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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ABBEVILLE COUNTY
Court of Common Pleas
J. Derham Cole, Circuit Court Judge

Appellate Case No. 2025-001256

Robert Lamont Bryant, ...Appellant,

v.

State of South Carolina, ...Respondent.

APPENDIX

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State of South Carolina
County of Abbeville

Court of General Sessions

State of South Carolina)
)
)
 v.)
)
 Robert Lamont Bryant,)
)
 _____ Defendant.)

Transcript of Record
2018-GS-01-00341
2018-GS-01-00342

May 14, 2019
Abbeville, South Carolina

B E F O R E:

The Honorable Roger M. Young, Sr., Judge.

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

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Attorney for the State

Clark McCants, Assistant Public Defender
Attorney for the Defendant

Walt Whitmire, Assistant Public Defender
Attorney for the Defendant

Lisa Scott
Circuit Court Reporter

I N D E X

WITNESS

PAGE

No Witnesses.

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
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No Exhibits.

P R O C E E D I N G S

- - -

THE COURT: All right. We got two indictments and one sentencing sheet. Are you dropping one charge?

MR. BROWN: Yes, sir. The weapons charge.

THE COURT: Okay. All right. You're Robert Lamont Bryant?

THE DEFENDANT: Yes, sir.

THE COURT: All right. Mr. Bryant, you're here today as you were indicted for domestic violence of a high aggravated nature on Indictment 218 -- 2018-GS-01-0341. That carries a sentence of up to ten years.

And you also have been indicted for possession of a weapon during the commission of a violent crime, 2018-GS-01-0342. It's a zero to five year offense.

And I'm told you want to plead guilty to the domestic violence of a high and aggravated nature charge; is that correct?

THE DEFENDANT: Yes, sir.

THE COURT: All right. Now, we'll go over some rights that you have that you give up when you enter this plea. Then we'll talk about some of the

1 consequences of it and that.

2 But, basically, when you plead guilty, you give
3 up some rights that you have; namely, the right to a
4 jury trial. If you want a jury trial, all you have
5 to do is stop me and we'll arrange that for you. In
6 fact, we're prepared to start a trial this afternoon
7 with a jury that we qualified yesterday.

8 The State would then have to present enough
9 evidence to convince 12 jurors that you are guilty
10 of this charge beyond a reasonable doubt. All 12
11 jurors would have to agree that you are guilty in
12 order to convict you. And if convicted, you would
13 have the right to appeal.

14 You'd be able to challenge the State's
15 evidence, put up evidence of your own, testify if
16 you wanted. And if you didn't want to testify, the
17 judge would instruct the jury they're not to hold
18 that against you while they are deliberating.

19 Do you understand those rights?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And do you want to give those
22 rights up and enter this guilty plea today?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And are you pleading guilty to this
25 charge because you're guilty of it?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. Are you under the
3 influence of alcohol today?

4 THE DEFENDANT: No, sir.

5 THE COURT: How about any kind of drugs, either
6 legal or illegal?

7 THE DEFENDANT: No, sir.

8 THE COURT: You don't take any prescription
9 medication?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Yes or no? You do ---

12 THE DEFENDANT: Yes, sir.

13 THE COURT: --- or you don't?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: You take some?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: What's the prescription medication
18 that you take?

19 MR. MCCANTS: I have it right here, Judge.

20 THE COURT: Okay. Do you know what it is?

21 MR. MCCANTS: Yes, sir. And I apologize if I
22 mispronounce these, but I've got Ranitidine for
23 indigestion, Naproxen for pain, Celexa for anxiety
24 and depression, and Amlodipine for blood pressure.

25 THE COURT: Okay. And you take the prescribed

1 amounts that's what is prescribed for you to take?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And you get that administered to
4 you at the jail?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: All right. When's the last time
7 you took some?

8 THE DEFENDANT: This morning.

9 THE COURT: All right. And those medications
10 help you feel better?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And the one for anxiety helps you
13 think about things a little bit better?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. Does it interfere with
16 your ability to understand what you're doing?

17 THE DEFENDANT: No, sir.

18 THE COURT: All right. Now, you're standing
19 next to your lawyers. You got two lawyers there.
20 Are you satisfied with their representation?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Okay. And you've had enough time
23 to discuss this matter with them?

24 THE DEFENDANT: Well, I'm going to put it
25 like -- I was assigned to one public defender ---

1 THE COURT: Okay.

2 THE DEFENDANT: --- when I first got locked up.

3 And then December, they come to me with him
4 representing me hollering about 12 to 15 years in
5 December. So when December came, they hollered
6 about throwing me in front of the jury in January.

7 So they -- they postponed it for some injury on
8 my head, so okay. Then they came back on them, you
9 know what I'm saying? I was assigned to Ms. Chelsea
10 McNeal at that time.

11 THE COURT: Right.

12 THE DEFENDANT: I had never had counsel with
13 this dude -- with this client -- with this lawyer at
14 the time of this, and they wanted me to come plead
15 to 12 to 15 years in December.

16 THE COURT: I understand, but you did not.

17 THE DEFENDANT: I did not because I ain't had
18 no time to talk to my lawyer. He didn't have no
19 paperwork or nothing on me at all.

20 THE COURT: All right. But today?

21 THE DEFENDANT: Okay. Yeah. Yeah, I'm
22 straight. I'm straight.

23 THE COURT: You've had enough time ---

24 THE DEFENDANT: Yes, sir. Yes, sir.

25 THE COURT: --- to talk to him this morning?

1 THE DEFENDANT: Yes, sir. Yes, sir. Yes, sir.

2 THE COURT: It's twelve o'clock noon ---

3 THE DEFENDANT: Yes, sir.

4 THE COURT: --- and you've been here all
5 morning long ---

6 THE DEFENDANT: Yes, sir.

7 THE COURT: --- and you're back there talking
8 with them?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: At least a couple of hours?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Okay. Now, I understand that you
13 guys have reached a negotiated plea for a 20-year
14 sentence to the domestic violence of a high and
15 aggravated nature.

16 In return, the State will dismiss the weapons
17 charge. Does that also include the taking care of
18 the probation matter?

19 MR. BROWN: Judge, it -- actually, the 20 years
20 will take the LWOP off notice and dismissing the
21 weapons charge.

22 I let Mr. McCants know, I'm remaining silent on
23 the probationary matter and that would be between
24 them, but I'm not adding in on that.

25 THE COURT: All right.

1 MR. BROWN: This would -- this would take the
2 LWOP off the table and dismiss the weapons charge.

3 THE COURT: The State was seeking, if you were
4 convicted, to have the Court sentence you to life
5 without parole because you had prior strike
6 offenses. Enough of them that made it mandatory
7 that if you either plead guilty or were convicted,
8 you'd get life without parole.

9 This plea negotiation takes life without parole
10 off the consideration. I'm not going to sentence
11 you to life without parole if this plea goes
12 forward, but I will sentence you to 20 years in
13 prison. Do you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. So that's a negotiated
16 plea between you and the State.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And you want me to accept that
21 plea?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. Now, how old are you?

24 THE DEFENDANT: Forty-one.

25 THE COURT: How far did you get in school?

1 THE DEFENDANT: Eleventh grade.

2 THE COURT: And did you have a job before you
3 got locked up?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: What did you do?

6 THE DEFENDANT: I worked at the rubber plant.

7 THE COURT: Doing what?

8 THE CLERK: I run an assembly line.

9 THE COURT: What do you make there?

10 THE DEFENDANT: Rubber.

11 THE COURT: Okay. And what do they make with
12 that rubber? You just make ---

13 THE DEFENDANT: Yeah, make it and they send it
14 off to Ohio.

15 THE COURT: Okay. How long did you work there?

16 THE DEFENDANT: Six months.

17 THE COURT: What did you do before that?

18 THE DEFENDANT: I was locked up.

19 THE COURT: All right. Are you married?

20 THE DEFENDANT: No, sir.

21 THE COURT: Do you have children?

22 THE DEFENDANT: I got a son.

23 THE COURT: How old is your son?

24 THE DEFENDANT: Six.

25 THE COURT: Okay. All right. So why don't you

1 tell me about his mental health issues that we had
2 discussed?

3 MR. MCCANTS: Certainly, Judge. We had Robert
4 evaluated on April 16th at the Abbeville County
5 Detention Center by Dr. James Evans out of
6 Greenville because in talking to Robert, I sensed
7 that something would've been off.

8 And Dr. Evans is a neuropsychologist and ran a
9 battery of tests on Robert, which included writing
10 things down, recognizing things, and memorizing
11 things, and also conducted a quantified EEG on him
12 to scan his brain waves.

13 And not just the tests that Dr. Evans did in
14 person, showed that Robert has memory issues,
15 impulse issues, and the EEG itself showed
16 dis-regularities in his frontal lobe.

17 And I think that -- certainly, that explains
18 his life essentially -- and I'm sure you'll hear his
19 prior criminal record from the solicitor when it's
20 time -- but while those actions are not excused,
21 they are certainly explained.

22 And so we -- I think we now know today, you
23 know, what's going on with Robert and in the future
24 know how it can be fixed.

25 THE COURT: All right. I read the Department

1 of Mental Health evaluation that was done on him
2 last night. I also read the report y'all had
3 prepared for Dr. Evans.

4 MR. MCCANTS: That's correct.

5 THE COURT: Neither of those reports suggest
6 that he does not understand what he is doing and he
7 is competent to stand trial and assist. Is that
8 your reading of those?

9 MR. MCCANTS: That's -- that's my reading, Your
10 Honor. Yes, sir.

11 THE COURT: Are you in agreement with that,
12 that he does understand what he is doing and is able
13 to assist you?

14 MR. MCCANTS: I am in agreement.

15 THE COURT: Okay. How about you?

16 MR. WHITMIRE: I'm in agreement on that issue.

17 THE COURT: All right. Do you agree with his
18 decision to plead guilty here today?

19 MR. MCCANTS: I do, Your Honor.

20 THE COURT: And do you agree?

21 MR. WHITMIRE: I support him in his decision
22 with the options that are on the table today.

23 THE COURT: All right. Well, I've read those
24 reports. We'll make them part of the Court's
25 exhibit. I've observed Mr. Bryant in court

1 yesterday. I spoke with him this morning.

2 While he might be functioning on a below
3 average intellectual level, there's nothing that is
4 indicated in those reports to me or in my
5 observation or sounds like in your dealing with him
6 that he does not understand what he's doing, nor are
7 there any issues raised about his competency,
8 understanding what he's doing, or assist you.

9 So I find that his plea is freely, voluntarily,
10 and intelligently made. I will accept it. There's
11 a substantial factual basis for the plea.

12 What would the State like to tell me about the
13 case?

14 MR. BROWN: Thank you, Judge.

15 On or about February 16, 2018, around nine
16 o'clock in the morning, officers -- Patrolman Eric
17 Probe is here in the courtroom today -- received and
18 was dispatched to a 9-1-1 call to 506 Branch Street,
19 Apartment 518.

20 Once they responded to that location, they did
21 see a woman later identified as Deshawn Howell,
22 who's in the courtroom today. She came out of the
23 apartment holding a towel to her face and bleeding
24 profusely from her nose.

25 Officer Crow observed Ms. Howell's left nostril

1 was completely cut, and her face, her nostril down
2 to her lip, and her shirt was saturated in blood.
3 Officer Crow helped her to the ground. Helped her
4 apply pressure to that injury.

5 Law enforcement and other law enforcement
6 officers got there and began looking for Mr. Bryant.

7 EMS had arrived and were able to bandage her
8 face and get the bleeding under control and then
9 took her to Self Hospital in Greenwood where she did
10 have -- met with the ear, nose, and throat doctor,
11 Doctor Rust, and also the nurse practitioner, Kelly
12 Addy, who took care of her and was able to suture
13 her back up.

14 Mr. Bryant lived with Ms. Howell at that
15 address. The lady that called 9-1-1 was Rusheata
16 Williams, the next door neighbor to Ms. Howell. She
17 was able to call 9-1-1. And she would also be a
18 witness in this case that saw Mr. Bryant go in the
19 house, and then within a few minutes come back out
20 of the house and walk away and then Ms. Howell comes
21 out. Ms. Howell's son was also in the house and
22 another friend of Mr. -- of her son, Emmanuel
23 Goldhood was there too.

24 Your Honor, I would like to pass forward a
25 picture, and I can mark this as a State's exhibit,

1 but it's a photograph of the injury of Ms. Howell's
2 face.

3 The State alleges that Ms. Howell would testify
4 that Mr. Bryant came in that morning. She had got
5 off from work and went to pick her -- her daughter
6 up from school. There was a bomb threat here in
7 Abbeville that day, so students were being released.
8 She left to pick up her daughter. Came back home,
9 was in her back bedroom. Mr. Bryant came in and
10 pulled out a box cutter out of his pocket and cut
11 her face.

12 Your Honor, the next day Mr. Bryant was
13 arrested. I think he was arrested -- he was -- he
14 reported to Self and he was arrested there. So he
15 was arrested on February 17, 2018, and he's been
16 incarcerated ever since. I believe it's 452 days.
17 We'd give him credit for time Mr. Bryant would get.

18 Your Honor, Mr. Bryant does have an extensive
19 record. I've actually prosecuted Mr. Bryant before
20 in 2014 for domestic violence, a CDVHAN was the
21 former law, criminal domestic violence of a high and
22 aggravated nature, and also two assault and battery
23 of a high and aggravated nature that was pled down
24 to attempted murder.

25 Mr. Bryant has an assault and battery of a high

1 and aggravated nature in 1995.

2 A PWID and another possession PWID; 1996.
3 Simple assault and battery; 1996. A burglary second
4 and a grand larceny in 1996. Another simple
5 assault; 1996.

6 A lynching charge; 1997. Looks like there was
7 a violation for that ABHAN in 1997.

8 Then in 1998, which we have -- we did use an
9 LWOP notice of proximity charge within a school and
10 a distribution of crack. He received a three-year
11 sentence.

12 Resisting arrest in 2001.

13 Then in 2003, instigating, aiding, or
14 participating in a riot. Two-year sentence. Those
15 charges -- well, actually, that was dismissed.

16 2004; assaulting a police officer while
17 resisting, cocaine charge, and petit larceny. And,
18 also, the proximity charge in 2004 where he was
19 uncounseled in that plea, but, again, we're using
20 that as a prior serious offense. He received a
21 twelve-year sentence in total on those charges in
22 2004.

23 2000 -- I believe it's 2013, he actually picked
24 up the CDVHAN charge on a victim, and then the ABHAN
25 or attempted murder charges in '14, just a couple

1 months later in 2014, where he was sentenced and
2 received a six-year sentence on the CDVHAN, followed
3 by a consecutive 15 years, suspended to five years
4 probation. He was released from that six-year
5 sentence last -- or in August 2017, and then this
6 offense occurred in February of 2018.

7 Judge, that -- those are the facts of this
8 case. And, again, we'd ask that you accept the
9 20-year negotiated plea.

10 THE COURT: Is there any disagreement with the
11 recitation of the facts?

12 MR. MCCANTS: No, Your Honor.

13 THE COURT: Okay. Anything from the victim?
14 Would you like to say anything, Ms. Howell?

15 THE VICTIM: No.

16 THE COURT: No? All right. Well, I see the
17 State is also asking for a permanent restraining
18 order be signed.

19 MR. BROWN: Yes, sir.

20 THE COURT: Is that right?

21 MR. BROWN: That's correct.

22 THE COURT: Okay. Well, I find there is a
23 substantial factual basis for the plea. What would
24 y'all like to tell me?

25 MR. MCCANTS: Thank you, Your Honor. I have

1 gotten to know Robert since December of 2018. I've
2 gotten to know his family since then, and they are
3 just wonderful people.

4 And once we finally figured out how to
5 communicate with Robert, he himself is a wonderful,
6 wonderful person and has a good man inside of him.

7 The report by Dr. Evans, I think is just
8 crucial for why we're here today, why he's been here
9 in the past, and where we're going in the future.
10 And he has expressed remorse towards Ms. Howell for
11 this incident and for, you know, prior incidents. I
12 think that there is a serious underlying medical
13 issue that kind of explains all this. And, again,
14 it doesn't excuse him, but this is the road to
15 recovery.

16 Judge, I'm not sure if my co-counsel or if
17 Robert would like to add anything, but for me, I
18 would ask you to accept this negotiated sentence,
19 run his probation concurrent with that, and let him
20 get home one day and see his family again.

21 THE COURT: Did you want to say anything?

22 MR. WHITMIRE: Judge, I've gotten to know Clyde
23 very well in the last several months. A very
24 different person than I first met and a lot of that
25 is because of his intellectual functioning, learning

1 how to talk to him.

2 We had a long talk today, and I just want to
3 make it clear for the record for future purposes,
4 his decision to take this plea is based on the
5 numerical exposure, that the Court would be willing
6 to rule with us, if we could show that he was
7 intellectually disabled, the numerical exposure over
8 his head.

9 THE COURT: All right. Probation, what would
10 you like to say?

11 PROBATION OFFICER: Your Honor, I just wanted
12 to let you know, Mr. Brown has already talked about
13 his -- his probation.

14 So, basically, on October the 2nd of 2014, he
15 was sentenced for a six-year sentence for a domestic
16 violence. He did a straight six years on that.

17 At that same time, he plead guilty to two
18 counts of assault and battery of a high aggravated
19 nature where he was sentenced to 15 years, suspended
20 to five years probation. And that probation was not
21 to start until he got out.

22 The probation did start when he was released on
23 August the 1st of 2017. And then we did our warrant
24 really right after this incident occurred. He'd
25 only been on probation for, you know, six or seven

1 months. Not that -- that long of a time.

2 During that time, he failed to report. He
3 reported like three times. He was supposed to
4 report every month. He reported like three times
5 during that period of time.

6 We had a talk. He came in in December and had
7 a talk with him about, you know, him reporting like
8 he's supposed to. And he did that for the next
9 couple of months, and then this -- this happened.

10 So the main violation, obviously, in this case
11 is the -- is the -- this new charge and, you know,
12 being something very similar matter to what he's
13 serving probation for currently. And he does have,
14 like I said, two -- two different cases with
15 15 years hanging over his head.

16 THE COURT: Mr. Bryant, would you like to say
17 anything?

18 THE DEFENDANT: I'm sorry and I hope that you
19 just go ahead and take the negotiated plea of
20 20 years.

21 MR. MCCANTS: Judge, if I could say one last
22 thing. I think the day he was arrested was a day he
23 was supposed to report to probation as well, so that
24 may explain one of the missed reporting dates.

25 PROBATION OFFICER: I think it actually -- he

1 was scheduled to be in on the 6th, and I think --
2 what was the date? The 16th, so, yeah, he had
3 missed the 6th, so that was -- that was one of those
4 days that he had missed, but, you know, we generally
5 give them the entire month to get in there and see
6 us, but that was a scheduled day was on the 6th
7 after the last time I saw him in January.

8 THE COURT: All right. Well, when I walked in
9 yesterday, I got your medical reports and had to
10 bring myself up to speed quite a bit last night on
11 what the lay of the land is on what your
12 intellectual ability situation is because your
13 lawyer did a very good job of advocating on your
14 behalf about some issues that pertain to life
15 without parole and people who suffer from an
16 intellectual disability.

17 I had some questions about your status, which
18 we talked about in chambers this morning. I'm
19 convinced that not only are you competent to stand
20 trial and assist your counsel in trial and pleading,
21 but I don't believe that you fall within that
22 category of intellectual disability that would be
23 covered by the statute.

24 I think you're on the -- if you did average
25 being this range, I think all the reports agree that

1 you might be a little below average, but I don't
2 think it's to the extent that you wouldn't be
3 considered to not know what you were doing
4 certainly, but that it would -- it does have some
5 impact on sentencing. And I think that this
6 sentence that you have come to an agreement with on
7 the State is fair, all things considered.

