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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Lexington County

Honorable Daniel McLeod Coble, Circuit Court Judge

JAMIE S. GADSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000983

APPENDIX

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State of South Carolina)
)
County of Lexington)
) Circuit Court
) 2020-GS-32-511

The State of South Carolina)
)
 vs.) Transcript of Plea
)
Jamie Gadson)

August 18, 2022
Columbia, South Carolina

B E F O R E:

The Honorable Debra McCaslin, Judge.

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

Russell Parker, Assistant Attorney General
Attorney for the State

Brett Perry
Attorney for the Defendant

Anne Manscill
Transcriber



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I N D E X

Sentence

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E X H I B I T S

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NO EXHIBITS INTRODUCED

1 THE COURT: Okay. This is the State of South Carolina v.
2 Jamie Gadson. He's got a bunch of warrant numbers
3 (indiscernible). 2019-A-32-2110, 0629.

4 MR. PARKER: Your Honor, may it please the Court, Russell
5 Parker for the State. These -- we good?

6 THE COURT: Yeah. Go ahead. It's -- she always gets on
7 to me.

8 MR. PARKER: The -- Judge, the first five charges in this
9 are the result of five undercover buys. They are distribution
10 of crack third offenses over the course of 2019. In October
11 of 2019, law enforcement saw Mr. Gadson, knew the warrants
12 were outstanding. As a result of that, they tried to
13 effectuate arrest.

14 During the course of the arrest they found what field-
15 tested positive for crack at that time, 13 grams. Sent it to
16 the lab. It came back as crack, 10.36 grams.

17 At that point Mr. Gadson was charged. We indicted him as
18 charged on each offense. So five counts distribution, third
19 offense; one count of trafficking, 10 to 28 grams, third
20 offense; and --

21 THE COURT: All crack?

22 MR. PARKER: Yes, ma'am -- and resisting arrest. He
23 originally retained Stanley Myers. Melanie Darko from our
24 office was assigned to the case. An offer of trafficking 10
25 to 28 grams, first offense, was offered.

1 THE COURT: For three years? Is that the three to ten?

2 MR. PARKER: Three to ten; yes, ma'am. At that point I
3 came in, got the file from Melanie whenever she went to
4 Richland. We attempted to get Mr. Gadson in to either put on
5 the record whether or not he accepted or rejected the plea
6 offer. He did not show up. However at that time Mr. Myers
7 moved to be taken off the case both for himself and the
8 defendant.

9 Your Honor, may I approach? This is --

10 MR. PERRY: And Your Honor, I've got a copy of that
11 order.

12 THE COURT: Okay.

13 MR. PARKER: This is just an order. It's an order that
14 Stanely submitted to Judge Manning to sign, essentially,
15 laying out the offer from our office for the trafficking
16 first, 10 to 28 grams. The order, essentially, states that he
17 and the defendant came to -- were unable to work together at
18 that point. He thought it was a good offer. The defendant
19 did not. So it was best for them to part ways.

20 Judge Manning granted his motion. At that point the
21 public defender was assigned, Jean Popowski. We moved to have
22 him come in again in March of this year to either accept or
23 reject the offer -- same offer, the trafficking first, 10 to
24 28. So three to ten. He did not show.

25 At that point we issued a bench warrant for his arrest.

1 Richland County had some distributions on him as well, and
2 also noticed him for court, and he did not show. So he was
3 picked up in Richland County.

4 He's still housed in Alvin S. Glenn. We took his failure
5 to show and the order signed by Judge Manning as him rejecting
6 the offer. At that point there was no offer. He was put on
7 the trial list for trafficking, third, 10 to 28, so 25 to 30
8 years. Mr. Perry was retained. I actually found out that he
9 was put into custody whenever I got the letter of rep from Mr.
10 Perry, and at that point, put him on trial list. There was no
11 offer --

12 THE COURT: (Indiscernible) the trial list.

13 MR. PARKER: Yes, ma'am. Exactly. Yeah. And since
14 June, I believe. At that point there was no offer. We were
15 prepared to go forward. Mr. Perry reached out to me and asked
16 about us reopening an offer. So I took that to my deputy
17 solicitor. And we were able to fashion a trafficking, second,
18 10 to 28 grams, which carries 5 to 30 years for a negotiated
19 range of 7 to 15 years. Once again, this is something I had
20 to go to my deputy solicitor to reopen.

21 We're -- the State's position is that if he wants to
22 accept it today, it's still open. But after today's hearing,
23 there is no more offer. And when I say there's no more offer,
24 Your Honor, knows how it works. If I were to reopen one, I
25 would be fired before we could even get into court to have him

1 plead or whatever offer that is.

2 THE COURT: All right. Let me ask you this, tell me what
3 his prior record is.

4 MR. PARKER: Judge, we have a 2008 simple possession of
5 marijuana. A 2012 distribution of crack, first, received
6 seven-year suspended, two years' probation. A 2013 DUI, a
7 2015 (indiscernible) controlled substance, a breaking and
8 entering, a strong arm robbery, and another distribution of
9 crack. He has three priors for distribution on his record,
10 hence the trafficking 10 to 28, third offense.

11 THE COURT: All right. Well, wait a minute though -- all
12 right. I got a 2008 simple possession of marijuana. Are you
13 using that as an enhancement?

14 MR. PARKER: No, ma'am . No, ma'am.

15 THE COURT: Okay.

16 MR. PARKER: The 2012 distribution of crack and then --

17 THE COURT: All right. That's one.

18 MR. PARKER: And then the 2015 possession of a control --
19 or a (indiscernible) controlled substance and distribution of
20 crack.

21 THE COURT: Okay. That's two.

22 MR. PARKER: Three, technically. We have --

23 THE COURT: (Indiscernible) --

24 MR. PARKER: -- two prior --

25 THE COURT: It all happened on the same day?

1 MR. PARKER: He pled all the same day. I believe they're
2 separate offenses. Either way we're still at a third, I
3 guess.

4 THE COURT: All right.

5 THE COURT: I counted both of --

6 MR. PERRY: Your Honor, I believe that you're -- I
7 believe the Court is correct. Those having been pled on the
8 same day, I believe that counts as one. But he's still got
9 two prior non-marijuana convictions which makes this a third.

10 THE COURT: Yep. This -- it'll make it a third even if I
11 count it as --

12 MR. PERRY: That's the first thing I looked at to see if
13 this was overcharged.

14 THE COURT: Right.

15 MR. PERRY: It does not appear to be, in my opinion.

16 THE COURT: Okay. And this is from 2019. So tell me,
17 from '15 to '19, was he in any trouble?

18 MR. PARKER: I beg the Court's indulgence.

19 THE COURT: Trying to find out something about you, Mr.
20 Gadson.

21 MR. PARKER: Judge, I think he received an active --

22 MR. PERRY: Your Honor, he was incarcerated between '15
23 and '19.

24 THE COURT: There you go.

25 MR. PARKER: That's right. He got a five-year sentence.

1 The strong arm, he received a 15-year suspended to 5 years,
2 and five years' probation. The distribution of crack, five
3 years to run concurrent. So he was in prison.

4 MR. PERRY: I thought that was the case. I just wanted
5 to confirm that, Your Honor.

6 THE COURT: Okay.

7 Mr. Gadson?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Your lawyer has filed a motion to be
10 relieved.

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: And you're on my trial docket.

13 If he goes to trial on a trafficking, third offense of
14 crack, he's looking at the mandatory --

15 MR. PARKER: 25 to 30.

16 MR. PERRY: 25.

17 THE COURT: -- 25 to 30 years.

18 Do you understand that?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: And do you understand they got an offer on
21 the table from 5 to 30?

22 MR. PERRY: It's actually a negotiated 7 to 15.

23 MR. PARKER: That's correct, Judge, negotiated.

24 THE COURT: Did y'all give him an offer of the straight
25 up 5 to 30 and the judge decides?

1 MR. PARKER: Suzanne Mays (phonetic) approved the 7 to
2 15, Judge. I --

3 THE COURT: 7 to 15?

4 The least amount, if you accepted a plea, would be 7
5 years.

6 MR. PARKER: And Judge, to be clear the State's taken no
7 position as to sentencing.

8 MR. PERRY: Your Honor, I just want to put on the record
9 if I could that, Your Honor, I've gone over the discovery in
10 these cases very closely.

11 THE COURT: They're hand-to-hand buys?

12 MR. PERRY: Your Honor, the buys are the problem for him.
13 Each one of those distributions, he could get from 10 to 30
14 on. So even if the jury was convinced that 10.36, maybe it
15 really was less than trafficking, maybe it should be a
16 (indiscernible) --

17 THE COURT: It's still --

18 MR. PERRY: -- it's still 10 to 30. So Your Honor, the
19 case that the State intends to proceed on, if I'm not
20 mistaken, in my discussions with the solicitor is the
21 trafficking case. In that case --

22 THE COURT: Which carries the most time.

23 MR. PERRY: Exactly. The 25 to 30. Your Honor, in that
24 case the West Columbia Police Department had five arrest
25 warrants for Mr. Gadson. They saw him at the McDonald's in

1 West Columbia. Now, how he came to be there with 13 grams of
2 crack in his waistband, I'm not sure. That's another
3 question. But regardless, they see him. He's wanted.
4 They've got five arrest warrants for him. They go to take him
5 into custody. He resists arrest or allegedly resists arrest.
6 And whenever they finally get him under control they find the
7 crack on his person. Not a dropsy drug case. It's not drugs
8 in the car. It's not somebody else's pants. He's got 10.36
9 grams of crack as the drug analysis comes back on him at that
10 time.

11 Your Honor, I personally can't see a way to successfully
12 defend that case. I've told him as much. Your Honor, our
13 relationship has devolved to the point that he has told me he
14 does not want me representing him. He thinks that I have done
15 a terrible job since I've gotten hired. He wants what little
16 bit of money I've been paid back.

17 THE COURT: Well, this is my deal. You're his third
18 lawyer. And you know --

19 And I'm going to tell you, Mr. Gadson, you don't get to
20 run the gambit like that. I'm not going to let you run the
21 gambit like that. You're on the trial docket starting next
22 week.

23 MR. PERRY: Your Honor, I'll --

24 THE COURT: And you're looking at a mandatory -- judge
25 has no discretion -- of 25 years if a jury comes back and

1 finds you guilty. Do you understand that?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Okay. Because I just did one the other day,
4 I hated it. I had to give the guy 25.

5 Let me see the lawyers for a second.

6 MR. PARKER: Yes, ma'am.

7 THE COURT: (Indiscernible) --

8 MR. PARKER: Yes, ma'am.

9 THE COURT: Tell him that myself. I'll give y'all two
10 minutes.

11 MR. PERRY: Your Honor, can I have --

12 THE COURT: I want you to listen to your lawyer that
13 you've got.

14 MR. PERRY: -- where would you like for me to -- you
15 guys, where would you like for me to meet with him?

16 THE COURT: Can he go to the next courtroom?

17 UNIDENTIFIED SPEAKER: Yes.

18 THE COURT: Give them somewhere private to talk.

19 UNIDENTIFIED SPEAKER: If you'll walk this way, sir. If
20 you --

21 THE COURT: And I --

22 MR. PERRY: I will.

23 THE COURT: -- I'll be back in just a little bit.

24 MR. PERRY: Yes, ma'am.

25 (Thereupon, a recess was taken.)

1 A F T E R N O O N S E S S I O N

2 THE COURT: I love it.

3 MR. PERRY: Mr. Gadson's not real happy about it, but he
4 is going to take my advice and enter a plea with the offer
5 that's in front of us, the 7 to 15 sentencing range.

6 THE COURT: Mr. Gadson, let me tell you something. Wise
7 decision. Wise decision.

8 Okay. Great. Let's do it.

9 MR. PARKER: Judge, you want a brief factual recitation?

10 THE COURT: Let's get this plea (indiscernible)
11 trafficking?

12 MR. PARKER: Correct. Trafficking, second, 10 to 28
13 grams. The rest are getting dismissed.

14 MR. PERRY: Your Honor, I also want to put on the record
15 we have in writing that all of the Richland County charges --
16 there are two of them -- are being dismissed in lieu of this
17 plea as well.

18 THE COURT: All right. And what were those charges; do
19 you know?

20 MR. PERRY: Two distributions, Judge. I believe it was
21 two distributions.

22 MR. PARKER: It was. One was marijuana. And one was, I
23 believe, crack.

24 THE COURT: All right. Mr. Perry?

25 MR. PERRY: Yes, Your Honor.

1 THE COURT: I gave you time. You went over this charge
2 with him, told him the penalty it carries, and explained to
3 him all of his Constitutional rights?

4 MR. PERRY: I did, Your Honor. We discussed what his
5 options were. And that he had the option to enter the plea
6 today or go to trial next week.

7 THE COURT: All right. Let me get (indiscernible). I'm
8 sorry (indiscernible) --

9 UNIDENTIFIED SPEAKER: (Indiscernible).

10 THE COURT: Right here.

11 UNIDENTIFIED SPEAKER: Okay.

12 THE COURT: I'm sorry.

13 UNIDENTIFIED SPEAKER: (Indiscernible).

14 Please raise your right hand.

15 JAMIE GADSON, after being duly sworn, testified as
16 follows:

17 THE COURT: All right. Mr. Gadson, let me ask you. Are
18 you under the influence of any drugs or alcohol today?

19 THE WITNESS: (Indiscernible).

20 THE COURT: Ever been treated for any type of mental
21 illness? Now, you heard your lawyer tell me that he talked to
22 you, that he told you that this charge carries 5 to 30 years?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: And he also, I know, told you because I told
25 you, you are my trial docket. You have jury trial rights.

1 You could go to trial. You could call witnesses on your
2 behalf. You could present a defense. You could have your
3 lawyer cross examine any of the State's witnesses. You could
4 also choose to testify or not to testify. If you chose not to
5 testify, I would tell the jury they couldn't hold that against
6 you. You understand all those rights?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Because I think you are like number two on
9 the trial docket. And we were going to try you next week.
10 And what you were indicted for and what you were on the trial
11 docket for would have carried a mandatory 25 to 30 years; you
12 understand?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Knowing all that, do you want to waive your
15 jury trial rights and go forward with a guilty plea to -- this
16 is trafficking meth, 10 but less than 28, for a second
17 offense -- it's truly a third offense. You heard me go over
18 with the lawyers. It's a true third. But they're letting you
19 plead to a second; do you understand?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: All right. Do I have the indictment?

22 MR. PERRY: I apologize for interrupting. But while I
23 know it's the same statute, Your Honor, (indiscernible) it was
24 actually (indiscernible).

25 MR. PARKER: That's correct, Judge.

1 THE COURT: Right.

2 MR. PERRY: I understate same statute. But --

3 THE COURT: Right.

4 Mr. Gadson, it's the same statute. When they type these
5 up it can be meth, crack, cocaine, a slew of drugs. But it's
6 all the same statute; you understand?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Okay. You got the indictment? I don't know;
9 is this true billed?

10 MR. PARKER: Yes, ma'am. It is. So this is a lesser
11 included of true bill, Judge.

12 THE COURT: Okay. And it's an old charge. And I'm going
13 to tell you also, Mr. Gadson, that this is a violent and a
14 serious offense. All the trafficking statutes are, and
15 especially when you get to like a second offense. But a
16 violent and the serious means it's a strike. And you heard
17 the old saying, three strikes and you're out?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Well, that's not true here in court.
20 Sometimes it can be two strikes. So if you come back in here
21 with another charge and it's a strike, not only does the
22 penalty go up, but you could be facing a life sentence -- a
23 mandatory life; do you understand that?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: All right. Your indictment is true billed.

1 It states that on or about October the 4th of 2019 you did
2 have in your possession -- and I assume this is all by weight
3 to --

4 MR. PARKER: Yes, ma'am.

5 THE COURT: -- get to the trafficking statute because you
6 had over 10 grams of crack. You pleading guilty or not
7 guilty?

8 THE DEFENDANT: Guilty.

9 THE COURT: All right. Now you heard us talk earlier. I
10 know you've got five distributions. I know you've got two
11 charges over in Richland. You've heard the lawyers tell me
12 that they're going to dismiss those charges on you.

13 That should clear up his record; is that right?

14 MR. PARKER: That's --

15 THE COURT: Parker?

16 MR. PARKER: -- correct, Your Honor. And I just checked
17 my email. I'll see if from Kendall that she's -- Kendall
18 Corley is the assistant solicitor.

19 THE COURT: I know Ms. Corley.

20 MR. PARKER: She's going to dismiss her charges in
21 Richland County, Your Honor.

22 MR. PERRY: Your Honor, there is a probation or parole
23 matter I believe that is pending. But that -- I told him this
24 is outside the scope of what we're doing here today.

