL#* _____ SID# _____

A/W#:

Direct Presentment:

Date of Offense: 04/08/2016S.C. Code §: 16-03-0029CDR Code #: 3410**SENTENCE SHEET***CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Assault and Battery 1st DegreeIn violation of § 16-03-0600(C)(1) of the S.C. Code of Laws, bearing CDR Code # 3412☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

100051

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 10 days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ yearsand/or to pay a fine of \$ —; provided that upon the service of — days/months/years/Time Served and or paymentof \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for —

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOP.
2014 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

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

STATE VS. Devonta Terrance JohnsonINDICTMENT/CASE#: 2018 -GS- 47 - 18 Count 1

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

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

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	\$ _____
§14-1-206 (Assessments 107.5%)			\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)		\$100	\$ _____
§14-1-211 (A)(2)(DUI Surcharge)		\$100	\$ <u>100.00</u>
§56-5-2995 (DUI Assessment)		\$12	\$ _____
§56-1-286 (DUI Breath Test)		\$25	\$ _____
§14-1-212 (Law Enforce. Funding)		\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)		\$150	\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)		\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)		\$40/ea	\$ _____
3% to County (if paid in installments)		TBD	\$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees		\$500	\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD	\$ _____
TOTAL			\$ <u>138.75</u>

 Clerk of Court/Deputy Clerk: Maryann J. Self
 Court Reporter: DCRP

 Presiding Judge: _____
 Judge Code: _____
 Sentence Date: 10-12-21

FILED

OCT 12 2021

b-10

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

STATE

VS.

DAVANTA TERRANCE JOHNSON

AKA: CheddarRace: B Sex: M Age: 25DOB: [REDACTED] SS#: [REDACTED]

Address: _____

City, State, Zip: _____

DL#* _____ SID# _____

JAMES R. PARKS
CLERK, STATE GRAND JURY

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 201⁸-GS-47-18(Count 2)A/W#: Direct PresentmentDate of Offense: 4/08/2016S.C. Code §: 16-23-440CDR Code #: 0052

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Weapons/Discharging Firearms into a DwellingIn violation of § 16-23-440 of the S.C. Code of Laws, bearing CDR Code # 0052☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

100051

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 10 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.
2014 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

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

STATE VS. DAVANTA TERRANCE JOHNSONINDICTMENT/CASE#: 2018 -GS- 47 -- 16(Court 2)**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

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

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	\$ _____
§14-1-206 (Assessments 107.5%)			\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)		\$100	\$ <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	\$ _____
§14-1-212 (Law Enforce. Funding)		\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)		\$150	\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)		\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)		\$40/ea	\$ _____
3% to County (if paid in installments)		TBD	\$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees		\$500	\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD	\$ _____
TOTAL			\$ <u>138.75</u>

Clerk of Court/Deputy Clerk: Maryann J. Sely
Court Reporter: DCRPPresiding Judge: [Signature]
Judge Code: 2161
Sentence Date: 10-12-21

STATE GRAND JURY OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA

VS.

DAVANTA TERRANCE JOHNSON,

(A/K/A "CHEDDAR"),

JAMAL TAEWON JOHNSON,

(A/K/A "MAL-B"),

FAIQUAN DAEWOO SHYON SWINDELL,

(A/K/A "GUN PLAY"),

TYREE DAYQUAN GEIGER,

NASIIR ALI SHAHEED DANIELS,

DAQUAN DARNELL HENDERSON,

(A/K/A "HUNCHO"),

DAIQUAN LAMONT BROOKS,

(A/K/A "QUAN STAKKS")

DEFENDANTS.

CASE NO. 2018-GS-47-28

**INDICTMENT FOR
ILLEGAL GANGS**

Conspiracy
S.C. Code Ann. § 16-17-410
(1 Count)

Murder
S.C. Code Ann. § 16-3-10
(1 Count)

Attempted Murder
S.C. Code Ann. § 16-3-29
(2 Counts)

Discharging a Firearm Into a Dwelling
S.C. Code Ann. § 16-23-440
(1 Count)

Possession of a Firearm During the
Commission of a Violent Crime
S.C. Code Ann. § 16-23-490
(3 Counts)

At a session of the State Grand Jury of South Carolina, convened in Columbia, South
Carolina on April 19, 2018, the State Grand Jurors present upon their oath:

**COUNT ONE
CONSPIRACY
S.C. Code Ann. §16-17-410**

That DAVANTA TERRANCE JOHNSON (A/K/A “CHEDDAR”), JAMAL TAEWON JOHNSON (A/K/A “MAL-B”), FAIQUN DAEWOO SHYON SWINDELL (A/K/A “GUN PLAY”), TYREE DAYQUAN GEIGER, NASIIR ALI SHAHEED DANIELS, DAQUAN DARNELL HENDERSON (A/K/A “HUNCHO”), and DAIQUAN LAMONT BROOKS (A/K/A “QUAN STAKKS”) did in Richland County on or about April 8, 2016 unlawfully, willfully, and knowingly unite, combine conspire, confederate, agree and have tacit understanding with one or more persons for the purpose of accomplishing an unlawful object; to wit: committing the crimes of murder and attempted murder; all in violation of Section 16-17-410 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

**COUNT TWO
MURDER
S.C. Code Ann. §16-3-10**

That DAVANTA TERRANCE JOHNSON (A/K/A “CHEDDAR”), JAMAL TAEWON JOHNSON (A/K/A “MAL-B”), FAIQUN DAEWOO SHYON SWINDELL (A/K/A “GUN PLAY”), TYREE DAYQUAN GEIGER, NASIIR ALI SHAHEED DANIELS, DAQUAN DARNELL HENDERSON (A/K/A “HUNCHO”), and DAIQUAN LAMONT BROOKS (A/K/A “QUAN STAKKS”) did in Richland County on or about April 8, 2016 unlawfully, willfully, and with malice aforethought kill a person; to wit: Darrell Goodwin (A/K/A “Tank Gotti”); in violation of Section 16-3-10 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT THREE
ATTEMPTED MURDER
S.C. Code Ann. §16-3-29

That DAVANTA TERRANCE JOHNSON (A/K/A “CHEDDAR”), JAMAL TAEWON JOHNSON (A/K/A “MAL-B”), FAIQUN DAEWOO SHYON SWINDELL (A/K/A “GUN PLAY”), TYREE DAYQUAN GEIGER, NASIIR ALI SHAHEED DANIELS, DAQUAN DARNELL HENDERSON (A/K/A “HUNCHO”), and DAIQUAN LAMONT BROOKS (A/K/A “QUAN STAKKS”) did in Richland County on or about April 8, 2016, with intent to kill and with malice aforethought, attempt to kill Jirmane Mobley in violation of Section 16-3-29 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT FOUR
ATTEMPTED MURDER
S.C. Code Ann. §16-3-29

That DAVANTA TERRANCE JOHNSON (A/K/A “CHEDDAR”), JAMAL TAEWON JOHNSON (A/K/A “MAL-B”), FAIQUN DAEWOO SHYON SWINDELL (A/K/A “GUN PLAY”), TYREE DAYQUAN GEIGER, NASIIR ALI SHAHEED DANIELS, DAQUAN DARNELL HENDERSON (A/K/A “HUNCHO”), and DAIQUAN LAMONT BROOKS (A/K/A “QUAN STAKKS”) did in Richland County on or about April 8, 2016, with intent to kill and with malice aforethought, attempt to kill Dominique Green in violation of Section 16-3-29 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT FIVE
DISCHARGING A FIREARM INTO A DWELLING
S.C. Code Ann. §16-23-440

That DAVANTA TERRANCE JOHNSON (A/K/A “CHEDDAR”), JAMAL TAEWON JOHNSON (A/K/A “MAL-B”), FAIQUN DAEWOO SHYON SWINDELL (A/K/A “GUN PLAY”), TYREE DAYQUAN GEIGER, NASIR ALI SHAHEED DANIELS, DAQUAN DARNELL HENDERSON (A/K/A “HUNCHO”), and DAIQUAN LAMONT BROOKS (A/K/A “QUAN STAKKS”) did in Richland County on or about April 8, 2016 unlawfully discharge a firearm or cause a firearm to be discharged into a dwelling house or other building or enclosure regularly occupied by persons, to wit: an apartment building located at [REDACTED] Marlboro Street, Columbia, South Carolina, in violation of Section 16-23-440 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT SIX
POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME
S.C. Code Ann. §16-23-490

That JAMAL TAEWON JOHNSON (A/K/A “MAL-B”) did in Richland County, on or about April 8, 2016, possess or visibly display a firearm during the commission or attempted commission of a violent crime, to wit: Murder and Attempted Murder in violation of Section 16-23-490 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT SEVEN
POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME
S.C. Code Ann. §16-23-490

That FAIQUAN DAEWOO SHYON SWINDELL (A/K/A "GUN PLAY") did in Richland County, on or about April 8, 2016, possess or visibly display a firearm during the commission or attempted commission of a violent crime, to wit: Murder and Attempted Murder in violation of Section 16-23-490 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

COUNT EIGHT
POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME
S.C. Code Ann. §16-23-490

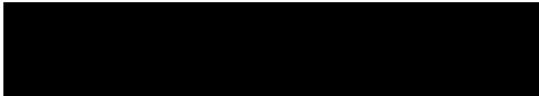
That TYREE DAYQUAN GEIGER did in Richland County, on or about April 8, 2016, possess or visibly display a firearm during the commission or attempted commission of a violent crime, to wit: Murder and Attempted Murder in violation of Section 16-23-490 of the South Carolina Code of Laws (1976), as amended, such conduct arising out of and involving a criminal gang and a pattern of criminal gang activity.

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

A True Bill



ALAN WILSON (jr)
ATTORNEY GENERAL



FOREMAN

FILED**OCT 12 2021**

2-3045

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

IN THE COURT OF GENERAL SESSIONS

STATE

VS.

JAMES R. PARKS
CLERK, STATE GRAND JURYINDICTMENT/CASE#: 201st-GS-47-28(Count 2)

DAVANTA TERRANCE JOHNSON

AKA: CHEDDAR

Race: B Sex: M Age: 25

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

DL# SID#

A/W#:

Direct Present

Date of Offense: 04/08/2016

S.C. Code §: 16-03-0010

CDR Code #: 0116

SENTENCE SHEET*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Voluntary Manslaughter

In violation of § 16-03-0050 of the S.C. Code of Laws, bearing CDR Code # 0217

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

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

ATTEST:

Solicitor 100051 SC Bar # Davanta Johnson Defendant Attorney for Defendant 75281 SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 15 days/months/years/Time Served ☐ Youthful Offender Act not to exceed 1 years

and/or to pay a fine of \$ 1; provided that upon the service of 1 days/months/years/Time Served and or payment

of \$ 1; plus costs and assessments as applicable*; the balance is suspended with probation for 1

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOP. 2014 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

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

STATE VS. DAVANTA TERRANCE JOHNSONINDICTMENT/CASE#: 2018 -GS- 47 - 28(Court 2)**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

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

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$	Beginning	\$
§14-1-206 (Assessments 107.5%)			\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100		\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100		\$
§56-5-2995 (DUI Assessment)	\$12		\$
§56-1-286 (DUI Breath Test)	\$25		\$
§14-1-212 (Law Enforce. Funding)	\$25		\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150		\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41		\$
§50-21-114 (BUI Breath Test Fee)	\$50		\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea		\$
3% to County (if paid in installments)	TBD		\$
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500		\$ 500.00
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD		\$
TOTAL			\$ 625.00

Clerk of Court/Deputy Clerk: Margaret J. Self
Court Reporter: DCRPPresiding Judge: WJ
Judge Code: 2161
Sentence Date: 10-12-21

FORM 5

2022CP3200833

STATE OF SOUTH CAROLINA

County of Richland / Lexington

Davonta T. Johnson

Full name and phone number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

LISA M. COMBER
CLERK OF COURT
LEXINGTON, SC

2022 MAR 10 PM 2:24

FILED

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 Richland Correctional Institution
Magnolia B-RH 16 4848 Bokline Hwy 29067
2. Name and location of Court which imposed sentence Lexington / Richland County
General Sessions
3. Name(s) of co-defendant(s) (if any) Frese Gieger, Jamal Johnson,
Najee Daniel, William Burdell, Faithquan Deane Swindell, Daquan Brooks,
Rayan Henderson, Isamic Bonabden
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 65-2018-65-47-27, 2018-65-47-18,
(b) 2018-65-47-27, 2018-65-47-28

- (c) Weapon/Discharging Firearms into a Dwelling, Possession of a stolen vehicle
\$2,000.00 Voluntary manslaughter
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) October 12, 2001; 15 years concurrent
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty Yes
- (b) after a plea of not guilty N/A
- (c) after a plea of nolo contendere N/A
7. Did you appeal from the judgment of conviction or the imposition of sentence? N/A
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: NO
- (a) Attorney did not advise me Counselor didn't allow
- (b) me to appeal

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) ineffective assistance of counsel
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) please see Attachment sheets
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

Attachment 11 (a)-ineffective Assistance Counsel

Counsel ineffective for failing to disclose and explain
discovery material to petitioner

Counsel ineffective failing to prepare for Petitioner's case
by not investigating the evidence, facts and the
circumstances of the case

Counsel failed to give me discovery material

(I) Petitioner, respectfully reserve the right to amend Application
for further issues.)

(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) This is initial P.C.R.
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? yes
- (b) your trial, if any? N/A
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? N/A
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Andrew ~~Parsons~~ ^{Farley} : 205 East main st. 29018
- ii. _____
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Plea Deal
- ii. _____
- iii. _____

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

Sentences vacated to a lower plea, or convictions/conviction and sentences Dismiss

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

No

Petitioner believes he has additional claims for post conviction relief but does not yet have collateral counsel / access to the discovery process, or funds for expert services to investigate these claims. As such I, the Petitioner / would respectfully reserve the right to Amend application for further issues.

STATE OF SOUTH CAROLINA)

VERIFICATION

County of Lexington)

I, [REDACTED] Davante T. Johnson, 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.

Davante T. Johnson

SWORN to and subscribed before me this 4th
day of March, 2022.

Christine A. Amos (L.S.)
Notary Public

My Commission Expires: 1-22-2029

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

I, Dawanda T. Johnson, 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.

Dawanda T. Johnson

Applicant

SWORN or affirmed to and subscribed before me this
4th day of March, 2022.

Cathrine A. Cross

Notary Public

My Commission Expires: 1-22-2029

Daranta T. Johnson

KCI 4848 Goldmine Hwy ~~29067~~ Kerstan SC 29067

Honorable Beth Carrigg

clerk of court

206 E. main st. 146 Lexington SC, 29072-3557

Honorable clerk

please find enclosed an application for post-conviction
Relief to filed in your office. I would like to have a
stamped clocked filed copy returned to me with the
name of the Attorney that is assigned to handle the
above said p.c.R. Application. I have enclosed a
self addressed ~~one~~ envelope to be used for this
purpose. Thank you in advanced for your time and
consideration in this matter

I Remain

Daranta T Johnson

FILED

2022 JUL 15 PM 2:23
 STATE OF SOUTH CAROLINA
 COUNTY OF LEXINGTON

CLERK OF COURT
 LISA M. COMER
 LEXINGTON SC

DAVANTA T. JOHNSON
 Applicant,

v.

STATE OF SOUTH CAROLINA,
 Respondent.