8 The State certainly had the right to seek life
9 without parole based on the facts and your prior
10 record, and I think the State was correct in
11 allowing you to plead to what is the maximum under
12 the statute without life without parole. It's a
13 strong sentence; but nevertheless, your lawyers did
14 do a good job of advocating on your behalf to get
15 the State to lift that life without parole because
16 they were going to seek life without parole whether
17 you pled guilty or whether you were convicted.

18 And if -- if they seek it, I have to sentence
19 it if you're convicted, unless they take it off the
20 table. And they took it off the table, so 20 years
21 is a -- is a long sentence. You're still a young
22 man and you'll serve it and be able to come back out
23 and hopefully become a productive member of society.
24 That's always our hope in these things.

25 I bring that up and I've said it a couple of

1 times about your lawyers having done a good job for
2 you because it's been my experience that a lot of
3 times when people go into SCDC, people start putting
4 it in your ear, You didn't get a good deal. What
5 did you do? Why did you plead like this? And they
6 talk you into filing a post-conviction relief.

7 Personally, I think you would be ill served by
8 that because that's one of the things about
9 post-conviction relief. It takes everything that we
10 did today, throws it out, and then puts you right
11 back to where you were when we started this 30 or 45
12 minutes ago. And the State would at that point, I
13 assure you, seek life without parole.

14 And based on the facts of this case and your
15 prior record, you undoubtedly would be convicted of
16 it and you would receive a sentence of life without
17 parole. So don't let the naysayers affect your
18 thinking when you get up there. Your lawyers did a
19 tremendous job getting the State to agree to take
20 life without parole off the table for you.

21 So I am going to revoke your probation, but I
22 will allow your probationary sentence to run
23 concurrent with the 20-years. So when you finish up
24 with the 20 years, you'll have a fresh start.
25 You'll have a bad record. If you ever get convicted

1 of something else, I assure you that'll be the last
2 time you walk as a free man. You'll go to jail for
3 whatever and you'll get put in for as long as you
4 possible can with the record that you've got.

5 So there are -- there are programs that are
6 available to help you deal with anger issues and
7 different things. You need to make yourself
8 available to the extent that you can get in those
9 programs and get in.

10 Do some self-improvement, read, things like
11 that. You got a long time to deal with that, but
12 I'm confident that somebody can be better than they
13 are today. We all are that. And you can be a
14 better person than what your record suggests that
15 you've been. So I'm expecting you to take advantage
16 of this opportunity from this break that you got
17 today.

18 So the sentence of the Court is 20 years in the
19 Department of Corrections. It's to run concurrent
20 with your -- with your probation. The sentence,
21 which is revoked in full, so that 15 years will run
22 concurrent with the 20 years. You get credit for
23 the 452 days. Good luck to you.

24 THE DEFENDANT: Thank you, sir.

25 MR. MCCANTS: Thank you, Your Honor.

1 THE COURT: Oh, I'm also entering a permanent
2 restraining order against you for -- to not have any
3 contact with Ms. Howell directly or indirectly ever
4 again.

5 THE DEFENDANT: Yes, sir.

6 (The proceedings concluded at 12:33 p.m.)

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

STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

I, the undersigned, Lisa Scott, Circuit Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Criminal Court for Abbeville County, South Carolina, on the 14th day of May, 2019.

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

October 17, 2019

/s/Lisa Scott

Lisa Scott
Circuit Court Reporter

State of South Carolina
County of Abbeville

Court of General Sessions

State of South Carolina)
)
)
 v.)
)
 Robert Lamont Bryant)
)
 _____ Defendant.)

Transcript of Record
2018-GS-01-00341
2018-GS-01-00342

May 15, 2019
Abbeville, South Carolina

B E F O R E:

The Honorable Roger M. Young, Sr., Judge.

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

Yates Brown, Deputy Solicitor
Attorney for the State

Clark McCants, Assistant Public Defender
Attorney for the Defendant

Lisa Scott
Circuit Court Reporter

I N D E X

WITNESS

PAGE

No Witnesses.

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
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No Exhibits.

P R O C E E D I N G S

- - -

MR. BROWN: Can we have Mr. Bryant?

(The defendant was personally present, together with counsel.)

THE COURT: All right. What do we have?

MR. BROWN: Judge, standing before you again is Robert Lamont Bryant. He plead yesterday on Indictment 18-GS-01-0341 to domestic violence of a high and aggravated nature. Sentenced to a negotiated 20 years.

I failed to check the boxes of this offense being a violent and serious offense. Just so everything is clear on the record and before SCDC gets the paperwork, I just wanted to make sure everybody was aware of this and we just got this correct. And that was -- that's my fault on not having the boxes checked, but I'm passing that to Mr. McCants now so he can show it to Mr. Bryant.

THE COURT: Do you need to spend a few minutes explaining that to him?

MR. MCCANTS: Yes, sir. I'm sorry, Your Honor.

THE COURT: All right. Go ahead.

(From 10:48 to 10:53 a.m., brief recess.)

THE COURT: Okay. Tell me what's going on.

1 MR. MCCANTS: Thank you, Judge. Yesterday
2 there was, I think, a box marked "nonviolent," when
3 in reality the CDR code and the statute on that form
4 is actually what really matters to avoid any
5 confusion at SCDC, and we told Robert this
6 yesterday, that we are also handling, you know,
7 potential appeal and PCR. And that later on down
8 the road, we will revisit issues in the
9 representation, but that we got to get through this
10 clerical error today, and that he understands this
11 now and that is his ---

12 THE DEFENDANT: (Interruption.)

13 THE COURT: Let me finish hearing from your
14 lawyer.

15 MR. MCCANTS: That is his signature on this
16 form. We went through the CDR code and the statute
17 that is on the sentence sheet. And he understood
18 yesterday that that is what he was pleading to and
19 understands today that it has been, you know,
20 corrected.

21 THE COURT: Did you want to say something,
22 Mr. Bryant?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: What would you like to say?

25 THE DEFENDANT: Yesterday what was marked, they

1 came back today and remarked. It wasn't marked
2 yesterday. Like it was marked -- see they -- they
3 marked out the -- what said "nonviolent," Your
4 Honor, they -- they -- they went across that with a
5 white -- with a whiteout ---

6 THE COURT: Right.

7 THE DEFENDANT: --- and came back and marked
8 two more -- two more slots, but that wasn't done
9 yesterday. How can you come back today and after I
10 done got sentenced and everything and do this here
11 now?

12 THE COURT: Well, they're bringing it back
13 today to correct the error that was made by
14 incorrectly marking one yesterday. The violent and
15 nonviolent affects your parole eligibility. All
16 right?

17 And from what your lawyer is -- is explaining
18 to me, he explained to you that I gather in your
19 talks about pleading, when you might possibly be
20 eligible to get out of prison, how many years you
21 have to serve under a 20-year sentence before you
22 could get out. So violent versus nonviolent affects
23 your parole eligibility.

24 The other thing is the serious offense or the
25 three-strike issue. Of course, as you -- as you

1 might remember, the reason why you were facing
2 parole -- or life without parole as a sentence was
3 because you had accumulated enough strikes to -- so
4 that the State could ask for life without parole.
5 You had already exceeded the number that you get so
6 that going forward with trial today or this week, if
7 you had been convicted either by going to trial or
8 pleading guilty, the State could ask for life
9 without parole. They did not, however, ask for life
10 without parole ultimately in exchange for your plea
11 to -- with a 20-year sentence. All right?

12 Nevertheless, you still have accumulated to
13 this point enough strikes so that if you ever commit
14 another strike offense, you are eligible to be
15 sentenced to life without parole.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: That really doesn't change because
18 you'd already accumulated enough strikes prior to
19 this week or prior to commission of this offense to
20 make you eligible for parole. So you're already
21 just going to continue to be eligible for life
22 without parole upon your next conviction.

23 Now, I understand that you might be attempting
24 to go back and get two of those overturned, but that
25 may or may not be successful ultimately. But after

1 today, this week's plea, you will still have -- you
2 will have two strikes against you. If you commit
3 another strike offense during your lifetime, you
4 would be eligible for life without parole as a
5 sentence.

6 Did I state that accurately from your
7 standpoint?

8 MR. MCCANTS: Yes, Your Honor.

9 MR. BROWN: Yes, sir.

10 THE COURT: Okay. So it -- it boils down
11 really to then violent versus nonviolent. If the
12 box was incorrectly marked "nonviolent" ---

13 THE DEFENDANT: Yes, sir.

14 THE COURT: --- when it was a violent offense,
15 you then -- from what I understand from your lawyer
16 is, he had -- he had, in fact, explained to you what
17 your parole eligibility would be. That doesn't --
18 he had explained it to you as if it were correctly
19 marked yesterday. In other words, when your
20 parole -- when you might be eligible for parole.

21 THE DEFENDANT: It ain't -- it ain't no parole
22 as it been for the ---

23 THE COURT: What's that?

24 THE DEFENDANT: --- as to what they got it now,
25 it's not eligible for parole for that.

1 THE COURT: No. This is a parole eligible
2 offense. It's just on a nonviolent offense, you're
3 eligible for parole sooner than you would be for a
4 violent offense. There is such a thing as a "no
5 parole offense," but this is not a no parole
6 offense.

7 THE DEFENDANT: Okay.

8 THE COURT: So it was a no parole ---

9 THE DEFENDANT: That's -- that's all I wanted
10 to know.

11 THE COURT: --- okay, you would have to serve
12 85 percent ---

13 THE DEFENDANT: Okay.

14 THE COURT: --- in order to get out.

15 THE DEFENDANT: That's -- that's the
16 understanding I wanted. That's all I wanted to know
17 to understand.

18 THE COURT: You're still eligible. It's just
19 you're -- you'd have to do more time ---

20 THE DEFENDANT: I know -- I know, sir.

21 THE COURT: --- than you would on a -- on a
22 nonviolent offense.

23 THE DEFENDANT: Yes, sir. I know. All right.
24 I gotcha.

25 THE COURT: So is that clear to you now? You

1 are eligible for parole. It doesn't mean you'll get
2 parole ---

3 THE DEFENDANT: No.

4 THE COURT: --- but you're eligible for parole.
5 It's just you'd have to serve more time for a
6 violent offense than you would a nonviolent offense.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: So you're clear on that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: No problems then?

11 THE DEFENDANT: No, sir.

12 THE COURT: Okay. All right. Well then we
13 will -- I'll initial beside the whiteout mark on
14 nonviolent. And so it's violent, serious, 20-year
15 sentence with running concurrent with probation
16 revocation. It's 452 days credit as of yesterday.

17 MR. MCCANTS: Thank you, Your Honor.

18 THE COURT: Okay. Good luck to you.

19 (At 11:00 a.m., the proceedings concluded.)

20 * * * * *

21

22

23

24

25

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

STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

I, the undersigned, Lisa Scott, Circuit Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Criminal Court for Abbeville County, South Carolina, on the 15th day of May, 2019.

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

July 24, 2020

/s/Lisa Scott

Lisa Scott
Circuit Court Reporter

ARREST WARRANT
2018A0120100020

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
ABBEVILLE

THE STATE
against

ROBERT LAMONT BRYANT
Address: 126 HESTER ST
CALHOUN FALLS SC 29628
Phone: (864) 459-9725 SSN: [REDACTED]
Sex: M Race: B Height: 6-5 Weight: 200
State: SC DL#: [REDACTED]
DOB: [REDACTED] Agency ORI#: SC0010100
Prosecuting Agency: ABBEVILLE POLICE DEPARTMENT
Prosecuting Officer: [REDACTED]
Offense: DOMESTIC VIOLENCE HIGH AND
AGGRAVATED Offense Code: 3814
Code/Ordinance Sec. 16-25-0065 (A)

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of
The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge

(L.S.)

Date: _____ Time: _____

RETURN

A copy of this arrest warrant was delivered to
defendant ROBERT LAMONT BRYANT
on 2/27/18

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO: Rec'd 2/27/2018
MUNICIPAL COURT JUDGE
102 S. MAIN STREET
ABBEVILLE, SC 29620

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
ABBEVILLE

AFFIDAVIT

S.C. Attorney General
April 2, 2003
SCCA-10

Personally appeared before me the affiant AARON CROWE who
being duly sworn deposes and says that defendant ROBERT LAMONT BRYANT
did within this county and state on 02/16/2018 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ABBEVILLE)
in the following particulars:

DESCRIPTION OF OFFENSE: 16-25-0065 (A) / DOMESTIC VIOLENCE HIGH AND AGGRAVATED

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

ON 02-16-2018 ROBERT LAMONT BRYANT DID WILFULLY, KNOWINGLY, AND UNLAWFULLY MANIFEST AN EXTREME INDIFFERENCE TO THE
VALUE OF HIS GIRLFRIEND THAT HE COHABITATES WITH, TASHAWN ETTA HOWLAND'S (VITICM), LIFE BY CUTTING HER WITH A BOX CUTTER
ON HER NOSE AND FACE WHILE THE VICTIM WAS LAYING IN BED AND WOULD REASONABLY CAUSE A PERSON TO FEAR IMMINENT GREAT
BODILY INJURY OR DEATH. THIS USE OF A DEADLY WEAPON LED TO A SEVERE LARCEATION AND POSSIBLE PERMANENT DISFIGUREMENT
TO THE VICTIM. THIS INCIDENT OCCURRED AT 506 BRANCH STREET APARTMENT 518, WHICH IS LOCATED WITHIN THE CITY LIMITS OF
ABBEVILLE SC. BEING IN VIOLATION OF CODE OF LAWS 16-25-0065(A). INFORMATION OBTAINED FROM ABBEVILLE POLICE DEPARTMENT
CASE#201800363.

TRUE COPY
BY [Signature]
ABBEVILLE COUNTY CLERK OF COURT

Signature of Affiant

Affiant's Address 102 S MAIN ST
ABBEVILLE
Affiant's Telephone

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
ABBEVILLE

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 02/16/2018 defendant ROBERT LAMONT BRYANT

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of ABBEVILLE) as set forth below:
DESCRIPTION OF OFFENSE: DOMESTIC / DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered
to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me)

on 02/16/2018)
Date Time
CAROLYN BROWNLEE (L.S.)

Judge Code: 8057

Judge's Address 102 S. MAIN ST
ABBEVILLE SC 29620

Judge's Telephone
Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

Case: 201800363

ORIGINAL

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

INDICTMENT FOR

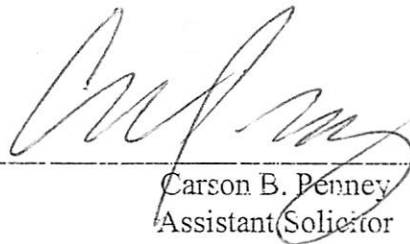
DOMESTIC VIOLENCE OF A HIGH AND
AGGRAVATED NATURE

§16-25-0065(A)

At a Court of General Sessions, convened on the 15th day of June, 2018, the Grand Jurors of Abbeville County present upon their oath:

The defendant, Robert Lamont Bryant, on or about February 16, 2018 in Abbeville County, South Carolina, did cause physical harm or injury to Tashawn Howland, a household member, or did offer or attempt to cause physical harm or injury to said household member with apparent present ability under circumstances reasonably creating fear of imminent peril. In addition, the offense was committed under circumstances manifesting extreme indifference to the value of human life and great bodily injury to the victim resulted and/or the offense was committed, with or without an accompanying battery, under circumstances manifesting extreme indifference to the value of human life, which would reasonably cause a person to fear imminent great bodily injury or death. All in violation of 16-25-0065(A), Code of Laws of South Carolina (1976, as amended).

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


Carson B. Penney
Assistant Solicitor

TRUE COPY
BY 
ABBEVILLE COUNTY CLERK OF COURT

WITNESSES

Aaron Crowe
Abbeville Police Department

WARRANT NUMBER

2018A0120i00020

Michael J. Rodgers

Foreman of the Grand Jury

Date: 6-15-18**VERDICT
TRUE BILL**

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

COURT OF GENERAL SESSIONS

June Term, 2018

Indictment # 18GS01-0341

THE STATE

vs.

ROBERT LAMONT BRYANT

INDICTMENT FOR**DOMESTIC VIOLENCE OF A HIGH AND
AGGRAVATED NATURE**

SC Code: § 16-25-0065(A)

CDR: 3814

I hereby waive presentment to the Grand
Jury.

Defendant

Witness:

COUNTY OF ABBEVILLE

STATE VS.

ROBERT LAMONT BRYANT

AKA: _____
 Race: Black Sex: M Age: 41
 DOB: [REDACTED] SS#: [REDACTED]
 Address: 126 Hester Drive
 City, State, Zip: Calhoun Falls, SC 29628
 DI# [REDACTED] SID# _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or☒ PLEADSTO: Domestic Violence of a High and Aggravated NatureIn violation of § 16-25-0065(A) of the S.C. Code of Laws, bearing CDR Code # 3814

SENTENCE SHEET

TRUE COPY
 BY [Signature]
 ABBEVILLE COUNTY CLERK OF COURT

☒ 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: [Signature] 78607 Robert L Bryant [Signature] 103228
 C. Yates Brown, Jr., Deputy Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
 for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
 are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: probation' probation' sentence

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
 Department of Corrections. 452 Days

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____
 Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment
 Payment Terms: _____ Obtain GED ☐

☐ Set by SCDPPPS _____ Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____ May serve W/E beginning _____

*Fine: _____ \$ _____ Substance Abuse Counseling ☐

§14-1-206 (Assessments 107.5%) \$ _____ Random Drug/Alcohol Testing ☐

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00 Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____ pmts. of \$ _____ Beginning _____

§56-5-2995 (DUI Assessment) \$12 \$ _____ \$ _____ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ _____ Other: _____

Proviso (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____ ☐ Appointed PD or appointed other counsel.

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____ Proviso requires \$500 be paid to Clerk

3% to County (if paid in installments) \$ \$ 3.75 during probation and shall be collected before

TOTAL \$ 128.75 any other fees.

Clerk of Court/Deputy Clerk: [Signature] Presiding Judge: [Signature]

Court Reporter: [Signature] Judge Code: 2124

Sentence Date: 5/14/19

STATE OF SOUTH CAROLINA

COUNTY OF AbbevilleRobert Lamont Bryant

Plaintiff(s)

vs.

State of South Carolina

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2019-CP-01-141Submitted By: Clarke McCants IVAddress: 600 Monument St.Suite 208Greenwood, SC 29646SC Bar #: 103228Telephone #: (864) 229-9505

Fax #:

Other:

E-mail:

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing cases that are NOT E-Filed. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint. This form is NOT required to be filed in E-Filed Cases.

DOCKETING INFORMATION (Check all that apply)

**If Action is Judgment/Settlement do not complete*

- ☐ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|--|--|--|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ General (130)
☐ Breach of Contract (140)
☐ Fraud/Bad Faith (150)
☐ Failure to Deliver/Warranty (160)
☐ Employment Discrim (170)
☐ Employment (180)
☐ Other (199) _____ | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
<u>20 -NI- -</u>
☐ Notice/ File Med Mal (230)
☐ Other (299) _____ | Torts - Personal Injury
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Assault/Battery (370)
☐ Slander/Libel (380)
☐ Other (399) _____ | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) _____ |
| Inmate Petitions
☒ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) _____ | Administrative Law/Relief
☐ Reinstate Drv. License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) _____ | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers Compensation Settlement Approval (780)
☐ Incapacitated Adult Settlement (790)
☐ Other (799) _____ | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (990)
☐ Employment Security Comm (991)
☐ Other (999) _____ |
| Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) _____
☐ Sexual Predator (510)
☐ Permanent Restraining Order (680)
☐ Interpleader (690) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Motion to Quash Subpoena in an Out-of-County Action (660)
☐ Pre-Suit Discovery (670) | | |

Submitting Party Signature: Clarke McCants IVDate: 5/3/19

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

Pursuant to the ADR Rules, you are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

FORM 5

2019-CP-01-141

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ABBEVILLE	)	
	)	
Robert Lamont Bryant	)	
Full name and prison number (if any) of Applicant.	)	
	)	
v.	)	APPLICATION FOR
	)	
State of South Carolina	)	POST-CONVICTION RELIEF
	)	

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Abbeville County Detention Center
2. Name and location of Court which imposed sentence Abbeville County, General Sessions
3. Name(s) of co-defendant(s) (if any) n/a
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 1998GS0100404; Distribution of crack cocaine & Distribution of crack cocaine near a school
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) October 30, 1998; 3 years plus costs and assessments

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

(a) Moving for an Appeal pursuant to White v. State based upon the circuit court's error in (1) not advising defendant of his right to counsel; (2) adequately warnig defendant of the dangers of self-representation. See Faretta v. California, 422 U.S. 806 (1975); See Prince v. State, 301 S.C. 422, 392 S.E.2d 462 (1990); Osbey v. State, 425 S.C. 615, 825 S.E.2d 48 (2019)

(b) _____

(c) _____

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

(a) The circuit court accepted defendant's uncounseled plea without advising defendant of his right to counsel or adequately warning defendant of the dangers of self-representation. See Faretta, at 806.