25 THE COURT: What county is that?

1 MR. PERRY: I believe it's Lexington.

2 MR. PARKER: I think it is, Judge.

3 MR. PERRY: Is it Lexington you were on parole?

4 THE DEFENDANT: Yes.

5 MR. PERRY: It is Lexington, Your Honor.

6 THE COURT: Can we call probation right quick because I'm
7 going to tell you this, I'm going to get rid of it.

8 MR. PERRY: I thought that might be the case, Your Honor.

9 THE COURT: I'll get --

10 MR. PERRY: If he's -- Your Honor --

11 THE COURT: -- rid of it for you, Mr. Gadson.

12 MR. PERRY: Whatever it is. Some (indiscernible) --

13 THE COURT: I don't want Mr. Gadson -- when I sentence
14 Mr. Gadson I want all of this to be behind him.

15 MR. PERRY: That's what we wanted too, Your Honor. We
16 just wanted to be sure that whenever he was released from the
17 Department of Corrections he didn't have anything hanging over
18 his head.

19 MR. PARKER: (Indiscernible) courthouse. Yeah. Do y'all
20 have anybody in the courthouse by chance? We got somebody
21 that's entered a guilty plea. We were here for a hearing.
22 We're just --

23 THE COURT: And I just want to terminate his probation.

24 MR. PARKER: It's somebody that needs to be terminated.
25 It's Jamie Gadson (indiscernible).

1 THE COURT: I just want to terminate it.

2 MR. PERRY: (Indiscernible) --

3 THE COURT: All right. While he's on the phone, Mr.
4 Gadson, you know that any -- the moment I accept this plea it
5 is a violation of your probation, the moment I accept it?
6 Okay. No matter what else or how you've been on probation --
7 you could have been perfect -- this guilty plea alone --

8 MR. PARKER: I'm going to put you on speaker phone.

9 THE COURT: -- makes you violate probation.

10 THE DEFENDANT: Yes, ma'am.

11 MR. RENTIERS: Judge, what you want to do? He's pleading
12 and then --

13 THE COURT: And I'm going to terminate.

14 MR. PARKER: So she's going to terminate his probation.

15 THE COURT: Period. All of it.

16 MR. RENTIERS: And he's on for common-law robbery.

17 MR. PARKER: Correct.

18 THE COURT: I understand. But let me tell you Mr.
19 Rentiers, he's fixing to go do seven years for me. So I'm
20 going to terminate --

21 MR. RENTIERS: Hey, Judge, give me a minute, and I'll be
22 up there. I'll be on the way. If you want to go ahead term
23 it -- yeah. We already we already issued a couple of warrants
24 for him. He's really not done very good.

25 THE COURT: Yeah.

1 MR. RENTIERS: You know, so --

2 THE COURT: Well, I just want to terminate him. That's
3 all. And I just -- because I don't want anything holding him
4 when he gets ready to get released.

5 MR. RENTIERS: Okay. You're not going to give him a new
6 probation case or anything like that, are you?

7 THE COURT: No new probation. I'm going to terminate his
8 old probation and be done with it.

9 MR. RENTIERS: Okay. If you'll give me about 15 -- you
10 going to be there -- it'll take about 15 minutes, I'll come up
11 there, and we'll get that filled out. Okay?

12 THE COURT: Okay. That'll be fine. But I can go on with
13 the plea, right?

14 MR. RENTIERS: What's that? Yeah. You can go on with
15 the plea. I'll be up there.

16 THE COURT: Okay. Thank you.

17 MR. RENTIERS: I'll see you in a minute. Bye.

18 THE COURT: Bye.

19 MR. PARKER: Thanks (indiscernible).

20 THE COURT: All he's got to do is some paperwork because
21 all I'm going to do, Mr. Gadson, is terminate your probation.
22 I'm taking you off. I am also going to make it no
23 administrative monitoring. So you don't have to worry about
24 paying any fees. And I don't know if there was restitution
25 owed on it, but if there is, I will convert that to a civil

1 judgment; do you understand?

2 THE DEFENDANT: Yes, ma'am.

3 MR. PERRY: Thank you, Your Honor.

4 THE COURT: Okay. All right.

5 Mr. Gadson, let me ask you this, I put it all on the
6 record what's happening. Other than that, has anybody
7 promised you anything to get you to plead guilty today?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: Anyone force you, threaten you to get you to
10 plead guilty?

11 THE DEFENDANT: No, ma'am.

12 THE COURT: And are you pleading guilty freely and
13 voluntarily?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: And are you satisfied with the services of
16 Mr. Gadson --

17 MR. PERRY: Mr. Perry.

18 THE COURT: Mr. Perry?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: You better be. I'm telling you he worked you
21 out a great deal, Mr. Gadson.

22 Okay. You going to stand on the record, or you want to
23 tell me --

24 MR. PARKER: Your Honor?

25 THE COURT: -- about it?

1 MR. PARKER: He had more than 10 grams on October 4th,
2 2019, and has a prior conviction for distribution within the
3 allotted time period, Judge.

4 THE COURT: Okay.

5 All right. Mr. Gadson, I'm going to accept your plea. I
6 find it to be freely, voluntarily, and intelligently made.
7 Now, I want to know how long you served in jail, so I can give
8 you credit for it?

9 MR. PERRY: Your Honor, I'm not entirely sure how much
10 time he's been in. He may be better able to tell you that
11 that I am. I do know that he spent some time before he posted
12 bond and then when he got picked up on these bench warrants,
13 he's been in jail since then.

14 So Mr. Gadson, do you have any idea how long you been in
15 jail?

16 THE DEFENDANT: Since I got picked up on the bench
17 warrants; I've been in five months.

18 MR. PERRY: Okay.

19 THE DEFENDANT: All right.

20 THE COURT: Can we --

21 THE DEFENDANT: I was (indiscernible) --

22 THE COURT: Is there a way for me to know the time?

23 And how much time did you spend when you first got
24 arrested before you made bond?

25 THE DEFENDANT: Like a month. That was it.

1 THE COURT: Well, those couple of months are going to
2 help you out because I'm going to give you credit for it.

3 THE DEFENDANT: Yes, ma'am.

4 MR. PERRY: Your Honor, with him being in Richland County
5 it's kind of -- I mean, if he was in jail here in Lexington
6 County, it'd probably be easy for us to call over and find
7 out. But he's actually being detained at Alvin S. Glenn right
8 now.

9 MR. PARKER: That's correct, Your Honor. We both have --

10 MR. PERRY: He was picked up on the Richland County bench
11 warrant before he was picked up on the Lexington County
12 warrant.

13 MR. PARKER: That's correct, Judge.

14 MR. PERRY: That's why he's at Alvin S. Glenn.

15 MR. PARKER: We've had a hold on him since Richland
16 County's had him.

17 THE COURT: Well, if you've had a hold on him, then I
18 think he gets credit.

19 MR. PARKER: Your Honor, the State's not opposed to that.
20 We're totally fine with that.

21 THE COURT: You got that little calendar thing there.

22 MR. PERRY: Let me see if I can look at Richland County's
23 website and get some idea of what (indiscernible) --

24 THE COURT: Well, let's see. I wonder --

25 MR. PERRY: Your Honor, he says he's been in jail since

1 April the 19th. I'm going to see here if I can --

2 UNIDENTIFIED SPEAKER: (Indiscernible)--

3 MR. PERRY: -- date calculator.

4 THE COURT: (Indiscernible) --

5 MR. PERRY: There you go. And then you said a month the
6 first time?

7 THE DEFENDANT: That should be on that paperwork.

8 THE COURT: I've got December 5th -- well, that doesn't
9 make sense. No. October the 6th --

10 MR. PERRY: When were you arrested?

11 THE COURT: -- no, that don't make sense either.

12 MR. PARKER: Your Honor, I think I have it. At least
13 according to the public index, he was arrested on the 4th. It
14 looks like bond was posted by A1 Bonding on October 16th. I
15 can show it to Your Honor --

16 THE COURT: Okay.

17 MR. PARKER: -- if you -- it's the public index.

18 THE COURT: December and October to the next year?

19 MR. PARKER: Yeah. October 16th --

20 THE COURT: October 16th?

21 MR. PARKER: -- bond was posted.

22 MR. PERRY: Twelve days -- 13 days. He gets credit for.

23 THE COURT: And 13 days --

24 MR. PERRY: 13 plus the --

25 How much was the other?

1 THE COURT: 121. So I got him for 134 days credit, sound
2 about right?

3 THE DEFENDANT: Yes, ma'am?

4 MR. PERRY: Your Honor, he asked me -- I just want to put
5 this on the record. He asked me about do days in the County
6 jail count two for one? I told him that SCDC determines how
7 much credit you get for the time that you did prior to
8 entering a plea. But that's something that's well beyond the
9 scope of what we're here doing today. SCDC will determine how
10 much credit he gets but that Your Honor can put the number of
11 days that he served. How that gets calculated, as far as his
12 overall sentence, is an SCDC internal matter.

13 THE COURT: You know Mr. Gadson, I used to -- I did
14 criminal defense for 30 years. I'd tell my clients all the
15 time that a day in the county is like two days, sure enough.
16 I'm with you. However I don't think it works that way.

17 I know that you are entitled to every day that you spent.
18 And we'll make sure that you get it. Right now I have it at
19 134 days. If I'm wrong, I promise you that the Department of
20 Corrections will go through and calculate it. And they'll
21 change it if I'm wrong because by law you are entitled to
22 those days; do you understand?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: All right. Mr. Gadson, I'm going to accept
25 your plea. I find it to be freely, voluntarily, and

1 intelligently made. You've had advice of excellent counsel.
2 I think this is a very good solution to this case because I'm
3 going to tell you, Mr. Gadson, had you gone to trial and you
4 were found guilty, I would have given you the 25 years. By
5 law I would have to. And I'd hate it. Because I can look at
6 you, and I don't think that you're some big drug dealer. I
7 don't. I think you're probably some middleman. Somebody gave
8 you some crack, put you out there, and you're probably working
9 for yourself trying to get some, or a little bit of money.

10 I've done this for a long time. And it's not something
11 that I would have enjoyed giving you 25 years; you understand
12 me?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: So I hope you change your ways. Getting a
15 little old there. If you're 31, it's time to stop.

16 SENTENCE

17 THE COURT: All right. Sentence of the Court is seven
18 years. I'm going to give him credit for his 134 days. I will
19 tell Mr. Rentiers -- and also for the record, I have
20 terminated your probation. I will also have them add no
21 administrative monitoring.

22 MR. PERRY: Restitution?

23 THE COURT: Any restitution to be converted to a civil
24 judgment.

25 Mr. Gadson, that -- this is the deal of the day. And you

1 got it.

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Good luck to you.

4 THE DEFENDANT: All right. Thank you.

5 THE COURT: You're welcome.

6 MR. PERRY: Thank you, ma'am.

7 MR. PARKER: Thank you.

8 (End of Transcript of Record)

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25

STATE OF SOUTH CAROLINA

County of Lexington

Jamie Godson # 363870
Full name and prison number (if any) of Applicant

v.

State of South Carolina

)
) **FILED** IN THE COURT OF COMMON PLEAS
)

2023 FEB 10 PM 2:14

) LISA M. COMER
) CLERK OF COURT
) LEXINGTON SC

APPLICATION FOR

POST-CONVICTION RELIEF

2023CP3200524

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 Trenton Corrections
2. Name and location of Court which imposed sentence Lexington County
South Carolina
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2020 GS3200511 Trafficking crack cocaine 2nd offense 10-28g
 - (b) _____

(c) _____

5. The date upon which sentence was imposed and the terms of the sentence:

(a) 8-18-22, Trafficking crack cocaine, 2nd offense 7-15 years

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

NO

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. _____

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. _____

ii. _____

iii. _____

(c) the date of each such result:

i. _____

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. _____

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) Attorney did not advise me that I can appeal

(b) _____

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

(a) Failure to advise

(b) Failure invalidating guilty plea

(c) _____

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

(a) Attorney Stanley Myers failed to advise me why he was →

(b) Attorney Brett Perry showed ineffective assistance of counsel →

(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) _____
- (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? NO
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO
- (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. Stanley L. Myers, 1700 Sunset Blvd
West Columbia, SC 29169
- ii. Brett Perry, P.O. box 1 Camden, SC
29021-001
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Stanley L. Myers - Roll Call
- ii. Brett Perry - Guilty Plea
- iii. _____

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

Time Reconsideration

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

No

STATE OF SOUTH CAROLINA)
)
County of Lexington)

VERIFICATION

I, Jamie Godson, 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.

Jamie Godson

SWORN to and subscribed before me this 7
day of February, 2023.

[Signature] (L.S.)
Notary Public

My Commission Expires: 07/22/32

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

I, Jamie Radson, 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.

Jamie Radson
Applicant

SWORN or affirmed to and subscribed before me this
7th day of February, 2023.

[Signature]
Notary Public

My Commission Expires: 09/22/2032

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	FOR THE ELEVENTH JUDICIAL CIRCUIT
)	
)	
Jamie S. Gadson, SCDC #363870,	)	Case No. 2023-CP-32-00524
)	
Applicant,)	
)	
v.	)	RETURN AND MOTION FOR A MORE
	)	DEFINITE STATEMENT
	)	(Counsel Appointed)
State of South Carolina,)	
)	
Respondent.)	
)	
)	

The Respondent State of South Carolina hereby makes a Return to the *pro se* application for post-conviction relief (PCR) action commenced by Jamie S. Gadson (Applicant) on February 10, 2023. On July 25, 2023, the Lexington Court Clerk of Court appointed Ashley A. McMahan to represent the Applicant. The State makes this return:

DJZ
#1

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Lexington County Clerk of Court. Applicant was arrested on October 5, 2019, trafficking in cocaine 10-27 grams – 3rd or more offense. During its March 9, 2020 term, the Lexington County Grand Jury indicted Applicant for trafficking in cocaine 10grams or more but less than 28 grams. (2020-GS-32-00511). The Applicant was initially represented by Stanley L. Myers, then was represented by Assistant Public Defender Jean Popowski. He subsequently was represented by retained counsel Brett Perry. Tr.p. 5-6.

On August 8, 2022, Applicant appeared before the Honorable Debra R. McCaslin, with counsel Perry. The State was represented by Assistant Solicitor Russell Parker. At the outset he had a motion to be relieved as counsel pending. At the outset there was a discussion about prior

plea offers and the order relieving counsel Myers. During the proceeding, the State re-offered the trafficking 2nd 10 to 28 grams, which carries 5 to 30 years for a range of 7 to 15 years.¹ Tr.p. 6, l. 17-20, p. 9 l. 13-23. The Applicant subsequently agreed to plead to the negotiated sentence offer. Tr.p. 13.

Judge McCaslin accepted Applicant's plea and sentenced him to seven years imprisonment within the h\negotiated range of 7 to 15 years, with credit for 134 days served. Tr.p. 25-26. Judge McCaslin also issue an order terminating probation. Tr.p. 26. Applicant did not appeal his plea or sentence.

II. FACTS

During the plea proceeding, the plea court was advised that on October 4, 2022 the Applicant had more than 10 grams of crack cocaine in his possession. Tr.p.22, l. 1-3. The State asserted that he also had a prior conviction for distribution within the required time period. It was also previously indicated in the proceeding that on October 4, 2022, the West Columbia Police Department had five warrants for the Applicant and saw him at the McDonald's in West Columbia. He had 13 grams of crack cocaine in his belt when he is arrested . When the drug analysis came back he had 10.36 grams of crack. Tr.p. 10-11.

II. CURRENT APPLICATION

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on the following (excerpted verbatim):²

1. Attorney Did Not Advise Me I could Appeal.
2. "Counsel failed to advise."

¹ The State agreed to dismiss the remaining Lexington County charges and asserted that the pending Richland County charges would be dismissed as a result, including 5 counts of distribution. Tr.p. 13, ll. 12-17, p. 17, l. 9-21.

² Unless quoted, Applicant's allegations have been summarized for brevity and clarity.

- a. Attorney Stanley Myers failed to advise why he was
....
- 3. Failure Invalidating Plea
 - a. "Attorney Brett Perry showed ineffective assistance of counsel "

ATTACHMENTS

Attached to this return and incorporated by reference are the Lexington County Clerk of Court records regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the guilty plea transcript, and the records of the current PCR action. The State reserves the right to amend this return upon receipt of any relevant materials.