IN THE COURT OF COMMON PLEAS
 FOR THE ELEVENTH JUDICIAL CIRCUIT

Case No.: 2022-CP-32-00833

**RETURN AND MOTION FOR MORE
 DEFINITE STATEMENT TO THE
 APPLICATION FOR POST-
 CONVICTION RELIEF**
 (Counsel Already Appointed)

In response to the post-conviction relief application by Applicant Davanta T. Johnson (A/K/A “Cheddar”) on March 10, 2021, Respondent, the State of South Carolina, makes the following return¹ to the application and requests Applicant, though appointed counsel, file an amendment providing specific allegations on which he asserts he is entitled to relief in compliance with the Uniform Post-Conviction Procedures Act and the South Carolina Rules of Civil Procedure in advance of the scheduling of any evidentiary hearing to resolve the vague claims as set forth in this application.

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections. On February 15, 2018, the State Grand Jury of South Carolina indicted Applicant by superseding

¹ Respondent’s return was due to be filed within sixty days of receipt. See Rule 12(a), SCRCPP (“[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 requested an extension to file this return once all necessary transcripts were 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 transcripts, Respondent submitted this return to the application.

indictment for two counts of Attempted Murder (2018-GS-47-00018 Ct. 1 & 3), and two counts of Discharging a Firearm into a Dwelling (2018-GS-47-00018 Ct. 2 & 4). Thereafter, on April 19, 2018, the State Grand Jury of South Carolina indicted Applicant by superseding indictment for two counts of Conspiracy (2018-GS-47-00027 Ct. 1 & 14), two counts of Second-Degree Burglary (2018-GS-47-00027 Ct. 2 & 4), Petit Larceny (2018-GS-47-00027 Ct. 3), two counts of Grand Larceny (2018-GS-47-00027 Ct. 5 & 16), six counts of Breaking into a Motor Vehicle (2018-GS-47-00027 Ct. 6, 7, 8, 9, 10, 15), Resisting Arrest with a Deadly Weapon (2018-GS-47-00027 Ct. 18), Failure to Stop for a Blue Light (2018-GS-47-00027 Ct. 19), and Possession of a Stolen Vehicle (2018-GS-47-00027 Ct. 20). Also on April 19, 2018, the State Grand Jury of South Carolina indicted Applicant by superseding indictment for Conspiracy (2018-GS-47-00028 Ct. 1), Murder (2018-GS-47-00028 Ct. 2), two counts of Attempted Murder (2018-GS-47-00028 Ct. 3 & 4) and Discharging a Firearm into a Dwelling (2018-GS-47-00028 Ct. 5). All indictments stemmed from Applicant's participation in illegal gang activity with a particular emphasis on a two-week crime spree in Lexington County and surrounding counties that culminated in the murder of Daryl Goodwin. Applicant was represented by attorney Andrew Farley, Esquire. Assistant Attorney General John Conrad of the South Carolina Attorney General's Office prosecuted the case.

On October 21, 2021, Applicant, alongside counsel, appeared before the Honorable DeAndrea G. Benjamin, circuit court judge, via Judge Benjamin's virtual courtroom on the WebEx platform² to enter guilty pleas to nine charges: voluntary manslaughter as the lesser-included offense of murder (2018-GS-47-00028 Ct. 2), Discharging a Firearm into a Dwelling (2018-GS-47-00018 Ct. 2), First-Degree Assault and Battery as a lesser-included offense of Attempted

² During the plea, Applicant affirmed he wished to proceed forward with this plea virtual and waived his right to appear in person. (Tr. p. 10-11, 23).

Murder (2018-GS-47-00018 Ct. 1), Possession of a Stolen Vehicle (2018-GS-47-00027 Ct. 20), Conspiracy (2018-GS-47-00027 Ct. 14), Breaking into a Motor Vehicle (2018-GS-47-00027 Ct. 15), Failure to Stop for a Blue Light (2018-GS-47-00027 Ct. 19), Resisting Arrest with a Deadly Weapon (2018-GS-47-00027 Ct. 18), and Grand Larceny (2018-GS-47-00027 Ct. 16), as part of a global plea agreement entered into between Applicant and the State for the disposition of all pending State Grand Jury charges for an aggregate fifteen-year term of imprisonment and the dismissal of all remaining charges. After a colloquy wherein Judge Benjamin ascertained Applicant was freely, knowingly, and intelligently entering his pleas, Judge Benjamin accepted Applicant's pleas and sentenced him to an aggregate fifteen-year term of imprisonment pursuant to the plea agreement. 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:

- Ineffective assistance of counsel, specifically,
 - "Counsel ineffective for failing to disclose and explain discovery material to petitioner.";
 - "Counsel ineffective for failing to prepare for petitioner's case by not investigating the evidence, facts, and the circumstances of the case."; and
 - "Counsel failed to give me discovery material."

As requested relief, Applicant states he is seeking "sentenced vacated to a lower plea or conviction and sentences dismiss."

Attached herewith and incorporated herein are the records of the State Grand Jury Clerk of Court regarding the subject convictions, the transcript 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 Allegations of Ineffective Assistance of Counsel

Applicant claims he was provide ineffective assistance of counsel based on vague claims that counsel failed to investigate his case and failed to properly review discovery with him. However, Applicant wholly fails to state with any specificity facts to support these vague allegations and fails to state what discovery he did not review or what additional investigation counsel failed to undertake. Based on this, it is impossible for Respondent to discern how exactly Applicant believes counsel was ineffective. Accordingly, Respondent moves for Applicant, through his appointed counsel, to amend this allegation to include sufficient, specific facts to support his claim of ineffective assistance of counsel.

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

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d

813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland to determine whether counsel's conduct "was so ineffective as to require reversal" of the applicant's conviction or sentence. 466 U.S. at 687. First, the applicant must show that counsel's performance was deficient; and second, that the deficient performance prejudiced the applicant. Id. at 668; Butler, 286 S.C. at 442, 334 S.E.2d at 814.

The first prong—constitutional deficiency—is "necessarily linked to the practice and expectations of the legal community." Padilla v. Kentucky, 559 U.S. 356, 366 (2010). In order to prove deficient performance, the applicant must show counsel's representation fell below an objective standard of "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814.

Strickland, however, "does not guarantee perfect representation[—]only a 'reasonably competent attorney.'" Harrington v. Richter, 562 U.S. 86, 110 (2011) (quoting Strickland, 466 U.S. at 687). Representation is constitutionally ineffective only if counsel's conduct "so undermined the proper functioning of the adversarial process" that the defendant was denied a fair proceeding. Strickland, 466 U.S. at 686. Just as there is "no expectation that competent counsel will be a flawless strategist or tactician, an attorney may not be faulted for a reasonable miscalculation or lack of foresight or for failing to prepare for what appear to be remote possibilities." Harrington, 562 U.S. at 110.

Accordingly, "[j]udicial scrutiny of counsel's performance must be highly deferential, as it is all too tempting for a defendant to second-guess counsel's assistance after conviction or an adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved

unsuccessful, to conclude that a particular act or omission of counsel was unreasonable.” Strickland, 466 U.S. at 689; see also Yarborough v. Gentry, 540 U.S. 1, 6 (2003) (“The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.”). Unlike a later reviewing court, the attorney observed the relevant proceedings; knew of materials outside the record; and interacted with the client, opposing counsel, and the judge. Thus, the question is whether an attorney’s representation amounted to incompetence under “prevailing professional norms,” not whether it deviated from best practices or most common custom. Id. (quoting Strickland, 466 U.S. at 690).

Thus, a fair assessment of attorney performance requires every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel’s challenged conduct, and to evaluate the conduct from counsel’s perspective at the time. Id. Because of the difficulties inherent in making such an evaluation, the reviewing court must indulge in a “strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance.” Butler, 286 S.C. at 445, 334 S.E.2d at 816. The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625.

Reviewing courts “must judge the reasonableness of counsel’s challenged conduct on the facts of the particular case, viewed at the time of counsel’s conduct.” Strickland, 466 U.S. at 690. An applicant making a claim of ineffective assistance “must identify the acts or omissions of counsel that are alleged not to have been the result of reasonable professional judgment.” Id. The reviewing court must then “determine whether, in light of all the circumstances, the identified acts or omissions were outside the wide range of professionally competent assistance.” Id.

The Strickland standard must be applied with scrupulous care, lest “intrusive post-trial inquiry” threaten the integrity of the very adversary process the right to counsel is meant to serve.

466 U.S. at 689-690; see also Harrington, 562 U.S. at 105 (cautioning that an ineffective assistance of counsel claim could potentially function as a way to escape rules of waiver and forfeiture and raise issues not presented at trial). Even under *de novo* review, the standard for judging counsel's representation is a most deferential one. Harrington, 562 U.S. at 105. Unlike a later reviewing court, the attorney observed the relevant proceedings; knew of materials outside the record; and interacted with the client, opposing counsel, and the judge. Thus, the question is whether an attorney's representation amounted to incompetence under "prevailing professional norms," not whether it deviated from best practices or most common custom. Id. (quoting Strickland, 466 U.S. at 690) (emphasis added).

The second, or "prejudice" prong of Strickland is rooted in the very purpose of the Sixth Amendment guarantee of counsel—to ensure a defendant has the assistance necessary to justify reliance on the outcome of the proceeding. Id. at 691–92. In order to prove prejudice, an applicant must demonstrate counsel's deficient performance prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable probability is a probability "sufficient to undermine confidence in the outcome." Strickland, 466 U.S. at 694. Thus, it is not enough "to show the errors had some conceivable effect" on the outcome of the proceeding—counsel's errors must be "so serious as to deprive the defendant of a fair trial." Id. at 687 (emphasis added).

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, Hill v. Lockhart extended the two-part Strickland test to challenge guilty pleas based on ineffective assistance of counsel." Hill, 474 U.S. 52; cf. Padilla, 559 U.S. at 373 (recognizing the guilty plea process is a "critical phase of litigation" for purposes of the Sixth Amendment right to

effective assistance of counsel). A claim of ineffective assistance of guilty plea counsel requires the applicant present evidence satisfying two prongs: first, evidence that counsel's performance was deficient; and second, evidence that counsel's deficient performance prejudiced the defendant by causing him to plead guilty rather than go to trial. Hill, 474 U.S. 52.

The analysis of counsel's performance under the first prong of Strickland remains unchanged—the applicant must show counsel's representation fell below the objective standard of reasonableness demanded of attorneys in criminal cases. Hill, 474 U.S. at 58–59; accord Thompson v. State, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000). An applicant alleging his plea was induced by ineffective assistance of counsel must prove counsel's advice to plead guilty was not “within the competence demanded of attorneys in criminal cases.” Hill, 474 U.S. at 56.

The second, or “prejudice” prong, however, “focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process.” Id. at 58–59. Specifically, when an applicant claims counsel's deficient performance caused him to accept a plea, the applicant “must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial.” Id. at 59. This inquiry “focuses on a defendant's decisionmaking” and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. Lee v. United States, 582 U.S. ___, 137 S. Ct. 1958, 1966 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. Padilla, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—not whether counsel would have still advised him or her to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999).

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 (internal citations and quotation marks omitted); cf. Hill, 474 U.S. at 58 ("[R]equiring a 'prejudice' showing from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel 'will serve the fundamental interest in the finality of guilty pleas.'"). Reviewing "[c]ourts should not upset a plea solely because of post hoc assertions from a defendant about how he would have pleaded but for his attorney's deficiencies. Lee, 582 U.S. ___, 137 S. Ct. at 1967. Rather, judges should "look to contemporaneous evidence to substantiate a defendant's expressed preferences. Id. In determining whether a guilty plea was taken in accordance with constitutional standards, the reviewing judge must analyze and consider the entire record, including the transcript of the plea and the evidence presented at the PCR hearing. Harres, 282 S.C. at 134, 318 S.E.2d at 361.

The performance and prejudice standards, however, "do not establish mechanical rules; [t]he ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged." Id. at 696. Moreover, "there is no reason for a court deciding an ineffective assistance claim to approach the inquiry in the same order or even to address both components of the inquiry if the defendant makes an insufficient showing on one." Id. at 697. The court "need not determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. Id. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, the court may evaluate the prejudice prong only. Id.

Respondent submits that Applicant cannot satisfy either requirement of the Strickland test, as the record establishes he was represented by a competent attorney who diligently represented

him. During the plea colloquy, he affirmed that he was satisfied with his counsel, that he had met with counsel for as long as necessary, and he had “gone over everything” (presumably the discovery and evidence) with counsel. (Tr. 28).

However, without more specific allegations of ineffective assistance of counsel and factual support for those allegations, it is impossible to respond to these general claims of ineffective assistance of counsel with any specificity. Accordingly, Respondent requests Applicant, through his appointed counsel, amends his application to include the specificity required to support an allegation of ineffective assistance of counsel.

IV. Motion for More Definite Statement

Applicant alleges he is being held in custody unlawfully based on vague allegations of ineffective assistance of counsel. However, Applicant fails to set forth with specificity the facts and circumstances upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must “. . . specifically set forth the grounds upon which the application is based.” Section 17-27-50 of the Code of Laws of South Carolina (1976). In an application for post-conviction relief, it is incumbent upon Applicant to make at least a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). See also Rule 8(a)(2), SCRPC (requiring all civil pleadings to include “a short and plain statement of the facts showing that the pleader is entitled to relief”); Rule 71.1(d), SCRPC (“Counsel shall insure that all available grounds for relief are included in the application and shall amend the application if necessary.”). “[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the [applicant] that he was

deprived of adequate and effective assistance of counsel is insufficient.” Coardes v. State, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974).

Applicant has failed to state with any specificity the specific facts giving rise to these allegations. Additionally, this allegation is not supported by any other additional information in the application. Respondent moves pursuant to Rule 12(e), SCRCRCP, to require Applicant, through his appointed counsel, to provide a more definite statement of his allegations by filing an amended application well in advance of the hearing scheduled in this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the application.

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, SCRCRCP. *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 an Amended Application Prior to Any Hearing Being Scheduled

WHEREFORE, having made its return, Respondent requests Applicant, though appointed counsel, file an amendment providing specific allegations on which he asserts he is entitled to relief in compliance with the Uniform Post-Conviction Procedures Act and the South Carolina Rules of Civil Procedure in advance of the scheduling of any evidentiary hearing to resolve the vague claims as set forth in this application.

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
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

July 1, 2022

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Davanta Johnson, # [REDACTED]

Applicant,

vs

State of South Carolina,

Respondent,

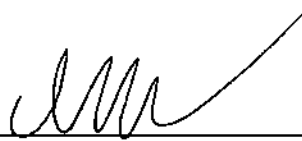
IN THE COURT OF COMMON PLEAS

2022-CP-32-00833

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 in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Ashley A. McMahan, Esquire
McMahan & Taylor, Attorneys, LLC
Post Office Box 50536
Columbia, SC 29250

DATED this the 1st day of July, 2022.


Joshua Osborne, Legal Assistant
 For Respondent

FILED

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
 2024 AUG 26 PM 05 THE 11th JUDICIAL CIRCUIT
 COUNTY OF LEXINGTON) Case No.: 2022-CP-32-00833

Davanta Johnson, # [REDACTED]

LISA L. COMER
 CLERK OF COURT
 LEXINGTON SC

Applicant,

**AMENDED POST-CONVICTION
 RELIEF APPLICATION**

v.

State of South Carolina.

The Applicant, by and through his undersigned attorney, hereby amends his PCR application filed on March 10, 2022, to add the following allegations:

1. Ineffective Assistance of Counsel of Andrew B. Farley –
 - a. The case was on the trial docket, but Applicant felt that Mr. Farley was not prepared to go to trial. Applicant felt he had no choice but to plead guilty even though the Applicant wanted to go to trial.
 - b. Mr. Farley never discussed possible defenses that could have been raised at a trial.