(b) _____

(c) _____

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

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

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

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

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

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

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

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

No

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

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

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

previously been presented:

(a) Circuit court's failure to adequately advise defendant of the dangers of self-representation.

(b) _____

(c) _____

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

(a) your arraignment and plea? No

(b) your trial, if any? _____

(c) your sentencing? No

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A

(e) preparation, presentation or consideration of any petitions, motions or applications _____ with respect to this conviction, which you filed? Yes

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Walt Whitmire, Esq., for the present collateral action

ii. _____

iii. _____

(b) the proceedings at which each such attorney represented you:

i. _____

ii. _____

iii. _____

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

An appeal pursuant to White v. State

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

No

STATE OF SOUTH CAROLINA)

VERIFICATION

County of ABBEVILLE)

I, Heidi Liverman, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

SWORN to and subscribed before me this 9
day of May, 2019.

Heidi Liverman (L.S.)
Notary Public

My Commission Expires: _____

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
2019 MAY -9 PM 1:56
EMILY Y JACKMAN
CLERK OF COURT

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

I, Robert Lamont Bryant, 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.

* Robert Bryant
Applicant

SWORN or affirmed to and subscribed before me this
9 day of May, 2019.

Heidi A. Herman
Notary Public

My Commission Expires: January 3, 2027

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
2019 MAY -9 PM 1:56
EMILY Y MCMAHAN
CLERK OF COURT

THE STATE OF SOUTH CAROLINA)

COUNTY OF ABBEVILLE)

Robert Lamont Bryant,)

Applicant,)

vs.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT

Case No. 20q9-CP-01-00141

Notice of Appearance

Please enter an appearance for E. Charles Grose, Jr. as attorney of record for the applicant,

Robert Lamont Bryant.¹

Respectfully Submitted,

By s/E. Charles Grose, Jr.

E. Charles Grose, Jr.
 S.C. Bar Number 66063
 The Grose Law Firm, LLC
 404 Main Street
 Greenwood, SC 29646
 (864) 538-4466
 (864) 538-4405 (fax)
 Email: charles@groselawfirm.com

Attorney for Robert Lamont Bryant

September 13, 2021
 Greenwood, South Carolina

TRUE COPY
 BY V. Clark
 ABBEVILLE COUNTY CLERK OF COURT

¹ Mr. Bryant reserves the right to amend his application for post-conviction relief ("PCR") as provided by law. Rule 71.1(d), SCRCP; S.C. Code Ann. § 17-27-90 (expressly contemplating supplemental or amended PCR application); *Mangal v. State*, 421 S.C. 85, 99, 805 S.E.2d 568, 575 (2017) ("[T]he interests of justice require PCR courts to be flexible with procedural requirements *before* PCR applicants suffer procedural default on substantial claims."); *Love v. State*, 428 S.C. 231, 834 S.E.2d 196 (2019) (denial of motion to amend application for post-conviction relief was abuse of discretion).

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE EIGHTH JUDICIAL CIRCUIT
COUNTY OF ABBEVILLE	)	
	)	Case No. 2019-CP-01-00141
Robert Lamont Bryant,	)	
	)	
	)	
	)	
vs.	)	
	)	
	)	
State of South Carolina,	)	
	)	
	)	
	)	

I certify that I have served a copy of this pleading on the State of South Carolina, pursuant to South Carolina Supreme Court Order No. 2021-08-27-01, Section (e), by emailing at copy to counsel, at their AIS email address, as reflected below:

Megan Harrigan Jameson, Esquire
 S.C. Attorney General's Office
 PO Box 11549
 Columbia, SC 29211
mjameson@scag.gov

By s/E. Charles Grose, Jr.

E. Charles Grose, Jr.
 The Grose Law Firm, LLC
 404 Main Street
 Greenwood, SC 29646
 (864) 538-4466

September 13, 2021
 Greenwood, South Carolina

FILED
 2021 SEP 16 AM 9:59
 CLERK OF COURT
 JUDICIAL CIRCUIT 8

THE STATE OF SOUTH CAROLINA)

COUNTY OF ABBEVILLE)

Robert Lamont Bryant,)

Applicant,)

vs.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT

Case No. 2019-CP-01-00141

Motion to Consolidate

Robert Bryant moves the Court for an order consolidating post-conviction relief ("PCR")

case numbers 2019-CP-01-00141, 2019-CP-01-00142, and 2019-CP-01-00232.¹

Respectfully Submitted,

By s/E. Charles Grose, Jr.

E. Charles Grose, Jr.
 S.C. Bar Number 66063
 The Grose Law Firm, LLC
 404 Main Street
 Greenwood, SC 29646
 (864) 538-4466
 (864) 538-4405 (fax)
 Email: charles@groselawfirm.com

Attorney for Robert Lamont Bryant

September 13, 2021
 Greenwood, South Carolina

TRUE COPY
 BY V. O. C.
 ABBEVILLE COUNTY CLERK OF COURT

¹ Mr. Bryant reserves the right to amend his PCR applications as provided by law. Rule 71.1(d), SCRCP; S.C. Code Ann. § 17-27-90 (expressly contemplating supplemental or amended PCR application); *Mangal v. State*, 421 S.C. 85, 99, 805 S.E.2d 568, 575 (2017) ("[T]he interests of justice require PCR courts to be flexible with procedural requirements *before* PCR applicants suffer procedural default on substantial claims."); *Love v. State*, 428 S.C. 231, 834 S.E.2d 196 (2019) (denial of motion to amend application for post-conviction relief was abuse of discretion).

THE STATE OF SOUTH CAROLINA)

COUNTY OF ABBEVILLE)

Robert Lamont Bryant,)

Applicant,)

vs.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT

Case No. 2019-CP-01-00141

FILED
2021 SEP 16 AM 9:05
CLERK OF COURT

I certify that I have served a copy of this pleading on the State of South Carolina, pursuant to South Carolina Supreme Court Order No. 2021-08-27-01, Section (e), by emailing at copy to counsel, at their AIS email address, as reflected below:

Megan Harrigan Jameson, Esquire
S.C. Attorney General's Office
PO Box 11549
Columbia, SC 29211
mjameson@scag.gov

By s/E. Charles Grose, Jr.

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466

September 13, 2021
Greenwood, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF AbbevilleRobert Lamont Bryant

Plaintiff(s)

vs.

State of South Carolina

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2019 -CP- 01 - 142

Submitted By: Clarke McCants IV
 Address: 600 Monument St.
Suite 208
Greenwood, SC 29646

SC Bar #: 103228
 Telephone #: (864) 229-9505
 Fax #: _____
 Other: _____
 E-mail: _____

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing cases that are NOT E-Filed. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint. This form is NOT required to be filed in E-Filed Cases.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to **ARBITRATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to **MEDIATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|--|---|--|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ General (130)
☐ Breach of Contract (140)
☐ Fraud/Bad Faith (150)
☐ Failure to Deliver/
Warranty (160)
☐ Employment Discrim (170)
☐ Employment (180)
☐ Other (199) _____ | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 ____ -NI- ____ -
☐ Notice/ File Med Mal (230)
☐ Other (299) _____ | Torts - Personal Injury
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Assault/Battery (370)
☐ Slander/Libel (380)
☐ Other (399) _____ | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) _____ |
| Inmate Petitions
☒ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) _____ | Administrative Law/Relief
☐ Reinstate Drv. License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture—Consent Order (850)
☐ Other (899) _____ | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured
Settlement Payment Rights
Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers
Compensation Settlement
Approval (780)
☐ Incapacitated Adult Settlement
(790)
☐ Other (799) _____ | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (990)
☐ Employment Security Comm (991)
☐ Other (999) _____ |
| Special/Complex /Other
☐ Environmental (600) ☐ Pharmaceuticals (630)
☐ Automobile Arb. (610) ☐ Unfair Trade Practices (640)
☐ Medical (620) ☐ Out-of State Depositions (650)
☐ Other (699) _____ ☐ Motion to Quash Subpoena in
an Out-of-County Action (660)
☐ Sexual Predator (510) ☐ Pre-Suit Discovery (670)
☐ Permanent Restraining Order (680)
☐ Interpleader (690) | | | |

Submitting Party Signature: Clarke McCants IVDate: 5/13/19

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

Pursuant to the ADR Rules, you are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF ABBEVILLE)

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

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2019-CP-01-142

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Abbeville County Detention Center
2. Name and location of Court which imposed sentence Abbeville County, General Sessions
3. Name(s) of co-defendant(s) (if any) n/a
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2003GS0100268C; Instigating/participating in a riot
 - (b) 2004GS0100351; Assaulting a police officer while resisting arrest
 - (c) 2004GS0100350; Poss. with intent to distribute crack cocaine; possession with intent to distribute crack cocaine
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) October 28, 2004

Revised 3/2003

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

(a) Moving for an Appeal pursuant to White v. State based upon the circuit court's error in (1) not advising defendant of his right to counsel; (2) adequately warnig defendant of the dangers of self-representation. See Faretta v. California, 422 U.S. 806 (1975); See Prince v. State, 301 S.C. 422, 392 S.E.2d 462 (1990); Osbey v. State, 425 S.C. 615, 825 S.E.2d 48 (2019)

(b) _____

(c) _____

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

(a) The circuit court accepted defendant's uncounseled plea without advising defendant of his right to counsel or adequately warning defendant of the dangers of self-representation. See Faretta, at 806.

(b) _____

(c) _____

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

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

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

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

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

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

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

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

No

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

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

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

previously been presented:

(a) Circuit court's failure to adequately advise defendant of the dangers of self-representation.

(b) _____

(c) _____

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

(a) your arraignment and plea? No

(b) your trial, if any? _____

(c) your sentencing? No

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Walt Whitmire, Esq., for the present collateral action

ii. _____

iii. _____

(b) the proceedings at which each such attorney represented you:

i. _____

ii. _____

iii. _____

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

An appeal pursuant to White v. State

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

No

STATE OF SOUTH CAROLINA)

County of ABBEVILLE)

VERIFICATION

I, Heidi Liverman, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

SWORN to and subscribed before me this 9
day of May, 2019.

Heidi Liverman (L.S.)
Notary Public

My Commission Expires: _____

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
2019 MAY -9 PM 1:57
EMILY Y MCMAHAN
CLERK OF COURT

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

I, Robert Lamont Bryant, 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.

x Robert Bryant
Applicant

SWORN or affirmed to and subscribed before me this

9 day of May, 2019

Heidi Amerman

Notary Public

My Commission Expires: _____

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
2019 MAY -9 PM 1:58
EMILY Y MCMAHAN
CLERK OF COURT

THE STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT

COUNTY OF ABBEVILLE)

Case No. 2019-CP-01-00142

Robert Lamont Bryant,)

Applicant,)

Notice of Appearance

vs.)

State of South Carolina,)

Respondent.)

Please enter an appearance for E. Charles Grose, Jr. as attorney of record for the applicant,

Robert Lamont Bryant.¹

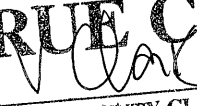
Respectfully Submitted,

By s/E. Charles Grose, Jr.

E. Charles Grose, Jr.
 S.C. Bar Number 66063
 The Grose Law Firm, LLC
 404 Main Street
 Greenwood, SC 29646
 (864) 538-4466
 (864) 538-4405 (fax)
 Email: charles@groselawfirm.com

Attorney for Robert Lamont Bryant

September 13, 2021
 Greenwood, South Carolina

TRUE COPY
 BY 
 ABBEVILLE COUNTY CLERK OF COURT

¹ Mr. Bryant reserves the right to amend his application for post-conviction relief ("PCR") as provided by law. Rule 71.1(d), SCRCP; S.C. Code Ann. § 17-27-90 (expressly contemplating supplemental or amended PCR application); *Mangal v. State*, 421 S.C. 85, 99, 805 S.E.2d 568, 575 (2017) ("[T]he interests of justice require PCR courts to be flexible with procedural requirements *before* PCR applicants suffer procedural default on substantial claims."); *Love v. State*, 428 S.C. 231, 834 S.E.2d 196 (2019) (denial of motion to amend application for post-conviction relief was abuse of discretion).

THE STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT

Case No. 2019-CP-01-00142

Robert Lamont Bryant,
Applicant,

vs.

State of South Carolina,
Respondent.

I certify that I have served a copy of this pleading on the State of South Carolina, pursuant to South Carolina Supreme Court Order No. 2021-08-27-01, Section (e), by emailing a copy to counsel, at their AIS email address, as reflected below:

Megan Harrigan Jameson, Esquire
S.C. Attorney General's Office
PO Box 11549
Columbia, SC 29211
mjameson@scag.gov

By s/E. Charles Grose, Jr.

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466

September 13, 2021
Greenwood, South Carolina

THE STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

Robert Lamont Bryant,

Applicant,

vs.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT

Case No. 2019-CP-01-00142

Motion to Consolidate

Robert Bryant moves the Court for an order consolidating post-conviction relief ("PCR")

case numbers 2019-CP-01-00141, 2019-CP-01-00142, and 2019-CP-01-00232.¹

Respectfully Submitted,

By s/E. Charles Grose, Jr.

E. Charles Grose, Jr.
S.C. Bar Number 66063
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466
(864) 538-4405 (fax)
Email: charles@groselawfirm.com

Attorney for Robert Lamont Bryant

September 13, 2021
Greenwood, South Carolina

TRUE COPY
BY [Signature]
ABBEVILLE COUNTY CLERK OF COURT

¹ Mr. Bryant reserves the right to amend his PCR applications as provided by law. Rule 71.1(d), SCRCP; S.C. Code Ann. § 17-27-90 (expressly contemplating supplemental or amended PCR application); *Mangal v. State*, 421 S.C. 85, 99, 805 S.E.2d 568, 575 (2017) ("[T]he interests of justice require PCR courts to be flexible with procedural requirements *before* PCR applicants suffer procedural default on substantial claims."); *Love v. State*, 428 S.C. 231, 834 S.E.2d 196 (2019) (denial of motion to amend application for post-conviction relief was abuse of discretion).

THE STATE OF SOUTH CAROLINA)
COUNTY OF ABBEVILLE)
Robert Lamont Bryant,)
Applicant,)
vs.)
State of South Carolina,)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT

Case No. 2019-CP-01-00142

FILED
2019 SEP 16 11:10:00
CLERK OF COURT

I certify that I have served a copy of this pleading on the State of South Carolina, pursuant to South Carolina Supreme Court Order No. 2021-08-27-01, Section (e), by emailing at copy to counsel, at their AIS email address, as reflected below:

Megan Harrigan Jameson, Esquire
S.C. Attorney General's Office
PO Box 11549
Columbia, SC 29211
mjameson@scag.gov

By s/E. Charles Grose, Jr.

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466

September 13, 2021
Greenwood, South Carolina

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF **ABBEVILLE**)**Robert Bryant #243438**)

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

v.)

State of South Carolina)

2019-CP-01-323
IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention **Perry Corr. Inst. 430 Oaklawn Rd. Pelzer, SC. 29669**
2. Name and location of Court which imposed sentence **Abbeville General Sessions**
3. Name(s) of co-defendant(s) (if any) **none**
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) **18-GS-01-0341 (ABHAN)**
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) **May 14, 2019 (20-years confinement)**
 - (b) _____

2019 SEP 23 AM 9:23
CLERK OF COURT
Revised 3/2008

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____ **plea of guilty**
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
~~YES~~ **YES**
8. If you answered "yes" to (7), list: ~~YES~~
- (a) the name of each Court to which you appealed:
- i. ~~YES~~ **SOUTH CAROLINA COURT OF APPEALS**
- ii. n/a
- iii. n/a
- (b) the result in each such Court to which you appealed:
- i. ~~YES~~ **DENIED**
- ii. n/a
- iii. n/a
- (c) the date of each such result:
- i. ~~YES~~ **EXACT DATE UNKNOWN**
- ii. n/a
- iii. n/a
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. none **7 APPELLATE CASE NO. 2019-000883**
- ii. none
- iii. none
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) ~~you are not eligible to file an appeal xxx guilty plea~~
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) **INEFFECTIVE ASSISTANCE OF PLEA COUNSEL**

- (b) **DENIAL OF DUE PROCESS**
- (c) **APPLICANT RESERVES THE RIGHT TO AMEND THIS APPLICATION**
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) **SEE ATTACHED MEMORANDUM OF LAW IN SUPPORT**
- (b) **SAME AS ABOVE**
- (c) **APPLICANT RESERVES THE RIGHT TO AMEND THIS APPLICATION**
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? no
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no
- (d) any other petitions, motions or applications in this or any other Court? no
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application: **N/A**
- (a) the specific nature thereof: **n/a**
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. **N/A**
- ii. _____
- iii. _____
- iv. _____
- (c) the disposition thereof:
- i. **N/A**
- ii. _____
- iii. _____
- iv. _____
- (d) the date of each such disposition:
- N/A**

- 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. n/a
- iii. n/a
- 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**

~~First filing for post conviction relief~~

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: **First filing for post conviction relief**

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

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

- (a) your arraignment and plea? yes
- (b) your trial, if any? 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? no

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. Clarke Wardlaw McCants, IV
 - ii. 600 Monument St. Ste 208, Greenwood SC. 29646
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. -plea and sentencing
 - ii. _____
 - iii. _____

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

specific sentence performance of enforcing the agreed "non-violent" status of my original agreement or in the alternative a new trial.

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

no

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

) IN THE COURT OF COMMON PLEAS. 74
)

Robert Bryant #243438) C/A NO. _____
Applicant,) [Indict. No.2018-GS-10-0341]
-vs-) MEMORANDUM OF LAW IN SUPPORT OF
State of South Carolina) APPLICATION FOR POST CONVICTION
Respondent,) RELIEF PURSUANT TO S.C.CODE ANN.§§
_____) 17-27-10 THROUGH 17-27-160

COMES NOW, above captioned Applicant, Robert Bryant, pro-se respectfully moving this Honorable Court pursuant S.C. Code Ann. §§ 17-27-10 through 17-27-160 seeking post conviction relief. In this matter the Applicant asserts his Sixth Amendment guarantee to the Effective Assistance of Counsel was violated in a number of ways that also invoked Fourteenth Amendment due process implications. Applicant submits that through the statement of facts and citations of authorities relied on would respectfully show unto this Honorable Court that Applicant is entitled to the relief sought herein, i.e. the enforceability of the original "non-violent" terms of the plea or in the alternative a new trial. In support of this assertion Applicant would show the following:

ISSUE (A)

COUNSEL RENDERED CONSTITUTIONALLY INEFFECTIVE ASSISTANCE WHEN COUNSEL FAILED TO OBJECT TO THE SOLICITOR CHANGING APPLICANT'S CHARGE TO A VIOLENT OFFENSE AFTER APPLICANT PLED GUILTY TO A NON-VIOLENT OFFENSE.