MOTION FOR A MORE DEFINITE STATEMENT

In response to question nine as to why he did not pursue a direct appeal, Applicant states "attorney did not advise me that I can appeal." Based on these responses and Applicant's failure to state this as an enumerated ground for relief, it is unclear whether Applicant is seeking belated appellate review pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974) (finding that a defendant who did not knowingly and voluntarily waive his right to direct appeal of his conviction is entitled to a belated review of direct appeal issues). Accordingly, the State moves for Applicant, through counsel, to amend his application to provide a more definite statement of his allegations pursuant to Rule 12(e), SCRCP, and the Post-Conviction Procedure Act. *See* S.C. Code Ann. § 17-27-50 (2014) (requiring an applicant to "specifically set forth the grounds upon which the application is based"); *see also Welch v. MacDougall*, 246 S.C. 258, 260, 143 S.E.2d 455, 456 (1965) (stating it is incumbent upon an applicant to make at least a prima facie showing entitling him to relief before an evidentiary hearing will be scheduled and held); *Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not

conclusively refuted by the record before the lower court”); Rule 8(a)(2), SCRCPP (requiring all civil pleadings to include “a short and plain statement of the facts showing that the pleader is entitled to relief”); Rule 71.1(d), SCRCPP (“Counsel shall insure that all available grounds for relief are included in the application and shall amend the application if necessary.”).

However, out of an abundance of caution, the State is interpreting Applicant’s response to question nine as an allegation that plea counsel was ineffective for failing to file a direct appeal on Applicant’s behalf.

V. MOTION FOR A MORE DEFINITE STATEMENT

The State submits Applicant’s allegations of ineffective assistance of are without merit. However, it is impossible for the State to adequately respond to these claims because Applicant has failed to set forth facts to “support each ground” or to explain with specificity the facts upon which his claims are based. S.C. Code Ann. § 17-27-50 (requiring an applicant to “specifically set forth the grounds upon which the application is based”); Applicant wholly fails to set forth facts and circumstances on which this allegation is based.

The State submits Applicant’s claims of ineffective assistance of counsel are without merit. However, it is impossible for the State to adequately respond to these allegations because Applicant has failed to set forth facts to “support each ground” or to explain with specificity the facts upon which his claims are based.

Accordingly, the State requests that Applicant, through current counsel, provide specific claims and facts to support these vague allegations.

Accordingly, the State moves for Applicant, through counsel, to amend his application to provide specific claims and facts to support these vague allegations pursuant to Rule 12(e), SCRCPP, and the Post-Conviction Procedure Act.

See S.C. Code Ann. § 17-27-50 (requiring an applicant to “specifically set forth the grounds upon which the application is based”); see also *Welch v. MacDougall*, 246 S.C. 258, 260, 143 S.E.2d 455, 456 (1965) (stating it is incumbent upon an applicant to make at least a prima facie showing entitling him to relief before an evidentiary hearing will be scheduled and held); *Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application “alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court”); Rule 8(a)(2), SCRCP (requiring all civil pleadings to include “a short and plain statement of the facts showing that the pleader is entitled to relief”); Rule 71.1(d), SCRCP (“Counsel shall insure that all available grounds for relief are included in the application and shall amend the application if necessary.”).

III. RESPONSE TO ALLEGATIONS OF INEFFECTIVE ASSISTANCE OF COUNSEL

A. Ineffective Assistance of Plea Counsel, Generally

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant—like all other defendants—the right to “assistance by an attorney, whether retained or appointed, who plays the role necessary to ensure that the trial is fair.” *Strickland v. Washington*, 466 U.S. 668, 685 (1984). Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. See generally S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right, and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985); Rule 71.1(e), SCRPC. The reviewing court applies the two-part test outlined in *Strickland* to determine whether counsel’s conduct “was so ineffective as to require reversal” of the applicant’s conviction. 466 U.S. at 687. To obtain relief, a PCR applicant must prove (1) counsel’s performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel’s deficient performance. *Id.* at 687–88; *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. *Strickland*, 466 U.S. at 700; *see also Bell v. Cone*, 535 U.S. 685, 695 (2002) (explaining that “[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)).

As aforementioned, 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 that “there is 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.* However, “the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged.” *Id.* at 696.

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, *Hill v. Lockhart*, 474 U.S. 52 (1985), extended the two-part *Strickland* test to challenge guilty pleas based on ineffective assistance of counsel. *See Padilla v. Kentucky*, 559 U.S. 356, 373 (2010) (recognizing that the guilty plea process is a “critical phase of litigation” for purposes of the Sixth Amendment right to effective assistance of counsel). When reviewing a guilty plea, the analysis of counsel’s performance under the first prong of *Strickland* remains unchanged—the applicant must show that counsel’s representation fell below an objective standard of reasonableness demanded of attorneys in criminal cases. *Hill*, 474 U.S. at 58–59; *accord Thompson v. State*, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel’s advice to plead guilty was not “within the competence demanded of attorneys in criminal cases.” *Hill*, 474 U.S. at 56. The second, or “prejudice” prong, however, “focuses on whether counsel’s constitutionally ineffective performance affected the outcome of the plea process.” *Id.* at 58–59. Specifically, when an applicant claims counsel’s deficient performance caused him to accept a plea, the applicant “must show that there is a reasonable probability that, but for [plea] counsel’s [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial.” *Id.* at 59.

B. Conclusion and Action Requested

The State submits Applicant can satisfy neither requirement of the *Hill* test. However, as discussed above, it is impossible for the State to adequately respond to Applicant’s allegations of ineffective assistance of counsel because Applicant has failed to provide any specific facts to support these claims. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application “alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the

[PCR] court”). Thus, the State moves to require Applicant to provide a more definite statement of his allegations pursuant to Rule 12(e), SCRPC.

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, SCRPC. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to *Love v. State*, 428 S.C. 231, 834 S.E.2d 196 (2019), or, alternatively, the State will request a continuance in the matter. *Id.* at 245, 834 S.E.2d at 203 (Kittredge, J., dissenting) (“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.”).

If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, the State reserves the right to move to dismiss this allegation or claim. S.C. Code Ann. §§ 17-27-10 to -160; Rule 71.1, SCRPC. *See also* Rules 15(a)–(b), SCRPC. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State. *See* Rule 15(a), SCRPC.

Pursuant to S.C. Code Ann. § 17-27-150, 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, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. The State reserves the right to request a continuance and

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

V. GENERAL DENIAL

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


VI. CONCLUSION

WHEREFORE, the State moves for a more definite statement and the opportunity to respond to the more definite statement if necessary. Once a more definite statement is provided, the State requests an evidentiary hearing be held on the claim of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General
S.C. Bar #5758
dzelenka@scag.gov

By: 
ATTORNEYS FOR THE STATE
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

April 19, 2024

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

V. GENERAL DENIAL

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

VI. CONCLUSION

WHEREFORE, the State moves for a more definite statement and the opportunity to respond to the more definite statement if necessary. Once a more definite statement is provided, the State requests an evidentiary hearing be held on the claim of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General
S.C. Bar #5758
dzelenka@scag.gov

By: 

ATTORNEYS FOR THE STATE
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

April 22, 2024

MCMAHAN LAW, LLC

February 28, 2025

Lisa M. Comer
Lexington County Clerk of Court
ATTN: PCRs
205 East Main Street, Suite 128
Lexington, SC 29072

Re: Jamie S. Gadson, #363870 vs. State of South Carolina
2023-CP-32-00524

Dear Ms. Comer:

Please find enclosed an Amended Post Conviction Relief Application for the above-referenced individual along with one copy. Kindly clock in this document and return the copy to me in the enclosed self-addressed stamped envelope.

Should you have any questions, I can be contacted at the number and address listed below.

Best regards,



ASHLEY A. MCMAHAN
ATTORNEY AT LAW

AAM
Enclosure

cc: Deputy AG Donald J. Zelenka (via email)
Jamie S. Gadson (via US Mail)

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	FOR THE 11 th JUDICIAL CIRCUIT
COUNTY OF LEXINGTON	)	Case No.: 2023-CP-32-00524
Jamie S. Gadson, #363870,)	
)	
Applicant,	)	AMENDED POST-CONVICTION
	)	RELIEF APPLICATION
v.)	
)	
State of South Carolina.)	
_____)	

The Applicant, by and through his undersigned attorney, hereby amends his PCR application filed on February 10, 2023, to add the following allegations:

1. Ineffective Assistance of Counsel:

- a. Counsels were ineffective regarding the plea offer given to the Applicant. At one point, while represented by Ms. Popowski, the plea offer from ASOL Parker was to plead straight up to one count of trafficking crack 10-28 grams, 1st offense, down from 3rd offense, which Applicant wanted to take. (Please see attached email from Mr. Parker to Ms. Popowski.) However, by the time the plea came around with Mr. Perry as his attorney he was having to plead to a trafficking, 2nd offense.

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

Respectfully submitted,



ASHLEY A. MCMAHAN

MCMAHAN LAW, LLC

PO Box 50536

Columbia, SC 29250

803-219-1110

ashley@mcmahanlawsc.com

SC Bar No. 71676

ATTORNEY FOR APPLICANT

February 27, 2025

CERTIFICATE OF SERVICE

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

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

This 27th Day of February, 2025.



ASHLEY A. MCMAHAN
Attorney for Applicant

Subject: FW: Jamie Gadson



Russell Parker <RParker@lexingtoncounty.sc.gov>

Wed, Feb 16, 2022, 12:52 PM

to Popowski, Jean ▼

Offer is one count of trafficking crack 10-28 grams, 1st offense (down from 3rd offense), without recommendations or negotiations, dismissing the remainder of his charges (4 other distributions charges and a resisting arrest)

Russell Parker

Assistant Solicitor

Eleventh Judicial Circuit

205 East Main Street, Suite 309

Lexington, SC 29072

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From: Parker, Russell

Sent: Tuesday, October 12, 2021 9:29 AM

To: stanley@mbmlawsc.com

Subject: Jamie Gadson

Stanley-

We need to get Gadson pled, just got a call from WCPD and they're getting more complaints about him. I'll honor the offer Melanie extended, we just need to get him squared away before he potentially gets more charges. What does the week of the 25th look like for you? Cell is (803) 460-3261 if you need me. Thanks man.

Russell Parker

Assistant Solicitor

Eleventh Judicial Circuit

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1 State of South Carolina) Court of Common Pleas
 2 County of Lexington) Eleventh Judicial Circuit
 3
 4 Jamie Gadson,) Transcript of Record
 5 Applicant,) 2023-CP-32-00524
 6 vs.)
 7 State of South Carolina,)
 8 Respondent.)

9
 10 March 4, 2025
 Lexington, South Carolina

11 B E F O R E:

12 The Honorable Daniel Coble, Judge

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

14 Ashley A. McMahan, Esquire
 15 On behalf of the Applicant

16 Donald J. Zelenka, Assistant Attorney General
 17 On behalf of the State of South Carolina

18
 19 Reported by: Stacy S. Johnson, RPR
 20 Circuit Court Reporter
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I N D E X

WITNESSPAGE

Jamie Gadson

Direct Examination by Ms. McMahan

5

Cross-Examination by Mr. Zelenka

11

Brett Perry

Direct Examination by Mr. Zelenka

13

Cross-Examination by Ms. McMahan

27

Nelson Russell Parker

Direct Examination by Mr. Zelenka

31

Cross-Examination by Ms. McMahan

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Redirect Examination by Mr. Zelenka

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Certificate of Reporter

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
State's 1	Memorandum of Understanding	19	19

1 (The following proceedings were held March 4,
2 2025, beginning at 9:45 AM.)

3 THE COURT: Yes, sir, Mr. Zelenka.

4 MR. ZELENKA: Thank you, Your Honor.

5 This is the matter of Jamie Gadson versus State
6 of South Carolina. Civil Action Number
7 2023-CP-32-00524 out of Lexington County. Mr. Gadson
8 made a pro se application for post-conviction relief
9 on February 10, 2023. On July 25, 2023, the Court
10 appointed Ashley McMahan to represent him.

11 This case involves a guilty plea on August 8,
12 2022, before Judge McCaslin. The Applicant was present
13 and represented in that matter by Brett Perry. The
14 State was represented by Russell Parker.

15 At the beginning of that, there was -- a motion
16 to be relieved was pending, a discussion about that,
17 and subsequently the defendant agreed to plead guilty
18 after that was re-offered and he plead guilty before
19 Judge McCaslin and sentenced to seven years within the
20 negotiated range of seven to fifteen years with credit
21 for 134 days served. Judge McCaslin also issued an
22 order terminating probation.

23 He did not appeal his plea or sentence. He
24 alleged initially ineffective assistance of counsel
25 and based upon the failure to do very broad things, a

1 request to have an amendment was done and was complied
2 with by Ms. McMahan, and we're ready to proceed in this
3 matter, Your Honor.

4 THE COURT: Yes, ma'am.

5 MS. McMAHAN: Your Honor, at this time the
6 Applicant calls Mr. Gadson.

7 THE COURT: All right. You can come up and be
8 sworn.

9 (Whereupon, Jamie Gadson was duly sworn by the
10 Clerk of Court.)

11 THE CLERK: Please be seated in the witness stand
12 and once you are seated -- watch your step and then
13 once you are seated, if you'd please state your name,
14 spelling your last name for the record.

15 THE WITNESS: My name is Jamie Gadson.
16 G-A-D-S-O-N.

17 JAMIE GADSON,

18 having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. McMAHAN:

21 Q. Mr. Gadson, did you file this PCR application?

22 A. Yes.

23 Q. In -- in the conversations we've had, do you
24 understand that the remedy if you win is you start over
25 from the beginning, you cannot get a time cut?

1 A. Yes, ma'am.

2 Q. And do you need a copy of your application in front
3 of you?

4 A. Yes, ma'am.

5 Q. Mr. Gadson, you had a few attorneys that represented
6 you in this case, right?

7 A. Yes, ma'am.

8 Q. And was Mr. Stanley Myers your first attorney?

9 A. Yes, ma'am.

10 Q. And then who was your second attorney?

11 A. Jean Powaski.

12 Q. Popowski?

13 A. Yes, Popowski.

14 Q. And then who was your third attorney?

15 A. Brett Perry.

16 Q. And was Mr. Perry the attorney that you had when you
17 entered your guilty plea?

18 A. Yes.

19 Q. How many times do you think you met --

20 THE COURT: If you'll speak up a little bit so
21 the court reporter can hear you, okay?

22 THE WITNESS: Yes, sir.

23 THE COURT: Thank you.

24 BY MS. McMAHAN:

25 Q. So how long before your guilty plea did you hire

1 Mr. Perry?

2 A. I hired Mr. Brett Perry in June of 2022.

3 Q. And did you have charges pending in both Lexington and
4 Richland counties?

5 A. Yes, ma'am.

6 Q. Was he hired on both of those?

7 A. Yes.

8 Q. And do you remember what you guys talked about at all
9 in regards to your case?

10 A. Yes. I hired Brett Perry because I had talked to
11 Ms. Popowski over in Lexington and she had told me that I
12 had needed an attorney over in Richland County and she had
13 told me about the plea deal, so I had got my father to hire
14 Brett Perry to represent me on a case -- on a case over in
15 Richland and Lexington County.

16 Q. Did he -- where were you the whole time that these
17 charges were pending?

18 A. I was in Richland County.

19 Q. So you were in Alvin S. Glenn Detention Center?

20 A. Yes, ma'am.

21 Q. Did Mr. Perry come talk to you at Alvin S. Glenn?

22 A. Yes.

23 Q. Did you guys go over the discovery in your cases?

24 A. Yes.

25 Q. Like what the charges were and all that?

1 A. Yes.

2 Q. Did you ever indicate you wanted a trial or anything
3 like that?

4 A. No. No.

5 Q. Did you have a conversation with him about the prior
6 plea offers that you had been given from Lexington County?

7 A. Yes.

8 Q. And what was that conversation about?

9 A. I had told Brett Perry that Ms. Jean Popowski had
10 told me that I had a plea deal for trafficking first
11 for ten years and I had wanted him to get -- see if he
12 could get the same plea deal, and when I was telling him
13 about it he kept telling me that he didn't know anything
14 about the plea deal, he don't know what was going on, so
15 I never -- he never came to me with the same plea deal
16 that Ms. Popowski was offering me. He was -- he didn't
17 say anything about it.

18 Q. At the time that you were given that plea offer for
19 the Lexington charges, had you been given a plea offer for
20 the Richland charges?

21 A. No. The only thing they said was that if I pled only
22 in Lexington County they would drop all charges in Richland
23 County.

24 Q. And that was relayed to you by who, Mr. Perry or
25 Ms. Popowski?

1 A. Ms. Popowski.

2 Q. And did you indicate to her that you wanted to take
3 that deal?

4 A. Yes. I told Ms. Popowski that I would -- I wanted to
5 take that deal.

6 Q. Okay. But then you hired Mr. Perry?

7 A. Yes, I hired Mr. Perry.

8 Q. So what is your main issue with Mr. Perry today?

9 A. My issue with Mr. Perry is Mr. Perry didn't represent
10 me correctly. I feel like he didn't represent me correctly
11 with -- involving the plea deal, with negotiating my plea
12 deal.