Furthermore, the Applicant requests that he be permitted to amend his PCR application to conform to the evidence presented at the PCR hearing should any new or unaddressed issues arise during the course of the hearing that have not been specifically addressed in the Application. See Simpson v. Moore, 367 S.C. 587, 627 S.E.2d 701 (2006).

Respectfully submitted,



ASHLEY A. MCMAHAN

MCMAHAN LAW, LLC

PO Box 50536

Columbia, SC 29250

803-219-1110

ashley@mcmahanlawsc.com

SC Bar No. 71676

ATTORNEY FOR APPLICANT

August 23, 2024
 Columbia, South Carolina

CERTIFICATE OF SERVICE

I certify that I have served this document via email to:

Donald J. Zelenka
Deputy Attorney General
dzelenka@scag.gov

This 23rd day of August, 2024.

A handwritten signature in black ink, appearing to read "Ashley A. McMahon", written over a horizontal line.

ASHLEY A. MCMAHAN
Attorney for Applicant

STATE OF SOUTH CAROLINA) SOUTH CAROLINA CIRCUIT COURT 11
COUNTY OF LEXINGTON) DOCKET NO. 2022-CP-32-00833

DAVANTA T. JOHNSON,	)
Plaintiff,	)
versus	)
	)
STATE OF SOUTH CAROLINA,	)
Defendant.	)

H E A R I N G
BEFORE THE HONORABLE DAVID P. CARAKER, JR.

DATE: August 28, 2024
TIME: 9:50 a.m.
LOCATION: South Carolina Circuit Court 11

TRANSCRIBED BY: Mary Ragsdale

LEGAL EAGLE
Post Office Box 5682
Greenville, South Carolina 29606
864-467-1373
depos@legaleagleinc.com

1 APPEARANCES:

2 RUSS BARLOW, II, ESQUIRE

3 S.C. Attorney General's Office

4 PO Box 11549

5 Columbia, South Carolina 29211

6 Attorney for the Plaintiff,

7

8 ASHLEY MCMAHAN, ESQUIRE

9 McMahan Law, LLC

10 PO Box 50536

11 Columbia, South Carolina 29250

12 Attorney for the Defendant.

13

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13 PARTY'S DESCRIPTION PAGE

14 (None Marked)

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24 (THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL

25 IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1 THE COURT: All right. Yes, sir.

2 MR. BARLOW: Thank you, Your Honor. May it please the
3 Court. Russ Barlow on behalf of the State of South Carolina.
4 This is the post-conviction relief matter of
5 Davanta T. Johnson versus the State, case number
6 2022-CP-32-00833 out of Lexington County. On
7 February 15, 2018, state grand jury of South Carolina
8 indicted Applicant by superseding indictment for two counts
9 of attempted murder, 2018-GS-4700018 Counts 1 and 3. And two
10 counts of discharging a firearm into a dwelling,
11 2018-GS-470018 Counts 2 and 4.

12 Thereafter, on April 19, 2018, the state grand jury
13 indicted Applicant by superseding indictment for two counts
14 of conspiracy, 2018-GS-470027 Counts 1 and 14. Two counts of
15 second-degree burglary, 2018-GS-4700027 Counts 2 and 4.
16 Petty larceny, 2018-GS-4700027, Count 3. Two counts of grand
17 larceny, 2018-GS-4700027 Counts 5 and 16. Six counts of
18 breaking into a motor vehicle, 2018-GS-4700027 Counts 6, 7,
19 8, 9, 10, and 15. Resisting arrest with a deadly weapon,
20 2018-GS-4700027 Count 18. Failure to stop for a blue light,
21 2018-GS-4700027 Count 19. And possession of a stolen
22 vehicle, 2018-GS-4700027 Count 20.

23 On April 19, 2018, the state grand jury indicted
24 Applicant by superseding indictment for conspiracy,
25 2018-GS-4700028 Count 1. Murder, 2018-GS-4700028 Count 2.

1 Two counts of attempted murder, 2018-GS-4700028 Counts 3 and
2 4. And discharging a firearm into a dwelling,
3 2018-GS-4700028 Count five. All indictments stem from
4 Applicant's participation in illegal gang activity with a
5 particular emphasis on a two-week crime spree in Lexington
6 County and surrounding counties that culminated in the murder
7 of Darrell Goodwin.

8 Applicant was represented by Andrew Farley and
9 Assistant Attorney General John Conrad of the South Carolina
10 Attorney General's office prosecuted the case. On October
11 21, 2021, Applicant with counsel appeared before the
12 Honorable DeAndrea G. Benjamin, Circuit Court judge at that
13 time and via Judge Benjamin's virtual courtroom on the Webex
14 platform and entered a guilty plea to nine charges. That
15 would be voluntary manslaughter as lesser included offense of
16 the murder charge.

17 Discharging a firearm into a dwelling, first degree
18 assault and battery as a lesser included offense of attempted
19 murder, possession of a stolen vehicle, conspiracy, breaking
20 into a motor vehicle, failure to stop for a blue light,
21 resisting arrest with a deadly weapon, and grand larceny.

22 As part of a global plea agreement entered into between
23 Applicant and state for the disposition of all of his pending
24 state grand jury charges. And he -- Applicant was sentenced
25 to an aggregate of 15 years imprisonment.

1 And after a colloquy with Judge Benjamin, Judge
2 Benjamin ascertained that Applicant was freely, knowingly,
3 and intelligently entering his pleas. Judge Benjamin
4 accepted his plea and sentenced him to the aggregate 15-year
5 term of imprisonment pursuant to the plea agreement,
6 Applicant did not pursue a direct appeal.

7 On March 10, 2021. Applicant timely commenced this PCR
8 action alleging ineffective assistance of counsel, failure to
9 disclose and explain discovery, failure to investigate and
10 failed to give Applicant his discovery materials.

11 On August 23 2024, Applicant's counsel amended the
12 allegations and with two or allegations, one being that -- or
13 counsel was not prepared to go to trial and counsel failed to
14 discuss defenses.

15 Applicant is requesting relief in the form of sentences
16 vacated to a lesser plea or conviction and his sentences
17 dismissed. Before this court are the Lexington County Clerk
18 of Court records, Applicant's records from the South Carolina
19 Department of Corrections, Applicant's guilty plea
20 transcript, and the records of this PCR action. At this
21 time, we'd ask counsel to indicate which allegations she
22 intends to move forward on.

23 MS. MCMAHAN: All of them.

24 THE COURT: Yes, ma'am.

25 MS. MCMAHAN: Your Honor --

1 THE COURT: Can I hear from you? Thank you.

2 MS. MCMAHAN: Your Honor. At this time, we call
3 Mr. Johnson.

4 THE COURT: All right.

5 THE CLERK: Raise your right hand.

6 DAVANTA T. JOHNSON,
7 having been duly sworn, testified as follows:

8 THE CLERK: Please state your name, spelling your last
9 name for the record.

10 THE WITNESS: Davanta Johnson. J-O-H-N-S-O-N.

11 DIRECT EXAMINATION

12 BY MS. MCMAHAN:

13 Q. Will you spell your first name too?

14 A. D-A-V-A-N-T-A.

15 Q. And did you file this PCR application?

16 A. Yes, ma'am.

17 Q. And do you still want to go forward on it?

18 A. Yes, ma'am.

19 Q. And who was your attorney?

20 A. Andrew Farley.

21 Q. And how many times do you think you met with
22 Mr. Farley?

23 A. I only met -- met to him one -- one or two times.

24 Q. How'd you meet with him?

25 A. Through -- through the little screen thing at

1 Lexington County Detention Center.

2 Q. So through the video?

3 A. No -- no. It's a little -- it's a little window
4 that you go --

5 Q. Oh. Like in person, but there was a window.

6 A. Window right there.

7 Q. And were you out on bond or detained the whole
8 time?

9 A. Detained the whole time.

10 Q. And the first time you guys met, do you remember
11 what you talked about?

12 A. No, ma'am.

13 Q. Did he go over the evidence he had?

14 A. No, ma'am. He just -- he just trying to rush him
15 -- rush me in to take the plea.

16 Q. So tell the Court about that.

17 A. No, he told me -- he told -- he told me if -- if I
18 take the plea I was going to (inaudible) life sentence and my
19 co-Defendant was going to roll (inaudible) was going to
20 testify him.

21 Q. Did you want a trial?

22 A. Yes, ma'am.

23 Q. Did you tell him that?

24 A. Yes, ma'am.

25 Q. And what did he tell you about that?

1 A. Man, he just -- he was just (inaudible) stuff
2 that's like he don't -- he don't want me to go to trial. I
3 might catch a life sentence, this -- this and that. Saying
4 -- saying best for me to take the plea.

5 Q. So what made you change your mind and plead
6 guilty?

7 A. Because man, he -- he kept -- he kept -- he kept
8 confessing that my co-Defendant was going to roll on me, was
9 going to testify on me, so I -- I'm -- I'm kind of nervous.

10 Q. Why were you nervous?

11 A. (Inaudible) kept talking about life -- life --
12 life sentence.

13 Q. What was that make -- why was that making you
14 nervous?

15 A. Because it's paranoid. I just -- I don't know.

16 Q. What made you decide now that you would've wanted
17 to go on trial? You would've wanted a trial? Not plead
18 guilty.

19 A. Because I -- because I -- I -- I kind of -- I kind
20 of figured out, I done went to the law library and stuff,
21 looking -- looking over my case, you know, the transcript and
22 stuff like that. I'm seen little errands in and stuff like
23 that.

24 Q. Okay. Like what's an example of an error that you
25 saw?

1 A. I saw that man, they -- they -- they were trying
2 to say my co-Defendant said this, but he really ain't said
3 that. Then another -- another -- another thing I wanted -- I
4 wanted to know though, but they -- they never gave me no --
5 no motion discovery so I can go over. But they kept saying
6 that it was sealed, but the AG told him -- told him that when
7 -- when the case was over, we could have got -- got a motion
8 -- motion of discovery. So I was let -- led in the blind.

9 Q. But did Mr. Farley have the discovery?

10 A. Yeah, but -- but he never brought -- brought up --
11 brought up there to me, let -- let me read it or nothing.

12 Q. So he never brought the discovery with him when he
13 talked to you?

14 A. Nah, he never brought discovery. He just kept
15 coming at it with the plea.

16 Q. Do you remember how long your meetings lasted with
17 him?

18 A. Ten minutes.

19 Q. In the second meeting, what did you guys talk
20 about? Do you remember? Did you sign sentencing sheets or
21 anything that day?

22 A. No. I think so.

23 Q. Did you feel like you had to plead guilty at this
24 point because of Mr. Farley?

25 A. Yeah. Because he wasn't -- he -- he wasn't in my

1 best interest at all. But at the same time, I ain't had
2 enough money to get to get a paid lawyer, so I had to go with
3 that now on, what I know.

4 Q. Did you have an attorney before Mr. Farley?

5 A. Yeah, Barney (inaudible) but he went to be a
6 prosecutor for the Lee County (inaudible), I guess that --
7 they tell me.

8 Q. So how long did you have Barney for?

9 A. 2018 to 2020.

10 Q. So he was your attorney for about two years?

11 A. Yes, ma'am.

12 Q. You don't have any complaints about Mr. Giese?

13 A. No, ma'am.

14 Q. When was Mr. Farley appointed to you?

15 A. 2021, like August or September.

16 Q. And did you guys sit and have a discussion about
17 the defenses you might have had to your case?

18 A. No, ma'am.

19 Q. Did he tell you how many years you were facing?

20 A. No, ma'am.

21 Q. Is there anything else you want the Court to know
22 today about your PCR?

23 A. No, ma'am.

24 MS. MCMAHAN: Okay. Answer any questions Mr. Barlow
25 has.

1 MR. BARLOW: Thank you, Your Honor. May it please the
2 Court?

3 CROSS-EXAMINATION

4 BY MR. BARLOW:

5 Q. Good morning, Mr. Johnson. How are you doing?

6 A. (Inaudible).

7 Q. I'm good. Just want to talk to you real quick
8 about PCR. Do you understand what PCR is?

9 A. (Inaudible) going to explain something.

10 Q. Okay. Do you -- let me ask you this, do you
11 understand the relief that this court can grant you?

12 A. Yeah. To the maximum -- maximum sentence.

13 Q. So the Court here can, if they were to grant you
14 relief on this, you would go back to square one.

15 A. We want to go -- go back to -- going back to --
16 going to trial and all that.

17 Q. In all of your indictments that I read off. Okay.
18 And do you understand the maximum exposure you're -- you're
19 facing?

20 A. Yes, sir.

21 Q. What is that?

22 A. Like life sentence or about 30 years, whatever --
23 whatever the maximum is.

24 Q. So the maximum exposure on all of your indictments
25 is life plus 293 years.

1 A. Right.

2 Q. What are you serving right now?

3 A. (Inaudible).

4 Q. And you still want to go forward?

5 A. Yes, sir.

6 Q. Okay. So let me ask you this. If you were
7 granted the -- if this court were to grant you a relief
8 today, you're saying that you would not plea -- you would not
9 plea anymore, you want a trial. Correct?

10 A. (Inaudible).

11 Q. Okay. So you would not accept a plea deal?

12 A. Plea -- plea -- plea deal going to give to me
13 (inaudible).

14 Q. Sir, I'm not here to give you a plea deal. I'm
15 asking you the -- you won a new trial, correct?

16 A. Right.

17 Q. Okay. May I ask you, how often did -- or how many
18 times did Mr. Farley meet with you?

19 A. Two or three times

20 Q. Now, on direct, you said one or two. It's two or
21 three now?

22 A. Either one or -- I can't -- I can't remember.
23 That was four, five years ago.

24 Q. Okay. And how did you all meet?

25 A. Through -- through the glass window on Lexington

1 County Detention Center.

2 Q. And did you have any phone calls?

3 A. No, sir.

4 Q. One of your allegations is failed to review
5 discovery. Did you ever see any discovery?

6 A. Yeah, when -- when Barney Giese was my lawyer, he
7 -- he used to bring the motion up that so we can go over, but
8 he -- he always told me that it was a -- it was a sealed
9 motion that I -- I would never get it. So he always bring it
10 up there so I can read over.

11 Q. So you were able to view your discovery?

12 A. Yeah. When -- when I had Barney Giese as my
13 lawyer, but Farley, he ain't never -- he ain't never brought
14 it up there and let -- let me read it.

15 Q. Was there any new discovery provided to Farley
16 that you didn't have when Mr. Giese showed it to you?

17 A. No.

18 Q. So you reviewed your discovery?

19 A. No, I reviewed my discovery with Barney Giese and
20 Farley came out there. He ain't never -- he ain't never let
21 me see -- see the discovery.

22 Q. And what exactly -- there's an allegation of
23 failure to investigate. What did he fail to investigate?

24 A. (Inaudible).

25 Q. Such as?

1 A. (Inaudible) he -- he -- he ain't never get no
2 prior problem investigated. So I -- so I can go over the DNA
3 and all that stuff like that. Then only thing -- thing he
4 was really telling me that he would rush -- rush me and take
5 a plea. I told him -- I told him I'll go to trial, but he
6 kept saying my co-Defendant was going to roll him, was going
7 to testify on. So I was kind of nervous, so went and took
8 the plea.