ISSUE (B)

COUNSEL RENDERED CONSTITUTIONALLY INEFFECTIVE ASSISTANCE WHEN COUNSEL FAILED TO MOVE TO WITHDRAW APPLICANT'S PLEA WHEN THE SOLICITOR CHANGED APPLICANT'S CHARGE FROM NON-VIOLENT TO VIOLENT, THUS REQUIRING APPLICANT TO SERVE SUBSTANTIALLY MORE TIME IN PRISON.

To save the Court's time Applicant will argue these issues together since the facts of one encompasses the other.

FACTS

Applicant contends that he was denied the effective assistance of counsel when counsel failed to object and/or move to withdraw the plea once the Solicitor chang[ed] the charge to which Applicant pled guilty to from non-violent to violent, which requires Applicant to serve a substantially more time in prison.

Applicant was represented by Clark Wardlaw McCants of the Abbeville County Public Defender's Office. On May 14, 2019 Applicant based on counsel advice entered a plea of guilty to a non-violent ABHAN charge and the Court sentenced Applicant to 20-years incarceration. See Exhibit (A).

After entering the guilty plea and being sentenced Applicant was taken back to Abbeville Detention Center. The following day May 15, 2019 Applicant was being transported to Kirklan R&E to

begin commencement of the 20-year sentence. Prior to getting on the interstate the driver received a phone call advising the officers to turn around and to return directly to the Abbeville County Courthouse.

Upon arrival at the Abbeville CourtHouse the Solicitor took Applicant sentencing sheet (Exhibit (A)) and scratched/whited out where it was marked "non-violent" and remarked "serious/most serious" thus changing the charge from non-violent to violent.

Applicant is informed and believes that he entered the plea agreement under the guise of the offense being non-violent and the Solicitor should not have been allowed to change the nature of the punishment rendered and agreed to, otherwise Applicant would not have pled guilty but would have insisted on going to trial. Counsel should have objected and/or moved to either withdraw the plea or move the Court to enforce the original agreement.

DISCUSSION

In reviewing claims of ineffective assistance of counsel as a result of a guilty plea, the Applicant bears the burden of showing absent counsel's erroneous advice the Applicant would not have pled guilty but would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52 (1985).

It is the prerogative of any person to waive his rights, confess and plead guilty under judicially defined safeguards which are adequately enforced. *State v. Armstrong*, 263 S.C. 594, 597, 211 S.E.2d 889, 890 (1975).

A plea bargain standing alone is without constitutional significance; in itself is a mere executory agreement which,

embodied in the judgment of a court does not deprive an accused liberty or any other constitutionally protected interest. It is the ensuing guilty plea that implicates the Constitution. Only after the [defendant] pleaded guilty was he convicted, and it is that conviction which gives rise to due process of the deprivation of the defendant's liberty at issue. *Mabry v. Johnson*, 467 U.S. 504, 507, 104 S.Ct. 2543, 2546 (1984).

Once a defendant enters a guilty plea and the plea is accepted by the court, due process requir[es] that the plea bargain be honored. (emphasis original and added).

The general rule is subject to a detrimental reliance exception. Absent a plea of guilty, a defendant may only enforce an "oral agreement" upon a showing of detrimental reliance. Even if the agreement has not yet been finalized by the court, a defendant's detrimental reliance on a promise in a plea bargain could make the agreement binding. *Reed v. Becka*, 511 S.E.2d 396 at 403 (S.C.Ct.App.1996).

A defendant relies upon a plea offer by taking some substantial step of accepting serious risk of an adverse result following acceptance of the plea. *Reed, supra*, citing *State v. Vixamar*, 687 So.2d. 300 (Fla.Dist.Ct.App.1997).

Detrimental reliance may be demonstrated where the defendant performed some part of the bargain. *State v. O'Leary*, 128 N.H. 661, 517 A.2d 1174 (1986), accord *Santobello v. New York*, 404 U.S. 257 (1971).

South Carolina case law clearly recognizes that a defendant has right to enforce a plea agreement. See *Reed v. Becka*, 511

S.E.2d 396 (1996); State v. Gates, 299 S.C. 92, 382 S.E.2d 886 (1989) and Jordan v. State, 297 S.C. 52, 374 S.E.2d 683 (1988).

As is seen in the above statement of facts, citations of authorities relied on and Exhibit (A), Applicant is entitled to have the non-violent terms of his plea agreement enforced or in the alternative be allowed to withdraw the plea and proceed to trial..

Respectfully Submitted,

/s/ Robert Bryant

Robert L. Bryant,

APPLICANT'S
EXHIBIT (A)

COUNTY OF ABBEVILLE

STATE VS.

ROBERT LAMONT BRYANT

AKA: _____

Race: Black Sex: M Age: 41DOB: 03/24/1978 SS#: [REDACTED]Address: 126 Hester DriveCity, State, Zip: Calhoun Falls, SC 29628DL# 007507148 SID# _____*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or☒ PLEADSTO: **Domestic Violence of a High and Aggravated Nature**In violation of § 16-25-0065(A) of the S.C. Code of Laws, bearing CDR Code # 3814

SENTENCE SHEET

☒ 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:

C. Yates Brown, Jr. 78607
C. Yates Brown, Jr., Deputy Solicitor SC Bar #Robert L. Bryant 103228
Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: probation' reprobation' sentence☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 452 Days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____ days/hours Public Service Employment
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____ Obtain GED ☐

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ 3.75TOTAL \$ 128.75Clerk of Court/Deputy Clerk: Emily McMahonCourt Reporter: ACA & CO

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

Other: _____

Other: _____

Other: _____

Other: _____

☐ Appointed PD or appointed other counsel.

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Presiding Judge: [Signature]Judge Code: 2184Sentence Date: 5/14/19

STATE OF SOUTH CAROLINA)

County of Greenville)

VERIFICATION

I, **Robert Bryant**, 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.

Robert Bryant

SWORN to and subscribed before me this 18th
day of September, 2019.

Jamara Conwell (L.S.)
Notary Public

My Commission Expires September 25, 2023

RECEIVED

SEP 19 2019

P.C.I. MAILROOM

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

Robert Bryant

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

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

Robert Bryant
Applicant

SWORN or affirmed to and subscribed before me this

18th day of September, 2019.

Tamara Conwell
Notary Public

My Commission Expires: September 25, 2023

RECEIVED

SEP 19 2019

P.C.I. MAILROOM

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

Robert Bryant, #243438,

Plaintiff(s),

-vs-

State of South Carolina,
Defendant(s).

IN THE COURT OF (Select one.)

☒ COMMON PLEAS ☐ FAMILY COURT

8TH JUDICIAL CIRCUIT

CASE NO.: 2019-CP-01-323

APPOINTMENT OF COUNSEL OR GAL

(Select one.)

☒ ORDER

☐ AMENDED ORDER

TYPE OF CASE/PROCEEDING: (Check one.)

☒ Post-Conviction Relief (PCR)/habeas case

☐ Adoption

☐ Juvenile

☐ SVP case

☐ Custody and/or Visitation

☐ Abuse and Neglect

☐ Minor Name Change

☐ Other:

It appears that **Robert Bryant**, who is a litigant in this case, is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: (Select only one.)

- ☒ counsel/guardian ad litem has not yet been appointed by the court; therefore, an appointment for counsel/guardian ad litem is necessary.
- ☐ counsel or a guardian ad litem was previously appointed by the court but has indicated either a possible conflict of interest, an entitlement to exemption, or other good cause warranting the appointment of new counsel or guardian ad litem based on:
- ☐ counsel was previously appointed by the court but has not indicated that the litigant has retained private counsel and is no longer entitled to appointed counsel.
- ☐ court appointed counsel has obtained _____, Esquire as substitute counsel pursuant to Rule 608(h)(2); provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.
- ☐ Other: _____.

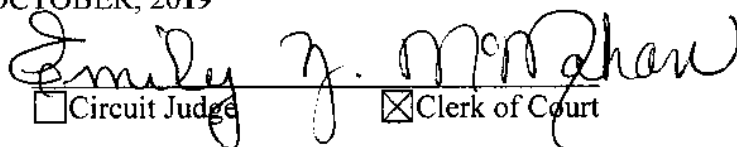
Therefore, it is ordered that **Carson M. Henderson**, hereby is appointed as (Select one.)

☒ counsel ☐ lead counsel (if capital PCR case) ☐ guardian ad litem
for the above-named person. Any counsel or GAL previously appointed is/are hereby relieved.

☐ (If Death Penalty PCR Case) It is further ordered that _____, Esquire, is hereby appointed as second counsel in this capital PCR case.

The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED THIS 3rd DAY OF OCTOBER, 2019


☐ Circuit Judge ☒ Clerk of Court

NOTICE: SC Supreme Court Order of September 29, 2006, requires appointed counsel entitled to payment from the Office of Indigent Defense (OID) to register the case online with OID within fifteen (15) days of this appointment at www.sccid.sc.gov, and further directs that reimbursement vouchers be submitted directly to SCCID and not to the trial judge or clerk of court. See SCCID website for further details.

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

Robert Bryant, SCDC #243438

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT

Case No.: 2019-CP-01-23

RETURN

FILED
STATE OF
SOUTH CAROLINA
COUNTY OF ABBEVILLE
2020 JAN 29 AM 8:16
EMILY Y McMAHAN
CLERK OF COURT

In response to the post-conviction relief application filed September 23, 2019, by Applicant Robert Bryant, Respondent (the State) would show this Court:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Abbeville County Clerk of Court. Applicant was indicted by the Abbeville County Grand Jury for domestic violence of a high and aggravated nature (2018-GS-01-0342) and possession of a weapon during a violent crime (2018-GS-01-0342). Clark McCants and Walt Whitmire, Assistant Public Defenders represented Applicant. Deputy Solicitor Yates Brown of the Eighth Circuit Solicitor's Office prosecuted the case.

On May 14, 2019, Applicant pleaded guilty before the Honorable Roger M. Young to domestic violence of a high and aggravated nature. In exchange for Applicant's plea, the possession of a weapon charge was dismissed. Pursuant to a negotiation between Applicant and the State, Judge Young sentenced Applicant to twenty years' imprisonment.

Applicant subsequently filed a Notice of Appeal. The South Carolina Court of Appeals dismissed Applicant's appeal for failing to provide a sufficient explanation for a guilty plea appeal, pursuant to Rule 203(d)(1)(B)(iv) of the SCACR. The Remittitur was sent August 12, 2019.

II. Factual Background

On February 16, 2018, law enforcement responded to a domestic violence call at Applicant and Victim's apartment in Abbeville. GP Tr. 14. Upon law enforcement's arrival, Victim was seen exiting the apartment holding a towel to her face and bleeding profusely from her nose. GP Tr. 14. Victim's left nostril was completely cut down to her lip. GP Tr. 15. Victim's shirt was completely saturated with blood. GP Tr. 15. According to the State, Victim would have testified at trial that Applicant came to the apartment and cut her face with a box cutter. GP Tr. 16.

II. Allegations Raised and Relief Sought in Application

In his application for post-conviction relief, Applicant makes several allegations, which Respondent interprets as the following:

Ineffective Assistance of Counsel

1. "Failing to Object to the Solicitor changing Applicant's charge to a violent offense after Applicant plead guilty to a non-violent offense."
2. "Fail[ing] to move to withdraw Applicant's Plea when the Solicitor changed Applicant's plea when the Solicitor changed Applicant's charge from non-violent to violent, thus requiring Applicant to serve substantially more time in prison."

As requested relief, Applicant states he is seeking "specific sentence performance of enforcing the agreed 'non-violent' status of my original agreement or in the alternative, a new trial."

Attached herewith and incorporated herein by reference are the records of the Abbeville County Clerk of Court regarding the subject convictions, the plea transcript, and Applicant's records for the Department of Corrections. Respondent reserves the right to amend its return upon the receipt of other relevant records.

IV. Response to Allegations of Ineffective Assistance of Counsel

Applicant asserts his plea counsel was constitutionally ineffective for allegedly failing to object to the Solicitor changing the Applicant's charge to a violent offense, and for allegedly failing

to withdraw his guilty plea after the Solicitor changed Applicant's charge from a non-violent to a violent offense. Respondent submits these allegations are without merit.

The Sixth Amendment to the United States Constitution guarantees a defendant the right to effective assistance of counsel. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008).

In a post-conviction relief action, an applicant bears the burden of proving the allegations in his or her application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland, 466 U.S. 668. Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, an applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have 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. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel’s alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985).

Respondent submits Applicant’s allegations are without merit. As Applicant’s sentencing sheet and the plea transcript indicate, Applicant pleaded guilty to domestic violence of a high and aggravated nature, a violent offense. See §16-25-0065(A); GP Tr. 4. Applicant pleaded guilty to the domestic violence charge in exchange for the dismissal of the possession of a weapon charge, and in exchange for a negotiated sentence of twenty years’ imprisonment. Accordingly, Applicant is serving the exact sentence he bargained for. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

VII. 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 been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to *Love v. State*, Op. No. 27921 (S.C. Sup. Ct. filed Oct. 2, 2019) (Shearouse Adv. Sh. No. 39 at 14), or, alternatively, the State will request a continuance in the matter. See *Love*, at 24 (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 § 17-27-150 of the South Carolina Code of Laws, 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. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

VIII. Response to Any and All Other Allegations

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

IX. Request for an Evidentiary Hearing

WHEREFORE, having made its return, the State requests an evidentiary hearing be held on the issues of ineffective assistance of counsel.

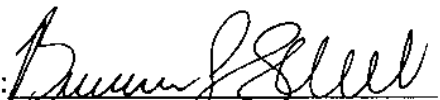
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

BRIANNA L. SCHILL
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

11 27, 2020

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

Robert Bryant, #243438

Applicant,

v.

State of South Carolina

Respondent,

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT

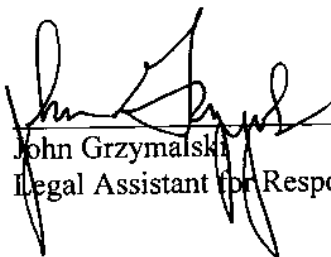
Case No.: 2019-CP-01-323

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

Carson M. Henderson, Esquire
The Henderson Law Firm, PC
109-B Oak Avenue
Greenwood, South Carolina 29646

DATED this 27th day of January, 2020.



John Grzymalski
Legal Assistant for Respondent

FILED
STATE OF SOUTH CAROLINA

2020 JAN 27 AM 10:26

THE STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT

COUNTY OF ABBEVILLE)

Case No. 2019-CP-01-00323

Robert Lamont Bryant,

Applicant,)

Notice of Appearance

vs.)

State of South Carolina,

Respondent.)

Please enter an appearance for E. Charles Grose, Jr. as attorney of record for the applicant,

Robert Lamont Bryant.¹

Respectfully Submitted,

By s/E. Charles Grose, Jr.E. Charles Grose, Jr.
S.C. Bar Number 66063
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466
(864) 538-4405 (fax)
Email: charles@groselawfirm.com*Attorney for Robert Lamont Bryant*September 13, 2021
Greenwood, South Carolina**TRUE COPY**
BY V. Clark
ABBEVILLE COUNTY CLERK OF COURT

¹ Mr. Bryant reserves the right to amend his application for post-conviction relief ("PCR") as provided by law. Rule 71.1(d), SCRCP; S.C. Code Ann. § 17-27-90 (expressly contemplating supplemental or amended PCR application); *Mangal v. State*, 421 S.C. 85, 99, 805 S.E.2d 568, 575 (2017) ("[T]he interests of justice require PCR courts to be flexible with procedural requirements *before* PCR applicants suffer procedural default on substantial claims."); *Love v. State*, 428 S.C. 231, 834 S.E.2d 196 (2019) (denial of motion to amend application for post-conviction relief was abuse of discretion).

THE STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT

COUNTY OF ABBEVILLE)

Case No. 2019-CP-01-00323

Robert Lamont Bryant,)

Applicant,)

vs.)

State of South Carolina,)

Respondent.)

FILED
STATE OF SOUTH CAROLINA
2021 SEP 16 AM 10:00
CLERK OF COURT

I certify that I have served a copy of this pleading on the State of South Carolina, pursuant to South Carolina Supreme Court Order No. 2021-08-27-01, Section (e), by emailing at copy to counsel, at their AIS email address, as reflected below:

Megan Harrigan Jameson, Esquire
S.C. Attorney General's Office
PO Box 11549
Columbia, SC 29211
mjameson@scag.gov

By s/E. Charles Grose, Jr.

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466

September 13, 2021
Greenwood, South Carolina

THE STATE OF SOUTH CAROLINA)

COUNTY OF ABBEVILLE)

Robert Lamont Bryant,)

Applicant,)

vs.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT

Case No. 2019-CP-01-00323

Motion to Consolidate

Robert Bryant moves the Court for an order consolidating post-conviction relief ("PCR")

case numbers 2019-CP-01-00141, 2019-CP-01-00142, and 2019-CP-01-00232.¹

Respectfully Submitted,

By s/E. Charles Grose, Jr.

E. Charles Grose, Jr.
 S.C. Bar Number 66063
 The Grose Law Firm, LLC
 404 Main Street
 Greenwood, SC 29646
 (864) 538-4466
 (864) 538-4405 (fax)
 Email: charles@groselawfirm.com

Attorney for Robert Lamont Bryant

September 13, 2021
 Greenwood, South Carolina

TRUE COPY
 BY [Signature]
 ABBEVILLE COUNTY CLERK OF COURT

¹ Mr. Bryant reserves the right to amend his PCR applications as provided by law. Rule 71.1(d), SCRCP; S.C. Code Ann. § 17-27-90 (expressly contemplating supplemental or amended PCR application); *Mangal v. State*, 421 S.C. 85, 99, 805 S.E.2d 568, 575 (2017) ("[T]he interests of justice require PCR courts to be flexible with procedural requirements before PCR applicants suffer procedural default on substantial claims."); *Love v. State*, 428 S.C. 231, 834 S.E.2d 196 (2019) (denial of motion to amend application for post-conviction relief was abuse of discretion).

THE STATE OF SOUTH CAROLINA)

COUNTY OF ABBEVILLE)

Robert Lamont Bryant,)

Applicant,)

vs.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT

Case No. 2019-CP-01-00323

FILED
STATE OF SOUTH CAROLINA
CLERK OF COURT
2021 SEP 15 10:10:00
JAN 11 2021

I certify that I have served a copy of this pleading on the State of South Carolina, pursuant to South Carolina Supreme Court Order No. 2021-08-27-01, Section (e), by emailing at copy to counsel, at their AIS email address, as reflected below:

Megan Harrigan Jameson, Esquire
S.C. Attorney General's Office
PO Box 11549
Columbia, SC 29211
mjameson@scag.gov

By s/E. Charles Grose, Jr.

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466

September 13, 2021
Greenwood, South Carolina

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE EIGHTH JUDICIAL CIRCUIT
COUNTY OF ABBEVILLE	)	
	)	Case No. 2019-CP-01-00323
Robert Lamont Bryant,	)	
Applicant,	)	
	)	Amended
vs.	)	Application for Post-Conviction Relief
	)	
	)	
State of South Carolina,	)	
Respondent.	)	
_____	)	

Pursuant to the Uniform Post-Conviction Relief Act, S.C. Code Ann. § 17-27-10 *et. seq.*, Robert L. Bryant submits the following Amended Application for Post-Conviction Relief (“PCR”).¹

- 1) Mr. Bryant is confined at the Perry Correctional Institution.
- 2) The Honorable Roger M. Young, Presiding Judge, Court of General Sessions for Abbeville County, imposed the sentence.
- 3) There were not any co-defendants.
- 4) The State charged Mr. Bryant with domestic violence of a high and aggravated nature (2018-GS-01-00342) and possession of a weapon during the commission of a violent crime (2018-GS-01-00342).
- 5) On May 14, 2019, Mr. Bryant pled guilty to domestic violence of a high and aggravated nature, and Judge Young imposed a sentence of twenty years. The State dismissed the

¹ Mr. Bryant reserves the right to amend his PCR applications as provided by law. Rule 71.1(d), SCRCP; S.C. Code Ann. § 17-27-90 (expressly contemplating supplemental or amended PCR application); *Mangal v. State*, 421 S.C. 85, 99, 805 S.E.2d 568, 575 (2017) (“[T]he interests of justice require PCR courts to be flexible with procedural requirements *before* PCR applicants suffer procedural default on substantial claims.”); *Love v. State*, 428 S.C. 231, 834 S.E.2d 196 (2019) (denial of motion to amend application for post-conviction relief was abuse of discretion).

charge of possession of a weapon during the commission of a violent crime.