13 Q. Okay. And let's talk about that. How do you think
14 he should have represented you better?

15 A. I think he should have offered -- or asked the
16 solicitor to extend the plea offer to -- the same plea
17 offer that I asked him -- told him about, the trafficking
18 first, three to ten years. He didn't -- I don't think he
19 even asked Mr. Russell about the offer.

20 Q. Okay. And so what was the offer that Mr. Perry had
21 told you about?

22 A. Trafficking second, five to thirty.

23 Q. And so why did you decide then that you wanted to go
24 ahead and take that plea deal versus going to trial?

25 A. To be honest, I was really under a lot of pressure

1 when I came. I mean, I was in Richland County. I was
2 under a lot of pressure. I mean, that place was terrible.
3 I was just under a lot of pressure when I took that plea
4 deal. I was just --

5 Q. So when you say you were under a lot of pressure,
6 what do you mean?

7 A. I -- I was just overwhelmed with everything. I was
8 just overwhelmed. I was kind of ready to get out of
9 there, get out of that situation I was in there, and it
10 seemed like I -- it seemed like it wasn't gonna get no
11 better because he kept telling me -- he kept telling
12 me that he don't know nothing about a plea deal for
13 trafficking first, three to ten years. I didn't really
14 know what else to do.

15 Q. Were you asking him about the prior plea deal and why
16 you couldn't have that?

17 A. Yes, I asked him multiple times.

18 Q. What was his answer; do you remember?

19 A. He don't know nothing about that plea deal. That's
20 what he kept telling me.

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

23 A. No, ma'am.

24 MS. McMAHAN: Okay. Answer any questions the
25 attorney general may have for you.

1 CROSS-EXAMINATION

2 BY MR. ZELENKA:

3 Q. Mr. Gadson, after the original plea deal was offered
4 to Ms. Popowski and you indicated that you wanted to take
5 that deal, you had some additional problems that occurred
6 in Richland County; isn't that correct?

7 A. Some additional problems?

8 Q. You were arrested again for additional matters in
9 Richland; isn't that correct?

10 A. No.

11 Q. That's not correct?

12 A. (Shakes head.)

13 Q. Okay. Do you recall at the time of your guilty plea
14 that you acknowledged that you were willing to take the
15 plea on August 18, 2022, before McCaslin?

16 A. Yes.

17 Q. You knew the range as to what that plea was gonna be,
18 correct?

19 A. Did I know the range? Yes.

20 Q. And the plea was -- the sentence you received was
21 within the range that you were told it was gonna be at that
22 time; isn't that correct?

23 A. Yes.

24 Q. And you had gone over all that information with Brett
25 Perry, your lawyer; isn't that correct?

1 A. Yes.

2 Q. And in your discussions with Mr. Perry, he went over
3 it with you and provided you with a somewhat extensive
4 information sheet that you acknowledged your information,
5 your understanding of the case; isn't that correct?

6 A. (Nods head.)

7 THE COURT: I can't hear you.

8 THE WITNESS: Yes.

9 MR. ZELENKA: All right. I don't think I have
10 any further questions for this witness.

11 THE COURT: All right. Any redirect?

12 MS. McMAHAN: Nothing further, Your Honor.

13 THE COURT: All right. Thank you, sir. You may
14 step down, okay?

15 (Witness excused.)

16 THE COURT: Applicant can call their next
17 witness.

18 MS. McMAHAN: At this point the Appellant rests.

19 THE COURT: Anything from the State?

20 MR. ZELENKA: The State would call Brett Perry.

21 (Whereupon, Brett Perry was duly sworn by the
22 Clerk of Court.)

23 THE CLERK: Thank you. Please be seated and once
24 you are seated, please state your name, spelling your
25 last name for the record.

1 THE WITNESS: My name is Brett Perry. P-E-R-R-Y.

2 BRETT PERRY,

3 having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. ZELENKA:

6 Q. Mr. Perry, briefly describe your educational history.

7 A. I went to Coastal Carolina University, graduated from
8 there in 1990, went to law school at University of South
9 Carolina School of Law, graduated there in 1994. I was
10 sworn in to practice law in the fall of 1994. I've been
11 practicing thirty -- almost thirty-one years. During that
12 time, I have practiced extensively in the field of criminal
13 defense. I served as deputy solicitor in the Fifth Circuit
14 in Kershaw County from 2011 until the fall of 2018 at which
15 time I went back into private practice handling criminal
16 defense matters.

17 Q. And as part of your practice, did you become involved
18 in the representation of Jamie Gadson?

19 A. I did. I was retained by his family to represent him
20 on charges. At the time he was detained at the Alvin S.
21 Glenn Detention Center. He had charges pending in
22 Lexington County and had recently been arrested in Richland
23 County, which is why he was at the Alvin S. Glenn.

24 Q. Okay. And with respect to that information, did you
25 have the opportunity to -- to meet with him and discuss the

1 charges?

2 A. I met with him extensively, talked with him about
3 the case. Of course, I requested and received discovery
4 responses from the State. Went over all that stuff with
5 him. You know, we talked about a previous offer that
6 had supposedly been tendered whenever Ms. Popowski
7 was representing him here in Lexington County. My
8 understanding of that offer was that yes, such an offer
9 had been made, that he failed to appear two times to accept
10 and enter into a plea pursuant to that offer. Subsequently
11 it was withdrawn.

12 Now you've got to understand that the charges
13 that were pending were third offense in nature. I had
14 previously gone through and looked at his rap sheet and
15 he clearly had, you know, two prior drug convictions
16 that would have made these drug convictions a third, so
17 he was actually looking at, you know, as indicted as
18 going forward for trial a trafficking third, 28 to 100,
19 and so the State had pretty much reached the end of
20 their rope with him. They were ready to go forward to
21 a trial. It looked like this was gonna be a trial
22 whenever I was originally retained. I came and I sat
23 down and spoke for quite some time with the assistant
24 solicitor on this case and did what I could to try to
25 get the original plea offer restored. He had to go to

1 his supervisors with respect to that and the State was
2 just simply not willing to go back from a third offense
3 to a first offense, but I was able to convince them to
4 allow him to plead to a second offense. There was
5 extensive communication back and forth. I've got
6 copies of e-mails that I received that detailed, you
7 know, what that plea offer was. The sentencing range
8 was -- a negotiated sentencing range was seven to
9 fifteen years, which, again, considering what he was
10 looking at on the trafficking third and the fact that
11 the State simply was not going to restore that original
12 sweetheart deal that he didn't see fit to take, and
13 part of that was because he didn't show up, and as I
14 understand it from my communications with the State,
15 part of it was because he got new charges.

16 The negotiation also included -- I negotiated
17 with Kendall Corley, who was the assistant solicitor
18 handling his charges over in Richland, for a dismissal
19 of the Richland charges in exchange for pleas here in
20 Lexington County. And, in fact, that did happen after
21 he entered a plea and the sentence that he received was
22 commensurate with the sentencing range and, in fact,
23 very nearly the minimum under the range. You know, he
24 had a seven to fifteen range, he got eight years, and
25 considering what he was looking at if we went to trial,

1 it was pretty tough.

2 The other thing that I did and you've got a copy
3 of this. You're certainly welcome to hand a copy of it
4 up to the Court or I can give him mine. I prepared --
5 and I'll be honest, I don't do this on every case, and
6 maybe I should, but on cases that seem to be somewhat
7 contentious and cases that it's obvious that the
8 client's, you know, probably gonna get a pretty
9 substantial sentence and cases where it's obvious that
10 the client's just not real happy with the situation
11 he's in, I prepared a Memorandum of Understanding like
12 this. And it goes into great detail with everything
13 that I went over with Mr. Gadson, sharing the discovery
14 with him, going over the discovery with him, you know,
15 what he was looking at if he went to trial, what my
16 take with thirty years of experience was on the quality
17 of the State's case and whether or not I felt that it
18 was likely that the State would prevail at a trial,
19 what he was looking at if he went to trial and lost,
20 what the potential was from the minimum to the
21 potential maximum of consecutive sentences in Richland
22 and Lexington counties if he were to go forward to
23 trial. I made sure that he was completely and totally
24 informed of what his options were and what my take was
25 on the likelihood if he took the option to go to trial.

1 And then lastly on that document you'll see on
2 page 2 he's given the option. Do you want me to convey
3 to the State your desire to enter into the plea based
4 on the offer that's been made or do you want me to
5 convey to the State no thanks, we don't want to take
6 that plea offer, we want to go to trial on August 22nd.

7 We were on the trial docket. We were on the
8 short list. I think if I recall correctly, we might
9 have been number eight or number ten on the docket,
10 and it was likely gonna come up for trial the week of
11 August 22nd. So we were in a position on the 8th -- or
12 I guess it was the 18th where we were gonna have to
13 either enter a plea or go to trial. I was prepared to
14 go to trial. I was completely prepared to go to trial
15 if we needed to go to trial, but I told my client I
16 felt like that that wasn't in his best interest.

17 And sometimes one of the hardest things we do as
18 defense attorneys is communicate bad news to our
19 client, things that they don't want to hear, but as I
20 always tell my clients I'm not here to tell you what
21 you want to hear, I'm here to tell you the truth, and
22 the truth in this situation was as unpleasant as this
23 deal may have seemed to him on the front end and as
24 unpleasant as it may be for him to be serving that
25 sentence now, when you compare that to the extreme

1 likelihood that he would be convicted if we went to
2 trial and the minimum sentences that he was looking at
3 if he was convicted, it was crazy for him not to take
4 the deal.

5 And part of why I had him go through this and
6 sign this and initial everything was for that very
7 reason. I wanted there to be absolute clarity that he
8 had been properly informed and that this decision was
9 his decision and not my decision and that it was made
10 knowingly, and I think this document verifies that.

11 So I would stand on that document and I think
12 that I did as good a job as I could do for him. Truth
13 be told, I want my clients to get the best deal they
14 can get and if I thought for a minute that anything I
15 did that I shouldn't have done or anything that I
16 should have done that I didn't do caused him to get a
17 worse deal than -- than he got, I'd ask the judge
18 myself. I'd join in the petitioner's, you know,
19 request for a granting of PCR and say hey, have another
20 bite of the apple.

21 Q. Let me ask if you can identify that document?

22 A. I absolutely can identify that document. I generated
23 that document in this case. This is the document that I've
24 been referring to as I've been testifying.

25 Q. And is that a copy of that same document?

1 A. It is a copy of that document. I have the original
2 and the judge has seen the original.

3 MR. ZELENKA: The State would like to introduce
4 this as State Exhibit 1.

5 MS. McMAHAN: No objection, Your Honor.

6 THE COURT: All right. If I could see that.

7 MR. ZELENKA: (Handing.)

8 THE COURT: All right. This will be State's 1
9 and this is the -- what I reviewed from Mr. Perry, what
10 he handed me, was just the original, so it's the same
11 thing, just a copy.

12 So entered.

13 (State's Exhibit Number 1, a Memo of
14 Understanding, was marked and admitted into evidence.)

15 BY MR. ZELENKA:

16 Q. Okay. Let me ask you just to refer to that
17 document. In that document, the Number 2 reflects that
18 he acknowledges that on July 25, 2022, that his attorney
19 provided him with a copy of discovery given to him by the
20 State for the charges pending in Lexington County.

21 Did he put those initials on that document?

22 A. Yes, he did.

23 Q. And did you provide him a copy of the discovery on
24 that day or before?

25 A. I had provided it to him on July 25, 2022, just as it

1 states in the document.

2 Q. Okay. And that you acknowledge that he had previously
3 filed motions to vacate the bench warrants in both Richland
4 and Lexington County? Did he acknowledge that on that
5 date?

6 A. He did.

7 Q. That on July 25th that you informed him that the
8 Lexington County Solicitor's Office had formally withdrawn
9 all previous extended plea offers and placed this case on
10 the trial roster for that week. You advised him of that
11 and he acknowledged that?

12 A. I did and he did.

13 Q. That he acknowledged his -- that you had advised him
14 that if convicted as charged through the warrants pending
15 in Lexington he could face penalties to include ten to
16 thirty years on each of the five pending distribution
17 charges, a penalty of up to one year on the resisting
18 arrest charge, and a penalty of twenty-five years to
19 thirty years on the trafficking charge, and that you had
20 advised him that should the judge find it appropriate he
21 could be sentenced consecutively on the charges facing a
22 penalty of up to 181 charges --

23 A. 181 years.

24 Q. -- in the Department of Corrections; is that correct?

25 A. 181 years. Yes, that is correct.

1 Q. Excuse me. 181 years. I apologize.

2 A. Yes, that is correct.

3 Q. And you had advised him on that day and he
4 acknowledged that with his initials?

5 A. Yes. Yes.

6 Q. And further, that he acknowledged that you had advised
7 him that if convicted as charged on the warrants pending
8 in Richland County he could face up to fifteen years on a
9 possession with intent to distribute crack charge and up
10 to five years on the possession with intent to distribute
11 marijuana charge; that you further advised him that should
12 the State wish to proceed on those charges based upon his
13 criminal history rather than as charged that he could
14 face up to ten to thirty years and five to thirty years
15 respectively, and that you further advised him that the
16 penalties could conceivably be consecutive to his Lexington
17 County penalties such that he could be sentenced for up to
18 241 years?

19 A. I did so advise him and he did so acknowledge.

20 Q. And, further, that he acknowledged that his attorney
21 had advised him that while not presented to in writing
22 that he had been informed by the assistant solicitors
23 handling the charges that he could possibly plead guilty to
24 trafficking crack cocaine, 10 to 28 grams, second offense,
25 in Lexington County, with a potential penalty of anywhere

1 between five years and twenty-five years; and that counsel
2 further advised him that the State would be willing to take
3 no position with respect to what a sentence would be and
4 that he would be able to argue to the judge why he should
5 be sentenced towards the lower end of that spectrum rather
6 than the middle and upper end of the sentencing charge, and
7 further informed him that if he pled to Lexington County
8 that all other charges pending in Lexington County and
9 Richland County would be dismissed. Did you advise him of
10 that at that time?

11 A. I did so advise him and that's because at the time
12 that was the situation. It was simply they were gonna
13 allow an open plea to the second offense, 10 to 28 grams.
14 Subsequent to that I continued to negotiate with the State
15 to tried to get a limit on what the potential was. And,
16 again, you know, we took -- you know, to get to that
17 sentencing window, instead of five to twenty-five, you
18 know, we gave up two years on the bottom to get ten years
19 off the top. So we -- we negotiated it down even further
20 before he entered the plea to a sentencing window of seven
21 to fifteen years.

22 Q. Okay.

23 A. So at the time that was correct, he did acknowledge
24 it. Those are his initials there by Number 7.

25 Q. Okay. And Number 8, that he acknowledged that you

1 had advised him that based upon review of the discovery in
2 his Lexington County charges, and the trafficking charge in
3 particular, that he believes that there was a very high
4 likelihood that the State would prevail should we go
5 forward with a trial in these matters. That counsel had
6 further advised him that given the fact that at the time
7 that he was arrested and charged with trafficking and
8 resisting arrest, law enforcement had warrants for his
9 arrest for five distribution charges and given the fact
10 that they had found over 10 grams of crack cocaine on his
11 person in a search subsequent to his arrest, that it is his
12 opinion that there was essentially no chance that he could
13 conceive -- excuse me -- that he could successfully defend
14 that case. Did he acknowledge that?

15 A. He did. And not to get too far in the weeds on that,
16 but this was a situation where they had made controlled
17 buys from him and they had arrest warrants to pick him up
18 for those controlled buys. So, you know, when they went to
19 serve those warrants that's whenever they -- they found the
20 trafficking weight. And so, you know, there were no Fourth
21 Amendment issues. It was -- it was pretty simple. They
22 were taking him into custody on arrest warrants that they
23 had, there was no search warrant to try to attack and there
24 was no affidavit to try to attack on that. Subsequent to
25 his arrest, they found the trafficking weight. It was

1 gonna be a pretty difficult case to defend.

2 Q. Okay. And that he hereby acknowledged that he had
3 been advised that he must make a decision about whether to
4 enter a plea based upon the representations made by his
5 attorney and forwarded to him no later than July 27, 2022?

6 A. Which was the date of this -- this document.

7 Q. Okay. Subsequently, at Part A, he asked to have his
8 attorney convey his intent to plead guilty to trafficking
9 crack cocaine second offense with a potential penalty of
10 five to twenty-five years and the State taking no position
11 with regard to that. And, further, that he intended as you
12 stated previously to reject all offers and potential offers
13 discussed with him by the State and to proceed with a trial
14 on these matters the week of August 22, 2022; is that
15 correct?