9 Q. So it's your testimony, you told Mr. Farley that
10 you wanted to go to trial, you did not want to plead guilty?

11 A. I told him -- I told -- I told him that I wanted
12 to go to trial, but he kept saying my co-Defendants was
13 supposed to roll on me, was supposed to testify on me. So
14 that what made me go ahead and plea out.

15 Q. What other preparations for trial did Mr. Farley
16 fail to do?

17 A. He never brought the motion out. I -- I -- I only
18 -- only had enough about two, three months, about two -- two
19 or three months or something like that. But he ain't never
20 brought the motion up there or nothing for me to read over.
21 Nothing. He kept saying I was supposed to go to trial the
22 next two weeks. So he told me to take -- take the plea or --
23 or -- or you going to go to trial and you catch life
24 sentence. Co-Defendant is going to testify on you. Just
25 stuff like that.

1 Q. So it's your testimony that Mr. Farley was telling
2 you your trial is coming up in two weeks, correct?

3 A. Right.

4 Q. So it wasn't Mr. Farley who was forcing you, is
5 that correct?

6 A. Was it -- it was Mr. Farley that was forcing for
7 it.

8 Q. How so?

9 A. Well, he told me -- kept -- kept telling that I go
10 to trial in two weeks. My co-Defendant supposed to roll on
11 me, supposed to testify on me. Stuff -- stuff like that. So
12 I told him, I was like, "I'll go to -- I'll go to trial. But
13 what -- which one of my co-Defendant is supposed to testify
14 on me?" He kept -- kept telling me all of them -- all them.
15 So I was just on stuff like, I just go and take the plea.

16 Q. So it's your testimony now that you decided to
17 take the plea because everyone was going to roll on you and
18 testify against you, correct?

19 A. Right.

20 Q. Okay. So it wasn't Mr. Farley who forced you, it
21 was the fact that people were going to testify against you?

22 A. (Inaudible) Farley forced me too.

23 Q. How so?

24 A. To -- he kept -- kept telling me, "Take -- take
25 the plea."

1 Q. How was that forcing you?

2 A. It is forcing in my eyes because he just kept
3 telling me to take the plea. I was just kind of nervous. I
4 ain't -- I -- I ain't want to take the -- I only wanted to go
5 to trial, but --

6 Q. What defenses did you have?

7 A. Defenses like what?

8 Q. What -- in your original application failed to
9 discuss defenses. Which defenses did you have in this case?

10 A. Failed -- failed to not let me see the motion.
11 Forced me to take the plea. Stuff like that.

12 Q. Mr. Johnson, I -- I -- I heard you on that.
13 That's -- you've testified to that previously. What I'm
14 asking you is one of your allegations is failure to discuss
15 defenses. Which defenses did he not discuss with you?

16 A. Everything. Like my motion. He ain't brought the
17 motion up to me for -- for me to read. No DNA. What type
18 of DNA was on the scene? What type of motor? They -- he got
19 shot with what type of gun. They got shot with -- he ain't
20 brought none -- none -- none of out there -- up there for me
21 to see. I was just laying -- laying in the blind.

22 MR. BARLOW: Nothing further, Your Honor.

23 THE COURT: Re-direct?

24 MS. MCMAHAN: No, Your Honor.

25 THE COURT: Thank you, sir. You may step down.

1 MS. MCMAHAN: (Inaudible).

2 THE COURT: All right. Mr. Barlow?

3 MR. BARLOW: Your Honor, beg the Court's in indulgence
4 for just a moment. Thanks. Thank you, Your Honor. At this
5 time the state would call John Conrad.

6 JOHN CONRAD,
7 having been duly sworn, testified as follows:

8 THE CLERK: Thank you. Please (inaudible) state your
9 name.

10 THE WITNESS: Sure.

11 THE CLERK: And spell your last name.

12 THE WITNESS: It's John Conrad. C-O-N-R-A-D.

13 THE COURT: Yes, sir.

14 MR. BARLOW: Thank you, Your Honor.

15 DIRECT EXAMINATION

16 BY MR. BARLOW:

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

18 A. I have been practicing law for come November, 13
19 years.

20 Q. And how much of that has been in criminal law?

21 A. It has all been employed as a prosecutor.

22 Q. And do you currently work for the Attorney
23 General's office?

24 A. I do.

25 Q. And which division are you a part of?

1 A. I work for the state grand jury division. I -- my
2 title is an assistant attorney general, but I work for the
3 state grand jury division.

4 Q. And were you involved in this case?

5 A. So, yes. I was involved in a resolution including
6 Mr. Johnson's resolution. The case started before I was
7 employed by the Attorney General's office. Josh Underwood
8 was the original prosecutor and he conducted most of the
9 investigation. And then he -- he -- there was some overlap
10 with him and I both working at the same time, but he left for
11 another job.

12 And then I stayed and -- and kind of reached
13 resolutions on most of the folks in this case. And if I
14 could take a moment to -- I know, Your Honor, may not be
15 familiar with the state grand jury and -- and -- and how it
16 operates, but it's -- it's different than most of the
17 criminal -- state criminal procedure in the state.

18 The state grand jury is -- is a body that's impaneled.
19 It sits in -- we -- we have an auditorium in Columbia and it
20 meets once a month. And its individuals from all across the
21 state who are selected for the -- for the state grand jury.
22 The -- the interesting thing is the state grand jury has
23 statewide physical jurisdiction. So any crime -- any alleged
24 incident within a state, the state grand jury can
25 investigate. But it has limited what we call -- I would call

1 subject matter jurisdiction, means it can only investigate
2 certain types of crimes.

3 The primary ones, and there's actually several, but the
4 primary ones that we generally deal with are multi-county
5 narcotics cases gang cases, and public corruption. Those are
6 probably, I would call our bread and butter. There's many --
7 there's several other kind of minor ones that we don't really
8 do a lot. Money laundering is another one that's really kind
9 of getting to be more prevalent these days.

10 But this particular case was -- was -- initiated as a
11 gang investigation. And just as a broad overview for -- for
12 this case, and it was called Tanked. We name each case and
13 this one was called Tanked. And let me spell that. It's
14 T-A-N-K-E-D. I noticed reading the -- the plea transcript it
15 was -- I think that -- court reporter got -- misunderstood
16 me. And it was -- it's called a -- something like taint or
17 something, but that's not actually what the case is called.
18 Tanked, T-A-N-K-E-D.

19 But as Mr. Barlow said a few minutes ago that just the
20 broad allegations, I'll -- I'll try to get through this
21 pretty quickly. A group of individuals who were kind of
22 lower-level gang members, I believe primary bloods, who most
23 of them resided in the Cayce area of Lexington County. This
24 -- the -- the series of crimes started out actually further
25 out in Lexington -- in the area of Pelion.

1 There were a couple of car -- used car dealerships
2 where their offices were broken into late at night, and keys
3 were stolen for several the cars on the lot. And there were
4 several cars, in fact, taken from both of those lots. In
5 fact, one of the eventual co-Defendants of Mr. Johnson's was
6 on ankle monitor for other crimes. And -- and his ankle
7 monitor was tracked to those locations at the time that the
8 theft occurred.

9 Fast forward a couple weeks, most of those original
10 thefts had been abandoned in various parts of Lexington. I
11 think maybe Richland County as well, if memory serves. And
12 on the morning of April 8th of, I believe it was -- was it
13 2016? I can't remember the date -- the year, I apologize.

14 There were two more cars stolen, a red Avalanche and a
15 white Impala. The red Avalanche was stolen in Lexington
16 County. White Impala was stolen in Newberry County in the
17 early morning hours.

18 A little later around eight to eight 30 that morning on
19 Double Branch Road which is in west Columbia, I believe.
20 There was several shots fired at an individual who later
21 identified as a Crip gang member. And he was not fully
22 cooperative, but other witnesses identified the shots as
23 coming from a white Impala. Now, nobody was injured in that,
24 I think several of the bullets did hit -- enter a -- a house.

25 And then there were a couple other shootings in the --

1 in the West Columbia area, Cayce area. And that night it
2 culminated actually in Richland County. And in Richland
3 County on Marble Drive, there were two vehicles that were
4 driving by. There's -- a apartments out there -- there, and
5 multiple shots were fired from the vehicles. And one of the
6 shots ended up hitting and striking a guy named Darrel
7 Goodwin and killing him.

8 Darrel Goodwin, as it turns out, had been a validated
9 blood member as well, which is odd because these guys were
10 also invalidated as blood gang members. And I think the best
11 explanation for that is they were primarily Lexington County
12 folks unfamiliar with gang areas in Richland County. And
13 they just were mistaken about who the individuals were
14 outside the apartment that night.

15 But essentially, they were looking to go shoot at what
16 they would like call oppos or opposition gangs. But
17 unfortunately, Mr. Goodwin was hit and struck, you know,
18 despite -- despite the fact that he was a (inaudible) gang
19 member, this particular night doesn't look like he was up to
20 anything other than just hanging out with his, with his
21 friends out there on that, out in front of the apartments
22 that night.

23 I think witnesses, however, identified a red Avalanche
24 and a white Impala as the two cars that were driving by that
25 the fire -- shots were fired from. The Ebolo (ph) went out

1 over a multi, you know, a couple of surrounding counties,
2 say, look out for this red Avalanche and the white Impala.
3 And I think in Cayce, some officers spotted a red Avalanche
4 sitting in a parking lot. Went and investigated it, ran the
5 plate, discovered it was stolen.

6 Realized there's a good chance it was connected to the
7 crimes that had just occurred in Richland County and sat in
8 surveillance of that spot. And sure enough, within a little
9 while, a white Impala, which was the other vehicle that had
10 -- Ebolo (ph) was out for, pulls into the parking lot. And
11 they initiate -- attempt to initiate a traffic stop on the
12 white Impala.

13 The white Impala actually accelerates to try to get
14 away, and it impacts the patrol car, Cayce patrol car.
15 There's a brief chase, and then I think the Impala basically
16 flips I think I saw a picture of it just flipped in the -- in
17 the wreck. And I believe Mr. Davanta Johnson was discovered
18 at that point as driving that Impala. And another person
19 fled. And I don't -- he was identified and arrested. I
20 don't remember which co-Defendant that was.

21 But regardless, in the backseat of that Impala was
22 found a 22-caliber pistol. The shell casings from that
23 pistol were matched to shell casings found at the Double
24 Branch Road and also Lexington County incident, and the --
25 the Richland County murder as well. Now, and then the -- the

1 -- the state grand jury investigation was initiated.

2 And, you know, this is still before my personal
3 involvement, but a number of the -- of Mr. Johnson's
4 co-Defendants elected to cooperate with the investigation.
5 Most of them would've been, you know, had counsel themselves
6 to advise them through the process, and a number of them
7 ended up testifying in front of the state grand jury. So one
8 thing I would say is -- is -- is Mr. Johnson was concerned
9 about they might flip on them.

10 Well, in fact, they had already had, and they had
11 already testified under oath about his -- his involvement.
12 And, you know, I don't remember the -- the -- the -- I wasn't
13 there for their actual testimony, so I would've just reviewed
14 their transcripts later on. But at least two of them
15 identified Mr. Johnson as being the driver of the white
16 Impala through most of the night and the day.

17 And therefore, he would've been driving during the --
18 during the morning hour, the shooting at Double Ranch, and
19 also driving the white Impala during the shooting at Marlboro
20 in Richland County.

21 And other witnesses identified a -- a another
22 co-Defendant, a guy named Fakewon (ph) Swindle -- Swindell as
23 the actual shooter whose bullet struck Mr. Goodwin and killed
24 him. And this was still when Mr. Underwood had the case I
25 believe Mr. Underwood's intention was to try the shooter,

1 Mr. Swindell first.

2 And this was when the case was assigned to Judge
3 Kinsley. And that's one thing I forgot to mention that's
4 different is once a state grand jury indict case we venue it
5 in whatever particular -- particular county the crime had
6 occurred. And so in this case, we had crimes in Lexington
7 and in Richland but the Supreme Court actually assigns a
8 circuit court judge to become the judge for that particular
9 case.

10 It was originally, I believe, judge Kinsley and I
11 believe Mr. Swindell was the first one to potentially go to
12 trial. And then he ended up pleading to voluntary
13 manslaughter, and I think he got 25 with Judge Kinsley. That
14 was Mr. Underwood who was involved in that case. And then I
15 think Josh and I together were -- were potentially prepping
16 for another trial at one point, but I think for potentially
17 Mr. Johnson.

18 However, I think COVID got in the way, if my memory
19 serves. The first time we tried to prep it for trial and
20 then Mr. Underwood left to the -- and then it was basically
21 my responsibility at that point. And to my -- best of my
22 recollection, we had the case. We were going -- I don't know
23 if we actually had a trial date scheduled, but our every
24 intent was to schedule Mr. Johnson for trial as soon as
25 possible if he did not accept our plea offer. I can tell you

1 that for certain.

2 At some point in there, Judge Kinsley was -- I think,
3 was having some health issues and asked the Supreme Court to
4 reassign the judge. They reassigned it to Judge Benjamin.
5 And that's why Mr. Johnson would've pled in front of Judge
6 Benjamin, and really most of his co-Defendants pled in front
7 of her. And then in terms of how we resolve these cases.

8 The general approach we take is we kind of have our
9 most culpable people at the top, and then we have -- we work
10 our way down culpability. And -- and culpability. And --
11 and -- and the actual crimes is a factor. Their -- a
12 person's record is a factor of what an offer might be. Their
13 level of evidence we have of -- against a particular
14 individual is a factor we're going to take into account. And
15 then the -- the -- the other important factor in our cases is
16 cooperation. If they've cooperated with us or not, something
17 we're going to take into account.

18 Now, one thing I'll say for the record, and this holds
19 true today, is kind of our golden rule is when we have
20 cooperators is, we never, ever promised them anything ahead
21 of their possible testimony at a trial. And I can tell you
22 that I certainly never promised any of the cooperators
23 anything before Mr. Johnson pled. And I'm -- I, you know, I
24 can feel confident that Mr. Underwood didn't either.
25 Although I may not have been a part of his interaction with

1 every defense counsel in the case.

2 So that's -- that's the general outline of what
3 happened. You know, Mr. Johnson was -- after Mr. Swindell
4 was going to be the -- the next step for trial. And I don't
5 know, I don't recall if we had actual trial date, Russ, but
6 we certainly would've been asking Judge Benjamin for the
7 earliest possible date to try him if -- if he had not
8 accepted the plea.

9 Q. Mr. Conrad, thank you for that. Let me ask you
10 this question briefly, how does -- the state grand jury being
11 different, how does discovery work in state grand jury?

12 A. And -- and that's a big difference between the way
13 this grand jury operates in -- in general criminal practice
14 in the state. In every grand jury case we present to the
15 assigned grand jury judge a protective order. And to my
16 knowledge, you know, there's been a couple cases where
17 there's been some objections from some defense counsel that
18 have been kind of negotiated through.

19 But to my knowledge, every single case has always had a
20 protective order. And generally, that protective order is
21 going to prevent the defense attorney from giving any
22 physical copies of any discovery to a Defendant, whether that
23 Defendant's in the jail or that Defendant's on bond.

24 And what the defense attorney is -- is to -- when they
25 discuss the case with their client and go through discovery,

1 if their -- if the client's on bond, the expectation is -- is
2 the client would come to the defense attorney's office and
3 review discovery.