6) The finding of guilt followed a guilty plea.

7) Mr. Bryant appealed the conviction and sentence.

8) Mr. Bryant appealed to the Court of Appeals of South Carolina, which dismissed the appeal pursuant to Rule 203(b)(1)(B)(iv), SCACR. *State v. Bryant*, Appellate Case No. 2019-000883.

9) This PCR application is the first opportunity to raise allegations of ineffective assistance of counsel.

10) Grounds for Relief: Mr. Bryant was denied the right to effective assistance of counsel, guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and by Article I, §§ 3 and 14 of the South Carolina Constitution. *See also Strickland v. Washington*, 466 U.S. 668 (1984).

11) Supporting Facts: Trial counsel's constitutionally deficient and prejudicial performance includes:

a) Trial counsel failed to object to the Solicitor changing Mr. Bryant's charge to a violent offense after Mr. Bryant pled guilty to a charge that he believed to be a non-violent offense, thereby rendering the plea involuntary.

b) Trial counsel failed to move to withdraw Mr. Bryant's plea after the Solicitor changed Mr. Bryant's charge to a violent offense after Mr. Bryant pled guilty to a charge that he believed to be a non-violent offense, thereby rendering the plea involuntary.

c) Trial counsel failed to advise Mr. Bryant of the State's initial plea offer that was more favorable than the sentence Mr. Bryant ultimately received. *See Lafler v. Cooper*,

566 U.S. 156 (2012); *Missouri v. Frye*, 566 U.S. 134 (2012).

12) Prior to filing this PCR application, Mr. Bryant has not filed any petition in state court under South Carolina law, any petition in state or federal court for habeas corpus or post-conviction relief, any petition in the United States Supreme Court for certiorari, or any other petitions, motions, or applications in this or any other court.

13) Not applicable because Mr. Bryant has not filed any other petitions.

14) No ground set forth in paragraph 10 has been presented to this or any other court.

15) Not applicable because no prior petitions have been filed in any other court.

16) The grounds set forth in paragraph 10 have not been presented to any other court because this PCR application is the first opportunity to raise ineffective assistance of counsel.

17) Mr. Bryant was represented by counsel during his guilty plea.

18) Janna A. Gregory, Clark McCants, and Walt Whitmire represented Mr. Bryant. At the time of the representation, all three attorneys were members of the Eighth Circuit Public Defender's Office. None of these attorneys are currently members of the Public Defender's Office. Upon information and belief, their current contact information is listed below:

a) Janna A. Gregory, Esquire
233 Blackhawk Terrace,
West Columbia, SC 29169

b) Clarke Wardlaw McCants, IV, Esquire
Nance & McCants
218 Newberry Street SW
Aiken, SC 29801

c) John Walter Whitmire, Esquire
Fifth Circuit Solicitor's Office
1701 Main Street
Columbia, SC 29201-0001

19) This Court should vacate Mr. Bryant's conviction and sentence and order a new

trial. Alternatively, this Court should order a new sentencing hearing.

20) Mr. Bryant is not under sentence from any other court that he has not challenged.

Respectfully Submitted,

By s/E. Charles Grose, Jr.

E. Charles Grose, Jr.
S.C. Bar Number 66063
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466
(864) 538-4405 (fax)
Email: charles@groselawfirm.com

Attorney for Robert Lamont Bryant

November 28, 2022
Greenwood, South Carolina

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE EIGHTH JUDICIAL CIRCUIT
COUNTY OF ABBEVILLE	)	
	)	Case No. 2019-CP-01-00323
Robert Lamont Bryant,	)	
	)	
Applicant,	)	
	)	
vs.	)	
	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

I certify that I have served a copy of this pleading on the State of South Carolina, by emailing at copy to counsel, at their AIS email address, as reflected below:

Zachary William Jones
S.C. Attorney General's Office
PO Box 11549
Columbia, SC 29211
zacharyjones@scag.gov

By s/E. Charles Grose, Jr.

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466

November 28, 2022
Greenwood, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

IN THE COURT OF COMMON PLEAS

Robert Lamont Bryant)
Applicant,)
)
)
)
)
)
State of South Carolina,)
Respondent.)

)

2019-CP-01-0323

TRANSCRIPT OF RECORD

August 21, 2024
Abbeville, South Carolina

B E F O R E:

The Honorable J. Derham Cole, Sr., Judge

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

ATTORNEY FOR PLAINTIFF:

Travis Cruise Mitchell, Deputy Attorney General

ATTORNEY FOR DEFENDANT:

E. Charles Grose, Jr., Esquire

Tara T. Scott, CVR
Official Court Reporter

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(NO EXHIBITS INTRODUCED DURING THIS HEARING)

1 MR. MITCHELL: May it please the Court. This is the
2 post-conviction relief matter of Robert Lamont Bryant v
3 State, case number 2019-CP-01-00323 out of Abbeville County.
4 I'm Cruise Mitchell on behalf of the State of South
5 Carolina. Applicant is present and represented by counsel,
6 Charles Grose.

7 In July of 1998, the Abbeville County Grand Jury
8 indicted Applicant for one count of distribution of crack
9 cocaine and one count of distribution of cocaine in the
10 proximity of a school or a playground. On October 3, 1998,
11 Applicant pleaded guilty before the Honorable William P.
12 Keesley. Applicant proceeded pro se. Judge Keesley
13 sentenced Applicant to three years for each count of the
14 indictment with those sentences to be served concurrently.
15 Applicant did not appeal his conviction or sentence.

16 During its August 2003 term, the Abbeville County Grand
17 Jury indicted Applicant for participating in a riot.
18 Subsequently, Applicant was indicted at the October 2004
19 term of the Abbeville County Grand Jury for possession with
20 intent to distribute cocaine, possession with intent to
21 distribute cocaine within the proximity of a school or a
22 playground, and assault on an officer while resisting
23 arrest.

24 On October 26, 2004, Applicant pleaded guilty before
25 the Honorable Wyatt T. Saunders, Jr. Applicant proceeded

1 pro se. Judge Saunders sentenced Applicant to 12 years in
2 prison for PWID cocaine, 10 years for PWID cocaine within
3 proximity of a school or a playground, 10 years for assault
4 on an officer while resisting arrest, and two years for
5 participating in a riot, with those sentences to be served
6 concurrently. Applicant did not appeal his conviction or
7 sentences.

8 Applicant was indicted by the Abbeville County Grand
9 Jury for domestic violence of a high and aggravated nature
10 and possession of a weapon during the commission of a
11 violent crime in 2018. Applicant was on probation for
12 assault and battery of a high and aggravated nature when he
13 was charged with these offenses. Clark McCants and Walt
14 Whitmire of the Eighth Circuit Public Defender's Office
15 represented Applicant. Deputy Solicitor Yates Brown of the
16 Eighth Circuit Solicitor's Office prosecuted the case. On
17 May 14, 2019, Applicant pleaded guilty before the Honorable
18 Roger M. Young to domestic violence of a high and aggravated
19 nature. In exchange for Applicant's guilty plea, the State
20 withdrew its notice of intent to see life without parole, as
21 well as dismissing the possession of the weapon charge.
22 Pursuant to a negotiation between Applicant and the State,
23 Judge Young sentenced Applicant to 20 years imprisonment for
24 the domestic violence charge and revoked his probation in
25 full for the ABHAN, sentencing him to 15 years in prison.

1 Applicant subsequently filed a timely notice of appeal. The
2 South Carolina Court of Appeals dismissed Applicant's appeal
3 for failure to provide a sufficient explanation for a guilty
4 plea appeal. A remittitur was sent August 12, 2019.

5 Your Honor, the Applicant initially commenced three
6 separate PCR applications attacking his conviction from
7 1998, 2004, and 2019. On September 16, 2021, Applicant,
8 through Mr. Grose, filed a motion to consolidate all three
9 PCR actions. The hearing was held in Abbeville County in
10 front of Judge Sprouse, who granted the motion to
11 consolidate the three PCR actions without prejudice to the
12 State's right to seek summary dismissal of any allegations
13 raised therein. In response to the PCR applications, Your
14 Honor, our office filed a supplemental return and partial
15 motion to dismiss, requesting any allegations pertaining to
16 the 1998 convictions, or the 2004 convictions, be dismissed
17 with prejudice due to violation of statute of limitations,
18 or by the equitable doctrine of laches, and failure to state
19 a cognizable post-conviction relief requirement. So, at
20 this time, the State would move to dismiss any allegations
21 pertaining to the 1998 convictions, or the 2004 convictions.

22 As for the statute of limitations, Your Honor, Section
23 17-27-45 provides an Applicant must file an application
24 within one year of the entry of judgment or conviction. With
25 regards to his 1998 conviction, he was convicted on October

1 3, 1998. He filed this application on May 9, 2019, nearly 20
2 years after the requisite filing period ended. With regard
3 to his 2004 convictions, he was sentenced on October 27,
4 2005. Once again, filed it on May 9, 2019, nearly 15 years
5 afterwards.

6 It's also barred by the equitable doctrine of laches.
7 Laches is defined as the neglect for an unreasonable and
8 unexplained length of time under circumstances affording
9 opportunity to do justice, to do what the law should have.
10 Your Honor, I believe that this clearly should be barred by
11 the equitable doctrine of laches. These conditions were 15
12 years old, or 20 years old.

13 And lastly, Your Honor, we're going to move to dismiss
14 it for failure to state a cognizable claim. The allegation
15 for both the 1998 conviction and the 2004 conviction is that
16 he was denied his right to a direct appeal pursuant to *White*
17 *v State*, however, *White v State* is clear that a direct
18 appeal -- that it has to be framed as ineffective assistance
19 of counsel. That his counsel did not either inform him of
20 his right to appeal, or didn't appeal after being requested.
21 He went forward pro se on both of these guilty pleas in 1998
22 and 2004. He did not have counsel.

23 So, for those reasons, Your Honor, I believe that this
24 is not an issue that is cognizable under a post-conviction
25 relief. And for those three reasons, violation of statute

1 of limitations, barred by laches, and for failure to state a
2 cognizable claim, any allegation regarding the 1998
3 conviction or the 2004 conviction should be dismissed.

4 Regarding the 2019 conviction, a PCR application was timely
5 filed, and we'll be ready to go on the merits in that case.

6 THE COURT: Mr. Grose?

7 MR. GROSE: With regard to the motion to dismiss the
8 two other PCR claims from the earlier convictions, we would
9 respectfully request that you hold any ruling in abeyance on
10 that until you hear from the testimony in this case. These
11 two PCR applications are a little unusual. In fact, they
12 were filed by the counsel who was representing him at the
13 time of his -- actually, they were filed about a week before
14 the guilty plea where Mr. Bryant was sentenced by Judge
15 Young. And I think that those two applications are part of
16 you hearing the story about what happened in the most recent
17 case.

18 THE COURT: Okay. I'll reserve it until I hear from
19 them.

20 MR. GROSE: Thank you, Your Honor. Are you ready for
21 me to call witnesses?

22 THE COURT: I am.

23 MR. GROSE: I call Clark McCants.

24 WHEREUPON, Clark McCants, having
25 first been duly sworn, testified as follows:

1 DIRECT EXAMINATION

2 BY MR. GROSE:

3 Q Could you state your full name for the record, and
4 spell your last name, please.

5 A Clark Wardlaw McCants, IV. My last name is spelled M-
6 C-C-A-N-T-S.

7 Q And do you practice law?

8 A I do.

9 Q And what year were you admitted to the practice of law?

10 A 2017.

11 Q Can you describe what your employment history has been
12 since you were admitted?

13 A Sure. After I graduated law school, I clerked for
14 Judge Keesley in Edgefield for a year, then came to the
15 Eighth Circuit Public Defender's Office. I was, I guess,
16 the public defender in Abbeville County, did that for about
17 a year, then joined my dad in Aiken County in private
18 practice, which is where I am today.

19 Q And what year did you come to the Eighth Circuit Public
20 Defender's Office?

21 A Late 2018.

22 Q And you said you were the lawyer at that point that was
23 primarily responsible for Abbeville County, for the PD's
24 office?

25 A I was the only one out there. Yeah.

1 Q At the time that you came to the PD's office, was Mr.
2 Bryant's domestic violence of a high and aggravated nature
3 case already pending?

4 A I can't remember the incident date, but I believe so.

5 Q Okay. And at the time that you took over the case,
6 was Mr. Bryant incarcerated?

7 A I believe so, yes.

8 Q And did you have occasion to look into the status of
9 plea negotiations when you took over the case?

10 A Yes.

11 Q And when you when you entered the case, what was your
12 understanding of that status?

13 A Can you ---

14 Q Had there already been any offers that had been made
15 by the State?

16 A I believe so, yes.

17 Q And where was Mr. Bryant being held at that time?

18 A I mean, it's an Abbeville County case, and maybe this
19 will help, but I went to go see him at some point at the
20 Abbeville Detention Center they informed me that he was
21 actually in Laurens County due to disciplinary reasons. I'm
22 not sure what happened, but that that was some time 2018.

23 Q And do you know the first time that you were able to
24 see Mr. Bryant?

25 A It was -- if I could just refer to my notes.

1 Q Absolutely. Anytime that you want to look at those,
2 just take your time.

3 A Backing up just a little bit, it appears that I went to
4 the Abbeville Detention Center on or around November 9,
5 2018, where I was informed that he was actually in Laurens
6 County. And then it appears that on or about December 4,
7 2018, he was transported to the Abbeville County courthouse,
8 where, I guess, I had a term of court there. So, it would
9 have been the first time I actually met with him would have
10 been on or about December 4, 2018.

11 Q And at that time, did you have any discussions with Mr.
12 Bryant about the plea offer in the case?

13 A Yes.

14 Q And what was that plea offer?

15 A If I understand correctly, it was to plead guilty to
16 the DVHAN. I cannot remember if it was negotiated or
17 recommended 12 years, but the number was 12 years. I cannot
18 remember. I think dismissing the weapons charge was part of
19 that. In any event, it was all 12 years. He was on
20 probation, and I know had 15 years hanging over his head.
21 And that would either be run concurrent, or terminated, or
22 whatever, but 12 years was the number that I remember.

23 Q And does your file reflect whether or not that offer
24 had been extended to Mr. Bryant before you took over the
25 representation?

1 A I see a note in here from Janna Gregory. I can't
2 remember if that's her correct name. I know her last name
3 changed. This would have been before I even joined the PD's
4 office, is my understanding. I realize that's hearsay, but
5 I'm happy to tell you what it says.

6 Q I'm just asking for the information that's in your
7 file.

8 A Sure. Could you tell me the question again? Sorry.

9 Q Well, if the plea offer had been extended before you
10 took over the representation.

11 A I don't know.

12 Q We'll come back to that in a second. Did you have a
13 conversation with Mr. Bryant about the plea offer?

14 A I did.

15 Q And can you explain what that conversation was?

16 A Sure. I cannot remember exactly if I had -- or if I
17 showed him all of the discovery at the courthouse, but my
18 opinions were twofold. Basically, one, given the discovery
19 that I had in this case, combined with the fact that his
20 prior record was not ideal, maybe not the best record that
21 I've seen. If I remember correctly, he had several, at
22 least more than one, serious conviction and, I believe, more
23 than one most serious conviction. And I could be wrong
24 about that. But based on the discovery in this case, his
25 prior record, and actually the fact that he had a 15-year

1 probationary sentence hanging over his head, it was my
2 advice to accept the offer of the State at that time.

3 Q And how was that received by Mr. Bryant?

4 A He told me no. I can't exactly recall. I'm sure he
5 was angry. I mean, 12 years is a long time. He declined to
6 accept the offer at that time.

7 Q And what happened after he declined to accept that
8 offer?

9 A I cannot remember if he was on a jury term of court
10 that week. I believe his plea offer expired around that
11 time that I communicated it to him, but I don't think that
12 he was on a jury list at that time. So, I communicated the
13 fact that Mr. Bryant rejected the State's offer. I think
14 both Mr. Brown and Micah Black were both handling this case,
15 but I informed them of the rejection, and that's what I did.

16 Q Is there an email in your file from June 20, 2018 from
17 Carson Penny to Janna Nelson, at that time, but as you
18 stated, now Janna Gregory?

19 A I don't think so. I do believe that I'm familiar with
20 this email that you're talking about, though.

21 Q And can you tell us about that?

22 A I think that's the one where Ms. Penny, who was
23 prosecuting originally, conveyed an offer of that 12 years
24 to Ms. Gregory, although I could be incorrect.

25 Q I'm just going to let you look at this and see if that

1 refreshes your memory, and I can enlarge that if you need me
2 to.

3 A No, that's fine. I do. That looks familiar.

4 Q And that was the communicating offer prior to you being
5 involved in the case?

6 A I think before I was even a public defender.

7 Q Now, after you met with Mr. Bryant in December of, I
8 guess, 2018, and at that time he didn't accept the offer,
9 what happened with regards to that offer?

10 A I think it was revoked, or whatever the word is.

11 Q By the Solicitor's Office?

12 A Yes.

13 Q And at that point, did they notice the intent to seek
14 life without parole?

15 A At some point they did. I can't remember when.

16 Q And are you familiar with the prior convictions that
17 they were going to rely on for that?

18 A Sitting here today, I couldn't tell you what they were.

19 Q Do you recall -- I think you were working on this with
20 Walt Whitmire. Is that right?

21 A Yes.

22 Q And do you recall you and Mr. Whitmire causing two PCR
23 applications to be filed?

24 A I heard you say that. Quite frankly, I don't remember
25 that.

1 Q I'm going to show you the civil action cover sheet for
2 2019-CP-01-142. Does that indicate it was submitted by you?

3 A It appears that way.

4 Q All right. And the civil action cover sheet for 2019-
5 CP-01-141, does that also appear that it was submitted by
6 you?

7 A It does.

8 Q And I'm going to show you -- we're still looking at the
9 -141 case number, paragraph 10(a) and 11(a). Does that
10 refresh your memory about those PCR applications?

11 A I'll be honest. I don't remember doing that, but it
12 appears that I did.

13 Q And would you agree, looking at the one ending in -142
14 now, that the grounds were similar to both of them?

15 A Yes.

16 Q And sitting here today, do you know why you and Mr.
17 Whitmire decided to file those PCR actions?

18 A I think sort of -- well, to get rid of the life without
19 parole notice. That was one avenue, and that's just, if I'm
20 remembering correctly, one avenue to obviate the LWOP notice
21 in this case.

22 Q And so, if those two PCRs were granted, then that would
23 remove the prior strikes?

24 A I think. In theory, yes.

25 Q And looking at those -- and I think they acknowledged

1 this in their procedural statement at the beginning, both of
2 those PCRs were based on un-counseled guilty pleas.

3 A I recall that, yeah.

4 Q And it appears from looking at those applications that
5 you and Mr. Whitmire were trying to get a belated appeal to
6 review whether or not Mr. Bryant had been adequately advised
7 of the dangers of self-representation.

8 A It appears that way.

9 Q Okay. And, of course, by the time that you all filed
10 those applications, it was your understanding they were
11 using those as enhancement for the possibility of life
12 without parole?

13 A I believe so.

14 Q And after the LWOP notice was filed, was there any
15 additional plea negotiations with the Solicitor's Office?

16 A We tried, sure.

17 Q And what do you mean by "we tried"?

18 A There was an issue, if I remember, with additional
19 discovery that we didn't know existed that came to light.

20 So, Mr. Whitmire and I -- and I was the lead on this case.

21 He was helping me with it. But we filed a motion under Rule

22 5. Sort of had to stretch the language a little bit, but I

23 didn't think it was frivolous, to get an order from the

24 Circuit Court to force the Solicitor's office to reconvey

25 the original plea offer of 12 years based on a Rule 5

1 violation. The fact that we did not have this discovery,
2 which we didn't know about either, you know, at the time
3 that the plea offer was conveyed to Mr. Bryant. Other than
4 that, and begging and pleading, you know, that was basically
5 it. But, you know, what he ultimately pled to, I guess, we
6 worked on getting that too.

7 Q Well, and we'll get to that in a minute. I want to
8 focus on this discovery issue a little bit.

9 A Sure.

10 Q Do you remember the nature of the discovery that was
11 disclosed late?

12 A I'm going to refer to my notes if I could. It appears
13 one of them were -- well, there were two 911 calls and their
14 corresponding CAD reports. And if I'm remembering
15 correctly, I want to say there was a body camera. But,
16 yeah, it was body camera from the date of the incident, the
17 police officer's response to the incident location.

18 Q And did you feel that that discovery was significant in
19 helping to advise Mr. Bryant about the decision that he
20 needed to make?

21 A I mean, yes and no, I think. Yes, it didn't change
22 much, in my opinion. But I think all discovery is important
23 in any case.

24 Q Now, were there also any mental health evaluations that
25 were done while you were representing Mr. Bryant?

1 A If I remember correctly, we had him evaluated by the
2 Department of Mental Health for a competency evaluation.
3 Right. I have a note in my file from on or about March 26,
4 2019, where I received a competency evaluation and criminal
5 responsibility evaluation. According to my notes -- I don't
6 have a copy of the report, but it appears that he was found
7 competent and criminally responsible. And I'm not sure if
8 this is responsive to your question, but he was evaluated by
9 an expert. I'm not sure if it was an actual mental health
10 issue as much as it was a neuropsychological evaluation.

11 Q This is, I guess, a Word copy of the order for, looks
12 like, competency. Does that help refresh your memory?

13 A A little bit, yeah.

14 Q But the concern looks like that it had to do with a
15 head injury.

16 A Yes.

17 Q And did you also have Mr. Bryant evaluated by an
18 additional expert, independent of the Department of Mental
19 Health?

20 A I think you're referring maybe to the
21 neuropsychological evaluation. If that's what you're
22 asking, the answer is yes.

23 Q Was that Dr. Evans?

24 A Jim Evans, yes.

25 Q All right. And as a result of these evaluations, did

1 you have concerns about whether or not Mr. Bryant might be a
2 person with an intellectual disability?

3 A Yes.

4 Q And how did that factor into how you handled the case?

5 A Could you narrow that down?

6 Q Did you make any motions to the Court regarding the
7 intellectual disability?

8 A I think we did, yes, Mr. Whitmire and I, under the idea
9 or theory that the LWOP statutes would be unconstitutional
10 as applied to somebody with a potential intellectual
11 disability.

12 Q And that would be arguing for an extension of the
13 Atkins line of cases in the death penalty context to apply
14 to life without parole?

15 A You have to remind me what Atkins is.

16 Q Atkins is the case where the United States Supreme
17 Court said it violated the Eighth Amendment to execute a
18 person with an intellectual disability.

19 A Yes.

20 Q And, of course, there's also that other line of cases
21 that applies to juveniles that has been extended by the U.S.
22 Supreme Court from the death penalty context to life without
23 parole.

24 A Is that the Aiken v Byers?

25 Q Aiken v Byers, yes.

1 A Yes.

2 Q And so, did you all actually have a hearing on that
3 motion at some point?

4 A If I recall correctly, Mr. Bryant was going to head to
5 a jury trial with Judge Young sometime in May of 2019. And
6 I recall submitting that motion to Judge Young on a Sunday
7 evening. So, it was the first thing that we talked about
8 that Monday morning of trial. Whether or not we had a
9 hearing on it, I honestly cannot remember.

10 Q But in any event, were there plea negotiations that
11 took place during that term of court?

12 A I believe so, yeah.

13 Q And what is your recollection of those?

14 A Well, I mean, he had two options. So, it was either go
15 to trial where the State would seek life upon a conviction,
16 or accept a negotiated plea to 20 years. But I'm not sure
17 how long that 20-year negotiated plea had been open at that
18 time.

19 Q And do you remember the terms of that 20-year plea?
20 What the other terms of that offer were, other than the
21 recommendation of 20 years?

22 A His probation would have to be dealt with.

23 Q Right.

24 A That was 15 years, so that would be run concurrent, and
25 I think the weapon charge would be dismissed.

1 Q Anything else, that you remember?

2 A About that specific issue?

3 Q About the plea offer. And if you don't, that's fine.

4 I'm just asking if you remember anything.

5 A About the plea offer, nothing other than what I just

6 said, no.

7 Q And was that offer ultimately accepted?

8 A Yes.

9 Q And do you recall whether or not Mr. Bryant was brought
10 back to court after the sentence had been imposed?

11 A Yes, he was.

12 Q And what do you remember about that?

13 A You know, I have looked at my file. I think what
14 happened is on May 14, 2019, he pled guilty, was sentenced
15 to 20 years. Then on May 15, the next day, actually on his
16 way to being transported to SCDC, turned around and was
17 brought back before the judge to deal with a scrivener's
18 error on the sentencing sheet.

19 Q And what do you recall about the scrivener's error?

20 A The sentence sheet was all correct, CDR code, except
21 for one thing. I don't think there were any other issues,
22 but the one main one was that the box on the sentence sheet
23 was marked non-violent when clearly it was a violent charge,
24 crime, conviction. The conversation that we had on May
25 14th, Mr. Bryant and I were in attendance, Mr. Whitmire and

1 our investigator, Ms. Nicole Hurley. We actually noticed
2 that, and I recall saying, Mr. Bryant, I've got to take this
3 to the prosecutor so he can change it. Mr. Bryant
4 indicated, let's not do that, just let it ride. And I said,
5 well, it doesn't matter anyway, because SCDC is just going
6 to look at the CDR code, so it's just what we call a
7 scrivener's error. But I abided by his wishes. We went
8 forward and didn't bring it up. I didn't think it was a big
9 deal, but I don't know if it was that day or the next
10 morning that the prosecutor let me know that Mr. Bryant was
11 coming back so that we could fix that issue, and that's what
12 we did.

13 Q That was done in court on the record?

14 A Yes.

15 MR. GROSE: Beg the Court's indulgence for a moment.
16 That's all the questions I have at this time. Thank you,
17 sir.

18 CROSS-EXAMINATION

19 BY MR. MITCHELL:

20 Q Good afternoon, Mr. McCants.

21 A Good afternoon.

22 Q Mr. Bryant was charged with domestic violence of a high
23 and aggravated nature; correct?

24 A That's right.

25 Q And the Solicitor's Office, based on his prior

1 convictions, eventually sent a notice of intent to seek life
2 without parole; correct?

3 A That's correct.

4 Q Was he sentenced to life?

5 A No.

6 Q He ultimately accepted a negotiated plea offer of 20
7 years?

8 A That's right.

9 Q And that was to domestic violence of a high and
10 aggravated nature?

11 A That's correct.

12 Q Going back to the plea offer of 12 years. You said you
13 did convey that offer to Mr. Bryant?

14 A I did.

15 Q Did he ultimately reject that offer?

16 A He did.

17 Q Was Mr. Bryant always under the understanding that this
18 was going to be a guilty plea to a violent crime?

19 A I never told him it was not a violent crime. If I told
20 him about it, I only said it was a violent crime. If I
21 mentioned it, which, I mean, I did at some point, but during
22 the duration of the case. I never said it was not a violent
23 crime, for sure.

24 Q So, you never informed him it was a non-violent crime?

25 A That's right.

1 Q That's an SCDC classification that would've been known
2 to them through the CDR code. Is that correct?

3 A That's my understanding.

4 Q Regardless, y'all had a hearing after the plea where
5 this was brought up before, correct?

6 A That's right.

7 Q And he was also on probation for assault and battery of
8 a high and aggravated nature at the time?

9 A I believe that's right, yes.

10 Q And that was ultimately revoked in full at the guilty
11 plea hearing?

12 A That's my understanding.

13 Q And sentenced to 15 years for that?

14 A Concurrent, right, yeah.

15 Q You did have Mr. Bryant evaluated for mental health
16 deficiency; correct?

17 A At DMH, yes.

18 Q And he was found competent to stand trial?

19 A That's my recollection.

20 Q Mr. Grose asked you about getting a life sentence for
21 someone with an intellectual disability. Mr. Bryant wasn't
22 sentenced to life, was he?

23 A He was not.

24 Q I know you don't recall filing the two PCR
25 applications, but you said you would've done so because

1 those were the two convictions used to enhance his sentence?

2 A I really don't remember, but it appears that I did,
3 yeah. I think Mr. Whitmire was helping me with those. He
4 may have filled them out, and then I reviewed and signed
5 them.

6 Q But regardless, that was a strategy to somehow obviate
7 the life without parole notice?

8 A That would have been the theory of it, yes.

9 Q So, all plea offers you had received were conveyed to
10 Mr. Bryant?

11 A Yes.

12 Q And he ultimately accepted the negotiated 20-year
13 sentence for domestic violence?

14 A He did.

15 MR. MITCHELL: That's all I have for you, Mr. McCants.

16 MR. MCCANTS: Thank you.

17 MR. GROSE: Nothing further.

18 THE COURT: Step down.

19 MR. GROSE: I call Robert Bryant.

20 WHEREUPON, Robert Bryant,
21 having first been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. GROSE:

24 Q You are the PCR Applicant in this case. Is that
25 correct?

1 A Yes, sir.

2 Q I want to start off by asking you about the domestic
3 violence of a high and aggravated nature charge. Do you
4 recall when that charge arose?

5 A 2018.

6 Q Who was initially your lawyer on that case? Do you
7 remember?

8 A It was a Chelsea McNeill at first.

9 Q And do you know how many lawyers you went through?

10 A One.

11 Q What do you mean by one?

12 A Just him.

13 Q What do you mean by "just him"?

14 A That's the only person that came to talk to me.

15 Q So, whoever was assigned to your case before Mr.
16 McCants, you never talked to them?

17 A No, sir.

18 Q Does it sound right that it was December 4 the first
19 time that you met Mr. McCants?

20 A Yes, sir.

21 Q Was that the first time that you learned about any plea
22 negotiations?

23 A Yes, sir.

24 Q When you learned about those plea negotiations, what
25 was your thought process at that time?

1 A The reason I didn't accept the plea, because the judge
2 they had up there had stated if I ever come in front of him
3 again -- and I was, like, I can't go in front of him. I
4 done been in front of him before.

5 Q Which judge was that?

6 A Hocker.

7 Q And when was it that he had said -- well, explain more
8 about what you mean by, if you ever came in front of him
9 again. What did you understand would happen?

10 A That it would be a long time before I see the streets
11 again.

12 Q Were you willing to entertain the 12-year plea offer?

13 A I would've took it if it had been a different judge.
14 Yes, sir.

15 Q Were you afraid that the judge might not follow ---

16 A Yes, sir.

17 Q --- the plea offer?

18 A Yes, sir.

19 Q So, can you tell Judge Cole why it is that you chose
20 not to accept the plea offer at that December 4 meeting?

21 A The reason I didn't accept it? I didn't accept it
22 because the judge that I went in front of had already gave
23 me the word that if I come back in front of him for another
24 charge that it would be a long time before I see the streets
25 again. So, I felt afraid to go in front of him and accept

1 that plea, because I figured he might have not went with
2 that plea.

3 Q And, at some point, did that plea offer get revoked?

4 A Yes, sir.

5 Q Do you recall the timing of when that happened?

6 A No, sir.

7 Q You, at some point, were served with notice of life
8 without parole?

9 A Yes, sir.

10 Q What, if anything, were you thinking when you got
11 served with that notice?

12 A What you mean by that?

13 Q How did that make you feel?

14 A I felt bad.

15 Q And why was that?

16 A Because I didn't know what was going to happen. I
17 didn't know the consequences.

18 Q All right. Now, that life without parole was based on
19 some prior convictions?

20 A Yes, sir.

21 Q You were served with that notice?

22 A Yes, sir.

23 Q And one of those was an October 30, 1998 conviction for
24 distribution of crack cocaine within proximity of a
25 playground?

1 A Yes, sir.

2 Q Were you represented when you entered that plea?

3 A No, sir.

4 Q And another one was an October 26, 2004 for possession
5 with intent to distribute cocaine within proximity of a
6 school or a playground. Is that right?

7 A Yes, sir.

8 Q And were you represented when you entered that guilty
9 plea?

10 A No, sir.

11 Q All right. And when you entered those two guilty pleas
12 in 1998 in the 2004 guilty plea, did you know that those
13 could be used to seek life without parole?

14 A No, sir.

15 Q Had you known that, would you have entered those pleas?

16 A No, sir.

17 Q Now, ultimately, you did agree to enter a guilty plea
18 for 20 years?

19 A Yes, sir.

20 Q All right. And what was your understanding of what
21 that guilty plea offer was?

22 A That the 20 years was going to be non-violent.

23 Q And the fact that the 20 years was going to be non-
24 violent, was that significant to you?

25 A Yes, sir.

1 Q And why was that?

2 A Because I would've been asking for parole, and I would
3 have to do about 10 years to max it out compared to what...

4 Q Compared to the 85 percent?

5 A 85 percent.

6 Q And if you had known that it was going to be violent at
7 85 percent, if you had understood that, would you have pled
8 to it?

9 A No, sir.

10 Q And at some point, were you brought back in front of
11 the judge?

12 A Yes, sir.

13 Q All right. Can you tell Judge Cole what your
14 understanding of that was?

15 A I got sentenced the day before. That Monday, they came
16 to a decision. See, I was supposed to be going for a jury
17 trial, but they went into a conference room to see what I
18 was facing, an LWOP. They never did -- they came to
19 agreement, seeing that I wasn't facing an LWOP, so they sent
20 me back to the county jail. The next day, they brought me
21 back to court. They had a sentence sheet, 20 years, non-
22 violent. So, I called -- Mr. McCants let me call my people
23 and I told them about the situation, 20 years, non-violent.
24 So, my people said, go ahead and accept it. So, when I
25 talked to my baby mama, my baby mama asked Mr. McCants, is

1 there any way we can get a continuance so I can hire him a
2 paid lawyer? Mr. McCants stated, no, there wasn't a way we
3 can get a continuance. So, I just went ahead along with it
4 and took the 20 years, non-violent. So, everything got
5 accepted. They took me back to the county jail. The next
6 morning, they were taking me to Kirkland. We get in
7 Newberry, about to get on the interstate, they turned me
8 around. They said, come back to Abbeville straight to the
9 courthouse. When we enter the courtroom, I'm like, why is
10 I'm in the courtroom? I pleaded yesterday. I ain't got no
11 reason being in the courtroom today.

12 Q And what happened when you got to the courtroom?

13 A The Solicitors took the sentence sheet and whited out
14 the nonviolent and more serious, and most serious, to make
15 me run up under 85 percent law.

16 Q And did you feel that was right?

17 A No, sir.

18 Q And why was that?

19 A Because I had pleaded the day before. And due process
20 state once a defendant plead guilty, court accept the plea
21 bargain, due process require the plea bargain to be honored.

22 MR. GROSE: All right. That's all the questions I have
23 right now. Thank you.

24 CROSS-EXAMINATION

25 BY MR. MITCHELL:

1 Q Mr. Bryant, you ultimately rejected the 12-year offer,
2 correct?

3 A At that time, when I found out who the judge was.

4 Q But you did accept the plea offer for 20 years?

5 A Because it was a non-violent. That's the reason I
6 accepted it.

7 Q So, you thought domestic violence of a high and
8 aggravated nature was a non-violent crime?

9 A Yes, sir, because the first one I had caught was a non-
10 violent crime. It was the same charge, but it was non-
11 violent.

12 Q And did you agree with the facts when the Solicitor
13 recited them at the guilty plea hearing?

14 A Sir?

15 Q When the Solicitor recited the facts of your case, did
16 you agree with them?

17 A What you mean by that?

18 MR. MITCHELL: Beg the Court's indulgence, Your Honor.

19 I have no further questions for this witness, Your Honor.

20 MR. GROSE: Nothing further.

21 THE COURT: You may step down.

22 MR. GROSE: At this time we would rest, Your Honor.

23 MR. MITCHELL: Your Honor, the State has no witnesses.

24 THE COURT: Anything else y'all want to tell me?

25 MR. MITCHELL: The State would just renew its motion to

1 dismiss the allegations pertaining to the 1998 and 2004
2 convictions for the reasons earlier stated; statute of
3 limitations, laches, and failure to state a cognizable post-
4 conviction relief claim. For these allegations, I believe
5 the Applicant has not met his burden. He was clearly
6 conveyed a plea offer of 12 years. He rejected it. He claims
7 he rejected it because he didn't want to go in front of
8 Judge Hocker. He doesn't have the right to pick the judge he
9 gets to see in a guilty plea. Just because Judge Hocker had
10 heard it in the past, doesn't preclude him from hearing
11 again and again. He accepted a negotiated plea offer to 20
12 years. Especially in the case when the Solicitor's Office
13 noticed him with intent to seek life without parole, this
14 was a very favorable plea offer. Mr. McCants had him
15 evaluated for mental health, filed a motion to reconvene the
16 plea offer, and I believe that, for those reasons, he's
17 failed to meet his burden of establishing ineffective
18 assistance of counsel.

19 THE COURT: Mr. Grose.

20 MR. Grose: Your Honor, I think what the record
21 reflects, when you take the testimony in totality today, is
22 that these charges were pending for some time before Mr.
23 Bryant ever was able to meet with a lawyer. The first time
24 that he met with a lawyer was at the courthouse with a
25 guilty plea offer that had been out there for a number of

1 months, but had never been communicated to him. At the time
2 that it was communicated to him, he was concerned about
3 going in front of a judge who he had been in front of
4 before, who told him, if you come back you're going to be
5 gone for a long time. And he was concerned that that judge
6 might not follow the plea negotiations. The record reflects
7 that was the only time that he was ever really given an
8 opportunity to consider what that plea offer was before it
9 was withdrawn. And that offer was made and withdrawn at a
10 time when all of the discovery had not been provided at that
11 point. And the testimony of Mr. Bryant was that he was
12 willing to accept that plea offer, but if it could be done
13 in front of a different judge.

14 It's also his testimony that his understanding of the
15 plea that he ultimately did accept was going to be non-
16 violent, that it would not be 85 percent, and that would
17 significantly alter the potential of when he would be able
18 to be released from prison as opposed to the mandatory 85
19 percent. So, under the circumstances of this case, we do
20 believe we have met our burden of proof.

21 MR. MITCHELL: I would just add, Your Honor, that in
22 the transcript where they came back, I believe Mr. McCants
23 does mention that it was their understanding the entire time
24 that -- yes. Mr. McCants, on page five, said, "and he
25 understood yesterday that this is what he's pleading to and

1 understands today that it has been, you know, corrected."

2 So, based on the day after the plea, Mr. McCants said on the
3 record that Mr. Bryant was always under the impression this
4 was a violent crime.

5 THE COURT: All right. I'll review and issue an order.

6 ***END OF REQUESTED TRANSCRIPT OF RECORD)***

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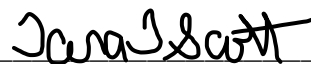
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Certificate of Reporter

I, the undersigned, Tara T. Scott, CVR, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Court of Common Pleas for Abbeville County, South Carolina, on the 21st day of August, 2024.

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

A handwritten signature in black ink, reading "Tara T. Scott", is written over a horizontal line.