16 A. It is correct. Basically having, you know, advised
17 him of all the particulars in paragraphs one through nine,
18 I gave him the opportunity to tell me and to acknowledge
19 in writing do you want to take the plea deal or do you
20 want to go to trial. I was ready either way, whatever
21 he wanted to do. You know, my advice to him was you
22 really need to take this deal, it's gonna hurt if you
23 don't. He decided to take the deal and he initialled
24 Letter A there acknowledging that he wanted me to convey
25 to the solicitor's office hey, this is a plea.

1 But, again, even after that I continued working
2 and, like I said, the only thing that's different in
3 the plea that we entered and what's on this document
4 is this document references an open plea to that
5 trafficking second, 10 to 28, five to twenty-five. I
6 was able to get the solicitor's office to take ten
7 years off the potential top. We gave up two years off
8 of the bottom. So the only thing that was different
9 about the plea from this was here it was represented
10 as five to twenty-five, which, again, the sentence that
11 he received was within that range. The plea that he
12 actually entered was for a sentencing range of the --
13 you know, the seven to fifteen. He got eight.

14 Q. Were you satisfied at the time of the plea before
15 Judge McCaslin on August 18, 2022, that he was aware of
16 his right to a trial by jury?

17 A. Absolutely.

18 Q. And that he wanted to waive that right and enter a
19 guilty plea on that date?

20 A. In addition, to acknowledging this on the document
21 that I produced, you know, Judge McCaslin is a very
22 thorough, very good judge. Whenever she was going through
23 her colloquy with him, she asked and he acknowledged that
24 he understood those rights. I had absolutely no question
25 about the fact that he understand those rights after having

1 gone over things to the extent that I went over them with
2 him. And I believe without a shadow of a doubt that he
3 knowingly, willingly and very intelligently in my opinion
4 waived those rights.

5 Q. Okay. Did he ever indicate to you after the plea that
6 he was satisfied with that sentence he received?

7 A. He did not. He did not indicate that he was
8 dissatisfied. I don't think I had really any communication
9 after that. I spoke to him very briefly before they, you
10 know, took him back, but I never -- I never heard from him
11 to the extent that he was not happy with the plea, that he
12 was -- you know, that there was anything wrong with it.
13 Quite frankly, I kind of -- I patted myself on my back when
14 I walked out of the courtroom that day. I felt like I had
15 done an exceptionally good job for my client considering
16 the fact that the State had -- had withdrawn all plea
17 offers and had said hey, you know, we're going forward with
18 the trial on this guy. You know, he's out on bond, he's
19 getting in more trouble in Richland County. They -- they
20 were gonna put him in jail for thirty years.

21 Q. Okay. Did you see any reason to further advise him of
22 any right to appeal from the guilty plea or the sentence?

23 A. We spoke about that and then, of course, Judge
24 McCaslin went over with him, too, that hey, you know,
25 you've got ten days from today's date to file a notice of

1 intent to appeal. I was never asked to file a notice of
2 intent to appeal and as I understand it procedurally he
3 never filed a notice of intent to appeal or an appeal.
4 Again, it was a very well put together, very well executed
5 plea. I don't think that that appeal, had there been one
6 filed from it, would have gone very far.

7 MR. ZELENKA: Okay. I have no further questions.

8 THE COURT: All right. Cross-examination.

9 CROSS-EXAMINATION

10 BY MS. McMAHAN:

11 Q. I apologize. I was a little distracted when you were
12 answering this question. What was the reason why the offer
13 was revoked?

14 A. The offer was revoked as I recall, and I'm sure that
15 the assistant solicitor can speak to that issue as well, my
16 understanding is, is there were at least one, perhaps two
17 opportunities for Mr. Gadson to come in and avail himself
18 of that offer, to actually take the State up on that offer,
19 and that he had failed to do so. Also, there had been the
20 fact that he had been -- that he'd gotten the charges over
21 in Richland County and I believe that that had something to
22 do with it. All I know is that at the time that I got
23 involved in the case the State had formally withdrawn all
24 prior plea offers and at the time was intent on going
25 forward on a trafficking third.

1 Q. For a trial?

2 A. Yes. Or -- or plea.

3 Q. Okay.

4 A. Either a plea to a trafficking third or a trial on
5 trafficking third.

6 Q. And you alluded to like, I guess, he didn't show up
7 for something. Was that --

8 A. That's my understanding. I did not represent him at
9 the time, but in speaking with the solicitor's office, as
10 I recall, and I don't have anything in my file, any notes
11 of that, I'm just remembering, and I've been doing this
12 thirty years so if there's -- memories sometimes blur, but
13 in this case I'm pretty certain that I remember it being
14 communicated to me that there had been an offer for a plea
15 on a trafficking first, but that he had a not taken the
16 State up on that offer.

17 Q. And were -- the Richland charges, did they come first
18 or the Lexington charges?

19 A. I believe the Lexington charges did or at least some
20 of the Lexington charges did. I'm pretty sure that the
21 Lexington charges came first.

22 Q. And then he was housed in Alvin S. Glenn, right?

23 A. He was housed in Alvin S. Glenn.

24 Q. And while he's -- so those are on pending Richland
25 charges. Did he get more Richland charges while he was in

1 the detention center or was it just the -- those two set --

2 A. I think he just had the Lexington charges and the
3 Richland charges.

4 Q. So he got Lexington first, I guess, got out on bond
5 and then got picked up?

6 A. That's my understanding, yes.

7 Q. And then when you -- when he was signing that,
8 State's 1, where were you guys -- where were you guys
9 talking about that? Was that here in the courthouse or
10 was that at the detention center? Do you remember?

11 A. I honestly don't remember, but I believe it was at
12 the detention center. I don't recall -- I don't recall
13 going over this with him here.

14 Q. In like the Alvin S. Glenn Detention Center?

15 A. It's more likely I would have gone over it with him at
16 Alvin S. Glenn.

17 Q. Okay. And did you ever tell him to file a PCR or
18 anything like that?

19 A. I didn't. I mean --

20 Q. And given the charges he was facing, if the State
21 had tried each case individually, I know that that totals
22 up to about 181 years, but could he also have been facing
23 LWOP given his background?

24 A. I believe so given the traffickings that were
25 pending. I'd have to go back and look at his rap sheet

1 more closely, but he was clearly looking at, you know,
2 an extensive amount of time and even -- even without any
3 consecutive sentencing he was looking at twenty-five to
4 thirty on the trafficking alone, and the trafficking case
5 here in Lexington was a very -- very well put together
6 trafficking case.

7 Q. And that was the third offense trafficking?

8 A. It was. Exactly.

9 MS. McMAHAN: I have to no further questions,
10 Judge.

11 THE COURT: All right. Thank you, Mr. Perry.
12 You may step down.

13 (Witness excused.)

14 THE COURT: Anything else from the State?

15 MR. ZELENKA: The State will call Russell Parker.

16 (Whereupon, Nelson Russell Parker was duly sworn
17 by the Clerk of Court.)

18 THE CLERK: Thank you. Please be seated in the
19 witness stand and once you are seated, please state
20 your name, spelling your last name for the record,
21 please.

22 THE WITNESS: Nelson Russell Parker.

23 P-A-R-K-E-R.

24 NELSON RUSSELL PARKER,

25 having been duly sworn, testified as follows:

1 DIRECT EXAMINATION

2 BY MR. ZELENKA:

3 Q. Mr. Parker, how are you employed?

4 A. I work for the Eleventh Circuit Solicitor's Office.

5 Q. And how were you employed in July and August of 2022?

6 A. In the same capacity.

7 Q. And as part of your responsibilities with the
8 solicitor's office, did you become involved in the
9 prosecution of Jamie Gadson?

10 A. I did.

11 Q. And were you present during the guilty plea which
12 occurred on August 18th of 2022?

13 A. I was.

14 Q. Can you describe for the Court the evolution of
15 the plea offers that were made by the Eleventh Circuit
16 Solicitor's Office that led to the entry of this plea?17 A. Sure. So I inherited this case from a young lady,
18 Melanie Darko, who left our office to go the Richland
19 County Solicitor's Office. When I received the case,
20 there was an offer extended for trafficking first offense.
21 That was extend to Stanley Myers. She asked that I see
22 the case through. I accepted the file, attempted to get
23 Mr. Gadson in to plead. We sent a come to court letter
24 for a -- either entry of a plea or a rejection. Mr. Myers
25 was present. The defendant was not. At that point in

1 time, Mr. Myers asked to be taken off the case. An order
2 was submitted, I believe signed by Judge Manning where
3 Mr. Myers talked about the fact that he thought that the
4 plea was reasonable, that it was under -- that it was his
5 understanding after talking to his client that he did not
6 wish to enter a guilty plea to that offer, and Mr. Myers
7 asked to be removed from the case. Judge Manning granted
8 that request.

9 At that point in time Mr. Gadson was appointed
10 Jean Popowski with the public defender's office. I,
11 once again, sent a come to court letter to attempt to
12 either get him to accept or reject the plea offer to
13 trafficking first. He, once again, no-showed. Our
14 office then issued a bench warrant for his arrest. If
15 my memory serves me correct, because he had no-showed
16 twice after being properly noticed, that taken together
17 with the order submitted by Mr. Myers, we took it as a
18 rejection and withdrew all plea offers. At that point
19 we placed it on the trial roster. And office policy,
20 whenever a case is placed on the trial roster,
21 generally speaking there are no offers.

22 While preparing for trial Mr. Perry was retained.
23 Mr. Perry contacted me, I gave him a -- essentially
24 a crash course in the procedural history of it.
25 Mr. Perry asked me if I could reextend any offer, so

1 at that point in time I went to a superior of mine,
2 Suzanne Mayes, reviewed the case with her, and she --
3 we came to the decision that a trafficking second
4 would be appropriate given the fact that there are
5 substantial mandatory minimums with a third, so I
6 extended that to Mr. Perry. He came back at me asking
7 if we could do some kind of range that he mentioned
8 earlier and given everything I thought that that was a
9 reasonable range.

10 We ended up placing him on the trial roster I
11 think for the August 22nd term of 2022. We had
12 Mr. Gadson brought over prior to that to either get him
13 to accept or reject the plea offer and at that point he
14 accepted the plea.

15 Q. Okay. Let me back up one step. During that period
16 of time was public defender Jean Popowski involved in
17 representing Mr. Gadson?

18 A. She was.

19 Q. And what, if any, offers were extended to
20 Ms. Popowski?

21 A. The same. We reextended the offer for trafficking
22 first to Ms. Popowski.

23 Q. Okay. And -- but did you get an indication from
24 Ms. Popowski that he was accepting or rejecting the offer
25 that was given to him?

1 A. No indication that he was accepting it and I believe
2 at that point in time it was still a rejection. She wasn't
3 able to get him to take the plea deal.

4 Q. Okay. And the negotiations continued; is that
5 correct?

6 A. They did. Let me back up. Jean, because he
7 no-showed, when Ms. Popowski had taken the case at that
8 point in time I had already noticed Mr. Gadson once with
9 Mr. Myers. The defendant did not show, so we ended up --
10 Stanley got taken off. Ms. Popowski was appointed. I
11 re-noticed the defendant to either accept or reject the
12 offer, and he no-showed. We took that as a rejection of
13 the offer.

14 Q. Okay. Was there anything -- any new charges or any
15 actions that caused you to revise or take into account
16 during the plea negotiations?

17 A. So after we -- I originally obviously reextend the
18 first -- trafficking first offer. During that period of
19 time I started getting calls from West Columbia asking
20 what's going on, that there may have been something
21 continued, undercover buys going on, they're asking what's
22 going on, so I re-noticed him at that point in time to
23 either get him to accept or reject it just to get some
24 movement on the case. He was also arrested in Richland
25 County I believe for charges that took place after our

1 arrest, so at that point in time Richland County also had
2 charges on him.

3 Q. All right. Are you satisfied that the information
4 that was given the plea judge at the time of the plea as
5 to the offer that was made that was consistent with your
6 understanding of the offers?

7 A. Yes.

8 Q. And at that time was it consistent with your
9 understanding of the Applicant and defense counsel's
10 agreement to take the plea on that day?

11 A. It was.

12 MR. ZELENKA: I have no further questions.

13 THE COURT: All right. Cross.

14 CROSS-EXAMINATION

15 BY MS. McMAHAN:

16 Q. I'm sorry, Mr. Parker. I'm just a little confused
17 on the timeline a little bit. So he was arrested here
18 in Lexington County. Were the Richland charges already
19 pending at that time?

20 A. I'm not sure. I do not think they were, but I -- I
21 could be mistaken. I don't think they were.

22 Q. But at some point he ended up in Alvin S. Glenn?

23 A. Correct.

24 Q. And then -- so he had Mr. Myers. I guess you had
25 extend the original offer for the trafficking first and

1 then you sent him -- basically sent him a letter like hey,
2 you need to appear on this date, and he did not show?

3 A. That's correct.

4 Q. Okay. And obviously Mr. Myers isn't here to testify
5 about whether or not he notified him. And then Jean gets
6 the case, Ms. Popowski, and you reextend the trafficking
7 first to her and then issued him another notice to come to
8 court?

9 A. That's correct.

10 Q. And is that a pretty normal process for you-all to do
11 that? Like hey, here's an offer, we need you to come to
12 court whether or not you're gonna accept it or reject it?

13 A. That's correct.

14 Q. And then so he did not come the second time and you
15 indicated that you probably got a bench warrant for him
16 again?

17 A. That's correct. Whenever we send come-to-courts, we
18 send them to the bail bondsman, to the defendant and the
19 defense attorney. When he no-showed again, at that point
20 the State moved for a bench warrant and got it.

21 Q. When did you find out he was in Alvin S. Glenn; do you
22 remember?

23 A. Not off the top of my head.

24 Q. But do you remember having a conversation with the
25 Richland solicitor's office at all about any plea deals

1 involving his case?

2 A. I do, and those started fairly early on in the case if
3 memory serves correct. I was in communication with Kendall
4 Corley in an attempt to get a global resolution for all the
5 charges and she agreed in exchange for the plea deal that
6 we ended up working out that she would dismiss her charges.

7 Q. And do you remember what the charges were in Richland
8 or if they even were drug charges?

9 A. They were more drug charges. The specific ones I
10 don't recall off the top of my head.

11 Q. So when West Columbia Police Department reached out to
12 you, was that after the failure to appear the second time
13 or was that before the failure to appear?

14 A. I believe it was before the failure to appear the
15 second time. That was one of the things that got me to try
16 to get some movement on the case again. They indicated
17 there were continued problems, so I tried to get the case
18 resolved once again.

19 Q. And then you indicated I guess when West Columbia
20 reached out that you were gonna try to notice him to show
21 again, but he -- at that point I guess he was already in
22 Richland County?

23 A. I don't think he was in Richland County at that point,
24 but, once again, specific dates, I don't want to --

25 Q. I understand. You don't want to mess those up if you

1 don't remember.

2 A. Correct.

3 Q. And then -- so the day he came to court, you had him
4 transported from Alvin S. Glenn?

5 A. I did.

6 Q. Okay. And then that's when he ultimately decided to
7 plead to the second offense?

8 A. Yes, ma'am.

9 Q. Okay.

10 MS. McMAHAN: Court's indulgence.

11 Nothing further, Your Honor.

12 THE COURT: Any redirect?

13 MR. ZELENKA: Just some follow-up.

14 REDIRECT EXAMINATION

15 BY MR. ZELENKA:

16 Q. Did you extend the offer to -- reviewing your notes,
17 to Ms. Popowski around February 16, 2022?

18 A. I believe I did, yes.

19 Q. Okay. And did he fail to show up to court on
20 March 14th -- excuse me, on March 24, 2022?

21 A. Yes, he did.

22 Q. And that was during Ms. Popowski's representation,
23 correct?

24 A. That's correct.

25 Q. And prior to June 9th of 2022 was when Mr. Perry was

1 retained on the other case; is that correct?

2 A. Correct.

3 Q. All right.

4 MR. ZELENKA: No further questions.

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

6 (Witness excused.)

7 THE COURT: Anything else from the State?

8 MR. ZELENKA: Nothing from the State, Your Honor.

9 We rest on the record of the guilty plea in this matter
10 that's before the Court.

11 THE COURT: All right. Anything before I take
12 this under advisement?

13 MS. McMAHAN: Could I have just a moment, Your
14 Honor?

15 (Discussion between Applicant and counsel.)

16 MS. McMAHAN: No, please take it under
17 advisement.

18 THE COURT: All right. Thank you.

19 I'm gonna take this under advisement.

20 Mr. Gadson, when I make my decision you'll get
21 something, so it won't be too long.

22 Thank you for being here today, okay?

23 THE DEFENDANT: All right. Thank you.

24 (Whereupon, the proceedings were concluded for
25 March 4, 2025, at 10:33 AM.)