4 And if the client's in jail, the expectation would be
5 that the -- the attorney takes the discovery up to jail to --
6 and reviews it with the -- the Defendant. But however, the
7 attorney would, in both cases, would be prevented from
8 allowing the Defendant to leave with a copy of that
9 discovery. In -- in -- in our cases, and -- and, you know,
10 particular narcotic cases and our gang cases we -- we have a
11 lot of folks who cooperate and it is our intention to protect
12 those folks.

13 And that's one mechanism we -- we do. And you know
14 there have been problems in the past in other cases where
15 discovery gets out there and it's known that someone's
16 cooperated and, you know, they become targets of -- of -- of
17 gangs, of narcotics organizations. It's happened before, and
18 that's the reason we do that. You know, one other thing I'll
19 mention is -- is that, you know, that's for the -- just the
20 general discovery, and that's reports, videos all that stuff.

21 That is turned directly over to defense attorney. One
22 exception to that is transcripts of state grand jury
23 testimony, we do not turn over copy, and that's because of
24 the Supreme Court restriction on party sharing transcripts in
25 all cases. What we do is when the defense attorney, it -- it

1 -- the defense attorney can purchase a set of transcripts if
2 they so wish.

3 But if they don't do that, what we allow them to do is
4 come up to our office and -- and -- and review our copy of
5 them. But because the Supreme Court restriction, we never
6 send out copies of transcripts from testimony of grand jury.
7 That would be one other difference from normal kind of
8 criminal practice in the state, so --

9 Q. Let me ask you in this case, did you have
10 communications with Mr. Farley?

11 A. Certainly.

12 Q. Okay. Were they regular?

13 A. Yeah, absolutely. Mr. Farley and I -- couldn't
14 give you a number. We discover -- we discussed the case a
15 number of times, certainly.

16 Q. In terms of the transcripts though that you just
17 mentioned, those transcripts are still -- are those
18 transcripts protected under the order as well?

19 A. Yes. Yes and -- so the -- if the defense attorney
20 were to purchase a separate set of transcripts, you would
21 order -- prevent them from giving a copy of those to the
22 Defendant, either in a jail or at home, so. Or if they're on
23 bond, excuse me.

24 MR. BARLOW: Beg the Court's indulgence?

25 THE COURT: Yes, sir.

1 MR. BARLOW: Nothing further, Your Honor.

2 THE COURT: Okay. Cross-examination.

3 CROSS-EXAMINATION

4 BY MS. MCMAHAN:

5 Q. You said there were -- this has been a habit over
6 this week, leaving this here. You said there were other
7 cases that aren't -- the bread and butter of state grand jury
8 is one of those would be environmental crimes over \$2
9 million?

10 A. Yes.

11 Q. And you've only had one of those, right?

12 A. Personally, I have not had any. The grand jury
13 may have had a couple over the years, but I -- I wasn't
14 involved in it.

15 Q. There's only been one?

16 A. Exactly.

17 Q. And was this a negotiated plea or a
18 recommendation?

19 A. I believe it was negotiated, yes.

20 Q. Is that normal practice for the AG's office to
21 negotiate pleas?

22 A. I don't know about the term regular, however, it
23 is a very common and it's a tool that we use when we have
24 someone who's charged with a -- a -- a charge that has a very
25 high minimum, such as murder or where the minimum is 30 or

1 very common in our narcotics cases, we -- we have folks with
2 who've been charged with trafficking large amounts of -- of,
3 you know, methamphetamine or cocaine or whatnot.

4 Excuse me. And it's very common for them to have
5 minimums of 25. And so in those sorts of cases where we
6 still want to achieve a result where someone goes and
7 sentences -- gets sentenced to a significant term in prison
8 but if we simply do a reduction, and -- and no offense to --
9 to the Court. If we simply just reduced say a murder to a
10 voluntary manslaughter where the range becomes 2 to 30.

11 Then there is a possibility that a person could walk
12 out with a very minimal prison term that we would not, as the
13 Attorney General's office believe to be a just result. And
14 so, a -- a -- a fairly common practice is -- is when we
15 reduce a charge, is if we still want to get a significant
16 prison term, is to negotiate that prison term when we reduce
17 it.

18 Q. So in this situation, how many of the
19 co-Defendants had trials?

20 A. I don't think there -- all of them ended up
21 pleading, yes.

22 Q. And did you negotiate all of those pleas?

23 A. I don't recall if all of them had negotiated
24 pleas. I'm sure at least a couple of them did. But I -- I
25 -- and it may have been -- some of them may have been

1 negotiated ranges, if I remember correctly. But I -- I
2 couldn't remember. I couldn't recall what usually was what.

3 Q. So when you're working through the defense -- the
4 co-Defendants, how do you determine what your negotiators
5 should -- are going to be in this situation?

6 A. As -- as I said, that's -- that's more of an art
7 than a science. And the factors that I -- I take into
8 account is their overall culpability in -- in the crimes,
9 their record or individual criminal records, their evidence
10 that's available, we could present at trial, and then their
11 individual cooperation with the investigation, that is
12 another factor.

13 Q. So where did Mr. --

14 A. None of -- I'm sorry.

15 Q. Sorry.

16 A. None of those is the determining factor that I'm
17 not going to let any one of those individuals' factors
18 overcome the others, but it's -- it's more of an art.

19 Q. So where did Mr. Johnson fall in that range?

20 A. I -- I don't believe Mr. Johnson cooperated, if I
21 remember correctly. And he -- the fact that he was driving
22 this car through at least two drive-by shootings put him
23 towards the top of the culpability.

24 Q. And were there other people that got less time
25 than Mr. Johnson?

1 A. Yes.

2 Q. Were there other people that got more time?

3 A. Yes.

4 Q. And going to the state grand jury transcripts, is
5 -- is that because the transcript is technically owned by the
6 court reporter, I guess that they have to purchase it from
7 them?

8 A. I -- I guess I -- I just -- I've been a couple
9 years, but there is a Supreme Court that I believes order of
10 that still (inaudible) that's -- I think it's all cases.
11 It's not -- just criminal and not, and I think civil
12 criminal, it just prevents parties from just sharing -- one
13 party buying a transcript and just simply sharing it with the
14 other party.

15 MS. MCMAHAN: Court's indulgence? Do you have any
16 questions you want me to ask? Nothing further, Your Honor.

17 THE COURT: Any redirect?

18 MR. BARLOW: None, Your Honor.

19 THE COURT: (Inaudible).

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: Thank you. Next witness?

22 MR. BARLOW: And, Your Honor, before I call my next
23 witness, I would like to recall Mr. Johnson to the stand
24 briefly.

25 THE COURT: Any objection to that?

1 MS. MCMAHAN: Yes, Your Honor. His testimony has
2 already been done. I don't believe --

3 MR. BARLOW: It's civil -- it's civil court, Your
4 Honor, we're allowed to recall witnesses.

5 THE COURT: I would get it out on the record. Yes,
6 sir. Please come forward to the witness stand.

7 CROSS-EXAMINATION CONT'D

8 BY MR. BARLOW:

9 Q. Mr. Johnson, I realize that you -- it's been a
10 several years since you had your plea, but let me ask you a
11 couple questions. Do you recall in your plea telling the
12 Court that you were satisfied with counsel? Do you recall
13 telling the Court that he had -- that you had met with
14 counsel for as long as you it was necessary?

15 A. No.

16 Q. Do you recall telling the Court that you have been
17 able to ask him all the questions that you needed to and gone
18 over everything in order to -- to plead guilty?

19 A. (Inaudible).

20 MR. BARLOW: Your Honor, for the record, that's page 28
21 of the plea transcript. Nothing further. Thanks, sir.

22 THE COURT: Anything Ms. McMahan?

23 RE-DIRECT EXAMINATION

24 BY MS. MCMAHAN:

25 Q. As it stands today, do you feel like you had

1 enough --

2 MR. BARLOW: There you go.

3 THE COURT: Thank you.

4 BY MS. MCMAHAN:

5 Q. As it stands today, do you feel like you had

6 enough time to speak to Mr. Farley?

7 A. No, ma'am.

8 Q. Do you feel like you were adequately able to -- to

9 discuss with him your case, any possible defenses and

10 anything like that?

11 A. No, ma'am.

12 MS. MCMAHAN: Okay. I have nothing further, Your

13 Honor.

14 THE COURT: Thank you. Yes, sir. Call your next

15 witness.

16 MR. BARLOW: Thank you. Your Honor, state would call

17 Andrew Farley.

18 ANDREW BLAINE FARLEY,

19 having been duly sworn, testified as follows:

20 THE CLERK: (Inaudible) witness. I want you please

21 state your name, spell your last name for the record.

22 THE WITNESS: My name is Andrew Blaine Farley. My last

23 name is spelled F-A-R-L-E-Y.

24 THE COURT: Yes, sir.

25 MR. BARLOW: Thank you, Your Honor. May it please the

1 Court?

2 DIRECT EXAMINATION

3 BY MR. BARLOW:

4 Q. Mr. Farley, how long have you been practicing law?

5 A. I have been practicing law since the year 2006.

6 Q. And how much of that has been criminal law?

7 A. My practice is -- well, I have a law partner, but
8 my practice is about half criminal, half family. I handle
9 the criminal portion and some of the family court and my law
10 partner handles the majority of the family court.

11 Q. And in this case, were you appointed or retained?

12 A. I was appointed in this case pursuant to the 608
13 contract that we're all subject to in our home counties.

14 Q. Understanding that this was a state grand jury
15 case, did you receive discovery in this case?

16 A. I had received some of the discovery in this case,
17 but some of this discovery was also under a protective order.
18 If I may briefly give some background from -- from my
19 perspective. I was initially appointed to Mr. Johnson's case
20 pursuant, like I said, to the 608 rule to handle his
21 magistrate level charges. I believe that was in 2019. This
22 was concurrent with his appointed counsel, Mr. Barney Giese,
23 who was handling state grand jury counsel charges.

24 Through the time I represented him on his magistrate
25 level charges, I had worked with Mr. Giese, had spoken with

1 him several times. I had resolved those magistrate level
2 issues. But subsequent to that, and Mr. Giese, I believe
3 left defense work and began prosecuting for the state grand
4 jury itself, obviously creating a conflict so he could no
5 longer remain as Mr. Johnson's counsel.

6 The state grand jury had reached out to me in July of
7 2021 and asked me if I would take this state grand jury
8 appointment based on the fact that I had already represented
9 the lower-level charges. I had agreed and was appointed on
10 July 1, 2021. I had requested discovery on July 21st of
11 2021. I had received some -- some discovery.

12 According to my notes, I did have a brief phone call
13 with Mr. Johnson, and he indicated to me that he had already
14 had the discovery made available to him by Mr. Giese, that --
15 that he was able to look at, that wasn't necessarily covered
16 by the protective order.

17 I initially met with Mr. Johnson on September 14, 2021.
18 We -- we talked about the discovery that had already been
19 reviewed with Mr. Johnson by Mr. Giese. I'd certainly
20 informed him that I thought there was new discovery that had
21 been made available to us, but unfortunately that was under
22 seal, and I would have to make arrangements to go to Columbia
23 and view those state grand jury transcripts.

24 You know, we certainly talked about the facts of the
25 case and some of the difficult parts that I thought might

1 come up in trial. I don't -- according to my notes, we
2 hadn't decided on anything at that point.

3 We had a status conference on September 30th. I
4 believe that was the -- something related to Judge Benjamin
5 taking over this matter. I had arranged with the state grand
6 jury -- I'm -- I'm sorry, please forgive me. I had arranged
7 with the Attorney General's office through emails to be
8 allowed to review the grand jury transcripts and that took
9 place on October 6, 2021. Did not take a copy of the
10 transcripts, which is my usual practice when appointed to a
11 case and not retained.

12 However, I did make notes on what those transcripts
13 were. And I had followed up and met with Mr. Johnson
14 according to my notes on October 7th to discuss the
15 summation, I -- I suppose, of the transcripts and what I
16 believed the co-Defendants in this case would be testifying
17 to, and what they potentially could implicate him of.

18 Mr. Conrad had provided me with sentencing sheets prior
19 to the sentencing hearing, or -- I'm sorry, the plea hearing,
20 which took place on October 12th. On October -- according to
21 my notes, on October 11th, I had a brief meeting with
22 Mr. Johnson in Lexington County Detention, where I, again,
23 explained to him the plea offer. It was being extended by
24 the Attorney General's office along with the sentencing
25 sheets. If I remember correctly, there were nine counts that

1 he was pleading to. We had other case accounts that were
2 being all prosed in exchange for entering into this plea
3 agreement.

4 He agreed that he thought that -- according to my
5 notes, anyway, he agreed and thought this was a good idea
6 given the fact that he would have co-Defendants testifying
7 against him. And I certainly did explain to him, and I did
8 encourage him.

9 In my legal opinion, I felt that this course of taking
10 this negotiated plea was in his best interest, the exposure
11 of time. And if I'm not mistaken, I believe it was somewhere
12 around, I mean, all told maximum it was some ridiculous
13 number.

14 But at the end of the day, with murder, minimum
15 would've been 30 years. The maximum would've been life in
16 combination with the other charges that he was charged with
17 the -- and the other facts, the discovery of him in the
18 vehicle with the weapon, the weapons, and the ballistics,
19 which I believe he already had because it had been provided
20 to him by Mr. Giese. We also discussed that. I felt -- and
21 I did encourage him, I felt that the 15-year plea was an
22 excellent resolution to the amount of charges he was facing.

23 Q. Mr. Farley, were you prepared to take this to
24 trial?

25 A. I was to take this to trial if Mr. Johnson had so

1 desired. And I do believe at one point he did want to go to
2 trial, but I certainly did encourage him, given the facts of
3 this case and my assessment of what I believed would happen
4 in trial combined with my trial experience and what I thought
5 the most likely outcome would have been. I believe
6 Mr. Johnson took that advice to heart, listened to it, and
7 made an -- an appropriate decision in this case.

8 Q. Do you stand by your representation?

9 A. I do stand by my representation.

10 MR. BARLOW: Nothing further, Your Honor.

11 THE COURT: Cross-examination.

12 CROSS-EXAMINATION

13 BY MS. MCMAHAN:

14 Q. When was the plea offer extended to you?

15 A. I believe -- I -- I want to say -- well, I know it
16 was in October of 2021, I believe, when the offer was
17 extended to me. I -- I don't remember exactly what day. I
18 had multiple phone calls with Mr. Conrad where we discussed
19 trial, potential witnesses at trial, potential advantages the
20 state may have and the advantages, some -- some advantages
21 the Defendant may have. And we arrived at this negotiated
22 plea.

23 I -- I want to say it was a few days prior to the
24 meeting we had on October 11th, where I brought Mr. Johnson
25 the sentencing sheets so he could sign those sentencing

1 sheets in advance. And that was only because we were doing
2 this virtually and in front of Judge Benjamin. And I'm not
3 entirely positive about this because it has been a while,
4 Your Honor, I believe we were doing this virtually because of
5 the COVID issues at the time. I think that's -- I think
6 that's why we did it that way.

7 Q. So you met with him -- when was the first time you
8 met with him? In September?

9 A. Yeah, I think I met with him three times.

10 Q. So it would've been -- well, it would've been
11 when?

12 A. It was in September and twice in October of 2021.
13 Now --

14 Q. Do -- do you recall how long you were there?

15 A. May I -- may I also add --

16 Q. I'm sorry.

17 A. -- to my testimony though. I had -- I had had
18 prior meetings with Mr. Johnson pursuant to the underlying
19 case of the magistrate charges, but that was all in 2019, and
20 sort of kind of intertwined with this case, but not directly
21 related to this case. To answer your question, counsel, as
22 far as how long we were there, I don't really recall.