Tara T. Scott, CVR

Official Court Reporter

August 5, 2025

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE EIGHTH JUDICIAL CIRCUIT
COUNTY OF ABBEVILLE	)	
	)	Case No. 2019-CP-01-00323
Robert Lamont Bryant,	)	
	)	Order
Applicant,	)	
	)	
vs.	)	
	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

This matter came before the Court on December 2, 2022 on Robert Bryant's motion to consolidate this Post-Conviction Relief ("PCR") case with PCR case numbers 2019-CP-01-00141 and 2019-CP-01-00142. Mr. Bryant was present and represented by Charles Grose. Zachary W. Jones and T. Cruise Mitchell of the South Carolina Attorney General's Office represented the State. After carefully considering the presentations of the parties, the Court finds that it is in the interest of judicial economy to grant this motion.

Therefore, it is ordered that this PCR case is consolidated with PCR case numbers 2019-CP-01-00141 and 2019-CP-01-00142. This order consolidating these three PCR cases shall be without prejudice to the State, including any defenses the State might raise.

IT IS SO ORDERED.

1-18, 2022³
Walhalla, South Carolina


R. Scott Sprouse
Presiding Judge, ~~Waltham~~ Judicial Circuit

~~FILED~~
EJM
RSS

2023 FEB 20 PM 2:10



STATE OF SOUTH CAROLINA
THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT

J. DERHAM
COLE
JUDGE

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August 23, 2024

The Honorable Shandal Boggs
Abbeville County Clerk of Court
PO Box 99
Abbeville, SC 29620-0099

Re: 2019-CP-01-0323/2019-CP-01-00141-0142

Robert L. Bryant, SCDC #243438, Appellant vs. The State of South Carolina,
Respondent

Dear Clerk;

Enclosed please find for filing an order(s) with reference to the above-captioned case(s). Upon entry of the order(s), please serve notice upon the affected parties in accordance with *Rule 77(d) of the South Carolina Rules of Civil Procedure*. Thank you in advance for your usual and capable assistance in this matter.

With kindest personal regards, I remain,

Sincerely yours,

J. Derham Cole
Resident Judge
The Seventh Judicial Circuit

TRUE COPY
BY Shandal Boggs
ABBEVILLE COUNTY CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
Filed 8/29 A.D. 2024
at 10:30 o'clock A.M.
Shandal Boggs
Clerk of Court

STATE OF SOUTH CAROLINA
COUNTY OF **ABBEVILLE**
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE - PCR

CASE NO. **2019-CP-01-00323 / 2019-CP-01-00141**
2019-CP-01-00142

Robert L. **BRYANT** SCDC #243438,The **STATE** of South Carolina,

Applicant,

Respondent.

CHECK ONE:

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☒ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a),

SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☒ Strickland v. Washington, 466 US 668 (1984) and Cherry v. State, 300 SC 115 (1989); S. C. Code Ann. Section 17-27-45; equitable doctrine of laches, McElrath v. State, 276 SC 282 (1981), Whitehead v. State, 352 SC 215 (2002); Simmons v. State, 264 SC 417 (1975); and Roscoe v. State, 345 SC 16 (2001).

☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j) SCRCP; ☐ Bankruptcy;

☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

IT IS ORDERED AND ADJUDGED: ☒ See formal order to follow; ☒ Statement of Judgment by the Court:

This matter came before this court for an evidentiary hearing on three consolidated applications for post-conviction relief filed pursuant to South Carolina Code Annotated Section 17-27-10 et seq. The applicant proceeded on grounds of (1) trial court error based on Faretta v. California, 422 U.S. 806 (1975) in his first two applications and (2) ineffective assistance of trial counsel in his third application.

Based upon the record of the case, the evidence presented at the evidentiary hearing held in this matter, the argument of counsel, and consideration of the applicable statutory and case law, this court finds that;

The applicant's request for **POST-CONVICTION** relief should be and **IS** therefore **DENIED** and the **APPLICATION DISMISSED WITH PREJUDICE**. The applicant has failed to establish; any deficient performance on the part of counsel under prevailing professional norms; and/or any prejudice resulting from counsel's performance, as there is no reasonable probability that but for counsel's performance the result of the proceeding would have been different; Strickland v. Washington, 466 US 668 (1984) and Cherry v. State, 300 SC 115 (1989); and/or any other cognizable claim.

Respondent's counsel is instructed to prepare and submit a proposed formal order for the court's consideration.

Dated at LAURENS, South Carolina, this **23RD** day of **AUGUST, 2024**.


PRESIDING JUDGE,

J. Derham Cole

This judgment was entered on the **23RD** day of **AUGUST, 2024**, and a copy mailed first class this **23RD** day of **AUGUST, 2024** to attorneys of record or to parties (when appearing pro se) as follows:

E. CHARLES GROSE, JR., Esq.
305 Main Street
Greenwood, South Carolina 29646

ATTORNEY(S) FOR THE APPLICANT

ZACHARY W. JONES, AAG
Post Office Box 11549
Columbia, South Carolina 29211-1549

ATTORNEY(S) FOR THE RESPONDENT

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
Filed 8/29 A.D. 2024
at 10:30 o'clock A
Shandal Boggs
Clerk of Court

SHANDAL BOGGS, CLERK OF COURT

TRUE COPY
BY Shandal Boggs
ABBEVILLE COUNTY CLERK OF COURT

STATE OF SOUTH CAROLINA,)

) IN THE COURT OF COMMON
PLEAS

COUNTY OF ABBEVILLE

Robert L. Bryant#243438,
Plaintiff.

)
) CERTIFICATE OF SERVICE BY MAIL

vs.

STATE OF SOUTH CAROLINA,
Defendant

)
)
)

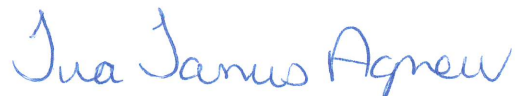
2019-CP-01-323/141/142

The undersigned, an employee of the Abbeville County Clerk of Court's Office, does hereby certify that a clocked copy of Judgment /Decision in the above cases, and Certificate of Service, in the above-referenced matter was made upon the following persons by placing same in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelopes this the 29th day of August, 2024, addressed as follows:

Zachary W. Jones
Attorney General Office
Post Office Box 11549
Columbia, SC 29211-1549

E. Charles Grose, Jr
305 Main Street
Greenwood, SC 29646

Robert L. Bryant, #243438
Perry Correctional Institution
430 Oak Lawn Road
Pelzer, SC 29669



Tra Tanus Agnew, Common Pleas Clerk



STATE OF SOUTH CAROLINA
THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT

J. DERHAM COLE
JUDGE

180 MAGNOLIA STREET, 2ND FLOOR
POST OFFICE BOX 1744
SPARTANBURG, SOUTH CAROLINA 29304-1744
TELEPHONE: (864) 596-2685
FAX: (864) 596-3592
E-MAIL: jcolej@sccourts.org

January 28, 2025

The Hon. Shandal Boggs
Abbeville County Clerk of Court
PO Box 99
Abbeville, SC 29620-0099

Re: 2019-CP-01-00323
Robert Lamont Bryant, SCDC #243438 v. The State of South Carolina

Dear Clerk;

Enclosed please find for filing an order(s) with reference to the above-captioned case(s). Upon entry of the order(s), please serve notice upon the affected parties in accordance with *Rule 77(d) of the South Carolina Rules of Civil Procedure*. Thank you in advance for your usual and capable assistance in this matter.

With kindest personal regards, I remain,

Sincerely yours,


J. Derham Cole
Resident Judge
The Seventh Judicial Circuit

FILED
STATE OF SOUTH CAROLINA
COUNTY CLERK
2025 FEB 10 A 10:11

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BY 
ABBEVILLE COUNTY CLERK OF COURT

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ABBEVILLE	)	
Robert Lamont BRYANT, SCDC #243438,	)	
	)	
Applicant,	)	
	)	
v.	)	FINAL ORDER OF DISMISSAL
	)	
The STATE of South Carolina,	)	Civil Action No. 2019-CP-01-00323
	)	
Respondent.	)	
_____	)	

I. INTRODUCTION

The matter is before the Court on application for post-conviction relief (PCR) commenced by Robert Lamont Bryant ("Applicant"). Applicant commenced three separate actions stemming from convictions in 1998 (Case No. 2019-CP-01-00141), 2004 (2019-CP-01-00142), and 2019 (2019-CP-01-00323). On January 27, 2020, Respondent filed a return in response to the PCR application relating to his 2019 conviction (2019-CP-01-00323). On September 16, 2021, Applicant's counsel filed a motion to consolidate the three actions. On December 2, 2022 the motion was granted without prejudice to the State's right to seek summary dismissal of any allegations raised. On June 20, 2023, Respondent filed a supplemental return and partial motion to dismiss the allegations pertaining to his 1998 (1998-GS-01-00404) and 2004 convictions (2003-GS-01-00268, -00350, -00351).

An evidentiary hearing was held at the Laurens County Courthouse on August 21, 2024. Applicant was present with counsel E. Charles Grose, Jr., Esq. Assistant Attorney General T. Cruise Mitchell represented the State. Testimony was taken from Applicant and Clarke W. McCants, IV ("Counsel").

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After considering the evidence presented and full review of the record, this Court finds Applicant's claims pertaining to his 1998 and 2004 convictions are summarily dismissed for (1) failure to state a cognizable claim, (2) each are barred by the statute of limitations, and (3) each barred by the equitable doctrine of laches. Additionally, this Court finds Applicant's claims made regarding ineffective assistance of counsel relating to his 2019 conviction are without merit. For the reasons discussed below, this Court denies relief and dismisses these consolidated applications with prejudice.

II. PROCEDURAL HISTORY

1998 Convictions

During its July 1998 term, the Abbeville County Grand Jury indicted Applicant for one count of Distribution of Crack Cocaine and one count of Distribution of Cocaine Within Proximity of a School or Playground (1998-GS-01-00404).

On October 3, 1998, Applicant appeared *pro se* and pled guilty before Circuit Judge William P. Keesley and was sentenced to three (3) years for each count of the indictment, with those sentences to be served concurrently. Applicant did not appeal his convictions or sentences.

2004 Convictions

During its August 2003 term, the Abbeville County Grand Jury indicted Applicant for Participating in a Riot (2003-GS-01-00268). Subsequently, Applicant was indicted at the October 2004 term of the Abbeville County Grand Jury for Possession With Intent to Distribute (PWID) Cocaine (2004-GS-01-00350, count 1), PWID Cocaine Within Proximity of a School or Playground (2004-GS-01-00350, count 2), and Assault on an Officer While Resisting Arrest (2004-GS-01-00351).

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On October 26, 2004, Applicant appeared *pro se* and pled guilty before Circuit Judge Wyatt T. Saunders, Jr. and was sentenced to twelve (12) years of imprisonment for PWID Cocaine, ten (10) years for PWID Cocaine Within Proximity of a School or Playground, ten (10) years for Assault on an Officer while Resisting Arrest, and two (2) years for Participating in a Riot, with those sentences to be served concurrently. Applicant did not appeal his convictions or sentences.

2019 Conviction

Applicant was indicted by the Abbeville County Grand Jury for Domestic Violence of a High and Aggravated Nature (2018-GS-01-0342) and Possession of a Weapon During a Violent Crime (2018-GS-01-0342). Assistant Public Defenders Clark McCants and Walt Whitmire represented Applicant.

On May 14, 2019 Applicant pled guilty pursuant to a negotiated agreement before Circuit Judge Roger M. Young to Domestic Violence of a High and Aggravated Nature and was sentenced to twenty years imprisonment. The weapon charge was dismissed.

Applicant filed a Notice of Appeal which was dismissed by the Court of Appeals for Applicant failing to provide a sufficient explanation for a guilty plea appeal, pursuant to Rule 203(d)(1)(B)(iv) of the SCACR. The Remittitur was sent August 12, 2019.

III. STATEMENT OF FACTS¹

Law enforcement responded to a domestic violence call at Applicant and Victim's apartment in Abbeville on February 16, 2018. (Transcript dated May 14, 2019, p. 14). Upon their arrival, Victim was seen exiting the apartment holding a towel to her face and bleeding profusely from her nose. (Transcript dated May 14, 2019, p. 14). Victim's left nostril was completely cut

¹ This section only summarizes the facts from Applicant's 2019 conviction. Due to the lack of availability of records from Applicant's 1998 and 2004 convictions, this Court has no way of summarizing the factual basis for those convictions.

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down to her lip. (Transcript dated May 14, 2019, p. 15). Victim's shirt was completely saturated with blood. (Transcript dated May 14, 2019, p. 15). According to the State, Victim would have testified at trial that Applicant came to the apartment and cut her face with a box cutter. (Transcript dated May 14, 2019, p. 16).

IV. CURRENT APPLICATION

1998 Convictions

In his application for post-conviction relief regarding his 1998 convictions, Applicant alleges he is being held in custody unlawfully based on the following:

1. "Moving for an appeal pursuant to White v. State based upon the circuit court's error in (1) not advising defendant of his right to counsel; (2) adequately warning defendant of the dangers of self-representation..."
 - a. "The circuit court accepted defendant's uncounseled plea without advising defendant of his right to counsel or adequately warning defendant of the dangers of self-representation..."

Applicant requests relief as follows:

"An appeal pursuant to White v. State"

2004 Convictions

In his application for post-conviction relief regarding his 2004 convictions, Applicant alleges he is being held in custody unlawfully based on the following:

1. "Moving for an appeal pursuant to White v. State based upon the circuit court's error in (1) not advising defendant of his right to counsel; (2) adequately warning defendant of the dangers of self-representation..."
 - a. "The circuit court accepted defendant's uncounseled plea without advising defendant of his right to counsel or adequately warning defendant of the dangers of self-representation..."

Applicant requests relief as follows:

"An appeal pursuant to White v. State"

2019 Conviction

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In his application for post-conviction relief, Applicant makes several allegations, which Respondent interprets as the following:

1. Ineffective Assistance of Counsel:

- a. "Failing to Object to the Solicitor changing Applicant's charge to a violent offense after Applicant plead guilty to a non-violent offense."
- b. "Fail[ing] to move to withdraw Applicant's Plea when the Solicitor changed Applicant's plea when the Solicitor changed Applicant's charge from non-violent to violent, thus requiring Applicant to serve substantially more time in prison."

Applicant states he is seeking "specific sentence performance of enforcing the agreed 'non-violent' status of my original agreement or in the alternative, a new trial."

V. INEFFECTIVE ASSISTANCE OF COUNSEL, GENERALLY

Ordinarily, allegations of ineffective assistance of counsel guaranteed by the Sixth Amendment sets forth a *prima facie* violation of this constitutional right, and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

The reviewing court applies the two-part test outlined in *Strickland v. Washington* to determine whether counsel's conduct "was so ineffective as to require reversal" of the applicant's conviction. 466 U.S. 668, 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Id.* at 687-88; *accord. Cherry v. State*, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. *Strickland*, 466 U.S. at 700; *see also Bell v. Cone*, 535 U.S. 685, 695 (2002) (explaining that "[w]ithout proof of both deficient performance and prejudice to the defense, . . . it could not be said that the sentence

or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable" (citation and internal quotation marks omitted)).

The applicant has the burden of establishing both deficiency and prejudice in order to be entitled to relief. *Hughes v. State*, 346 S.C. 554, 558, 552 S.E.2d 315, 317 (2001); Rule 71.1(e), SCRPC. To prove deficient performance, the applicant must establish that, in light of all the circumstances, the acts or omissions complained of "were outside the wide range of competence" demanded of attorneys in criminal cases. *Strickland*, 466 U.S. at 688. To prove prejudice, the applicant must establish "a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 694. A reasonable probability is a probability "sufficient to undermine confidence in the outcome." *Id.* Significantly, "the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged." *Id.* at 696.

In the context of a guilty plea, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). 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) ("Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible."). Statements made during a guilty plea should be considered conclusive, unless an applicant presents valid reasons why he or she should be allowed to depart from the truth of his statements. *Dalton*

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v. State, 376 S.C. 130, 137–38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

VI. FINDINGS OF FACT & CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the PCR hearing, observed the witnesses, passed upon their credibility, and weighed their testimony, considered the arguments of counsel, as well as the record in this action incorporated by way of the State's return. Based upon the foregoing, this Court finds Applicant's claims to be without merit and relief should be denied. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings of facts and conclusions of law based upon all of the probative evidence presented.

Summary Dismissal of Allegations Pertaining to 1998 and 2004 Convictions

Pursuant to South Carolina Code Annotated Sections 17-27-70 and -80, this Court dismisses the allegations pertaining to Applicant's 1998 and 2004 convictions as there is no genuine issue of material fact which would necessitate development of facts. *See* S.C. Code Ann. § 17-27-70(b) (establishing procedure for summary disposition of PCR applications); *Leamon v. State*, 363 S.C. 432, 434, 611 S.E.2d 494, 495 (2005) (summary disposition appropriate when there is no need to develop facts and the applicant is not entitled to relief). Respondent moved for summary dismissal, and this Court finds summary dismissal is appropriate for the following reasons.

Failure to State a Cognizable Claim

As an initial matter, this Court finds Applicant's allegations pertaining to his 1998 and 2004 convictions are summarily dismissed for failure to state a cognizable claim. Applicant's allegations of trial court error are without merit. This Court finds these allegations are summarily dismissed for failure to state a cognizable claim for post-conviction relief. Free-standing claims of trial court error are not cognizable claims for post-conviction relief, and this prohibition has long been

recognized. *See Simmons v. State*, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1975) (“Errors in petitioner’s trial which could have been reviewed on appeal may not be asserted for the first time, or reasserted, in post-conviction proceedings.”); *see also Drayton v. Evatt*, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993) (“The *Simmons* rule gives effect to the Legislature’s clear intent that the post-conviction relief procedure is not a substitute for appeal or a place for asserting errors for the first time which could have been reviewed on direct appeal.”); *Stepney v. State*, 278 S.C. 47, 292 S.E.2d 41 (1982) (explaining that issues that could have been raised on direct appeal cannot be considered on PCR application absent claims of ineffective assistance of appellate counsel). Because an application for post-conviction relief is not a substitute for a direct appeal, and because of the modern simplification of criminal jurisdiction jurisprudence in South Carolina, the *overwhelming* majority of cognizable claims fall under the broad umbrella of “ineffective assistance of counsel,” a contention under the Sixth Amendment of the United States Constitution. *See Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (noting that allegations of trial court error are not cognizable on PCR).

Applicant’s allegation that the trial court erred in failing to advise him of his right to counsel and warn him against the dangers of self-representation is a direct appeal issue that is not a cognizable claim for post-conviction relief. *See, e.g., Drayton*, 312 S.C. at 8, 430 S.E.2d at 520 (“[PCR] is not a substitute for appeal or a place for asserting errors for the first time which could have been reviewed on direct appeal.”); *Wolfe v. State*, 326 S.C. 158, 485 S.E.2d 367 (1997) (noting that “trial court error does not constitute an appropriate basis for a finding of ineffective assistance of counsel”).

Accordingly, this Court summarily dismisses these allegations pursuant to Rule 12(b)(6), SCRCR, for failure to state a cognizable claim upon which relief can be granted under the Act. See

S.C. Code Ann. § 17-27-70(b) (establishing procedure for summary disposition of PCR applications); *Leamon v. State*, 363 S.C. 432, 434, 611 S.E.2d 494, 495 (2005) (summary disposition appropriate when there is no need to develop facts and the applicant is not entitled to relief).

Summary Dismissal Based on Statute of Limitations

Additionally, the allegations pertaining to Applicant's 1998 and 2004 convictions shall be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act² (Act). Specifically, the Act requires:

- (A) An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.
- (B) When a court whose decisions are binding upon the Supreme Court of this State or the Supreme Court of this State holds that the Constitution of the United States or the Constitution of South Carolina, or both, impose upon state criminal proceedings a substantive standard not previously recognized or a right not in existence at the time of the state court trial, and if the standard or right is intended to be applied retroactively, an application under this chapter may be filed not later than one year after the date on which the standard or right was determined to exist.
- (C) If the applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence, the application must be filed under this chapter within one year after the date of actual discovery of the facts by the applicant or after the date when the facts could have been ascertained by the exercise of reasonable diligence.

S.C. Code Ann. § 17-27-45.

² S.C. Code Ann. §§ 17-27-10 to -160.

Our Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. *Peloquin v. State*, 321 S.C. 468, 469 S.E.2d 606 (1996). A motion for summary judgment may properly be used to raise the defense of statute of limitations. *McDonnell v. Consol. Sch. Dist. of Aiken*, 315 S.C. 487, 445 S.E.2d 638 (1994). Additionally, section 17-27-70(c) authorizes this Court to “grant a motion by either party for summary disposition of [an] application when it appears from the pleadings . . . there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.” See *Leamon*, 363 S.C. at 435, 611 S.E.2d at 49 (“Ignorance of the statute of limitations is not an excuse for late filing . . .”); *Sutton*, 361 S.C. at 648, 606 S.E.2d at 781 (declining “to impose a duty on trial or appellate counsel to inform a convicted defendant of the availability of PCR or the one-year deadline to file an application”).

The claims Applicant is now raising are not based on any change in case law or newly-discovered evidence. Therefore, subsections 17-27-45(B) and (C) do not apply. Section 17-27-45(A) provides that an applicant must file his application within one year after the entry of a judgment of conviction. Applicant’s PCR applications pertaining to his 1998 and 2004 convictions were filed well after the expiration of the statutory filing period.

With regard to his 1998 convictions, Applicant pleaded guilty to one count of distribution of crack cocaine and one count of distribution of cocaine within proximity of a school or playground on October 3, 1998. The time for filing a PCR application challenging those convictions expired on October 4, 1999. This application was filed on May 9, 2019—almost *twenty years* after the requisite filing period expired.

With regard to his 2004 convictions, Applicant pleaded guilty as indicted on October 26, 2004. Therefore, his application challenging those convictions was due by October 27, 2005. This

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application was filed on May 9, 2019—nearly *fifteen years* after the requisite filing period expired.

Accordingly, this action shall be summarily dismissed as untimely, particularly in light of the fact that Applicant has failed to allege any known ground entitling him to equitable tolling. *See Pelzer v. State*, 378 S.C. 516, 521, 662 S.E.2d 618, 619–20 (Ct. App. 2008) (equitable tolling has been deemed available where (1) extraordinary circumstances prevented the plaintiff from filing despite his due diligence; (2) the plaintiff actively pursued his or her judicial remedies by filing a defective pleading during the statutory period or the claimant has been induced or tricked by the defendant’s misconduct into allowing the filing deadline to pass; and (3) the plaintiff, despite all due diligence, is unable to obtain vital information bearing on the existence of his or her claim).

Summary Dismissal Based on Laches

Additionally, the allegations pertaining to Applicant’s 1998 and 2004 convictions shall be summarily dismissed based on the equitable doctrine of laches. To ensure finality of litigation, our courts require reasonable diligence in pursuing collateral relief. *McElrath v. State*, 276 S.C. 282, 284, 277 S.E.2d 890, 891 (1981). This requirement “guards the state’s legitimate expectation that it will not be called upon without due cause, to defend the integrity of convictions that occurred many years ago, where records and witnesses are no longer available.” *Id.*

Where a PCR applicant fails to exercise reasonable diligence, the State may seek the summary dismissal through the equitable doctrine of laches, which is defined as “neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done.” *Bray*, 366 S.C. at 140, 620 S.E.2d at 745 (quoting *Whitehead v. State*, 352 S.C. 215, 219, 574 S.E.2d 200, 202 (2002)); *see also RWE NUKEM Corp. v. ENSR Corp.*, 373 S.C. 190, 199, 644 S.E.2d 730, 734–35 (2007) (“Laches connotes not only an undue lapse of time, but also negligence and opportunity to have acted

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sooner.”). “Whether a claim is barred by laches is to be determined in light of the facts of each case, taking into consideration whether the delay has worked injury, prejudice, or disadvantage to the other party; delay alone in assertion of right does not constitute laches.” *Whitehead*, 352 S.C. at 219, 574 S.E.2d at 202. Recognizing the importance of finality in litigation, Rule 9(a) of the Federal Habeas Corpus Act recognizes the doctrine of laches. The Rule states in pertinent part:

A petition may be dismissed if it appears that the state of which the Respondent is an officer has been prejudiced in its ability to respond to the Petition by delay in its filing unless the Petitioner shows that it is based on grounds of which he could not have had knowledge by the exercise of reasonable diligence before the circumstances prejudicial to the state occurred.

The South Carolina General Assembly has likewise recognized this problem and instituted a one-year statute of limitations. *See* S.C. Code Ann. § 17-27-45(A).

Applicant filed these PCR actions over *twenty years* after he first pleaded guilty. *See, e.g., Bray*, 366 S.C. at 140, 620 S.E.2d at 745 (affirming PCR judge’s ruling that laches barred belated review of denial of PCR seven years after PCR hearing was held). Applicant’s delay has greatly prejudiced the State. *See McMann v. Richardson*, 397 U.S. 759, 773–74 (1970) (“What is at stake in this phase of the case is not the integrity of the state convictions obtained on guilty pleas, but whether, years later, defendants must be permitted to withdraw their pleas, which were perfectly valid when made, and be given another choice between admitting their guilt and putting the State to its proof. . . . This would be an improvident invasion of the State’s interests in maintaining the finality of guilty-plea convictions that were valid under constitutional standards applicable at the time.”).

Absent some explanation or justification for the delay in seeking PCR, laches will prevent an Applicant from seeking collateral review of his conviction, especially where the delay affects the availability of evidence to review the applicant’s claims. *McElrath*, 276 S.C. at 283, 277 S.E.2d

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at 890. Records of the guilty plea are almost certainly no longer available. *See, e.g.*, Rule 607(i), SCACR (court reporter only required to retain records for five years). Witness memories and physical evidence will have naturally faded and degraded. *State v. Serrette*, 375 S.C. 650, 654 S.E.2d 554 (Ct. App. 2007) (declining to remand for reconstruction of record noting such remedy “would undoubtedly be futile considering the passage of over ten years’ time” when the delay was caused by appellant). As a result, Applicant’s delay in bringing this action has affected the availability of evidence for this Court to review his claims. Therefore, the allegations pertaining to Applicant’s 1998 and 2004 convictions shall be summarily dismissed as barred by the equitable doctrine of laches.

Failure to Object to Sentence or Move to Withdraw Plea

Regarding Applicant’s 2019 conviction for domestic violence of a high and aggravated nature, Applicant contends Counsel was ineffective for failing to object to the Solicitor changing Applicant’s charge to a violent offense after Applicant pleaded guilty to a non-violent offense. Additionally, Applicant alleges Counsel failed to move to withdraw Applicant’s plea when the Solicitor changed Applicant’s charge from non-violent to violent, thus requiring Applicant to serve substantially more time in prison. This Court finds this allegation is without merit.

This Court finds Counsel was not ineffective for failing to object to the sentence or move to withdraw the plea as the sentence was entirely appropriate under the law. At the evidentiary hearing, Counsel credibly testified he never informed Applicant he was pleading to a non-violent offense, therefore Counsel was not deficient.

The record from Applicant’s plea corroborates Counsel’s testimony. After the plea was entered, a scrivener’s error was discovered where the non-violent box on the sentencing sheet was incidentally checked. (Transcript dated May 15, 2019, p. 4). This issue was addressed the day after

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the plea, where Counsel informed the court that, despite the error, Applicant was aware he was pleading to a violent offense at the time of the plea. (Transcript dated May 15, 2019, p. 5). The court informed Applicant he pleaded to a violent offense and would have to serve at least 85% of his sentence. (Transcript dated May 15, 2019, pp. 9–10). This Court finds Applicant was aware he was pleading to a violent offense at the time of the plea and therefore failed to prove prejudice.

This allegation is without merit and relief is DENIED.

Failure to Convey Guilty Plea Offer³

To the extent Applicant raised the allegation Counsel was ineffective for failing to convey a plea offer, this Court finds this allegation is without merit.

Counsel credibly testified he conveyed Applicant the twelve-year plea offer and Applicant rejected it. Counsel explained that because Applicant rejected the plea offer, it was revoked by the State. This Court finds Counsel properly conveyed all plea offers to Applicant and therefore Counsel was not deficient in his representation and the Applicant not prejudiced thereby.

This allegation is without merit and relief is DENIED.

VII. CONCLUSION

Based on the foregoing, this Court finds Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. This Court finds Counsel was not deficient in any manner, nor was Applicant prejudiced by Counsel's representation. Therefore, this Court denies relief on all allegations and dismisses this PCR action with prejudice.

Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review pursuant

³ This allegation was raised during the PCR hearing and was not raised in Applicant's original application.

to Rule 203, SCACR. Applicant has a right to appellate counsel's assistance in seeking review of the denial of PCR. *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. The application for post-conviction relief be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of the State.

AND IT IS SO ORDERED this 31st day of January, 2025.


 J. BERHAM COLE
 Presiding Judge
 Eighth Judicial Circuit

_____, South Carolina

FILED
 STATE OF SOUTH CAROLINA
 COUNTY OF ANDERSON
 2025 FEB 10 A 10:11
 CLERK OF COURT

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 BY Shandal Boggs
 ANDERSON COUNTY CLERK OF COURT
 Page 15 of 15

2019-CP-01-00323

The Grose Law Firm, LLC
305 Main Street, Greenwood, South Carolina 29646

E. Charles Grose, Jr.
Phone: 864-538-4466 Fax: 864-538-4405
E-mail: charles@groslawfirm.com
Web: GroseLawFirm.com

February 28, 2025

Via US Mail and Email

The Honorable Shandal Boggs
Clerk of Court, Abbeville County
PO Box 99
Abbeville, SC 29620-0099

Re: *Robert Lamont Bryant v. State of South Carolina*
Case Nos. 2019-CP-01-00232

Dear Ms. Boggs:

Enclosed for filing please find Mr. Bryant's Rule 59(e), SCRCF Motion, along with a certificate of service.

Thank you for your attention to this matter. Please let me know if I can answer any questions or provide additional information.

With kindest regards, I am

Yours very truly,

s/E. Charles Grose, Jr.
E. Charles Grose, Jr.

cc: The Honorable J. Derham Cole (via Email)
Mr. Robert Bryant (via US Mail)
Zachary William Jones, Esquire (via Email)

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	8th JUDICIAL CIRCUIT
COUNTY OF Abbeville	)	
	)	CASE NO.: 2019_-CP-01-00323
	)	
Robert Lamont Bryant	)	MOTION AND ORDER INFORMATION
	)	FORM AND COVERSHEET
vs.	)	
	)	
State of South Carolina	)	
Defendant.	)	

Plaintiff's Attorney: Charles Grose, Bar No. 66063 Address: 305 Main Street, Greenwood, SC 29646 Phone: 864-538-4466 Fax _____ E-mail: charles@groselawfirm.com Other: _____	Defendant's Attorney: Zachary William Jones, Bar No. _____ Address: PO Box 11549, Columbia SC 29211 Phone: _____ Fax _____ E-mail: zacharyjones@scag.gov Other: _____		
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)			
SECTION I: Hearing Information			
Nature of Motion: Rule 59e, SCRCP Motion Estimated Time Needed: 15 min. Court Reporter Needed: ☒ YES / ☐ NO			
SECTION II: Motion/Order Type			
☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.			
<i>s/E. Charles Grose, Jr.</i> Signature of Attorney for ☒ Plaintiff / ☐ Defendant Feb. 28, 2025 Date submitted			
SECTION III: Motion Fee			
☐ PAID – AMOUNT: \$ _____ ☐ EXEMPT: (check reason) <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____ </td> <td style="width: 50%;"></td> </tr> </table>		☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____	
☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____			
JUDGE'S SECTION			
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____	JUDGE CODE _____ Date: _____		
CLERK'S VERIFICATION			
Collected by: _____ Date Filed: _____ ☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED – AMOUNT DUE: \$ _____			

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE EIGHTH JUDICIAL CIRCUIT
COUNTY OF ABBEVILLE	)	
	)	Case No. 2019-CP-01-00323
Robert Lamont Bryant,	)	
	)	Rule 59(e), SCRCP Motion
Applicant,	)	
	)	
vs.	)	
	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

Pursuant to Rule 59(e), SCRCP, Robert Bryant moves this Court for an order withdrawing the order of dismissal dated January 31, 2025¹ and issue an order granting post-conviction relief. This motion is based on the following grounds:

1) The procedure followed by the PCR court denied Mr. Bryant his right to have his PCR claims adjudicated by a judicial officer. “S.C. Code Ann. § 17-27-80 (1976), requires the PCR court to ‘make specific findings of fact, and state expressly its conclusions of law, relating to each issue presented.’” *McCray v. State*, 305 S.C. 329, 330, 408 S.E.2d 241, 241 (1991). *See also Pruitt v. State*, 310 S.C. 254, 423 S.E.2d 127 (1992). This Court did not do that, but rather delegated that responsibility to the Attorney General’s Office. Such delegation of a judicial branch function to the executive branch violates the separation of powers required by S.C. Const. Art. I, § 8. *See, e.g., State v. Langford*, 400 S.C. 421, 735 S.E.2d 471 (2012).

2) The majority of the order of dismissal, pp. 7-13, discussed the 1998 and 2004 conviction. In these PCR applications in case numbers 2029-CP-01-00141 and 00142, which were consolidated into this action, Mr. Bryant allege, “The circuit court accepted [his] uncounseled

¹ The Clerk of Court for Abbeville County filed the order on February 10, 2025. Although the Clerk of Court states the order was mailed on February 11, 2025, the mailing is postmarked February 13, 2025. Undersigned counsel received the order on February 18, 2025.

pleas without advising [him] of his right to counsel or adequately warning him about the dangers of self-representation.” Mr. Bryant requested belated appeal pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974). The order of dismissal does not address the circuit court’s failure to advise Mr. Bryant of his right to counsel and adequately warning him about the dangers of self-representation. Nor does the order of dismissal address the relief requested under *White v. State*, which is not subject to the statute of limitations. This Court should issue an order that complies with S.C. Code Ann. § 17-27-80 (“The court shall make specific findings of fact, and state expressly its conclusions of law, relating to each issue presented.”). See *Simmons v. State*, 416 S.C. 584, 592–93, 788 S.E.2d 220, 225 (2016) (holding the PCR court erred in failing to make specific findings of fact and rulings of law on each issue raised by the petitioner despite granting PCR on one issue); see also *Fishburne v. State*, 427 S.C. 505, 832 S.E.2d 584 (2019).

3) In separate grounds for relief, the Amended PCR Application, paragraphs 11(a) and 11(b) allege plea counsel was ineffective for not objecting when the Solicitor changed the offense to a a violent offense and for not moving to withdraw the plea. The order of dismissal, pp. 13-14, relies solely on the transcript dated May 15, 2019. The plea, however, occurred on May 14, 2019. The May 14th transcript does not reflect that the trial judge advised Mr. Bryant that domestic violence of a high and aggregated nature is violent and an eight-five percent offense. Nor does the order consider Mr. Bryant’s testimony on this matter. This Court should issue an order that complies with S.C. Code Ann. § 17-27-80. See *Hill v. Lockhart*, 474 U.S. 52 (1985); *Rolen v. State*, 384 S.C. 409, 683 S.E.2d 471 (2009); *Anderson v. State*, 342 S.C. 54, 535 S.E.2d 649 (2000)).

4) The order of dismissal, p. 14, n.3, incorrectly states Mr. Bryant’s PCR application did not raise the allegation that plea counsel did not convey the plea offer. Mr. Bryant’s Amended

Application for Post-Conviction Relief, dated November 28, 2022, paragraph 11(c), states, “Trial counsel failed to advise Mr. Bryant of the State’s initial plea offer that was more favorable than the sentence Mr. Bryant ultimately received.” Although trial counsel testified that the offer was conveyed to Mr. Bryant, the record also reveals the offer was not communicated to Mr. Bryant in a timely manner and that Mr. Bryant did not have a meaningful opportunity to consider the offer. The order failed to address Mr. Bryant’s testimony on this matter. This Court should issue an order that complies with S.C. Code Ann. § 17-27-80.

For the foregoing reasons, this Court should withdraw the order of dismissal, should issue an order that complies with S.C. Code Ann. § 17-27-80, and grant post-conviction relief.

IT IS SO MOVED.

Respectfully Submitted,

By s/E. Charles Grose, Jr.

E. Charles Grose, Jr.
S.C. Bar Number 66063
The Grose Law Firm, LLC
305 Main Street
Greenwood, SC 29646
(864) 538-4466
(864) 538-4405 (fax)
Email: charles@groselawfirm.com

Attorney for Robert Lamont Bryant

February 28, 2025
Greenwood, South Carolina

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE EIGHTH JUDICIAL CIRCUIT
COUNTY OF ABBEVILLE	)	
	)	Case No. 2019-CP-01-00323
Robert Lamont Bryant,	)	
	)	
Applicant,	)	
	)	
vs.	)	
	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

I certify that I have served a copy of this pleading on the State of South Carolina, by emailing at copy to counsel, at their AIS email address, as reflected below:

Zachary William Jones
S.C. Attorney General's Office
PO Box 11549
Columbia, SC 29211
zacharyjones@scag.gov

By s/E. Charles Grose, Jr.

E. Charles Grose, Jr.
The Grose Law Firm, LLC
305 Main Street
Greenwood, SC 29646
(864) 538-4466

February 28, 2025
Greenwood, South Carolina

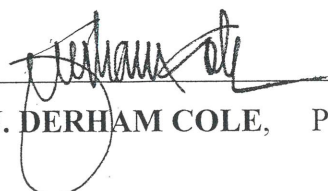
STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ABBEVILLE	)	
Robert Lamont BRYANT,	)	
	)	
Applicant,	)	ORDER
v.	)	
The STATE of South Carolina,	)	DENYING MOTION TO RECONSIDER
	)	
Respondent.	)	Civil Action No. 2019-CP-01-00323
_____	)	

This matter was previously before the Court for an evidentiary hearing on an application for post-conviction relief. After this Court's denial of relief and dismissal of the application, the applicant filed a Motion pursuant to Rule 59(e) to reconsider, alter, and amend the final order of dismissal entered in this case.

After careful consideration of the motion, this Court is unable to discover any material fact or principle of law that has been ignored, disregarded, or overlooked by the Court in rendering its previous decision. This Court therefore finds no basis to reconsider, alter, or amend the prior Order of this Court.

The defendant's **MOTION** to reconsider, alter, and amend this Court's prior order of dismissal should be and **IS** therefore **DENIED**.

IT IS SO ORDERED!


 J. DERHAM COLE, Presiding Judge

June 4, 2025
 Spartanburg, South Carolina

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 BY Shandal Boggs
 ABBEVILLE COUNTY CLERK OF COURT

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 STATE OF SOUTH CAROLINA
 COUNTY OF ABBEVILLE
 2025 JUN 12 P 1:24
 SHANDAL BOGGS
 CLERK OF COURT

STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

Robert Lamont Bryant, # 243438,
Plaintiff,

v.

State of South Carolina
Respondent,

)

)

)

IN THE COURT OF COMMON PLEAS

) CERTIFICATE OF SERVICE BY MAIL

2019- CP -01 -00-323

)

The undersigned, an employee of the Office of the Clerk of Court for Abbeville County, hereby certifies that this certificate of service, and clocked Order Denying Reconsideration was made upon the following by placing same in the United States Mail, first class postage prepaid, at the below listed address clearly indicated on said envelope this 12th day of June, 2025.

Asst. Attorney General
Post Conviction Relief
Post Office Box 11549
Columbia, SC 29211

E. Charles Grose, Jr
305 Main Street
Greenwood, SC 29646



Tra Tanus Agnew, Common Pleas Clerk