C E R T I F I C A T E

1
2
3 I, Stacy S. Johnson, Official Court Reporter
4 for the Eleventh Judicial Circuit of the State of
5 South Carolina, do hereby certify that the foregoing
6 is a true, accurate and complete transcript of record
7 of all the proceedings had and the evidence introduced
8 in the hearing of the captioned case in Circuit Court
9 on the 4th day of March, 2025.

10 This transcript may contain quoted material.
11 Such material is reproduced as read by the speaker.

12 I do further certify that I am neither of kin,
13 counsel, nor have an interest to any party hereto.
14

15 July 28, 2025
16

17 1st Stacy S. Johnson
18 STACY S. JOHNSON RPR
19 CIRCUIT COURT REPORTER
20
21
22
23
24
25

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July 27, 2022

MEMORANDUM OF UNDERSTANDING

Re: The State v. Jamie S. Gadson
2019A3221100629 - 633 and 2019A3221100673 -674

The State v. Jamie S. Gadson
2018A4010203716 - 717

1. I hereby acknowledge that I am represented by Brett A. Perry, Esquire on the above referenced charges.
2. I hereby acknowledge that on July 25, 2022, my attorney provided me with a copy of the discovery, given to him by the State, for the charges pending in Lexington County.
3. I hereby acknowledge that pursuant to my request, my attorney informed me that he previously filed Motions to Vacate Bench Warrants in both Richland and Lexington Counties.
4. I hereby acknowledge that on July 25, 2022, my attorney informed me that the Lexington County Solicitor's Office had formerly withdrawn all previously extended plea offers and placed my case on the Trial Roster for the week of August 22, 2022.
5. I hereby acknowledge that my attorney has advised me that if convicted as charged on the warrants pending in Lexington County, I could face penalties to include ten (10) to thirty (30) years on each of the five pending distribution charges, a penalty of up to one (1) year on the resisting arrest charge and a penalty of twenty-five (25) to thirty (30) years on the trafficking charge. He has furthermore advised me that should the judge find it appropriate, I could be sentenced consecutively on these charges, facing a penalty of up to one hundred eighty-one (181) years, in the South Carolina Department of Corrections.



6. I hereby acknowledge that my attorney has advised me that if convicted as charged on the warrants pending in Richland County, I could face penalties of up to fifteen (15) years on the possession with intent to distribute crack charge and up to five years on the possession with intent to distribute marijuana charge. My attorney has further advised me that should the State wish to proceed on those charges based upon my criminal history, rather than as charged that I could face penalties of ten (10) to thirty (30) years and five to thirty (30) years respectively. He has further informed me that these penalties could conceivably be set consecutive to my Lexington County penalties, such that I could be sentenced to serve up to two hundred forty-one (241) years.

7. I hereby acknowledge that my attorney has advised me that, while not yet presented to him in writing, that he has been informed by the assistant solicitors handling these charges that, I could possibly plead guilty to trafficking crack cocaine 10 to 28 grams 2nd offense in Lexington County, with a potential penalty of anywhere between five (5) and twenty-five (25) years. He further advised me that the State would be willing to take no position with respect to what my sentence would be, and that he would be able to argue to the Judge, why I should be sentenced toward the lower end of that spectrum, rather than the middle or upper end of the sentencing range. He further informed me that, if I pled to that charge in Lexington County, that all other charges pending in Lexington County and in Richland County, would be dismissed.

8. I hereby acknowledge that my attorney has advised me that based upon his review of the discovery in my Lexington County charges, and the trafficking charge in particular, that he believes that there is a very high likelihood that the State would prevail, should we go forward with a trial in these matters. He has further advised me that given the fact that at the time that I was arrested and charged with trafficking and resisting arrest, law enforcement had warrants for my arrest for the five distribution charges, and given the fact that they found over ten grams of crack cocaine on my person in a search subsequent to my arrest, that it is his opinion that there is essentially no chance that we could successfully defend that case.

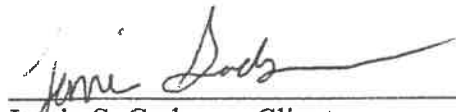
9. I hereby acknowledge that I have been advised that I must make a decision about whether to enter a plea based upon the representations made to my attorney and forwarded to me by him, no later than today (July 27, 2022).

NOW THEREFORE, based upon a thorough understanding of the facts and circumstances currently pending, and having had ample time to consider the same and considering the advice and counsel given by my attorney, it is my decision to:

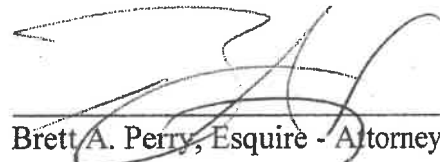
A. Have my attorney convey my intent to plead guilty to Trafficking Crack Cocaine 2nd Offense, with a potential penalty of five (5) to twenty-five (25) years, and the State taking no position with respect to sentencing.

B. Have my attorney convey my intent to reject all offers and potential offers discussed with him by the State, and to proceed with a trial of these matters, the week of August 22, 2022.

Witness our hands and seals below, this 27th day of July 2022.



Jamie S. Gadson – Client



Brett A. Perry, Esquire - Attorney

FILED

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON) FOR THE ELEVENTH JUDICIAL CIRCUIT

2025 MAY 14 PM 1:07

JAMIE S. GADSON)
SCDC #3638)
LISA M. COMER)
CLERK OF COURT)
LEXINGTON SC)

**ORDER OF DISMISSAL
WITH PREJUDICE**

Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)
_____)

Case No. 2023-CP-32-00524

This matter comes before the Court by way of Jamie S. Gadson’s (Applicant) *pro se* application for post-conviction relief (PCR) filed on February 10, 2023. Respondent, the State of South Carolina, filed its Return and Motion for More Definite Statement on April 22, 2024. On July 25, 2023, the Lexington County Clerk of Court appointed Ashley A. McMahan, Esquire, to represent Applicant. Applicant filed an Amended PCR application by and through his counsel on March 3, 2025.

An evidentiary hearing convened on March 4, 2025, at the Lexington County Courthouse before the Honorable Daniel M. Coble. Applicant was present and represented by Ashley A. McMahan, Esquire. Deputy Attorney General Donald J. Zelenka of the South Carolina Attorney General’s Office represented Respondent. At the hearing, Applicant proceeded on the claims of ineffective assistance of counsel presented in his Amended PCR application. Testimony was received from the Applicant, counsel Brett Perry and Eleventh Circuit Assistant Solicitor Russell Parker.

Following a thorough review of the record in its entirety, along with the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant has failed to establish any

constitutional violations or deprivations entitling him to relief and, accordingly, **DENIES** and **DISMISSES** this action **WITH PREJUDICE**.

PROCEDURAL HISTORY

The records before this Court establish that Applicant is presently confined at the South Carolina Department of Corrections (SCDC) pursuant to orders of commitment from the Lexington County Clerk of Court. During its March 2020 term, the Lexington County Grand Jury indicted Applicant for Trafficking Cocaine 10-28 grams, five counts of Distribution, and Resisting Arrest. Applicant was initially represented by retained counsel Stanley L. Myers, Esquire (“Counsel Myers”), then was represented by Assistant Public Defender Jean M. Popowski (“Counsel Popowski”). Subsequently, Applicant was represented by retained counsel Brett A. Perry (“Plea Counsel”). Assistant Solicitor N. Russell Parker (“Solicitor Parker”) of the Eleventh Judicial Circuit prosecuted the case.

On August 8, 2022, Applicant appeared before the Honorable Debra R. McCaslin, represented by retained counsel Brett Perry. At the outset, there was a discussion regarding prior plea offers to earlier counsel and the order relieving Counsel Myers. (Plea Tr. pp. 4 – 5). During the proceeding, the Solicitor’s Office offered Trafficking Cocaine 10-28 grams, 2nd Offense. (Plea Tr. p. 6, ll. 21 – 24). They additionally agreed to dismiss the remaining Lexington County charges against Applicant and asserted that the pending Richland County charges would be dismissed as a result. (Plea Tr. p. 13, ll. 14 – 24). Counsel Perry and Applicant were given time to discuss the details of the plea offer and sentencing further after the introduction of charges against Applicant. (Plea Tr. p. 12, ll. 9 – 18). Applicant ultimately accepted the plea offer for Trafficking 10-28 grams, 2nd Offense, with a negotiated seven-to-fifteen-year sentencing range. Judge McCaslin questioned Applicant to ensure that his guilty plea was freely, intelligently and voluntarily made, to which she

found it was. (Plea Tr. p. 21, ll. 5 – 15). Judge McCaslin accepted Applicant's plea and sentenced him to seven (7) years imprisonment, with credit for 134 days served. Judge McCaslin also issued an order terminating Applicant's probation. (Plea Tr. p. 26, ll. 17 – 24). Applicant did not appeal his plea or sentence.

SUMMARY OF FACTS PRESENTED AT GUILTY PLEA

During the plea proceeding, Assistant Solicitor Parker informed the Court that Applicant initially had accumulated five charges as the result of five undercover buys that occurred over the course of 2019. (Plea Tr. p. 4, ll. 8 – 10). In October of 2019, the West Columbia Police Department had five active warrants for Applicant's arrest. Officers recognized Applicant at the McDonalds location in West Columbia and arrested him. (Plea Tr. p. 4, ll. 10 – 13). While arresting Applicant, officers found what field-tested positive as thirteen grams of crack cocaine in Applicant's possession. Upon completion of subsequent testing at the lab, the results came back as positive for 10.36 grams of crack cocaine. (Plea Tr. p. 4, ll. 14 – 16). Applicant was charged and indicted for five counts of distribution of crack cocaine, one count of trafficking crack cocaine, 10-28 grams, and resisting arrest. (Plea Tr. p. 4, ll. 17 – 22).

CURRENT ACTION BEFORE THE COURT

In his *pro se* application for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on the following:

1. Ineffective Assistance of Counsel
 - a. Attorney Did Not Advise Me I Could Appeal.
 - b. "Failure to Advise"
 - i. "Attorney Stanley Myers failed to advise me why he was ...". (*Pro Se* Application)
 - c. "Failure Invalidating Guilty Plea"
 - ii. "Attorney Brett Perry showed ineffective assistance of counsel ...". (*Pro Se* Application).

In the amended application for post-conviction relief by appointed counsel Ashley McMahan, dated February 27, 2025, the Applicant raised the following:

- I. Ineffective Assistance of Counsel.
 - a. Counsels were ineffective regarding the plea offer given to the Applicant. At one point, while represented by Ms. Popowski, the plea offer from ASOL Parker was to plead straight up to one count of trafficking crack 10-28 grams, 1st offense, down from 3rd offense, which Applicant wanted to take. (Please see attached email from Mr. Parker to Ms. Popowski.) However, by the time the plea came around with Mr. Perry as his attorney he was having to plead to a trafficking 2nd offense. (Amended Application)

Before this Court are the Lexington County Grand Jury Clerk of Court records regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections (SCDC), Applicant's plea transcript, and the records of the PCR action.

STANDARD OF REVIEW

In Strickland v. Washington, 466 U.S. 668 (1984), the United States Supreme Court established that to challenge a conviction based on ineffective assistance of counsel, an applicant must prove two elements: (1) his counsel was deficient in his representation, and (2) he was prejudiced as a result. To satisfy the first prong, an applicant "must show that counsel's representation fell below an objective standard of reasonableness." Id. at 688. To satisfy the second prong, an applicant must show that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 694. The Supreme Court has cautioned that "[j]udicial scrutiny of counsel's performance must be highly deferential," and "[b]ecause of the difficulties inherent in making the evaluation, a court must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance." Id. at 689. In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence – a mere allegation of

ineffective assistance is insufficient to warrant granting relief. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

In the first prong of Strickland, the “deficiency prong”, constitutional deficiency is “necessarily linked to the practice and expectations of the legal community.” Padilla v. Kentucky, 559 U.S. 356, 366 (2010). An applicant claiming ineffective assistance “must identify the acts or omissions of counsel that are alleged not to have been the result of reasonable professional judgment.” Strickland, 466 U.S. at 690 (emphasis added). The reviewing court must then “determine whether, in light of all the circumstances, the identified acts or omissions were outside the range of professionally competent assistance” demanded of attorneys in criminal cases. Id. Regarding the deficiency prong of the Strickland analysis, the proper measure of performance is whether counsel provided representation within the reasonable range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814.

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

Accordingly, the reviewing court will scrutinize counsel’s performance in a highly deferential manner, make every effort “to eliminate the distorting effects of hindsight,” and “evaluate the conduct from counsel’s perspective at the time” in light of then-existing

circumstances. Strickland, 466 U.S. at 689. Review of counsel's actions is hallmarked by deference, as "it is all too tempting for a defendant to second-guess counsel's assistance after conviction or adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission was unreasonable." Id. at 690.; See also Yarborough v. Gentry, 540 U.S. 1, 6 (2003) ("The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.") Unlike a later reviewing court, the attorney observed the relevant proceedings; knew of materials outside of the record; and interacted with the client, opposing counsel, and the judge. Thus, the question is whether an attorney's representation amounted to incompetence under "prevailing professional norms," not whether it deviated from best practices or most common custom. Id. (quoting Strickland, 466 U.S. at 690).

Representation is constitutionally ineffective only if counsel's conduct "so undermined the proper functioning of the adversarial process" that the defendant was denied a fair proceeding. Id. at 686; see Nix v. Whiteside, 475 U.S. 157, 175 (1986) (noting that under Strickland, the "benchmark" of the right to counsel is the "fairness of the adversary proceeding"); cf. United States v. Morrow, 977 F.2d 222, 229 (6th Cir. 1992) ("[T]he threshold issue is not whether [the applicant's] attorney was inadequate; rather, it is whether he was so manifestly ineffective that defeat was snatched from the hands of probable victory.").

Beyond satisfying the burden required by the deficiency prong under Strickland, the "prejudice prong" requires an applicant to bear the burden of establishing prejudice in order to be entitled to relief as "[a]n error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment." Strickland, 466 U.S. at 691. The prejudice prong of Strickland is rooted in the very purpose of the

Sixth Amendment guarantee of counsel that ensures a defendant has the assistance necessary to justify reliance on the outcome of the proceeding.” Id. To meet this burden, counsel’s deficient performance must have prejudiced the applicant to such an extent, there is a reasonable probability the result of the proceeding would have been different but for counsel’s unprofessional errors. Cherry v. State, 300 S.C. 115, at 117-18, 386 S.E.2d 624, 625 (1989). A reasonable probability is one that is “sufficient to undermine confidence in the outcome.” Strickland, 466 U.S. at 694; see id. at 695 (explaining that, where a defendant challenges his conviction, he must show that there exists a “reasonable probability that, absent the errors, the factfinder would have had a reasonable doubt respecting guilt”).

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, Hill v. Lockhart extended the two-part test to challenge guilty pleas based on ineffective assistance of counsel. Hill, 474 U.S. 52; cf. Padilla, 559 U.S. at 373 (recognizing the guilty plea process is a “critical phase of litigation” for purposes of the Sixth Amendment right to effective assistance of counsel). A claim of ineffective assistance of guilty plea counsel requires the applicant present evidence satisfying the two prongs: first, evidence that counsel’s performance was deficient; and second, evidence that counsel’s deficient performance prejudiced the defendant by causing him to plead guilty rather than go to trial. Hill, 474 U.S. at 52.

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

The second, or “prejudice” prong, however, “focuses on whether counsel’s constitutionally ineffective performance affected the outcome of the plea process.” *Id.* at 58-59. Specifically, when an applicant claims counsel’s deficient performance caused him to accept a plea, the applicant “must show that there is a reasonable probability that, but for [plea] counsel’s [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial.” *Id.* at 59. This inquiry “focuses on a defendant’s decision-making” and does not turn on the outcome of a defendant’s actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. Lee v. United States, 582 U.S. 357 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. Padilla, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty – not whether counsel would have still advised him or her to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999).

Surmounting Strickland’s high bar is never an easy task, and the strong societal interest in finality has “special force with respect to convictions based on guilty pleas.” Lee, 582 U.S. at 368; cf. Hill, 474 U.S. at 58 (“[R]equiring a ‘prejudice’ showing from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel ‘will serve the fundamental interest in the finality of guilty pleas.’”). Reviewing “[c]ourts should not upset a plea solely because of post hoc assertions from a defendant about how he would have pleaded but for his attorney’s deficiencies. Lee, 582 U.S. at 369. Rather, judges should “look to contemporaneous evidence to substantiate a defendant’s expressed preferences. *Id.* In determining whether a guilty plea was taken in accordance with constitutional standards, the reviewing judge must analyze and consider the entire record, including the transcript of the plea and the evidence presented at the PCR evidentiary hearing. Harres, 282 S.C. 134, 318 S.E.2d at 361.