23 Certainly, I -- according to my notes, we were long --
24 there long enough to discuss the discovery he had already
25 received from Mr. Giese, the grand jury transcripts that I

1 had reviewed and made notes on. And then I think a -- a much
2 shorter meeting when he agreed to sign the sentencing sheets
3 and enter into the negotiated plea.

4 Q. So prior to October of '21 though, you were
5 familiar with Mr. Johnson?

6 A. I'm sorry, please.

7 Q. Prior to October, 2021, though you were familiar
8 with Mr. Johnson?

9 A. I was familiar with Mr. Johnson.

10 Q. And was that the only plea offer that was extended
11 or were there any other ones?

12 A. That is the only plea offer that I recall. And
13 again, I stand by the fact that I believe that the amount of
14 time that would be required under that negotiated plea would
15 have been far better for Mr. Johnson than any possible trial
16 result. Given the facts of the matter.

17 Q. Did Mr. Johnson have any significant prior
18 criminal history that you remember?

19 A. I think he had some, but I don't recall offhand
20 what it was right now.

21 Q. Were the magistrate charges dismissed or did you
22 (inaudible)?

23 A. You know, in my -- I think -- I think we did a
24 plea on that, but I don't really recall and I did not review
25 that file in -- in preparation for today's case.

1 Q. When you met with him in 2019, was that also at
2 the detention center or was he out on bond then?

3 A. In my memory -- my recollection was at the
4 detention center.

5 Q. So he was detained the whole time?

6 A. My -- that's my understanding.

7 MS. MCMAHAN: Anything else? No further questions,
8 Your Honor.

9 THE COURT: All right. Thank you, ma'am. Any re-
10 direct?

11 MR. BARLOW: None, Your Honor.

12 THE COURT: Thank you.

13 MR. BARLOW: Thank you, Your Honor.

14 THE COURT: Anything further, Mr. Barlow?

15 MR. BARLOW: Your Honor. Nothing further from the
16 state.

17 MS. MCMAHAN: Nothing further from the Applicant.

18 THE COURT: I'll take the matter under advisement and
19 get you guys an answer in a couple days.

20 MR. BARLOW: Thank you, Your Honor.

21 THE COURT: Thank you very much.

22 MS. MCMAHAN: All right. As soon as I (inaudible) I'll
23 let you know.

24 MR. BARLOW: And, Your Honor, I think that does it for
25 us until 2:00.

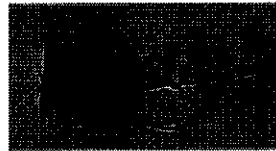
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CERTIFICATE OF TRANSCRIBER

I, MARY RAGSDALE, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 11 of Lexington County, South Carolina, on the 28th Day of August, 2024.

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

September 12, 2024



MARY RAGSDALE

Transcriber

FILED

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON 2025 MAY 27 PM 3: 50) FOR THE ELEVENTH JUDICIAL CIRCUIT

Davanta T. Johnson, #386285, LISA M. COMER, CASE NO. 2022-CP-32-00833
CLERK OF COURT

LEXINGTON SC

Applicant,

v.

State of South Carolina,

Respondent.

**ORDER OF DISMISSAL
WITH PREJUDICE**

Presiding Judge:
Applicant's Attorney:
Respondent's Attorney:
Plea Counsel:
Prosecutor:
Date of Hearing:
Court Reporter:

Hon. David P. Caraker
Ashley A. McMahan, Esq.
D. Russell Barlow, II., Esq.
Andrew B. Farley, Esq.
John B. Conrad, Esq.
August 28, 2024
Mary Ragsdale

This matter comes before the Court by way of Davanta T. Johnson's (A/K/A "Cheddar") (Applicant) application for post-conviction relief (PCR) filed on March 10, 2022. Respondent, the State of South Carolina, filed its Return and Motion for a More Definite Statement on July 15, 2022. Applicant, through appointed counsel Ashley A. McMahan, Esquire (PCR Counsel), subsequently filed an Amended application for PCR on August 23, 2024.

An evidentiary hearing convened on August 28, 2024, at the Lexington County Courthouse before the Honorable David P. Caraker. Applicant was present and represented by PCR Counsel. Senior Assistant Deputy Attorney General D. Russell Barlow, II, of the South Carolina Attorney General's Office, represented Respondent. At the hearing, Applicant proceeded on the claims in his original and amended applications. Applicant testified on his own behalf at the evidentiary

hearing. Respondent presented the testimony of Andrew B. Farley, Esquire (Plea Counsel), and Assistant Attorney General John B. Conrad (AAG Conrad).

Following a thorough review of the record in its entirety, along with the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant has failed to establish any constitutional violations or deprivations entitling him to relief and, accordingly, denies and dismisses this action with prejudice.

PROCEDURAL HISTORY

The records before this Court establish that Applicant is presently confined at the South Carolina Department of Corrections pursuant to the Lexington County Clerk of Court orders of commitment. On February 15, 2018, the State Grand Jury of South Carolina indicted Applicant by superseding indictment for two (2) counts of Attempted Murder (2018-GS-47-00001 Ct. 1 & 3) and two (2) counts of Discharging a Firearm into a Dwelling (2018-GS-48-00018 Ct. 2 & 4). Thereafter, on April 19, 2018, the State Grand Jury of South Carolina indicted Applicant by superseding indictment for two (2) counts of Conspiracy (2018-GS-47-00027 Ct. 1 & 14), two (2) counts of Second-Degree Burglary (2018-GS-47-00027 Ct. 2 & 4), Petit Larceny (2018-GS-47-00027 Ct. 3), two counts of Grand Larceny (2018-GS-47-00027 Ct. 5 & 16), six (6) counts of Breaking into a Motor Vehicle (2018-GS-47-00027 Ct. 6, 7, 8, 9, 10, 15), Resisting Arrest with a Deadly Weapon (2018-GS-47-00027 Ct. 18), Failure to Stop for a Blue Light (2018-GS-47-00027 Ct. 19), Possession of a Stolen Vehicle (2018-GS-47-00027 Ct. 20), Conspiracy (2018-GS-47-00028 Ct. 1), Murder (2018-GS-47-00028 Ct. 2), two (2) counts of Attempted Murder (2018-GS-47-00028 Ct. 3 & 4), and Discharging a Firearm into a Dwelling (2018-GS-47-00028 Ct. 5). All indictments stemmed from Applicant's participation in illegal gang activity with a particular emphasis on a two-week crime spree in Lexington County and surrounding counties.

On October 21, 2021, Applicant, alongside counsel, appeared before the Honorable DeAndra G. Benjamin¹ via Judge Benjamin's virtual courtroom on the WebEx platform.² Applicant was represented by Plea Counsel, and AAG Conrad prosecuted the case. Applicant entered guilty pleas as to nine (9) charges: Voluntary Manslaughter as the lesser-included offense of Murder (2018-GS-47-028 Ct. 2), Discharging a Firearm into a Dwelling (2018-GS-47-00018 Ct. 2), First-Degree Assault and Battery as a lesser-included offense of Attempted Murder (2018-GS-47-00018 Ct. 1), Possession of a Stolen Vehicle (2018-GS-47-00027 Ct. 20), Conspiracy (2018-GS-47-00027 Ct. 14), Breaking into a Motor Vehicle (2018-GS-47-00027 Ct. 15), Failure to Stop for a Blue Light (2018-GS-47-00027 Ct. 19), Resisting Arrest with a Deadly Weapon (2018-GS-47-00027 Ct. 18) and Grand Larceny (2018-GS-47-00027 Ct. 16), as part of a global plea agreement entered into between Applicant and the State for the disposition of all pending State Grand Jury charges for an aggregate fifteen (15) year term of imprisonment and the dismissal of all remaining charges³. After a colloquy wherein Judge Benjamin ascertained Applicant was freely, knowingly, and intelligently entering his pleas, Judge Benjamin accepted Applicant's pleas and sentenced him to an aggregate fifteen (15) year term of imprisonment pursuant to the plea agreement⁴.

Applicant did not appeal his convictions and sentences.

¹ Since the hearing was on WebEx in a virtual courtroom, Judge Benjamin was in Richland County, and Applicant was in Lexington County. Judge Benjamin stated that her jurisdiction at that time was for Richland County. Applicant waived his right to venue in Lexington County so that he could be heard in Richland County via WebEx. (Plea Tr. p. 23, ll. 11 – 25).

² During the plea hearing, Applicant affirmed he wished to proceed forward with this plea virtually and waived his right to appear in person. (Plea Tr. p. 10, ll. 1 - 14).

³ Applicant's plea deal was a global plea that was constructed between Plea Counsel and the South Carolina Attorney General's Office. It covered gang-related crimes across multiple counties in the state, including Richland County and Lexington County.

⁴ Applicant was given 2,014 days of credit for time served. He has been incarcerated since his arrest on April 8, 2016. (Plea Tr. p. 32, ll. 23 – pp. 34, ll. 25).

FACTS GIVING RISE TO THE CONVICTION

The facts giving rise to the convictions were articulated by the Solicitor at Applicant's plea hearing as follows:

Your Honor, this case was a state grand jury investigation that went by the name of taint. And this involved a series of crimes over about a two-week span that started in Lexington County and more or less culminated in the death of an individual by the name of Daryl Goodwin, which actually occurred in Richland County. And I'll walk through it step-by-step to try to give the large overview of what occurred here. Your Honor, the -- and this involved a number of co-defendants who all participated in these series of crimes. Most of them, I believe including Mr. Johnson here, have been identified as blood gang members. And all of them more or less spent their time or residing or came from the Cayce into West Columbia area of Lexington County. This sequence started back on March 30th of 2018, and there was -- and this is conduct the defendant is not going to be pleading guilty and the State has agreed to dismiss, but I think for the Court's information I need to give at least an overview of what happened. There was a couple of burglaries of some auto dealerships out in Lexington County near Santee, South Carolina. And what the individuals who broke into those car dealerships -- they broke in, they took keys and then drove several cars out of the lot. The State -- the defendant was charged in those burglaries, along with numerous accompanying crimes that have been dismissed. The State's agreed to dismiss those, so he's not pleading guilty to those. I believe he pretty adamantly was assisting with his defense attorney that he did not participate in the burglaries, at least. But, there are several automobiles stolen out of those car dealerships. And those automobiles were used in several other crimes which are not going forward today. But, essentially, were all recovered by law enforcement across the area as they were abandoned. This led to, on the morning of April 8th of 2018, I believe the defendant and his co-defendants all needed or wanted a car to continue wherever they had planned to go. So at about 5:30 in the morning at [REDACTED] Lane, which is I believe up in the St. Andrews area, but lives on the West End County side of the line, there was a red Avalanche that was stolen. I believe the owner had started it early to warm it up and left it in their driveway. And then several individuals jumped in it and took off. That, that incident is what count 14 of indictment 47-27 for conspiracy; count 15, the auto breaking; and count 16, a grand larceny over 10,000 are all related to it. The red Avalanche was next spotted, I believe, just a couple hours or just maybe an hour later up in Newberry County where a -- and this is conduct which the defendant is not pleading guilty to today, but there was a white Impala stolen out of a gas station, Chevy Impala. And on video there was a red Avalanche, almost certainly the one stolen from Lexington, was seen where a couple of individuals got out of the red Avalanche and went over to the white Impala. So that all occurred the morning of April 8th of 2016. By about 8:30 in the morning, now we're back down in Lexington County, there was an individual by the name of Edie Palmer, who admitted that he was a member of the Crip gang. And this was over on Double Branch Road in West Columbia. Mr.

Palmer was sitting at a bus stop, I guess waiting to go to school that morning, when several shots rang out. And none of them hit Mr. Palmer, but he took off and a couple, at least one or two of those shots that were fired after he ran, were -- impacted the building or house, excuse me, at [REDACTED] Double Branch Road. There were witnesses, although no witness could identify who was inside the car. The witnesses were identified, and I believe Mr. Palmer, shots came from a white Chevy Impala. Now, Mr. Palmer, was -- I would describe his cooperation as minimal at the most and I don't think he wanted to have anything to do with this plea today, but that's the -- was originally charged with attempted murder. It's now a charge -- and also the discharge of a firearm. As the case was developing, and I'll talk about the next facts in a second, several of the co-defendants of Mr. Johnson were corroborated. And at least two of them identified Mr. Davanta Johnson as the driver of the white Impala during the shooting incident at Double Branch Road. And that's count -- indictment 2007 -- 2018-47-18, count two and count one, and an assault and battery first, which was reduced, and discharging into a dwelling. So those -- that's, that's the events all the way up through the morning of April 8th of 2016. And all those events occurred in Lexington County. The next event was indictment number 2018-47-48, count two originally charged with murder. He's pleading to a voluntary manslaughter. And this incident occurred later that night on the same day, April 8th, 2016, around 8:30 p.m. This occurred at [REDACTED] Marlboro Street, which is in Richland County. And on that evening, Mr. Daryl Goodwin, who is actually also invalidated as a blood gang member, which is the same gang as the co-defendants in this case, was outside the apartments. And there were several other people --

....

Okay, Your Honor. I'll review that incident to the voluntary manslaughter. So that occurred later in the evening after the West End county shooting of Double Branch, specifically about 8:30 in the evening on April 8th of 2016. That was at [REDACTED] Marlboro Street, which is an apartment complex. Mr. Daryl Goodwin was outside with some other individuals and two cars drove by and subsequently multiple shots rang out from those cars. Our witnesses did identify the cars as a red Chevy Avalanche and a white Chevy Impala. And both cars fled after the shots rang out. Mr. Daryl Goodwin was the victim in the case. After the cars had fled, he was discovered with a gunshot wound to his head, and he would shortly pass away. I think he was taken to the hospital and passed away there. So that's the voluntary manslaughter. And I'm gonna go ahead and cover the last incident here, Your Honor, which occurred in the early morning hours, just a couple hours, just a few hours after the Marlboro Street shooting. And that was at approximately 12:30 in the morning on April 9th of 2016. After the shooting in Columbia, there was a BOLO put out for that red Avalanche and white Chevy Impala that, you know, multiple agencies were keeping an eye out for it. Cayce police in Lexington County were patrolling through the Cayce Aderonza Apartments and they spotted a red Avalanche with a -- a red Chevy Avalanche, which fit the description of the Marlboro Street Shooting. They approached the vehicle. It was unoccupied. And discovered after running it that it was stolen. Based off of its, you know, at that

point what they considered a likely connection with the shooting in Columbia, they actually backed off and set up some surveillance to see if anybody came out to retrieve the vehicle or to see if maybe that white Impala might show up. In fact, it wasn't too long when a white Chevy Impala did go into the apartment complex while it was under surveillance from Cayce police. Based off the totality of the circumstances and the matching of the description of the shooting, they attempted to stop the Impala. The Impala then attempted to flee. In the process of the flee, it actually impacted one of the police cars, which is where the resisting arrest with a deadly weapon results from. There was a short chase. The car wrecked. I believe there was a foot passenger who was able to escape. However, Mr. Davanta Johnson was arrested and he was the driver of the white Impala when it wrecked. So that would cover the failing to stop for a blue light and a possession of a stolen motor vehicle, 2 to 10,000. And investigation did reveal that that white Impala was the same Impala that had been stolen early those morning hours up in Newberry County. Your Honor, from there the investigation continued. In the back seat of the Impala there was a .22 caliber pistol recovered. As it turns out, shell casings from that pistol matched both Double Branch, shell casings found at the double branch location and at the Marlboro location in Richland County. From there, the various investigations identified several co-defendants who were arrested, who then agreed to cooperate. And at that point there are co-defendants who identified Mr. Johnson, Davanta Johnson, as the driver of the white Impala through most of the night, including the chase at the end and the wreck. He identified him as the driver during the drive-by shooting at Marlboro Street and the drive-by shooting at the Double Branch Road. So based off that, Mr. Davanta Johnson was charged with all the applicable crimes and is pleading guilty to, in addition to the numerous ones that the State is going to dismiss as a result of this plea. And subsequently, Your Honor, and because of the multi-county nature of this crime spree, there was a state grand jury case initiated that was called taint, I stated, and then took evidence for all these incidents and ultimately issued numerous indictments for every defendant and his co-defendants. Your Honor, the -- what the State relays is the fatal shooter in the Marlboro drive-by was a gentleman with the name of Saquan Sindell. He pled guilty in front of Judge Keesley back in December, I believe, of last year. He received a 25-year sentence. The information that the State has to present at trial, if necessary, was that Mr. Sindell was a backseat passenger to the vehicle driven by this defendant, Davanta Johnson. And, excuse me. And also as the driver of the white Impala during the drive-by at Double Branch Road early the next -- early hours.

(Plea Tr. pp. 12–21).

CURRENT ACTION BEFORE THE COURT

Applicant is currently incarcerated in the South Carolina Department of Corrections (SCDC pursuant to orders of the Lexington County Clerk of Court. In his original application for

post-conviction relief filed March 10, 2022, Applicant alleged he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
 - a. "Counsel ineffective for failing to disclose and explain discovery evidence to [Applicant]".
 - b. "Counsel ineffective for failing to prepare for [Applicant's] case by not investigating the evidence, facts, and the circumstances of the case".
 - c. "Counsel failed to give [Applicant] discovery material".

On August 23, 2024, Applicant, through appointed counsel Ashley A. McMahan, Esquire, filed an Amended Application to incorporate the allegations in the initial application and to include the following new allegations:

2. Ineffective Assistance of Counsel
 - a. "The case was on the trial docket, but Applicant felt that Mr. Farley was not prepared to go to trial. Applicant felt he had no choice but to plead guilty even though the Applicant wanted to go to trial."
 - b. "Mr. Farley never discussed possible defenses that could have been raised at trial."

As requested relief, Applicant states he is seeking "sentences vacated to a lower plea or conviction and sentences dismiss [sic]".

Before this Court are the State Grand Jury Clerk of Court records regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, Applicant's plea hearing transcript, and the records of the PCR action.

STANDARD OF REVIEW

The Uniform Post-Conviction Procedure Act⁵ ("the Act") provides that any person who has been convicted of a crime may seek post-conviction relief based upon the following types of allegations:

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;

⁵ S.C. Code Ann. 17-27-10 to -160 *et seq.*

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 other conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint;
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).

Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive effective assistance of counsel guaranteed by the Sixth Amendment. See generally S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right and raises a question of fact that can only be determined by an evidentiary hearing. Rogers v. State, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland to determine whether counsel's conduct "was so [ineffective] as to require reversal" of the applicant's conviction. Strickland v. Washington, 466 U.S. 668 at 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; 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

"[without 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)).

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

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

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

court that a decision to reject the plea bargain would have been rational under the circumstances. Padilla, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—not whether counsel would have still advised him or him to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999) (emphasis added).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Applicant has alleged and elected to pursue various claims of ineffective assistance of counsel through the post-conviction relief action presently before this Court. In analyzing these claims, this Court has considered the legal arguments by counsel and thoroughly reviewed the record in its entirety. This Court additionally heard evidence presented at the evidentiary hearing and observed the witnesses, which allowed the Court to evaluate and scrutinize their credibility. See, e.g., State v. Mercer, 381 S.C. 149, 166, 672 S.E.2d 556, 565 (2009) ("In this post-trial setting, our jurisprudence recognizes the gatekeeping role of the trial court in making a credibility assessment."); Clemons v. Mississippi, 494 U.S. 738, 766 (1990) (Blackmun, J., concurring in part and dissenting in part) ("The trial judge who hears the witnesses live, observes their demeanor and in general smells the smoke of the battle is by his very position far better equipped to make findings of fact which will have the reliability that we need and desire.").

Upon conducting and completing its analysis, this Court finds that Applicant has failed to establish any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. See Rule 71.1(e), SCRCF (stating that in a post-conviction relief action, "[t]he applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."); Lucero v. State, 414 S.C. 238, 244, 777 S.E.2d 409, 412 (Ct. App. 2015) ("In a PCR proceeding, the applicant bears the burden of establishing that he or she is

entitled to relief."); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) ("The burden of proof is on the Applicant in post-conviction proceedings to prove the allegations in his application.").

Accordingly, set forth below are the relevant findings of facts and conclusions of law as required by § 17-27-80 of the South Carolina Code:

INITIAL FINDINGS

This Court finds applicable the strong presumption that at all stages of Plea Counsel's representation of Applicant, he rendered adequate assistance and exercised reasonable professional judgment in his representation. Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (citing Strickland, *supra*). The United States Supreme Court has cautioned that "every effort be made to eliminate the distorting effects of hindsight" and evaluate counsel's decisions at the time they were made. Strickland, 466 U.S. at 689; see Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992).

This Court makes the following findings from the record: 1. Plea Counsel confirmed with the plea court that he had reviewed with Applicant the indictments, the possible punishments, and his constitutional rights (Plea Tr. pp. 7–8); 2. Plea Counsel affirmed that he had met with Applicant on multiple occasions and reviewed his case in detail while working closely with the State to reach a plea deal (Plea Tr. p. 8); 3. Plea Counsel agreed with Applicant's decision to plead guilty (Plea Tr. p. 8); 4. Applicant affirmed that he was present virtually to plead to nine charges and was apprised of each charge (Plea Tr. p. 9); 5. Applicant waived his right to appear in person (PCR Tr. p. 10); 6. Applicant indicated he had not consumed any alcohol or ingested any medication in the last twenty-four (24) hours (PCR Tr. p. 11); 7. Applicant agreed with the facts as read into the record by the Assistant Solicitor (Plea Tr. pp. 11–23); 8. Applicant waived venue (Plea Tr. p. 23);

9. Applicant affirmed that he knew the charges and maximum time he could receive by pleading guilty (Plea Tr. pp. 23–24); 10. Applicant affirmed that he was aware there were two (2) reductions in charges, and the negotiated sentence was fifteen (15) years (Plea Tr. pp. 24–25); 11. Applicant affirmed he was aware of the classification of the charges and his sentence would be an 85% sentence (Plea Tr. pp. 26–27); 12. Applicant understood his right to a jury trial and that he waived those rights by pleading guilty (Plea Tr. pp. 27–28); 13. Applicant affirmed he was satisfied with Plea Counsel's representation (Plea Tr. p. 28); 14. Applicant affirmed that he had enough time to meet with Plea Counsel (Plea Tr. p. 28); 15. Applicant affirmed that he had asked Plea Counsel all the questions he had and Plea Counsel had reviewed everything with him (Plea Tr. p. 28)⁶; 16. Applicant affirmed that no one was forcing him to plead guilty, and his decision to plead guilty was voluntary (Plea Tr. p. 30); 17. Applicant's plea was qualified as freely, knowingly, and voluntarily entered into (Plea Tr. p. 31).

ALLEGATIONS OF INEFFECTIVE ASSISTANCE OF PLEA COUNSEL

Allegation 1(a): "Counsel ineffective for failing to disclose and explain discovery evidence to [Applicant]."

Allegation 1(c): "Counsel failed to give [Applicant] discovery material."

Applicant alleges that Plea Counsel's representation was constitutionally ineffective for failing to disclose and explain discovery to Applicant. This Court finds this allegation to be without merit.

An applicant who alleges his or her defense attorney was ineffective in failing to spend more time preparing or providing a copy of the discovery materials must demonstrate prejudice by showing what evidence could have been discovered or what other defenses could have been

⁶ Applicant did have a question on violent vs non-violent and the plea court allowed Plea Counsel to counsel his client. (PCR Tr. p. 28).

pursued. Harris v. State, 377 S.C. 66, 75-76, 659 S.E.2d 140, 145-46 (2008) (citing Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998)), abrogated on other grounds by Smalls, 422 S.C. 174, 810 S.E.2d 836. Furthermore, an applicant must also show how the new evidence or defenses would have resulted in a different outcome. Id. (citing David v. State, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); Skeen v. State, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997)). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. Id., 377 S.C. at 75, 659 S.E.2d at 145 (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

PCR Evidentiary Hearing

On direct examination, Applicant testified that Plea Counsel never brought any evidence to review with him, and he never saw or read anything in his discovery. (PCR Tr. pp. 9–10). Applicant testified that he never brought the discovery to him. (PCR Tr. p. 10). Applicant testified that Barney Giese, Esquire (Giese), represented him from 2018 to 2020, and Plea Counsel was appointed in August or September of 2021. (PCR Tr. p. 11). Applicant testified that he had no complaints about Giese. (PCR Tr. p. 11).

On cross-examination, Applicant testified that when Giese represented him, he reviewed the discovery. (PCR Tr. p. 14). Applicant testified that Plea Counsel did not receive any new discovery that Giese had already reviewed with him. (PCR Tr. p. 14). Applicant testified that he reviewed his discovery with Giese and not Plea Counsel. (PCR Tr. p. 14).

On direct examination of AAG Conrad, the following occurred:

- Q. Mr. Conrad, thank you for that. Let me ask you this question briefly, how does -- the state grand jury being different, how does discovery work in state grand jury?
- A. And -- and that's a big difference between the way this grand jury operates in -- in general criminal practice in the state. In every grand jury case we present to the assigned grand jury judge a protective order. And to my

knowledge, you know, there's been a couple cases where there's been some objections from some defense counsel that have been kind of negotiated through. But to my knowledge, every single case has always had a protective order. And generally, that protective order is going to prevent the defense attorney from giving any physical copies of any discovery to a Defendant, whether that Defendant's in the jail or that Defendant's on bond. And what the defense attorney is -- is to -- when they discuss the case with their client and go through discovery, if their -- if the client's on bond, the expectation is -- is the client would come to the defense attorney's office and review discovery. And if the client's in jail, the expectation would be that the -- the attorney takes the discovery up to jail to -- and reviews it with the -- the Defendant. But however, the attorney would, in both cases, would be prevented from allowing the Defendant to leave with a copy of that discovery. In -- in -- in our cases, and -- and, you know, particular narcotic cases and our gang cases we -- we have a lot of folks who cooperate and it is our intention to protect those folks. And that's one mechanism we -- we do. And you know there have been problems in the past in other cases where discovery gets out there and it's known that someone's cooperated and, you know, they become targets of -- of -- of gangs, of narcotics organizations. It's happened before, and that's the reason we do that. You know, one other thing I'll mention is -- is that, you know, that's for the -- just the general discovery, and that's reports, videos all that stuff. That is turned directly over to defense attorney. One exception to that is transcripts of state grand jury testimony, we do not turn over copy, and that's because of the Supreme Court restriction on party sharing transcripts in all cases. What we do is when the defense attorney, it -- it -- the defense attorney can purchase a set of transcripts if they so wish. But if they don't do that, what we allow them to do is come up to our office and -- and -- and review our copy of them. But because the Supreme Court restriction, we never send out copies of transcripts from testimony of grand jury. That would be one other difference from normal kind of criminal practice in the state, so --

(PCR Tr. pp. 27-29).

On direct examination, Plea Counsel testified that he initially met with Applicant regarding these charges on September 14, 2021. Plea Counsel testified that Applicant, over a phone call, indicated that he had already reviewed the discovery made available to him with prior counsel, Giese; however, portions of the discovery were under a protective order. (PCR Tr. p. 37). Plea Counsel testified that he formally requested discovery pertaining to Applicant's case on July 21, 2021, and subsequently received a portion of the requested materials. Plea Counsel testified that

he made arrangements to review the complete discovery at the Attorney General's Office on October 6, 2021. Plea Counsel testified that he meticulously recorded notes on the transcripts within the discovery and convened with Applicant the following day to deliberate on the details of these transcripts as they related to his co-defendants and the strategic aspects of his case. (PCR Tr. pp. 37–38).

Findings

This Court finds that Applicant has failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [his] case." *Ard v. Catoe, supra*. This Court further finds Applicant has failed to overcome his burden in proving Plea Counsel's representation was deficient and any resulting prejudice from that alleged deficiency. *See Butler, supra*. Plea Counsel credibly testified that he properly and adequately disclosed and reviewed the available discovery with Applicant. Notably, Applicant testified that there was no new discovery provided to Plea Counsel that had not already been reviewed with his prior counsel. (PCR Tr. p. 14). Additionally, discovery restrictions in state grand jury cases prevent defense counsel from providing their clients with copies of discovery materials, which also applied to the Applicant's case. Thus, Applicant has failed to meet his burden of proving Plea Counsel's representation was constitutionally deficient or any prejudice from that alleged deficiency.

Moreover, to whatever extent Applicant was not entirely satisfied with Plea Counsel not reviewing discovery further with him, he was presented an opportunity to express his dissatisfaction to the plea court, knowingly opted not to do so, and instead chose to avail himself of the benefit of his guilty plea.

Based on the foregoing, this Court finds the Applicant has failed to present sufficient

evidence to prove the first prong of the Strickland test—that Plea Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Plea Counsel committed either errors or omissions to prove the second prong of Strickland as laid out in Hill—that but for Plea Counsel's deficient performance, Applicant would have gone to trial and not pled guilty.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, this allegation must be **DENIED** and **DISMISSED with PREJUDICE**.

Allegation 1(b): "Counsel ineffective for failing to prepare for [Applicant]'s case by not investigating the evidence, facts, and the circumstances of the case."
Allegation 2(b): "Mr. Farley never discussed possible defenses that could have been raised at trial."

Applicant alleges that Plea Counsel's representation was constitutionally ineffective for failing to prepare Applicant's case by not investigating the evidence, facts, and the circumstances of the case. Additionally, Applicant contends Plea Counsel failed to discuss possible defenses that could have been raised at trial. This Court finds these allegations to be without merit.

"[S]trategic choices made after thorough investigation of law and facts relevant to plausible options are virtually unchallengeable; and strategic choices made after less than complete investigation are reasonable precisely to the extent that reasonable professional judgments support the limitations on investigation." Strickland, 466 U.S. at 690-91. "In other words, counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." Id. at 691. "In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel's judgments." Id.

"The reasonableness of counsel's actions may be determined or substantially influenced by the defendant's own statements or actions." Id. "Counsel's actions are usually based, quite properly, on informed strategic choices made by the defendant and on information supplied by the defendant." Id. "In particular, what investigation decisions are reasonable depends critically on such information." Id.

In order to prevail upon a claim that counsel did not adequately prepare or investigate a case, an applicant must present evidence of what counsel could have discovered or what other defenses applicant could have requested counsel develop and present had counsel been more prepared. Harris v. State, 377 S.C. 66, 75-76, 659 S.E.2d 140, 145-46 (2008) (citing Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998)). Furthermore, an applicant must also present evidence to show how the discoverable matters or defenses would have resulted in a different outcome. Id. (citing Davis v. State, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); Skeen v. State, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997)). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. Id., 377 S.C. at 75, 659 S.E.2d at 145 (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

PCR Evidentiary Hearing

On cross-examination, the following colloquy occurred with Applicant:

- Q. And what exactly, there's an allegation of failure to investigate. What did he fail to investigate?
- A. (Inaudible).
- Q. Such as?
- A. (Inaudible) he – he – he ain't never get no prior problem investigated. So I – so I can go over the DNA and all that stuff like that. Then only thing – thing he was really telling me that he would rush – rush me and take a plea. I told him – I told him I'll go to trial, but he kept saying his co-defendants was going to roll him, was going testify on. So I was kind of nervous, so went and took the plea.