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

The Sixth Amendment right to effective assistance of counsel extends to the consideration of plea offers that lapse or are rejected. This right applies to all critical stages of criminal proceedings. Hill established that Strickland’s two-part test governs ineffective assistance claims in the plea bargain context, where a defendant must show that but for counsel’s deficiency surround the plea offer, he would have proceeded to trial. Hill, 474 U.S. at 60. The analysis under Strickland for the deficiency prong remains unchanged. However, where a defendant argues that with effective assistance of counsel he would have accepted an earlier plea offer as opposed to entering an open plea, Strickland’s inquiry into whether “the result of the proceeding would have been different” requires looking at not whether the defendant would have proceeded to trial, but at whether he would have accepted the earlier plea offer. Strickland, 466 U.S. at 694.

A key issue determined by the Supreme Court was how to apply Strickland’s prejudice test when counsel fails to sufficiently evaluate and convey the State’s plea offer to the petitioner. The Court in Lafler¹ held that in these circumstances, “a [defendant] must show that but for the

¹ Lafler v. Cooper, 566 U.S. 156 (2012).

ineffective assistance, there is a reasonable probability that the plea offer would have been presented to the court, the court would have accepted its terms, and the conviction or sentence, or both, would have been less severe under the terms of the offer than under the judgment and sentence imposed.” Id. at 164. Our Court has also held that defendants must “demonstrate a reasonable probability they would have accepted the earlier plea offer had they been afforded effective assistance of counsel.” Simuel v. State, 432 S.C. 150, 850 S.E.2d 642 (2020).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Applicant has alleged and elected to pursue various claims of ineffective assistance of counsel through the post-conviction relief action presently before this Court. In analyzing these claims, this Court has considered the legal arguments by counsel and thoroughly reviewed the record in its entirety. This Court additionally heard evidence presented at the evidentiary hearing and observed the witnesses, which allowed the Court to evaluate and scrutinize their credibility. See, e.g., State v. Mercer, 381 S.C. 149, 166, 672 S.E.2d 556, 565 (2009) (“In this post-trial setting, our jurisprudence recognizes the gatekeeping role of the trial court in making a credibility assessment.”); Clemons v. Mississippi, 494 U.S. 738, 766 (1990) (Blackmun, J., concurring in part and dissenting in part) (“The trial judge who hears the witnesses live, observes their demeanor and in general smells the smoke of the battle is by his very position far better equipped to make findings of fact which will have the reliability that we need and desire.”).

Upon conducting and completing its analysis, this Court finds that Applicant has failed to establish any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. See Rule 71.1(e), SCRCP (stating that in a post-conviction relief action, “[t]he applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence.”); Lucero v. State, 414 S.C. 238, 244, 777 S.E.2d 409, 412 (Ct.

App. 2015) (“In a PCR proceeding, the applicant bears the burden of establishing that he or she is entitled to relief.”); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (“The burden of proof is on the Applicant in post-conviction proceedings to prove the allegations in his application.”).

Accordingly, set forth below are the relevant findings of facts and conclusions of law as required by 17-27-80 of the South Carolina Code:

INITIAL FINDINGS

This Court finds applicable the strong presumption that at all stages of Counsel’s representation of Applicant, each rendered adequate assistance and exercised reasonable professional judgement in their representation. Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (citing Strickland, *supra*). The United States Supreme Court has cautioned that “every effort be made to eliminate the distorting effects of hindsight” and evaluate counsel’s decisions at the time they were made. Strickland, 466 U.S. at 689, 104; *see* Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992).

This Court makes the following initial findings from the guilty plea hearing: (1) Applicant was present and was properly informed of his right to trial by jury; (2) Applicant understood his right to a jury trial and his ability to waive this right; (3) Applicant understood that he could be facing a conviction for Trafficking, 3rd Offense should he go to trial; (4) Applicant understood that the plea offer extended was for Trafficking, 2nd Offense; (5) Applicant’s acceptance of the plea offer was freely, voluntarily, and intelligently made.

INEFFECTIVE ASSISTANCE OF COUNSEL ALLEGATIONS ON THE MERITS

Allegation 1: “Attorney Did Not Advise Me That I Can Appeal.”

Applicant alleges that counsel failed to advise Applicant of his right to appeal his guilty plea. Though counsel is required to make certain that a defendant is made fully aware of his or her right to appeal after a trial, a different standard applies to a guilty plea:

Absent extraordinary circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea.

Turner v. State, 380 S.C. 223, 224, 670 S.E.2d 373, 374 (2008) (citations omitted); see also Roe v. Flores-Ortega, 528 U.S. 470, 480 (2000) (imposing the duty to consult when there is a reason to think either that a rational defendant would want to appeal or that the particular defendant reasonably demonstrated interest in doing so); contra Frazer v. South Carolina, 430 F.3d 696 (4th Cir. 2005) (reading Flores-Ortega to mean counsel generally has a duty to consult with his client regarding whether to pursue an appeal). Therefore, in a collateral action attacking a guilty plea, the “bare assertion that a defendant was not advised of appellate rights is insufficient to grant relief.” Jones v. State, 382 S.C. 589, 596, 677 S.E.2d 20, 23-24 (2009) (quoting Weathers v. State, 319 S.C. 59, 61, 459 S.E.2d 838, 839 (1995)).

Where an Applicant reasonably demonstrates an interest in appealing, or where there is a reason to think a rational defendant would want to appeal, and where Counsel fails to either initiate that appeal or comply with Anders² procedure, “White³ permits consideration of the full trial record on [an] issue in conjunction with appellate review of the PCR proceeding under an exception to the prohibition against appellate courts considering appeals in the absence of notice of direct appeal

² Anders v. California, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967).

³ White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974).

given and timely served.” Smith v. State, 309 S.C. 413, 415, 424 S.E.2d 480, 481 (1992) (citing Davis v. State, 228 S.C. 290, 342 S.E.2d 60 (1986)).

PCR Evidentiary Hearing

On direct examination, counsel Perry testified that he spoke with Applicant regarding his right to appeal and that the plea judge informed Applicant of his constitutional rights at his guilty plea hearing. Counsel Perry testified that Applicant never asked him to file an appeal following their discussion about Applicant's right to appeal. Counsel Perry testified that the plea deal was very well executed and that he does not believe an appeal would have been filed for it anyway.

Findings

This Court finds the combination of the record and counsel Perry's testimony that Applicant has failed to overcome the “strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [his] case.” Ard v. Catoe, *supra*. This Court additionally finds that Applicant has failed to overcome his burden in proving counsel Perry's representation was deficient and any resulting prejudice from that alleged deficiency. See Butler, *supra*. Counsel Perry **credibly** testified that he and Applicant discussed the right to an appeal and further testified that Applicant never asked counsel Perry to appeal the guilty plea or sentence.

Further, based upon the record, this Court finds Applicant has failed to show extraordinary circumstances that existed that would have warranted an appeal. Counsel Perry **credibly** testified that the plea offer extended to Applicant was very well put together and that he did not see a basis for an appeal that the Court of Appeals would reverse. Most importantly, the sentence the Applicant received was the minimum of the plea offer of seven years. No objections were raised during the hearing so there was effectively nothing available to raise on appeal. Under *Roe*, the Applicant

had failed to show by credible evidence the existence of a further duty to consult when there is a reason to think either that a rational defendant would want to appeal or that the particular defendant reasonably demonstrated interest in doing so. Since there was no duty to consult under the discrete facts of this case where he receive the 7 year sentence and there was no further objection at the plea, his allegation must be dismissed.

Accordingly, this Court finds Applicant has failed to establish any deficiency by counsel Perry or any prejudice flowing therefrom. Thus, this allegation must be **DENIED AND DISMISSED WITH PREJUDICE.**

Allegation 2: “Failure to Advise.”

Applicant alleges that specifically counsel Stanley Myers, "failed to advise me why he was ..." Application ¶10(a), ¶11(a). This allegation is vague and lacks specificity and is conclusory. The Respondent had requested a more definite statement in the return to this allegation. Applicant failed to present any additional clarity or evidence, testimony, or legal authority regarding this vague conclusory allegation at the evidentiary hearing. "When a party provides no legal authority regarding a particular argument, the argument is abandoned, and the court will not address the merits of the issue". Palmer v. State, 427 S.C. 36, 37, 829 S.E.2d 255, 261 (Ct. App. 2019) (citing State v. Lindsey, 394 S.C. 354, 363, 714 S.E.2d 554, 558 (Ct. App. 2011)). The Applicant's only testimony at the hearing related to Mr. Myers was primarily from Assistant Solicitor Parker who indicated that that retained counsel asked to be relieved after the Applicant had failed to show up at court for a favorable plea offer that was made to Mr. Myers, which the Applicant had rejected. The records of the Clerk of Court indicated that the initial plea hearing with counsel Myers had been set for November 4, 2021 and the plea offer between Myers and the State had been to plead guilty and receive a sentencing range between 3-10 years, which Myers believed was a favorable

offer that Applicant rejected according to the Order relieving counsel Myers.⁴ The purpose was to have Mr. Gadson assert on the record whether he would accept the plea or reject the plea. Tr.p. 5, l. 4-8. (statement of Assistant Solicitor Parker). Judge Manning relieved Myers from representation in an Order signed on November 16, 2021 and filed January 5, 2022. State v. Jamie Gadson, Order, dated November 16, 2021, filed January 5, 2022 (Manning, presiding judge).

The Applicant failed to add specificity to the claim to allow this Court to understand. The Court is not required or allowed to speculate what the breath and meaning of the allegation in the in his original application. Therefore, this Court deems the conclusory and nonspecific allegation **ABANDONED.**

Allegation 3: “Failure Invalidating Guilty Plea.”

Applicant alleges that counsel Perry “failed to invalidate his guilty plea.” Application ¶10(b), In this assertion, the *pro se* applicant indicated that “attorney Brett Perry showed ineffective assistance of counsel. Application, ¶11(b). The Respondent made a motion to make more definite and certain on this allegation. This a confusing assertion since the guilty plea was freely and voluntarily entered with a negotiated range of 7 to 15 years and the State actively declaring it took no position on sentencing which resulted in a 7 year sentence. Tr.p. 25-26.

A review of the testimony and record before this Court fails to reveal any matter that would have allowed counsel Perry to invalidate the plea. The record shows that the charge that the Applicant plea was indicted on March 9, 2020. State v. Gadson, 2020GS3200511 for trafficking in cocaine base – 10 grams or more, but less than 28 grams (third offense). The guilty plea was on August 18, 2022 before Judge McCaslin after the case had been placed on the trial docket. The

⁴ The Clerks records reflect that counsel Myers made a notice of appearance in Mr. Gadson’s cases on January 22, 2020.

record reveals that the offer made on the record by the State was within the statutory limits for the crime as charged and as pled – trafficking – 2nd offense. The sentence that Applicant received of 7 years was not the product of an unkept plea bargain and within the statutory mandates for the crime. The crime the Applicant pled was a lesser included offense of the indicted crime. Tr.p. 16. A factual basis was presented at the plea which was consistent with the elements of the crime as charged. Tr.p. 4, l. 8-20. The Applicant was present at the plea and confirmed his desire to plead guilty to trafficking – 2nd with a sentencing range. Tr.p. 13-14. Under oath at the plea he acknowledged he was not under the influence of any drugs, not treated for any mental illness, aware that the charge carried a range of 5 to 30 years, and aware that it was on the trial docket. Tr.p. 14-15. He also asserted affirmatively that he was aware that he could have gone to trial, called witnesses on his behalf, presented a defense, cross-examined the state witnesses, chosen to testify or not testify, and had the jury advised that they could not hold it against him if he did not testify. Tr.p. 15. Gadson declared to the plea court that he wanted to waive his rights and go forward with a plea to trafficking meth, 10 but less than 28 grams, for a second offense when it was a third offense. Tr.p. 15. No objection was raised in court after the Applicant was sentenced.

Applicant failed to present any clarification, evidence, testimony, or legal authority regarding this conclusory allegation at the evidentiary hearing. No credible evidence was presented as to how counsel could have invalidated the plea.

“When a party provides no legal authority regarding a particular argument, the argument is abandoned, and the court will not address the merits of the issue”. Palmer v. State, 427 S.C. 36, 37, 829 S.E.2d 255, 261 (Ct. App. 2019) (citing State v. Lindsey, 394 S.C. 354, 363, 714 S.E.2d 554, 558 (Ct. App. 2011)). This Court finds that there was no credible factual support that reasonable counsel could have invalidated the plea. It must be dismissed for the failure to satisfy

the burden of proof. Alternately, this Court also finds the conclusory allegation is abandoned by the lack of credible evidence or legal authority.

Allegation 4: “Counsels were ineffective regarding the plea offer given to Applicant.”

In the amended application, Applicant alleges that all Counsels were ineffective regarding the plea offer given to the Applicant. Specifically, Applicant avers that while Applicant was represented by counsel Popowski, the plea offer from Solicitor Parker was to plead straight up to one count of trafficking crack cocaine, first offense, down from third offense trafficking, which Applicant wanted to take.⁵ However, by the time the plea came around with counsel Perry as his attorney, Applicant was having to plead to a trafficking, second offense due to the circumstances on the Applicant’s failure to show up to plead previously or to reject the earlier plea offer in open court.

Guilty Plea Proceeding

During Applicant’s guilty plea proceeding, Solicitor Parker explained the timeline of Applicant’s prior representation for the charges by three counsel, Stanley Myers, Public Defender Jean Popowski, and retained counsel Brett Perry. Solicitor Parker informed the Court that counsel Myers was retained as Applicant’s initial attorney. Counsel Myers obtained a favorable plea offer⁶ for Applicant, but Applicant failed to appear to accept or deny the plea offer. (Plea Tr. pp. 4, ll. 22

⁵ Applicant contends that there is an email between Solicitor Parker and counsel Popowski regarding this. An email was attached to the Amended Application between Parker and Popowski. However, the email does not indicate the Applicant’s agreement to accept the offer.

⁶ The initial plea offer extended to Applicant was for Trafficking 10-28 grams, 1st Offense, which carries a potential sentence of three to ten years. This offer was extended to both counsel Myers and counsel Popowski, but Applicant rejected the offer both times. (Plea Tr. pp. 4, ll. 24 – pp. 5, ll. 1 – 24).

– pp. 5, ll. 6). Counsel Myers then moved to be relieved as Applicant’s counsel.⁷ This order was granted by the Honorable Casey Manning, based on an obvious dispute between Applicant and Counsel regarding the offer. (Plea Tr. p. 5, ll. 7 – 20). Counsel Myers was not present for Applicant’s guilty plea hearing in August of 2022 due to prior being relieved as Applicant’s counsel. Counsel Myers was not present for Applicant’s March 2025 PCR evidentiary hearing where these claims were addressed, as he sadly passed away in September of 2023.

Assistant Solicitor Parker stated that counsel Popowski was appointed to represent Applicant following counsel Myers being relieved. (Plea Tr. p. 5, ll. 20 – 21). Assistant Solicitor Parker extended the same plea offer to counsel Popowski for the Applicant as was extended previously under Stanley Myers’ representation. Again, Applicant failed to appear. (Plea Tr. p. 5, ll. 21 – 24). The Solicitor’s Office interpreted Applicant’s conduct as a rejection of the offer, and a bench warrant was issued for Applicant’s arrest. The Solicitor’s office noted that all prior offers extended to Applicant were withdrawn at this point after the second failure to appear. (Plea Tr. p. 6, ll. 4 – 6). Counsel Popowski was not present for Applicant’s guilty plea hearing in August of 2022 due to counsel Brett Perry being retained in June of that year.

PCR Evidentiary Hearing

On direct examination, Applicant testified that he initially hired counsel Myers to represent him. Applicant testified counsel Myers was then relieved by court order, and counsel Popowski of the Lexington County Public Defender’s Office was subsequently appointed to represent Applicant. Applicant testified that he then hired Brett Perry in June of 2022. Applicant testified that Brett Perry was retained to represent him on pending charges in both Richland and Lexington County. Applicant testified that counsel Perry met him while he was incarcerated to review

⁷ Stanley Myers had died prior to this PCR hearing on September 27, 2023.

Applicant's charges and discovery materials. Applicant testified that he never indicated to counsel Perry that he wanted to go to trial. Applicant testified that he informed counsel Perry of a plea offer for a sentence of ten years that was offered previously but retracted, and Applicant requested that counsel Perry attempt to get the same plea deal in this instance. Applicant claims that counsel Perry stated he had no knowledge of that previous deal, and that counsel Perry did nothing further to obtain the previous plea deal.