(PCR Tr. pp. 14, ll. 22 – pp. 15, ll. 8).

On cross-examination, Applicant testified that Plea Counsel "ain't never get no prior problem investigated." (PCR Tr. p. 15). Applicant testified that the defenses in his case were "failed to not let [Applicant] see the motion. Forced [Applicant] to take the plea. Stuff like that." (PCR Tr. p. 17). Applicant testified that no DNA was brought to his attention; he was unaware of what type of gun was used or what kind of motor. (PCR Tr. p. 17).

On direct examination, Plea Counsel testified that he met with Applicant on September 14, 2021, and discussed the discovery that Giese had provided him prior to his taking over the case. (PCR Tr. p. 37). Plea Counsel testified that they discussed the facts of the case and some of the problematic aspects of the case, but Applicant had not made any decisions at that time regarding a plea or trial. (PCR Tr. pp. 37–38). Plea Counsel testified that he reviewed the State Grand Jury transcripts on October 6th, took notes, and met with Applicant on October 7th to discuss his findings. (PCR Tr. p. 38). Plea Counsel testified that he informed Applicant that his co-defendants would be testifying against him at trial and what they could potentially testify to that would implicate Applicant. (PCR Tr. p. 38).

Plea Counsel testified that based on the evidence he reviewed, he believed Applicant made a wise decision because the plea offer was in his best interest. (PCR Tr. pp. 38–39). Plea Counsel testified that he was prepared to take the case to trial had Applicant wanted to and he stood by his representation of Applicant. (PCR Tr. pp. 39–40).

Findings

This Court finds Applicant has failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in his case." Ard v. Catoe, *supra*. This Court further finds Applicant has

failed to overcome his burden in proving Plea Counsel's representation was deficient and any resulting prejudice from that alleged deficiency. *See Butler, supra*. This Court finds that the combination of the record and Plea Counsel's credible testimony establishes that Plea Counsel adequately prepared for Applicant's case by investigating the evidence, facts, and circumstances of Applicant's case.

While the Applicant has claimed that Plea Counsel neglected to investigate DNA evidence, he has not demonstrated how such evidence would have benefited him at trial or informed his decision regarding the plea deal. Furthermore, the Applicant has not provided any credible evidence to clarify the specifics of the DNA evidence in question, nor has he identified any potential witnesses or sources that could have supported any defense. Thus, Applicant has failed in his burden of proving any deficiency on Plea Counsel's part and any prejudice from the alleged deficiency.⁷

Moreover, to whatever extent Applicant was not entirely satisfied with Plea Counsel not reviewing discovery further with him, he was presented an opportunity to express his dissatisfaction to the plea court, knowingly opted not to do so, and instead chose to avail himself of the benefit of his guilty plea.

Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Plea Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Plea Counsel committed either errors or

⁷ Applicant also testified to Plea Counsel failing to investigate something about a gun and this Court finds the same reasoning stands here. Applicant presented no evidence of how a further investigation into a gun would have benefited him at trial or informed his decision regarding the plea deal.

omissions to prove the second prong of Strickland as laid out in Hill—that but for Plea Counsel's deficient performance, Applicant would have gone to trial and not pled guilty.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, this allegation must be **DENIED** and **DISMISSED with PREJUDICE**.

Allegation 1(d): "The case was on the trial docket, but Applicant felt that Mr. Farley was not prepared to go to trial. Applicant felt he had no choice but to plead guilty even though Applicant wanted to go to trial."

Applicant alleges that Plea Counsel's representation was constitutionally ineffective for not being prepared to go to trial. Specifically, Applicant alleges that he felt he had no choice but to enter a guilty plea because he felt that Plea Counsel was not adequately prepared to go forward with a trial.⁸ This Court finds this allegation to be without merit.

Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. See Blackledge v. Allison, 431 U.S. 63, 73-74 (1977). Statements made during a guilty plea should be considered conclusively unless an Applicant presents valid reasons why he should be allowed to depart from the truth of his statements. See Crawford v. U.S., 519 F.2d 347, 350 (4th Cir. 1975) (overruled on other grounds by U.S. v. Whitley, 759 F.2d 327 (4th Cir.1985)).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish Applicant had a full understanding of the consequences of the plea and the charges against him or her. Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991); see also Boykin v. Alabama,

⁸ This Court construes this allegation as Involuntary Guilty Plea.

395 U.S. 238, 243 (1969) (Courts must make sure defendants have "a full understanding of what the plea connotes and of its consequence. When the judge discharges that function, he leaves a record adequate for any review that may be later sought, and forestalls the spin-off of collateral proceedings that seek to probe murky memories."). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. See Harris v. Leeke, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984) (finding the voluntariness of a guilty plea "is not determined by an examination of the specific inquiry made by the sentencing judge alone but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing.").

An applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for trial counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial instead. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001); Richardson v. State, 310 S.C. 360, 363, 362 426 S.E.2d 795, 797 (1993). Given Applicant's burden of proof and the analysis to be applied to this claim, Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it will be treated as such.

Guilty Plea Hearing

The following colloquy occurred at Applicant's guilty plea hearing:

The Court:	Okay. Is anyone forcing you to plead guilty today?
[Applicant]:	No, ma'am.
The Court:	And are you pleading guilty of your own free will?
[Applicant]:	Yes, ma'am.
The Court:	Has anyone offered you anything in exchange for your plea? I know they have this plea offer, but other than that has anyone offered you anything in exchange for your plea?
[Applicant]:	No, ma'am.

The Court: All right. And so you're pleading freely and voluntarily?
 [Applicant]: Yes, ma'am.
 The Court: No one's threatened you into pleading?
 [Applicant]: No, ma'am.
 The Court: All right. And have you understood all of my questions?
 [Applicant]: Yes, ma'am.
 The Court: Have you answered them truthfully?
 [Applicant]: Yes, ma'am.

(Plea Tr. pp. 30–31).

PCR Evidentiary Hearing

On direct examination at the evidentiary hearing, the following colloquy occurred with

Applicant:

Q. Did he go over the evidence he had?
 A. No, ma'am. He just – he just trying to rush him – rush me in to take the plea.
 Q. So tell the Court about that.
 A. No, he told me – he told – he told me if – if I take the plea I was going to (inaudible) life sentence and my co-defendant was going to roll (inaudible) was going to testify him.
 Q. Did you want a trial?
 A. Yes ma'am.
 Q. Did you tell him that?
 A. Yes ma'am.
 Q. And what did he tell you about that?
 A. Man, he just – he was just (inaudible) stuff that's like he don't – he don't want me to go to trial. I might catch a life sentence, this – this and that. Saying – saying best for me to take the plea.
 Q. So what made you change your mind and plead guilty?
 A. Because man, he – he kept – he kept – he kept confessing to me that my co-defendant was going to roll on me, was going to testify on me, so I – I'm – I'm kind of nervous.
 Q. Why were you nervous?
 A. (inaudible) kept talking about life – life – life sentence.
 Q. Why was that making you nervous?
 A. Because it's paranoid. I just – I don't know.

(PCR Tr. pp. 8–9).

On cross-examination, the following colloquy occurred:

Q. So it's your testimony that you told Mr. Farley that you wanted to go to trial, you did not want to plead guilty?

A. I told him -- I told -- I told him that I wanted to go to trial, but he kept saying my co-Defendants was supposed to roll on me, was supposed to testify on me. So that what made me go ahead and plea out.

....

Q. So it's your testimony that Mr. Farley was telling you your trial is coming up in two weeks, correct?

A. Right.

Q. So it wasn't Mr. Farley who was forcing you, is that correct?

A. Was it -- it was Mr. Farley that was forcing for it.

Q. How so?

A. Well, he told me -- kept -- kept telling that I go to trial in two weeks. My co-Defendant supposed to roll on me, supposed to testify on me. Stuff -- stuff like that. So I told him, I was like, "I'll go to -- I'll go to trial. But what -- which one of my co-Defendant is supposed to testify on me?" He kept -- kept telling me all of them -- all them. So I was just on stuff like, I just go and take the plea.

Q. So it's your testimony now that you decided to take the plea because everyone was going to roll on you and testify against you, correct?

A. Right.

Q. Okay. So it wasn't Mr. Farley who forced you, it was the fact that people were going to testify against you?

A. (Inaudible) Farley forced me too.

Q. How so?

A. To -- he kept -- kept telling me, "Take -- take the plea."

Q. How was that forcing you?

A. It is forcing in my eyes because he just kept telling me to take the plea. I was just kind of nervous. I ain't -- I -- I ain't want to take the -- I only wanted to go to trial, but --

(PCR Tr. pp. 15–17).

On direct examination, Plea Counsel testified that at his initial meeting with Applicant, no decision was made regarding proceeding to trial or accepting a plea deal. (PCR Tr. pp. 37–38). Plea Counsel testified that he met with Applicant on October 11, 2021, at the Lexington County Detention Center to discuss the case going forward and to discuss the details of the global plea deal offered by the State. Plea Counsel testified that Applicant, according to the notes written in his case file, agreed with Plea Counsel on the issue of taking the plea deal at that time after going

over the circumstances of the case. Plea Counsel testified that Applicant agreed that the plea was a good idea given the fact that most of, if not all, his co-defendants would be potentially testifying against him should he go to trial. Plea Counsel stated that he encouraged Applicant to take the plea offer of fifteen (15) years because otherwise, Applicant would face the possibility of the maximum sentence⁹ for his indicted crimes. (PCR Tr. pp. 38, ll. 20 – pp. 39, ll. 22).

Findings

As an initial matter, this Court finds Applicant's testimony not credible. This Court further finds the combination of the record and Plea Counsel's credible testimony that Applicant has failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [his] case." *Ard v. Catoe, supra*. This Court additionally finds that Applicant has failed to overcome his burden in proving Trial Counsel's representation was deficient and any resulting prejudice from that alleged deficiency. *See Butler, supra*. The record before this Court and Plea Counsel's credible testimony establish that Applicant was not forced to plead guilty. Plea Counsel testified that he encouraged Applicant to take the global plea deal because it was in Applicant's best interest, considering the likelihood of his co-defendants testifying against him in conjunction with the maximum sentence that Applicant was facing, and that Applicant ultimately agreed with Plea Counsel on the matter.

Although Applicant refutes information brought in from the guilty plea, Applicant stated on the record at his plea hearing that he was satisfied with Plea Counsel's representation in his case. Applicant additionally stated on the record that he had the opportunity to meet with Plea Counsel for as long as needed prior to entering the guilty plea and that Applicant had reviewed

⁹ Prior to accepting the global plea deal offered by the State, Applicant was facing a maximum sentence of life in prison plus 293 years.

everything with Plea Counsel and asked all necessary questions regarding his case. Furthermore, Applicant told the plea court that no one was forcing him to plead guilty. Applicant affirmed that he was pleading guilty of his own free will. This Court finds that Applicant has failed to show why he should be allowed to depart from his solemn judicial admission of the truth at his guilty plea.

Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Plea Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Plea Counsel committed either errors or omissions to prove the second prong of Strickland as laid out in Hill—that but for Plea Counsel's deficient performance, Applicant would have gone to trial and not pled guilty.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, this allegation is **DENIED and DISMISSED WITH PREJUDICE**.

NEW ALLEGATIONS RAISED AT THE EVIDENTIARY HEARING

Allegation: **Counsel failed to meet a sufficient number of times.**

Applicant raised the allegation during his evidentiary hearing that Plea Counsel's representation was constitutionally ineffective for failing to meet with him a sufficient number of times. This Court finds this allegation to be without merit.

Federal case law holds that there is no constitutional minimum number of meetings between attorneys and their clients to satisfy competency. Campbell v. Polk, 447 F.3d 270, 279 fn.2 (4th Cir. 2006) (no constitutional minimum number of meetings to satisfy competency); United States v. Olson, 846 F.2d 1103, 1108 (7th Cir. 1988) (reciting that there is no constitutional

minimum number of meetings between attorney and client and observing that an experienced attorney may get more out of a single meeting than a neophyte). "Brevity of time spent in consultation, without more, does not establish that counsel was ineffective." Easter v. Estelle, 609 F.2d 756, 759 (5th Cir. 1980) (holding it is not enough to merely show that counsel only met with his client twice before trial as long as counsel devoted sufficient time to ensure an adequate defense and to become thoroughly familiar with the facts of the case and the law applicable to the case, and holding the record revealed that counsel was so prepared.).

South Carolina case law has established that even if Trial Counsel only met with his client very briefly, that alone does not establish that he was unprepared or ineffective at trial. See Harris v. State, 377 S.C. 66, 75, 659 S.E.2d 140, 145 (2008) (citing Easter) ("First, there is no question that counsel met with [Applicant] on several occasions prior to the first trial. Even if the meetings were brief, this fact alone is not indicative of inadequate trial preparation."). An applicant must present evidence to show how additional time spent in consultation would have resulted in a different outcome; mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. Smith v. State, 404 S.C. 493, 500-01, 745 S.E.2d 378, 382 (Ct. App. 2012) (citing Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998); Skeen v. State, 325 S.C. 210, 214-15, 481 S.E.2d 129, 132 (1997)).

Guilty Plea Hearing

The following colloquy occurred with Applicant and the plea court:

The Court: All right. And you've been represented by Mr. Farley. Are you satisfied with his representation?
 [Applicant]: Yes, ma'am.
 The Court: And have you met with him for as long as necessary for him to properly represent you?
 [Applicant]: Yes, ma'am.

The Court: And has -- and you've been able to ask him all the questions you have, and you all have gone over everything with this plea; is that correct?

[Applicant]: Yes, ma'am

(Plea Tr. p. 28).

PCR Evidentiary Hearing

On direct examination, Applicant testified that he met Plea Counsel "one or two times." (PCR p. 7).

On cross-examination, Applicant testified that he met with Plea Counsel "two or three times." (PCR Tr. p. 13).

Findings

This Court finds Applicant has failed to overcome his burden in proving Plea Counsel's representation was deficient and any resulting prejudice from that alleged deficiency. See Butler, supra. This Court finds that Plea Counsel **credibly** testified that he met with Applicant on multiple occasions and that he was prepared to take it trial if that is what Applicant wanted.

Moreover, to whatever extent Applicant was not entirely satisfied with Plea Counsel not meeting with him enough, he was presented an opportunity to express his dissatisfaction to the plea court, knowingly opted not to do so, and instead chose to avail himself of the benefit of his guilty plea.

Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Plea Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Plea Counsel committed either errors or omissions to prove the second prong of Strickland as laid out in Hill—that but for Plea Counsel's deficient performance, Applicant would have gone to trial and not pled guilty.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, this allegation must be **DENIED** and **DISMISSED with PREJUDICE**.

[CONCLUSION PAGE FOLLOWS]

CONCLUSION

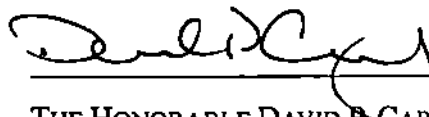
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be **DENIED and DISMISSED WITH PREJUDICE.**

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

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 20th day of May, 2025.



THE HONORABLE DAVID P. CARAKER, JR.
Presiding Judge
Eleventh Judicial Circuit

Lexington, South Carolina