On direct examination, Brett Perry testified that he met with Applicant extensively and reviewed the case. Counsel Perry testified that he and Applicant went over all charges and discovery together, and discussed previous plea deals that were extended to Applicant prior to Perry being retained. Counsel Perry testified that it was his understanding that a previous offer had been extended to Applicant, but that Applicant failed to appear on two separate instances to accept that offer and therefore it was withdrawn. Counsel Perry testified that Applicant's charges were "true third" offenses in nature with two prior drug convictions, so Applicant was facing Trafficking 3rd should he proceed with trial. Counsel Perry testified that he communicated with the solicitor and attempted to obtain the original plea offer that was withdrawn, but the State was not willing to extend it again. Counsel Perry testified that there was a new offer for Trafficking 2nd with a sentencing range of seven to fifteen years, in part being due to the fact Applicant accumulated new charges since the original plea offer was extended. Counsel Perry testified that this negotiation also included dismissal of the Richland County charges against Applicant in exchange for acceptance of the plea offer in Lexington County.

On direct examination, counsel Perry testified that in these types of cases, he drafts memorandums detailing the plea deal, sentencing details, his opinion of the offer, the strength of the State's case, and other relevant details. Counsel Perry testified that he prepared this

memorandum and reviewed it with Applicant to ensure that Applicant was completely informed as to what his options were. Counsel Perry testified that Applicant acknowledged the following in the memorandum: (1) Applicant's receipt of discovery materials from counsel Perry on July 25, 2022, including pending charges in Lexington County, (2) Applicant's notice of Lexington County Solicitor's Office withdrawing all prior plea offers extended to him, (3) Applicant's notice of the maximum sentencing range possible for the five distribution charges that he was facing, (4) the potential of being convicted as charged for the Richland County charges, and (5) Applicant's notice of consequences to waiving the right to trial by jury.

On direct examination, counsel Perry testified that he felt there were no grounds to defend this case, considering the five distribution charges came from undercover buys and the fact that Applicant was arrested with crack cocaine of trafficking weight on his person. Counsel Perry testified that Applicant ultimately accepted the plea offer from the Solicitor's Office. Counsel Perry testified that the plea offer was an open plea, so Counsel was able to negotiate ten years off the maximum range in exchange for two years off the minimum range.⁸ Applicant was sentenced to seven years' incarceration – the minimum sentence in the offered range. Counsel Perry testified that he spoke with Applicant regarding an appeal and that the judge informed Applicant of his right to appeal, but that Counsel Perry was never asked to file an appeal. Counsel Perry further testified that he believes Applicant never filed an appeal because the plea offer was very well executed.

The prosecutor in the case, Assistant Solicitor Russell Parker also testified about the plea offers and resolution. He testified that he became involved in the Applicant's case after Melanie Darko left the office to work in the 5th Circuit Solicitors Office. She had extended an offer to his

⁸ The original sentencing range was five to twenty-five years. Counsel Perry negotiated this range with the solicitor and agreed upon a range of seven to fifteen years. (Plea Tr. pp. 9, ll. 13 – pp. 10, ll. 5).

then counsel Stanley Myers for trafficking first and had attempted to get Gadson to plead. However, the Applicant failed to come to court, although his counsel was present. This led to Myers removing himself from the Applicant's case by court order because he felt this initial offer was reasonable though his client did not want to accept it. Parker stated that Gadson was then appointed a public defender who was given the same offer. He attempted to send the Applicant a "come to court" letter and the Applicant again did not appear for court. Parker declared his office considered the failure to appear as a rejection and prepared an arrest warrant, withdrew all offers and set the case on the trial roster. The Office policy is that once a case has been placed on the trial roster, no new plea offers will be extended. At that point counsel Perry had been retained and reached out to Parker and asked if he could extend an offer. Parker stated he sent to Suzanne Mayes, his supervisor, and they decided to extend an offer for trafficking 2nd as appropriate. Parker stated that Perry returned seeking a range of punishment. Parker stated that they had Gadson come to either accept or reject the offer, and at that point he accepted the plea.

Parker clarified that Public Defender Jean Popowski was the assigned public defender for Gadson prior to Perry's retention. He stated that she had been extended the trafficking 1st offer and he had believed the offer had been rejected because Applicant had no-showed to court. This was the same offer that he had no-showed to court with counsel Myers earlier. Parker further stated that when he re-extended the same offer to Applicant that was rejected before, he received calls from the West Columbia Police department inquiring what was going on to get some movement on the case. Parker also thought Applicant had been re-arrested in Richland after the Lexington charges.

Parker thought that the information he provided the plea court was consistent with his own understanding of the offers made and counsel's agreements. He noted that he was in

communication with the Fifth Circuit and we agreed to dismiss both the remaining Lexington charges and Richland charges if he pled guilty to the Lexington charge that were offered.

On cross-examination, Parker clarified that the Richland charges may have been before the Lexington charges. He described the timing of the notices that led to the bench warrant when he refused to show the second time. He declared the offer was made to Popowski on February 16, 2022 and the Applicant failed to show up to court on March 24, 2022. Parker stated that his information was that Perry was appointed on June 9, 2022, after the March no-show.

Law Related to Plea Bargaining

A defendant does not have a constitutional right to plea bargain, a trial judge is not required to accept a plea bargain, and that ordinarily a plea offer is nothing more than an offer until it is accepted by the defendant by entering a court-approved plea of guilty. Custodio v. State, 373 S.C. 4, 10, 644 S.E.2d 36, 38–39 (2007); Reed v. Becka, 333 S.C. 676, 511 S.E.2d 396 (Ct.App.1999). See also Weatherford v. Bursey, 429 U.S. 545, 561, 97 S.Ct. 837, 51 L.Ed.2d 30 (1977) (finding “there is no constitutional right to plea bargain; the prosecutor need not do so if he prefers to go to trial”). Davie v. State, 381 S.C. 601, 607, 675 S.E.2d 416, 419 (2009), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018). This is not a situation where the prosecution reneged on an accepted plea offer. This is a situation where the Applicant desired to have an initially rejected plea offer renewed. See *Annotation, Right of Prosecutor to Withdraw from Plea Bargain Prior to Entry of Plea*, 16 A.L.R.4th 1089, § 3(a) (1982) (noting at least twenty-four states have adopted the detrimental reliance exception); 5 *Wayne R. LaFave, et. al, Criminal Procedure* § 21.2(f) (2d. ed.1999) (prevailing doctrine is that the State may withdraw from a plea bargain agreement at any time prior to, but not after, the actual entry of the guilty plea by the

defendant or other action by him constituting detrimental reliance upon the agreement). *Custodio v. State*, 373 S.C. 4, 11, n. 4, 644 S.E.2d 36, 39, n.4, (2007).

The right to effective assistance of counsel extends to the plea bargaining process. *Lafler v. Cooper*, 566 U.S. 156, 162, 132 S.Ct. 1376, 182 L.Ed.2d 398 (2012). To prove ineffective assistance, a petitioner must prove trial counsel's performance fell below an objective standard of reasonableness, and but for counsel's errors, there is a reasonable probability that the result would have been different. *Strickland*, 466 U.S. at 691–94, 104 S.Ct. 2052; *Simuel v. State*, 432 S.C. 150, 154, 850 S.E.2d 642, 643–44 (Ct. App. 2020).

Findings

As a threshold matter, Gadson does not cite any authority that imposes a duty on trial counsel to revive an expired plea offer. Further, the decision whether to revive the expired plea offer rested exclusively with the solicitor. See *State v. Langford*, 400 S.C. 421, 436 n.6, 735 S.E.2d 471, 479 n.6 (2012) (stating “[u]ndoubtedly, the solicitor has discretion in choosing how to proceed with a case, including whether to prosecute in the first place and whether he brings it to trial or offers a plea bargain”). *Collins v. State*, 422 S.C. 250, 261, 810 S.E.2d 871, 877 (2018).

As an initial factual matter, this Court finds Applicant’s testimony **not credible**. This Court further finds from the combination of the plea record, counsel Perry’s **credible** testimony and Assistant Solicitor Parker’s **credible** testimony that Applicant has failed to overcome the “strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [his] case.” *Ard v. Catoe*, *supra*. This Court additionally finds Applicant has failed to overcome his burden in proving Counsels’ representation was deficient and any resulting prejudice from that alleged deficiency. See *Butler*, *supra*.

Based on the record, this Court finds counsel Myers and counsel Popowski were effective and did properly negotiate Applicant's plea offer. Counsel Myers initially negotiated the plea offer of Trafficking, 10 – 28 grams, 1st Offense when Applicant would be facing a “true third” offense should he go to trial. This Court finds that Applicant failed to accept the favorable plea offer, and counsel Myers was then relieved as counsel due to the conflict with Applicant. Counsel Popowski later obtained the same favorable plea offer for Applicant, to which he again failed to accept and failed to appear in court. This Court also finds that the Applicant's assertion in this proceeding that he wanted to accept the offer made by the State to counsel Popowski without factual support. As noted at the guilty plea, The failure of the Applicant to appear in court in March after the same offer was extended to either accept or reject the offer was properly deemed to be a rejection at that time which resulted in the bench warrant. Tr.p. 5-6. The record establishes that counsel Myers and counsel Popowski were effective in their negotiations and handling of Applicant's plea offer.

Concerning counsel Perry's representation, this Court finds Perry was effective and properly negotiated a plea deal for Applicant that was favorable under the circumstances where the Applicant's actions in refusing the earlier plea offers led to Applicant being placed upon the trial docket. Contrary to the claims of the Applicant, counsel Perry credibly testified that he and Applicant discussed prior plea offers that were negotiated through counsel Myers and counsel Popowski. Counsel Perry testified credibly that he was in communication with the solicitor to negotiate a plea deal for Applicant. This is confirmed by Assistant Solicitor Parker's testimony. Counsel Perry attempted to obtain the initial plea offer extended of trafficking 1st, but the State refused to offer this because of Applicant's two prior rejections and failure to appear. Counsel Perry was ultimately able to negotiate for Trafficking, 2nd offense due to additional charges that Applicant accumulated while released on bond which also vacated the original offers. Further,

counsel Perry was also able to negotiate the dismissal of the additional Lexington County and Richland County charges. Finally, counsel Perry ensured that the Court terminated Applicant's probation to avoid issues following Applicant's release from incarceration. The combination of the record and counsel Perry's **credible** testimony establish that counsel Perry did properly and adequately handle the negotiations with Applicant's plea offer.

Applicant only offered self-serving testimony at the evidentiary hearing lacking in credibility on the critical facts. Applicant testified that counsel Perry never attempted to learn of prior plea offers extended to Applicant, nor did counsel Perry attempt to obtain a plea offer from Solicitor Parker. The factual assertion is without merit. However, the record clearly shows that Applicant rejected this earlier plea offer twice, and following the rejections, the State withdrew all offers. This is not a case where earlier counsel failed to provide a defendant with plea offers. They were offered and recommended by his counsel at the time. Cf. Lafler, *supra*.

Contrary to Applicant's claim, counsel Perry attempted to obtain this same plea offer made to Myers and Popowski, but the State refused to extend it due to Applicant's prior rejections and the circumstances had changed. This is confirmed by Assistant Solicitor Parker. There is no Sixth Amendment requirement that once a plea offer is made and rejected, the next offer must be more beneficial to the criminal defendant. The withdrawal of the plea offer by the State occurred prior to counsel Perry being retained. It was the Applicant's conduct, not counsel Perry's action that caused this change. The State was free to reject any further inquiries from defense counsel about additional negotiations. "It is, of course, true that defendants have "no right to be offered a plea ... nor a federal right that the judge accept it." Lafler v. Cooper, 566 U.S. 156, 168, 132 S. Ct. 1376, 1387, 182 L. Ed. 2d 398 (2012). Although the Applicant has refused to realize it, his counsel performed well within the standards of competence in having the State further negotiate with them

and further limit the potential range of punishment he faced. As Judge McCaslin stated at the plea: “ Mr. Gadson that ...this is the deal of the day. And you got it.” Tr.p. 26, l. 25-, p.27, l.1.

Moreover, Applicant was given an opportunity to express his dissatisfaction with counsel Perry’s representation, and any misunderstanding concerning the plea negotiations or negotiated plea offered, knowingly opted not to, instead choosing to plead guilty. His representations to Judge McCaslin carry of strong presumption of verity that the Applicant has not overcome. The record and counsel Perry’s and Assistant Solicitor Parker’s **credible** testimonies directly contradict Applicant’s allegation that counsel Myers, counsel Popowski, and counsel Perry were ineffective regarding Applicant’s plea negotiations.

Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test – that counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that counsel committed either errors or omissions to prove the second prong of Strickland – that he was prejudiced by Counsels’ performance.

Accordingly, this Court finds Applicant has failed to establish any deficiency by counsel Myers, counsel Popowski, or counsel Perry, or any prejudice flowing therefrom. Thus, this allegation is **DENIED and DISMISSED WITH PREJUDICE.**

CONCLUSION

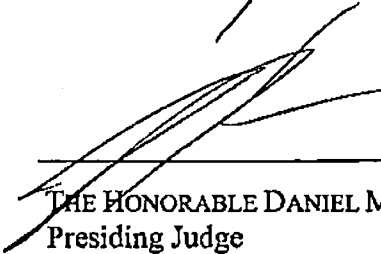
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be **DENIED and DISMISSED WITH PREJUDICE.**

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry to judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has the right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf if the Applicant wishes to seek appellate review. Your attention is directed to South Carolina Appellate Rule 243 for appropriate procedures for appeal.

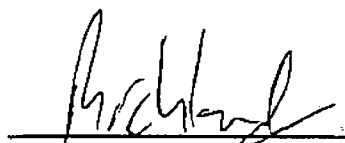
IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 5 day of May, 2025.



 THE HONORABLE DANIEL M. COBLE
 Presiding Judge
 Eleventh Judicial Circuit


 _____, South Carolina.

WITNESSES

West Columbia Police Department

Jody L. Putney

Law Enforcement Case #: 1926103

MFD

ARREST WARRANT NUMBER

2019A3221100673

ACTION OF GRAND JURY

TRUE BILL
[Signature]

Foreperson of Grand Jury
Date: 3/09/20

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2020GS3200511

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

MARCH TERM 2020

THE STATE

vs.

Jamie Shamarion Gadson

CDR #: 0452

Indictment for

Trafficking in Cocaine Base-10 grams or
more, but less than 28 grams

§ 44-53-0375(C)(1)(c)

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	Trafficking in Cocaine Base-10 grams or more,
COUNTY OF LEXINGTON	)	but less than 28 grams
	)	§ 44-53-0375(C)(1)(c)

At a Court of General Sessions, convened on March 2020, the Grand Jurors of Lexington County present upon their oath:

That **Jamie Shamarlon Gadson** did in Lexington County on or about October 4, 2019, knowingly and intentionally, willfully and unlawfully sell, cultivate, manufacture, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise, aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State, or was knowingly and intentionally in actual or constructive possession of or did knowingly and intentionally attempt to become in actual or constructive possession of cocaine base, a controlled substance under provisions of § 44-53-110, et. Seq. Code of Laws of South Carolina 1976, as amended, in a quantity of ten (10) grams or more but less than 28 grams, in violation of § 44-53-375 (C)(1)(c), Code of Laws of South Carolina, 1976, as amended.

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



 ASSISTANT SOLICITOR

5-30:45

STATE OF SOUTH CAROLINA)
 COUNTY OF Lexington)
 STATE)
 VS.)
 Jamie Shamarion Gadson)
 AKA:)
 Race: Black Sex: M Age: 31)
 DOB: [REDACTED] SS#: [REDACTED])
 Address: [REDACTED])
 City, State, Zip: [REDACTED])
 DL# [REDACTED] SID# [REDACTED])

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE# 2020 - GS - 32 - 00511

A/W#: 2019A3221100673
 Date of Offense: 7/24/2019
 S.C. Code §: 44-53-0375(C)(1)(c)
 CDR Code #: 0452

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Drugs / Trafficking in meth. or cocaine base - 10 g or more, but less than 28 g - 2nd offense

In violation of § 44-53-0375(C)(1)(b) of the S.C. Code of Laws, bearing CDR Code # 0451

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. [REDACTED] (def.'s initials)

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

ATTEST:

[Signature] 102091 [Signature] [Signature] 6951
 Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Correction County Detention Center,

for a determinate term of 7 days/months/years/Time Served Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

The sentence shall run

CONCURRENT or CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC. 134 (days/months)

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

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

VACATE BW

STATE VS. Jamie Shamarion Gadson INDICTMENT/CASE# 2020 - GS - 32 - 00511

SPECIAL CONDITIONS:

PTUP after _____ months/years

And Other Terms Listed Below:

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

RESTITUTION: Deferred Def. Waives Hearing Ordered

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

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

***Fine:**

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

TOTAL \$ 650.71
Debra McLaslin
 Judge Code: 2769
 Sentence Date: 8/18/22

Clerk of Court/Deputy Clerk: [Signature]
Court Reporter: Melinda-Jones

Presiding Judge:
Judge Code:
Sentence Date: