

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Berkeley County

Honorable Walton J. McLeod, IV, Circuit Court Judge

GEORGE RILEY DREHER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000557

APPENDIX

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INDEX

INDEX	i
GUILTY PLEA HEARING TRANSCRIPT DATED FEBURARY 18, 2021	1
SECOND GUILTY PLEA TRANSCRIPT DATED APRIL 12, 2021	17
MOTIONS HEARING TRANSCRIPT DATED JUNE 17, 2021	44
APPLICATION FOR POST-CONVICTION RELIEF	52
RETURN.....	79
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED MARCH 11, 2024	86
PETITIONER’S EXHIBIT #1	174
PETITIONER’S EXHIBIT #2	190
PETITIONER’S EXHIBIT #3	193
SUPPLEMENTAL MEMORANDUM IN SUPPORT OF REQUESTED RELIEF	195
MEMORANDUM IN OPPOSITION TO POST-CONVICTION RELIEF	210
ORDER OF DISMISSAL.....	216
INDICTMENTS	222
SENTENCING SHEETS.....	226

**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
FROM THE MARCH 11, 2024 HEARING: STATE’S EXHIBIT #1 (INTERVIEW WITH
BRANDON SWAIN).**

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF BERKELEY	)	DOCKET NO. 2020-GS-08-2020
	)	2020-GS-08-2022
	)	
	)	
STATE OF SOUTH CAROLINA	)	
	)	
	)	
vs.	)	
	)	
	)	
GEORGE RILEY DREHER	)	
	)	
Defendant	)	
	)	
	)	
	)	
_____	)	TRANSCRIPT OF RECORD
		February 18, 2021
		Via: Virtual Courtroom

B E F O R E:

THE HONORABLE R. MARKLEY DENNIS, JR., JUDGE

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

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Attorney for the State

MELISA W. GAY, ESQ.
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JOYCE C. RUEGER,
Certified Verbatim Reporter-Master
Circuit Court Reporter

[Certified Copy of Transcript Provided to: SCCID]

INDEX TO PROCEEDINGS	PAGE
PROCEEDINGS	3
GUILTY PLEA	3
CERTIFICATE OF THE COURT REPORTER	16

INDEX TO EXHIBITS
No Exhibits were introduced

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1
2
3
4
5
6
7
8
9
10
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PROCEEDINGS

THE COURT: Thank you so much.

MS. GAY: The next one on the list is actually
George Dreher.

THE COURT: Yes, I see that. All right and is that
a ---

MS. GAY: --- that's with Wilton.

THE COURT: Yes, Wilton was on but I don't --
hello, Wilton.

MR. McNEELY: Good afternoon, Your Honor. How are
you?

THE COURT: I'm fine.

MS. GAY: Judge, me one second. I'm going to turn
my computer around because his Mom's here. I just need
to mute you from -- you can't see me for one minute and
I'm just going to turn around ---

THE COURT: --- you don't -- I don't need to see
her if she can hear me; that's okay. She doesn't ---

MS. GAY: --- why don't you come and stand this way
and then ---

THE COURT: --- she doesn't need to ---

MS. GAY: --- she can hear.

THE COURT: And I can hear her if she speaks; that
will be fine.

MS. GAY: Yes.

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 THE COURT: Okay. I found out today that sometimes
2 if we turn off the video the speaking stays pretty
3 consistent. So that may have something to do with the
4 buffering overload. I really don't -- it's beyond my pay
5 grade; I can tell you that. Are you Mr. Dreher?

6 MR. DREHER: [No response]

7 THE COURT: Mr. Dreher, I need for you to answer
8 me. Are you George Dreher? I didn't hear you.

9 [Technical difficulties -- background noise]

10 MR. DREHER: Yes, Your Honor.

11 THE COURT REPORTER: Judge, I'm sorry; there's some
12 really loud background noise.

13 [Off the record momentarily working on technical
14 issues]

15 THE COURT: Mr. Dreher, I have failure to stop.
16 Your lawyer has explained that charge to you, sir?

17 MR. DREHER: Yes sir, Your Honor.

18 THE COURT: It's great bodily injury and it carries
19 a potential ten year sentence. Do you understand that?

20 MR. DREHER: Yes sir, Your Honor.

21 THE COURT: What is your plea, guilty or not
22 guilty?

23 MR. DREHER: Guilty.

24 THE COURT: I also have indictment 2020-2022
25 charging you with attempted murder. And that carries a

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 potential sentence -- well, you're pleading to a lesser
2 included offense of assault and battery of a high and
3 aggravated nature; you understand that?

4 MR. DREHER: Yes sir, Your Honor.

5 THE COURT: And your lawyer has explained the
6 difference between the two?

7 MR. DREHER: Yes sir, Your Honor.

8 THE COURT: And you understand that for that I
9 could sentence you up to 20 years in jail?

10 MR. DREHER: Yes sir, Your Honor.

11 THE COURT: You also understand it is considered a
12 serious offense?

13 MR. DREHER: Yes sir, Your Honor.

14 THE COURT: And your lawyer has explained what that
15 is?

16 MR. DREHER: Yes sir, Your Honor. That's correct.

17 THE COURT: That is correct. It's also a non-
18 paroleable offense; you understand that?

19 MR. DREHER: Yes sir, Your Honor.

20 THE COURT: Which means that any sentence that I
21 impose you would be required to serve 85 percent and then
22 once released you still would be required to complete a
23 two year community supervision program, which is a fancy
24 word for probation for two years. If you fail to
25 complete that a violation of that could result in your

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 being incarcerated up to one year at a time until the
2 balance of your sentence is satisfied; do you understand
3 that?

4 MR. DREHER: Yes sir, Your Honor.

5 THE COURT: Understanding all of that what is your
6 plea, guilty or not guilty?

7 MR. DREHER: Guilty.

8 THE COURT: Are you satisfied with your lawyer?

9 MR. DREHER: Yes sir, Your Honor.

10 THE COURT: Solicitor, any agreement other than
11 allowing him to plead to the lesser included offense?

12 MR. McNEELY: No, Your Honor. This is without
13 recommendation. Each side will be requesting a separate
14 sentence at the appropriate time.

15 THE COURT: Very well. Ms. Gay, you can unmute
16 your mic and we'll mute the jail.

17 [Whereupon, Ms. Gay complies]

18 THE COURT: You've discussed this matter fully with
19 your client?

20 MS. GAY: I have, sir. Yes.

21 THE COURT: And he's been advised of his rights and
22 the consequences of his plea?

23 MS. GAY: Yes, sir.

24 THE COURT: Based on your investigation on his
25 behalf do you concur with his decision to enter the

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 guilty pleas?

2 MS. GAY: Yes, sir.

3 THE COURT: Is all that correct, Mr. Dreher?

4 MR. DREHER: Yes sir, Your Honor.

5 THE COURT: You understand if I accept your plea
6 you will not have a jury trial, you will not confront the
7 witnesses against you and you're giving up the right to
8 remain silent?

9 MR. DREHER: Yes sir, Your Honor.

10 THE COURT: Have there been any threats or promises
11 made to you to get you to plead guilty?

12 MR. DREHER: No sir, Your Honor.

13 THE COURT: Are you under the influence of any
14 alcohol or any medication here today?

15 MR. DREHER: No sir, Your Honor.

16 THE COURT: Have you taken any type of medication
17 or consumed any alcohol in the last 24 hours?

18 MR. DREHER: No sir, Your Honor.

19 THE COURT: Have you ever been treated for any
20 emotional illness or mental illness?

21 MR. DREHER: Yes sir, Your Honor.

22 THE COURT: Tell me about it.

23 MR. DREHER: I've been in MUSC. There was a place
24 somewhere in Columbia, Trident; they said I got PTSD and
25 paranoid schizophrenia. I'm supposed to take medicine.

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 But I lost my brother; I need to take the medicine. They
2 got me on Zoloft now.

3 THE COURT: So you're taking Zoloft now?

4 MR. DREHER: Yes sir, Your Honor.

5 THE COURT: Does that affect how you can think or
6 reason?

7 MR. DREHER: No sir, Your Honor.

8 THE COURT: Probably helps make it better.

9 MR. DREHER: Yes sir, Your Honor.

10 THE COURT: You understand what you're doing today?

11 MR. DREHER: Yes sir, Your Honor.

12 THE COURT: I've been provided with a report dated
13 October the 19th, 2020 from MUSC that outlines his
14 history of treatment for mental illness. I assume both
15 sides; Ms. Gay do you have that report for your file as
16 well?

17 MS. GAY: [No response]

18 THE COURT: Lisa?

19 MS. GAY: Hold on. I'm trying to get there, Your
20 Honor.

21 [Whereupon, Ms. Gay reviews documents]

22 MS. GAY: We've talked about this man for a long
23 time, Your Honor so if it's in something I have it in my
24 file, yes.

25 THE COURT: Solicitor, do you have it?

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 MR. McNEELY: I do, Your Honor. I provided the
2 copy for the Court today and I'd ask that it be made a
3 Court's exhibit for purposes of the hearing.

4 THE COURT: That's precisely why I'm asking that
5 question. It will be Court's exhibit number 1 for
6 purposes of this hearing and will be retained with all
7 other pleadings in the Clerk's file. I've reviewed it
8 and ---

9 MR. McNEELY: --- there should be two.

10 THE COURT: Well, I've got one document. I don't
11 know that it might contain two different reports.

12 MR. McNEELY: There were two separate documents.
13 One was for competency to stand trial and the other one
14 was criminal responsibility.

15 [Whereupon, the Court reviews documents]

16 THE COURT: Well, what I have right here I haven't
17 read fully.

18 MS. GAY: Your Honor, at this time Mr. Dreher is
19 competent. There is no -- even though he was evaluated
20 they did not say that he was not competent. And he's
21 also not asserting a mental health defense.

22 THE COURT: That's fine. I don't have that he's
23 competent but I don't see anything or any indication that
24 he's not competent; he's answered my questions. But if
25 you have a report that has that you can file it with the

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 Clerk; that's fine. The report that I have is submitted
2 by Allison Floyd. And it basically, and may even be
3 contained in there but the findings are and the doctors
4 that examined him were Tiffany Harrop and Emily Godfrey.
5 They also say he's competent. He meets the standard for
6 competency; it's all stated in this one form; so it's
7 there.

8 MR. McNEELY: Thank you.

9 THE COURT: Uh Huh. You understand and you know
10 fully what you're doing today, sir?

11 MR. DREHER: Yes sir, Your Honor.

12 THE COURT: Okay. Tell me the facts, please?

13 MR. McNEELY: Thank you, Your Honor. On April 10th,
14 2020 at approximately 10:40 p.m. Berkeley County deputies
15 responded to Fiddle Way and Old Whitesville Road in the
16 Moncks Corner area of Berkeley County due to a noise
17 complaint.

18 Upon arrival officers observed a white Chevrolet
19 Tahoe vehicle operating without a headlight leaving at a
20 high rate of speed almost striking the deputy's vehicle.
21 A stop was initiated by lights and sirens on Old
22 Whiteville Road. The driver of the Tahoe failed to stop
23 and accelerated away at a high rate of speed making a
24 right turn onto 17-A continuing to disregard signals to
25 stop and accelerating away towards Goose Creek. While on

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 17-A the vehicle drove recklessly at excessive speeds
2 disregarding traffic control devices --

3 [Whereupon, technical issues with the video during
4 part of Mr. McNeely's remarks]

5 MR. McNEELY: -- he kept weaving in and out of
6 traffic ---

7 THE COURT REPORTER: --- Mr. McNeely, Mr. McNeely?
8 We lost you at some point so you need to back up a couple
9 of sentences.

10 MR. McNEELY: Okay. While on 17-A the vehicle
11 drove recklessly at excessive speeds, disregarded traffic
12 control devices, weaved in and out of traffic and failed
13 to maintain his lane of travel driving into the median.

14 Deputies attempted to stop stick the vehicle on 17-A
15 but he drove through the median and made a left hand turn
16 onto 176 continuing to speed and driving recklessly
17 weaving over the road.

18 Thereafter Deputy Quinn Hayden had positioned
19 himself in the median of 176 where he was attempting to
20 deploy stop sticks. At the time the defendant approached
21 he swerved from his lane of travel into the median where
22 he struck Deputy Hayden causing significant great bodily
23 injury to his leg. The vehicle then lost control,
24 crossed all oncoming lanes of traffic and wrecked out
25 striking a curved power box electrical pole and tree

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 which caused significant damage to the vehicle. The
2 defendant was extracted and placed under arrest. The
3 front seat passenger Brandon Swain [phonetic] was
4 entrapped in the vehicle and had significant injuries as
5 well.

6 Deputy Hayden was taken to the hospital for
7 treatment of his injuries which have required multiple
8 surgeries and he is still experiencing significant
9 impairment and limited function. Deputy Hayden is on the
10 call today with his attorney Mason West and they will
11 address the Court at the appropriate time.

12 THE COURT: Okay. Are those facts correct, Mr.
13 Sanders [sic]? Excuse me. Mr. Sanders [sic] Mr. Dreher,
14 are those facts correct?

15 MR. DREHER: All besides intentionally swerving. I
16 would have never intentionally swerve and hit an officer.

17 THE COURT: Well sir, you're pleading guilty to
18 assault and battery of a high and aggravated nature which
19 requires an intentional act on your part.

20 MR. DREHER: I was driving the car, Your Honor, and
21 there was a passenger in the car. He snatched the wheel.
22 I would never intentionally -- I'm pleading guilty, Your
23 Honor. I'm not changing ---

24 THE COURT: --- no sir, you're not pleading guilty
25 without admitting your guilt. Right now you've now

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 vacillated. You said no, I didn't intentionally do
2 anything; it was all an accident. So which is it?

3 MR. DREHER: I'm guilty, Your Honor.

4 THE COURT: No, you just told me you weren't. How
5 can you be guilty unless you did something else that you
6 haven't told me? I assume Solicitor that's the act of
7 swerving into the vehicle is the assault and battery of a
8 high and aggravated nature.

9 MR. McNEELY: That's correct, Your Honor.

10 THE COURT: From what I've heard there is no
11 question about the failure to stop; all that has been
12 established. But clearly the assault and battery of a
13 high and aggravated nature is the threat to the people as
14 a result of what happened after that. So, you're telling
15 me I didn't mean to swerve, I didn't intentionally do
16 that. I would never -- I think you said I would never do
17 that.

18 MR. DREHER: Correct, Your Honor.

19 MS. GAY: Your Honor, I just would like to
20 interject for just a second. The timeframe ---

21 THE COURT: --- Ms. Gay, you can interject all you
22 want. You're going to have to take this interjection
23 before somebody else. Your client just looked at me and
24 said no, I didn't do this.

25 MS. GAY: I understand. I heard that, Your Honor.

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 There was about three seconds between the time that he;
2 we have video of everything, when the issue is.

3 And I think what happened when the man jumped out he
4 said his car did cross that area but I think it was you
5 know and he did hit the guy. There is no doubt that he
6 hit the guy. And so I've talked to him about this
7 extensively. We've been working on this one for a while.

8 THE COURT: Ms. Gay, you're not helping me at all.
9 You might be helping yourself but you're not helping me
10 at all. I'm the person that has to be convinced. And
11 the crime was when he swerved the car and the State is
12 alleging he intentionally did that.

13 MS. GAY: I understand what -- the elements of the
14 offense Your Honor and I've spoken to him about this.

15 THE COURT: Well that's fine but he doesn't agree
16 with you. You may but he doesn't agree with it.

17 MS. GAY: Well, my suggestion Your Honor is that we
18 stand down then.

19 THE COURT: You don't have to suggest; I'm not
20 going to take the plea. I assume you don't want me --
21 obviously his plea to one is already done but I don't, I
22 assume that's not the State's desire to get a conviction
23 on the failure to stop.

24 MR. McNEELY: It's all or nothing, Your Honor.

25 THE COURT: I figured it was. No sir, thank you

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 very much Mr. Dreher.

2 MS. GAY: It didn't work; sorry. He won't say it.
3 He won't say what happened. I did not cause the accident
4 ---

5 THE COURT: --- he won't tell the truth, ma'am.
6 Whatever; but maybe he is. I don't know; that's up to a
7 jury.

8 MS. GAY: I understand, sir.

9 THE COURT: Thank you. Mason, I'm sorry. Thank
10 you for attending. Thank you, Will.

11 *****END OF TRANSCRIPT OF RECORD*****
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State v George Riley Dreher
Certificate of the Court Reporter
February 18, 2021

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit of
the State of South Carolina, do hereby certify that the
foregoing is, to the best of my ability, a complete
Transcript of Record of the proceedings had, using WebEx
videoconferencing, and evidence introduced in the trial
of the captioned case, relative to appeal, in the Court
of General Sessions for Berkeley County, South Carolina
on the 18th day of February, 2021.

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

April 22, 2021



Joyce C. Rueger, CVR-M

Court Reporter



COPY

1 STATE OF SOUTH CAROLINA)

IN THE COURT OF

) GENERAL SESSIONS

2 COUNTY OF BERKELEY)

) OF THE NINTH

) JUDICIAL CIRCUIT

3)
4)
5 THE STATE OF SOUTH CAROLINA,)

6 Plaintiff,)

TRANSCRIPT OF RECORD

7 vs.)

2020-GS-08-02020

2020-GS-08-02022

8 GEORGE RILEY DREHER,)

9 Defendant.)

10 -----

11 April 12, 2021

12 Moncks Corner, South Carolina

13 B E F O R E:

14 HONORABLE R. MARKLEY DENNIS, JR., Judge.

15
16 A P P E A R A N C E S

17 WILTON H. MCNEELY, ASSISTANT SOLICITOR

18 For The State

19 MELISA WHITE GAY, ESQUIRE

20 For Defendant

21
22
23 Julie A. Cendroski,
24 Transcribing for Denise Lauder
Circuit Court Reporter III
25 Seventh Judicial Circuit

I N D E X

<u>WITNESS</u>	<u>PAGE</u>
ANNOUNCEMENT OF CASE By The Court	4
PLEA QUALIFICATION By The Court	4
RECITATION OF FACTS By The Solicitor	11
ACCEPTANCE OF PLEA By The Court	12
STATEMENT FOR DEFENSE By Ms. Gay	13
STATEMENT OF MRS. DREHER	17
STATEMENT OF DEFENDANT	17
STATEMENT OF OFFICER HAYDEN	18
STATEMENT OF POSITION OF THE STATE By The Solicitor	21
FURTHER STATEMENTS FOR DEFENSE By Ms. Gay	24
ORDER OF THE COURT	24
CERTIFICATE OF COURT REPORTER	27

EXHIBITS

MARKEDENTERED

COURT'S EXHIBIT NO. 1,

Two Mental Health Letters

8

8

1 THE STATE VS. GEORGE RILEY DREHER

2 THE COURT: Hello everybody. Happy Monday
3 afternoon.

4 THE SOLICITOR: Good afternoon, Judge.

5 THE COURT: I hope you're good, sir. Hello,
6 Will.

7 MS. GAY: Good afternoon, Your Honor.

8 THE COURT: All right. Starting on the docket,
9 it looks like you and Melisa have Mr. Dreher?

10 THE SOLICITOR: That's correct.

11 MS. GAY: Yes, sir.

12 THE COURT: Okay. Mr. Dreher is incarcerated.
13 Are you Mr. Dreher?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Good afternoon, sir.

16 THE DEFENDANT: Good afternoon.

17 THE COURT: I've been handed several indictments.
18 Your lawyer's explained these charges to you, sir?

19 THE DEFENDANT: Yes, sir, Your Honor.

20 THE COURT: And the possible punishment in each
21 case, sir?

22 THE DEFENDANT: Yes, sir, Your Honor.

23 THE COURT: Indictment 2020-2022, charges you
24 with the offense of attempted murder. Do you understand
25 that?

1 THE DEFENDANT: Yes, sir, Your Honor.

2 THE COURT: Your lawyer's explained that I could
3 sentence you for the nature of that charge and the
4 lesser included offense of assault and battery of a high
5 and aggravated nature?

6 THE DEFENDANT: Yes, sir, Your Honor.

7 THE COURT: Do you understand that on that charge
8 I could sentence you to up to 20 years in jail?

9 THE DEFENDANT: Yes, sir, Your Honor.

10 THE COURT: She's explained to you that that's
11 also a serious offense?

12 THE DEFENDANT: Yes, sir, Your Honor.

13 THE COURT: You understand the significance of
14 that term?

15 THE DEFENDANT: Yes, sir, Your Honor.

16 THE COURT: It also is a non-parole offense. Did
17 she explain that to you as well?

18 THE DEFENDANT: Yes, sir, Your Honor.

19 THE COURT: Which means that you have to serve 85
20 percent of any sentence I impose. Do you realize that?

21 THE DEFENDANT: Yes, sir, Your Honor.

22 THE COURT: And once being released, you would
23 still be required to complete a two-year community
24 supervision with the balance of the time remaining. Do
25 you understand that?

1 THE DEFENDANT: Yes, sir, Your Honor.

2 THE COURT: And if you violated that community
3 supervision, you could be returned up to one year at a
4 time until that sentence was satisfied either by
5 supervision or jail time. Do you understand that?

6 THE DEFENDANT: Yes, sir, Your Honor.

7 THE COURT: Understanding all of that, what is
8 your plea, guilty or not guilty?

9 THE DEFENDANT: Guilty.

10 THE COURT: Indictment 2020-2020 charges you with
11 failure to stop for a blue light. Do you understand
12 that?

13 THE DEFENDANT: Yes, sir, Your Honor.

14 THE COURT: And, apparently, they've alleged that
15 that failure resulted in an injury to a person, commit
16 bodily injury to a person. Do you understand?

17 THE DEFENDANT: Yes, sir, Your Honor.

18 THE COURT: And that carries a potential sentence
19 of up to ten years in jail. Do you realize that?

20 THE DEFENDANT: Yes, sir, Your Honor.

21 THE COURT: What is your plea?

22 THE DEFENDANT: Guilty.

23 THE COURT: Are you satisfied with your lawyer?

24 THE DEFENDANT: Yes, sir, Your Honor.

25 THE COURT: Solicitor, it appears from the

1 sentencing sheet that this is marked, it's checked, this
2 is without any recommendation or negotiation other than
3 allowing him to the lesser included offense; is that
4 correct?

5 THE SOLICITOR: That's correct, Your Honor. Each
6 side will be requesting the sentence of their choosing
7 at the appropriate time.

8 THE COURT: Very well. Ms. Gay, is that your
9 understanding?

10 MS. GAY: Yes, sir.

11 THE COURT: He's been advised of his rights and
12 the consequences of his plea?

13 MS. GAY: Yes.

14 THE COURT: And based on your investigation do
15 you concur with his decision to enter a guilty plea?

16 MS. GAY: I do, Your Honor.

17 THE COURT: It also appears that I've been
18 presented with two reports from evaluations conducted by
19 the Department of Mental Health to determine his
20 competency. They each find that he is competent. Do
21 you concur with those findings?

22 MS. GAY: I do, Your Honor, yes.

23 THE COURT: And you've had no trouble
24 communicating with your client involved in developing
25 his decision to enter guilty pleas?

1 MS. GAY: Yes, sir.

2 THE COURT: Mr. Dreher, I'm gonna make these -- I
3 assume these are docket files. Any objection to my
4 making these a Court's exhibit collectively, make them a
5 part of the record?

6 MS. GAY: That's fine, Your Honor.

7 THE SOLICITOR: There's no objection from the
8 State, Your Honor.

9 THE COURT: Ms. Denise, I'm just gonna hand these
10 to the Clerk collectively as a Court's exhibit. They're
11 two reports signed by Ms. Floyd. Are there two? Yeah,
12 two separate ones, and the Court will be relying on her
13 tests thereof.

14 (Court's Exhibit No. 1, Two Mental Health
15 Reports, was marked for identification.)

16 (Court's Exhibit No. 1 was entered into the
17 record.)

18 Mr. Dreher, you realize and understand that if I
19 accept your guilty pleas you will not have a jury trial
20 in any of these matters and, therefore, you give up the
21 right to confront the witnesses against you? Do you
22 understand that?

23 THE DEFENDANT: Yes, sir, Your Honor.

24 THE COURT: And if you went to trial, of course,
25 the State would have to prove you guilty beyond a

1 reasonable doubt. You don't have to prove anything. Do
2 you understand that?

3 THE DEFENDANT: Yes, sir, Your Honor.

4 THE COURT: Now, because you're pleading guilty,
5 of course, the State would no longer be required to meet
6 that burden. And, also, another very important aspect
7 is with a trial, of course, you don't have to say a word
8 at any time and, of course, that can't be used against
9 you. But if I accept your guilty plea today, you will
10 have given up that right to remain silent by pleading
11 guilty. Do you understand that?

12 THE DEFENDANT: Yes, sir, Your Honor.

13 THE COURT: Have there been any promise or
14 threats made to you, sir, to get you to plead guilty?

15 THE DEFENDANT: No, sir, Your Honor.

16 THE COURT: Are you under the influence of any
17 alcohol of medication here today?

18 THE DEFENDANT: No, sir, Your Honor.

19 THE COURT: Have you consumed any alcohol or any
20 type of medications with the last 24 hours?

21 THE DEFENDANT: No, sir, Your Honor.

22 THE COURT: Have you been treated with any mental
23 illness or personal problems in the past?

24 THE DEFENDANT: Yes, sir, Your Honor.

25 THE COURT: Tell me about it.

1 THE DEFENDANT: I was in inpatient at Dale
2 Patterson USC for paranoid schizophrenia. I don't
3 remember everything, but there were a couple different
4 diagnosis. I think it was back in 2012/2013.

5 THE COURT: Okay. But since that period of time
6 have you had any recurrence of your problem or
7 hospitalization because of that?

8 THE DEFENDANT: I was in the hospital in 2017 for
9 about a week at Trident, on the sixth floor at Trident.

10 THE COURT: Okay. Have you all been back since
11 2017?

12 THE DEFENDANT: No, sir.

13 THE COURT: And have you, have you participated
14 with your lawyer in discussions of this case and you
15 talking about possible defenses?

16 THE DEFENDANT: Yes, sir, Your Honor.

17 THE COURT: And you want to do this? This is
18 your decision, sir?

19 THE DEFENDANT: Yes, sir, Your Honor.

20 THE COURT: And you're not -- you don't have any
21 problems that you previously experienced concerning your
22 paranoid schizophrenia?

23 THE DEFENDANT: No, sir, Your Honor.

24 THE COURT: Okay.

25 All right. Solicitor, tell me the facts, please.

1 THE SOLICITOR: Thank you, Your Honor. On April
2 10th, 2020, at approximately 10:40 p.m., Berkeley County
3 deputies responded to Fiddle Way and Old Blackville Road
4 in the Moncks Corner area in Berkeley County due to a
5 noise complaint. Upon arrival, officers observed a
6 white Chevrolet Tahoe vehicle operating without a
7 headlight and leaving at a high rate of speed, almost
8 striking a deputy's vehicle.

9 Deputies initiated a traffic stop by lights and
10 sirens on Old Blackville Road. The driver of the
11 vehicle failed to stop and accelerated away at a high
12 rate of speed, making a right-hand turn onto 17A,
13 continuing to disregard the signals to stop and
14 accelerating.

15 While on 17A, the vehicle drove recklessly at
16 excessive speeds, disregarding traffic control devices,
17 weaving in and out of traffic, and failing to maintain a
18 lane, driving into the median. Deputies attempted to
19 stop the vehicle, but the driver drove through the
20 median to avoid them, making a left-hand turn onto 176
21 and continued speeding excessively and driving through
22 traffic recklessly, weaving all over the road.

23 Thereafter, the defendant observed Deputy Hayden
24 in the median at 176 where he had stationed the point
25 stop sticks. At that time, the defendant swerved from

1 his lane into the median where he struck Deputy Hayden,
2 causing significant great bodily injury to his leg.

3 The vehicle then lost control, crossed all
4 oncoming lanes of traffic and wrecked out striking the
5 curb power box, electrical pole, and tree, causing
6 significant damage to the vehicle. The defendant was
7 extracted and placed under arrest.

8 The front passenger in the vehicle, Brandon
9 Swain, (phonetic) was entrapped and had significant
10 injuries as well. He was extracted and transported to
11 the hospital, as was Deputy Hayden, who had to undergo
12 multiple surgeries and is still experiencing significant
13 impairment and limited function to his leg as a result
14 of the incident.

15 THE COURT: All right. Are those facts correct,
16 sir?

17 THE DEFENDANT: Yes, sir, Your Honor.

18 THE COURT: Very well. I find there is
19 sufficient factual basis to support the plea. I find
20 that he's had the benefit of very competent counsel,
21 whom he's indicated he's totally satisfied. I find the
22 plea to be freely, voluntarily, knowingly, and
23 intelligently made.

24 And now I'll be happy to hear from you Ms. Gay,
25 thank you.

1 MS. GAY: Oh, Thank you, Your Honor. In the
2 courtroom today is his mother, Theresa Dreher, who is an
3 incredibly supportive mom. She's been an integral part
4 of his presentation, Your Honor.

5 He's a young man, Your Honor.

6 THE COURT: What was he doing for a living prior
7 to this?

8 MRS. THERESA DREHER: He does welding
9 pipefitting.

10 MS. GAY: He was employed, Your Honor, prior to
11 this. He's from this area. So you can see from the
12 evaluations he's done and what he says about some of the
13 history of his mental health issues.

14 But during the course of this case, Your Honor,
15 he made bond and he was sent to Solutions in Greenville.
16 And he had, basically, a panic attack there. But he was
17 -- he ended up being taken to the Greenville Memorial
18 Hospital.

19 When he was taken to Greenville Memorial
20 Hospital, it was acute stress from the panic attack and,
21 I guess, some type of paranoid situation. I received
22 his medical records and reviewed them. One of the
23 things that those medical records said is that they
24 thought that Brandon -- I mean, George, needed to have a
25 neurological evaluation; that they thought there may, in

1 fact, be something wrong with him neurologically.

2 Based on that and based on the fact that, you
3 know, all these different times that he's been in
4 hospitals I had him evaluated, and they did say he was
5 competent and, you know, and had the capacity to go
6 forward on that. But the truth of the matter is he
7 still has some stuff that he has to address throughout
8 his life about his mental health history.

9 He has been placed on medication at the jail.
10 When he said that he had not taken medicine today, it
11 was my understanding that they've been monitoring him
12 and that they have put him on some medicine, whether
13 he's on it right this minute or he was on it before.

14 I can tell you the person I'm talking to right
15 now, his mother and I are both agreeing, is not the same
16 person that entered in the jail and has been
17 incarcerated on this incident on the night it happened
18 or even after the situation and solution. He is so much
19 better about having clarity and about having some
20 understanding about the system and his life in the
21 future. He's definitely in a better place now, Your
22 Honor.

23 I know that you've heard me say over the past
24 20-something years, there are occasions in life where
25 people get arrested and better things come out of it

1 because of the fact that whatever they were involved in
2 at the time was not going in the right direction, Your
3 Honor.

4 This evening was the result of multiple bad
5 choices, Your Honor. When you talk to him and you ask
6 him why he failed at that blue light, unfortunately
7 there's not even anything that makes a whole lot of
8 sense, except I think that once something started, there
9 was just like, well, how do we get out of this
10 situation? Instead, he's in this car, in a high-speed
11 chase, things are happening, people are hurt.

12 What I'm asking you to consider, well, what I
13 know the Solicitor is gonna ask you to consider, Your
14 Honor, is an intensive prison sentence. I know that
15 that is -- he and his family know that that's a
16 possibility. But he was at Solutions because he had a
17 problem, a drug problem at some point. And that was
18 actually going well for him until he lost his mind that
19 day basically.

20 And we've spoken to Solutions and Solutions still
21 cares to take him back into their program. That is, as
22 you're aware, a long eight to ten-month program where
23 they are inpatient and they help them restructure their
24 life basically. That seems to be the best thing for the
25 Solutions program I can say is that they give them

1 structure enough where they come out of that program and
2 can make it a very high success rate.

3 And so, his family and he would ask you to
4 consider a suspended sentence. Alternatively, Your
5 Honor, if you believe that he needs to be incarcerated
6 because of the serious nature of the events and all the
7 things that go into punishment, Your Honor, we'd ask you
8 to consider a split sentence, as opposed to a straight
9 jail sentence of an extensive period of time.

10 I have worked with the Dreher family for many,
11 many months now and, as I said, this man we're talking
12 to today is so much more focused and ready to address
13 and be responsible for the actions he made that night.
14 I know his mom's talked to him extensively. I've talked
15 to him extensively. We're going to ask you to be as
16 compassionate as possible. This man does have mental
17 health problems. He's not incompetent. He is
18 criminally responsible, but he does have mental health
19 problems that need to be addressed and that need to be
20 taken, you know, he needs to have medication and
21 treatment for. And he may, in fact, have something
22 wrong with him that needs a neurological evaluation.
23 That's just not anything you could set up in the jail,
24 Your Honor.

25 THE COURT: All right. Thank you, ma'am.

1 MS. GAY: Would you like to hear from his mother
2 now, Your Honor, or after Milton speaks, Your Honor?

3 THE COURT: I'd be happy to hear from his mother.

4 MS. GAY: Okay, go ahead.

5 MRS. THERESA DREHER: Yes, sir. I'll be the
6 first to say that that night there was some bad
7 decisions made and it just kind of snowballed and had a
8 snowball effect. I can tell you that he not only is my
9 youngest child, he's my oldest child. I lost my oldest
10 son. And he has an amazing heart. He would in his
11 right mind would never do anything intentionally to hurt
12 anyone. And, you know, he has a little eight-year-old
13 daughter.

14 Me and his daughter miss him terribly and want
15 him home so that -- you know, she's eight years old, she
16 doesn't understand. She misses her dad. I miss my son.
17 And, like I said, he has, he truly has an amazing heart
18 and would never intentionally hurt someone.

19 THE COURT: All right. Thank you, ma'am.

20 Mr. Dreher, is there anything you want to tell
21 me?

22 MS. GAY: We can't hear him, Your Honor.

23 THE COURT: He's muted. Hold on just a second,
24 Mr. Dreher. Yes, sir, anything you want to tell me?

25 THE DEFENDANT: I'd just like to apologize to

1 Officer Hayden and everybody involved. I'm not a bad
2 person, I just made a bad decision, Your Honor.

3 THE COURT: Yeah, you did. It was a costly one.
4 How much time has he served thus far?

5 THE SOLICITOR: Your Honor, he's been in, he's
6 been in from the day of arrest on. I think at this
7 point, close to 11 months due to the time he was out on
8 bond and went to Solutions. Mr. Hayden, Your Honor,
9 would like to address the Court. He's at the office of
10 Mason West, his civil attorney. And I'll address the
11 Court as to sentencing after him, if that's okay?

12 THE COURT: All right, certainly. And then, Ms.
13 Gay, if you wish to respond to anything that I hear from
14 Mr. Hayden or the solicitor, I'll allow you to, okay?

15 MS. GAY: Okay.

16 THE COURT: I'll be happy to hear from Mr.
17 Hayden. Mr. Hayden, I can't hear you, you're muted.

18 MR. HAYDEN: Sorry, now can you hear me?

19 THE COURT: Yes, sir, I can.

20 MR. HAYDEN: Oh, thank you. Yes, sir. I'd like
21 for you to take into account that I've had three
22 surgeries so far. I'll probably have to have at least
23 one more. And I'll never walk -- I'll have a pretty bad
24 limp for the rest of my life and I am now relying on a
25 leg brace just to walk even somewhat normally. I'll

1 have that for the rest of my life as well.

2 THE COURT: Well, and I appreciate that, Mr.
3 Hayden. I know you have a very fine attorney
4 representing you in the civil matter and I'm glad to
5 know that. One of the things that I had to do early on
6 in my career on the bench is to remember that we have
7 two separate branches of the circuit court, one is the
8 Court of Common Pleas, the other is General Sessions.
9 And I have said so many times, but it bears repeating,
10 sentences imposed by the Court do not in any way
11 compensate the victim for what they've suffered. And
12 the fact that you've suffered greatly doesn't mean if
13 you didn't suffer greatly, the act itself is what we're
14 punishing. The beauty of it, the civil court deals with
15 what you just talked about, not my sentence, so I
16 appreciate that.

17 I'll give you a for instance, and I've had some
18 of these. If a homeless person is murdered that doesn't
19 have any family and you have a person that's murdered
20 that has grandchildren and children and a spouse that
21 was depending on them, there's a great difference in
22 financial loss, isn't it? But the punishment doesn't
23 have anything to do with that. Should a person who has
24 a great family be punished more than the person who
25 killed the homeless person? No. It's the act that

1 we're talking about, so I appreciate that.

2 And I'm glad that you're here, sir, to be candid
3 with you. And he better be glad too, because it would
4 be no question of what I'd do if he was pleading guilty
5 to murder, which he could well have been. I'm glad he's
6 not. I'd probably would have given him somewhere upward
7 to 15 and maybe go to life.

8 But what I've started doing is figuring out how
9 old a person would be so that we don't run a geriatrics
10 ward in the prison system, and allow him to be released
11 in his late '70's or something. But by and large you're
12 here and I'm grateful for that, but thank goodness you
13 are. And I hope this civil outcome will be somewhat
14 illuminative -- somewhat compensatory to you, not
15 illuminative because you're entitled to every dime you
16 get and more.

17 One of the things that I certainly have come to
18 grips with, you don't know how many times when
19 representing a person in a civil case, I've done it in
20 this very same courtroom, and telling the jury what
21 amount of money would compensate that person to put them
22 back? And there's no sum. Ma'am, how much money would
23 you -- what figure would you put on it to avoid what
24 you're having to deal with for the rest of your life? I
25 don't know what you say, but all the money in the world,

1 you'd rather have back what you lost than the money.

2 There's no question about that.

3 And I, I understand and I appreciate your service
4 to us, too. And as your service, I assume you can't
5 return to your work that you previously did; is that
6 correct.

7 MR. HAYDEN: Yes, sir, I'm trying. It's still
8 unsure if I'll be able to return to work.

9 THE COURT: And I understand that. And I'm sure,
10 my hat's off to anybody that makes that sacrifice and
11 serves in the capacity that you did. I hope you do and
12 I will certainly keep prayers for that to happen, but I
13 don't know. Whatever it is, it is, and you'll deal with
14 it somehow, but it'll be a loss to society for your lack
15 of service. But anyway, thank you, sir, I appreciate
16 it.

17 MR. HAYDEN: Thank you, sir.

18 THE COURT: Mr. McNeely, anything you want to
19 say?

20 THE SOLICITOR: Yes, Your Honor, thank you. The
21 State would just reiterate how unlawful and reckless his
22 conduct was. As you stated, we're very lucky we weren't
23 dealing with two murder charges, rather than two people
24 that were significantly injured by a reckless act.

25 The State believes that the conduct is worthy of

1 punishment in the form of a prison sentence and would
2 request upwards of the maximum of 20 years for this
3 defendant given what happened that night.

4 His prior record is a 2017 disorderly conduct and
5 trespassing; 2013, throwing bodily fluids, disorderly,
6 and assault and battery third; 2009, ABHAN and DUI;
7 2007, possession of controlled substance and petit
8 larceny.

9 The State would also state for the record that
10 while on bond at Solutions this summer, he had cut his
11 monitor off and was rearrested by the Greenville Police
12 for disorderly conduct. But given the facts of what
13 occurred on that night in April of 2020, the State
14 believes a substantial prison sentence.

15 THE COURT: And I agree totally with you that he
16 deserves to be punished. Also, I'm sure you would agree
17 with me that the challenge like much of what all this
18 conduct is attributed to his mental illness. And the
19 bottom line is, whether you agree or disagree, that
20 doesn't matter because that's what I think it is. I
21 don't think normal -- I don't think people just
22 generally like to do that sort of thing.

23 But the bottom line is, that doesn't excuse it
24 because he shouldn't have put himself -- and he did
25 before -- put himself and commit himself and get some

1 help, but he didn't. And then he responded typically to
2 people who had been having that experience. And we know
3 that he doesn't just suddenly get over that and get
4 well. That doesn't happen. So it's not -- we're not
5 talking about a person that just goes around and loves
6 to hurt people, Solicitor, I don't believe. Maybe
7 you've got something else that you could add that points
8 to that.

9 THE SOLICITOR: Not at this time in particular,
10 Your Honor, but I don't claim to understand his mental
11 health history. I will say this, in ---

12 THE COURT: Mr. McNeely, you're an advocate, Ms.
13 Gay's an advocate. I'm supposed to be the midpoint.
14 You don't have to agree with me. That's okay. I don't
15 care. You don't have to justify what you're doing. I
16 was a lawyer too. I understand what you're doing. I
17 get it. Just like Mr. West, I understand what he's
18 doing. I cut you off, but I wanted to just respond to
19 that. I don't expect you to. If you did, it would
20 shock me.

21 THE SOLICITOR: I understand that, Your Honor.
22 The only thing I was gonna add is that in the week
23 leading up to this, the defendant was posting on
24 Facebook about issues he had with the sheriff's office.
25 That's all I've got.

1 THE COURT: All right. Anything else, Ms. Gay,
2 in conclusion?

3 MS. GAY: When he said that the gentleman, that
4 he had cut the monitor off at Solutions, that's when he
5 was in jail. He could have not got out and had to be in
6 jail for up to this plea, Your Honor, and go back to
7 Solutions, but he sort of lost his mind that night and
8 that's why he ended up in Greenville Memorial Hospital.
9 And those records are actually the best records that I
10 have of what was going on with him around the time that
11 all of that was happening.

12 And, as I said, Your Honor, they're the ones who
13 advised he had to have a neurological, that there was
14 something else going on. We just haven't been able to
15 get to the bottom of all of that, Your Honor, because
16 he's incarcerated. And so he and his family just ask
17 you to be as lenient as possible. And, certainly, we
18 understand all of the possibilities here today, Your
19 Honor.

20 THE COURT: All right. Anything else, Mr.
21 Dreher, before I impose sentence?

22 THE DEFENDANT: No, sir, Your Honor.

23 THE COURT: All right. The sentence of the
24 Court, Mr. Dreher, is that you be committed on
25 indictment 2020-2022, in the Department of Corrections

1 for a term of 12 years. I give you credit for 11 months
2 of jail time toward that sentence.

3 The sentence of the Court on the failure to stop
4 for a blue light with bodily injury is that you be
5 committed to the Department of Corrections for a term
6 of ---

7 THE SOLICITOR: He can't hear us.

8 THE COURT: I've lost video. Are you back? Can
9 you hear me, sir? I'm gonna suspend that sentence in
10 its entirety and I'm gonna place you on probation for
11 five years.

12 The conditions of your probation are random drug
13 and alcohol testing; any counseling deemed necessary;
14 must take any medication. If you're ever prescribed
15 medication, you must take it as prescribed. No
16 tolerance of any non-condition financial condition
17 violation.

18 If you have a dirty drug screen or fail to report
19 as probation is tolled, because this sentence is
20 consecutive to 2020-2022, and it's tolled until you're
21 released and then you'll, of course you'll have to, I
22 would assume since I can't grant probation, the
23 probation would be tolled until he completes fully the
24 first one. That would be the two-year supervision
25 program as well. So I'm just gonna put tolled until

1 satisfies the sentence on this, on the consecutive
2 sentence, okay? They'll take care of that.

3 MS. GAY: Yes, sir.

4 THE COURT: All right, sir. Good luck to you,
5 sir.

6 MS. GAY: Thank you, Your Honor.

7 (Hearing ended at 2:01 p.m.)

8

9 --- THIS ENDS REQUESTED TRANSCRIPT ---

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1 COURT REPORTER CERTIFICATE

2
3 I, the undersigned Julie A. Cendroski, Court Reporter
4 for the Seventh Judicial Circuit Court of the State of
5 South Carolina, do hereby certify that to the best of my
6 ability from the notes of another reporter, the
7 foregoing is a true, accurate, and complete transcript
8 of record of all the proceedings and evidence introduced
9 in the hearing and/or trial of the captioned case,
10 relative to appeal, in the Court of General Sessions for
11 Berkeley County, South Carolina, on the 12th day of
12 April, 2021.

13 I do further certify that I am neither of kin,
14 counsel, nor interest to any party hereto.
15
16
17
18

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

STATE OF SOUTH CAROLINA) **TRANSCRIPT OF RECORD**

COUNTY OF BERKELEY

)CASE NO.: 2020-GS-08-02022

WEBEX PROCEEDINGS

ORIGINAL

June 17, 2021

BEFORE: The Honorable R. Markley Dennis, Jr.

THE STATE OF SOUTH CAROLINA,

Plaintiff,

vs.

 **ORIGINAL**

GEORGE RILEY DREHER,

Defendant.

APPEARANCES:

Wilton Hart McNeely, Esq.
Appearing for the Plaintiff/State.

Melisa Gay, Esq.
Appearing for the Defendant.

Official Court Reporter

Natalie Dahl, RPR

1 NOTE: Pursuant to Rule 607 (h) (1) (B), SCACR "A COURT
2 REPORTER SHALL RECEIVE THE FEE OF \$1.00 PER PAGE FOR
3 FURNISHING A COPY OF A PREVIOUSLY PREPARED TRANSCRIPT."
4 All requests for a copy of the enclosed transcript
5 shall be sent to: Natalie Dahl, RPR
6 P.O. Box 762
7 Conway, SC 29526

8 P-R-O-C-E-E-D-I-N-G-S

9 THE COURT: Sorry to keep everyone waiting.

10 Mr. Dreher, good afternoon, sir.

11 MR. DREHER: Good afternoon, Your Honor.

12 THE COURT: Solicitor, good afternoon, sir.

13 Sorry to keep you waiting.

14 MR. McNEELY: No problem, Judge. Can you hear me
15 all right?

16 MS. GAY: Yes, we can. And this is Mr. Dreher.

17 THE COURT: Good afternoon. Let me start by
18 saying thank you all for briefing this; and thank you,
19 Solicitor, for providing the packet that you provided.
20 The transcripts were very helpful in this case.

21 Let me correct for the record, Melisa, your
22 motion is showing 2020-08-2021; that is the case that
23 was dismissed. The case that we're here on, I
24 believe, is 2020-08-2022; that was assault and battery
25 of a high and aggravated nature, which he was
26 sentenced I believe.

27 MS. GAY: Sorry, Your Honor, that was probably
28 something done by the secretary, but we're all

1 acknowledging that my motions are for the offense he
2 got time for.

3 THE COURT: That's fine. Then, the only thing
4 I'll be correcting, for some reason, I made the
5 mistake of -- I sentenced him -- I checked it in the
6 transcript, the sentence was 12 years, not 10 years.
7 The sentencing sheet has 10 years written on it. So
8 we have to do an amended sentencing sheet to comply
9 with the Court's order, which is 12 years and credit
10 for 11 months of jail time. It obviously will be
11 from -- starting on -- 11 months credited as of
12 4/12/21. So he'll get additional time as well, but we
13 can figure it out. That would be two months -- two
14 more months, for 13 months additional.

15 MS. GAY: Yes, sir.

16 THE COURT: Now, the other thing is your motion
17 says it was after discovered evidence, as I read it,
18 and I want to be sure of this, that he didn't actually
19 -- the passenger is the one that grabbed the wheel and
20 swerved and hit the officer; that is what the motion
21 is alleging, correct?

22 MS. GAY: Yes. There was discussion, but the
23 statement, actual document signed by him, is what we
24 obtained pursuant -- afterwards, after the plea, that
25 he acknowledged that this happened.

1 THE COURT: Well, let me ask you a question,
2 because we were together in February the 18th, 2021
3 before me for the same charge. We had gotten through
4 the plea to where the State had given me the facts,
5 and I am quoting from the transcript now, Page 12, if
6 you happen to have one. I asked him -- I said: "Are
7 those facts correct -- and I misstated and said "Mr.
8 Sanders" -- excuse me, Mr. Dreher, are those facts
9 correct?"

10 His response is what is important to me: "All
11 besides intentionally swerving. I would never
12 intentionally swerve and hit an officer."

13 I made a response, and he continued. I said:
14 "What did you do which requires an intentional act?"

15 "I was driving the car, Your Honor, and there was
16 a passenger in the car. He snatched the wheel. I
17 would never intentionally -- I'm pleading guilty, Your
18 Honor."

19 And that is when I said, Nope, not taking the
20 plea, and it went into discourse.

21 How are you claiming now that he didn't know
22 about it? He stated it to me and caused me to
23 withdraw the plea.

24 MS. GAY: I think, Your Honor, what I was stating
25 is the document that he signed. First of all, what

1 Mr. Dreher said was reality, and what this witness is
2 willing to say --

3 THE COURT: Ms. Gay. Ms. Gay. Ms. Gay, the
4 problem I have with it -- you made your motion. I'll
5 deny the motion, because he knew it. It wasn't after
6 discovered. He had to change his whole position when
7 he came back and pled before me in April when he
8 admitted he did, so I'm sorry.

9 MS. GAY: Your Honor, we've also made a dual
10 motion indicating that he should be able to withdraw
11 his guilty plea based on his mental situation.

12 THE COURT: No, ma'am. No, ma'am. He satisfied
13 that, and you did, too. No, ma'am. I'm not about to
14 do it on that. Your motion is denied on all bases.
15 Prepare the order.

16 MS. GAY: Wait. One second. I have a question,
17 and I've explained this to his mother, and I just
18 talked to Wilton about it. In order for him to ask
19 you whether or not the sentence could be reconsidered,
20 all of this had to be resolved. Because if you
21 granted it, it would be no question, and so he would
22 just ask --

23 THE COURT: Ms. Gay. Ms. Gay, you don't want me
24 to answer that question. Thank you.

25 MR. DREHER: May I have a chance to speak?

1 THE COURT: You can speak all you want,
2 absolutely, Mr. Dreher.

3 MR. DREHER: I just -- I pled guilty because I
4 was under the impression I was getting probation. I
5 don't think it is right I do 12 years when -- I
6 clearly was not intentionally swerving at the officer.
7 Dwayne Dewitt was my step-father growing up. It is
8 not like I have it out for the police or nothing like
9 that. I would never intentionally hurt another
10 person, especially not striking them with a vehicle.
11 I pled guilty because they were telling me I was
12 getting probation, and I'm fitting to do 17 years of
13 sentencing. Your Honor, this is not right. I'm not a
14 bad person. I admit that I was wrong, but I never
15 intentionally hit that officer.

16 THE COURT: You told me you did. You admitted
17 it, and I asked you the question: "Has anyone
18 promised you anything or threatened you in any way?"
19 Your answers was: "No, sir."

20 MR. DREHER: Because she didn't say "I promise
21 you probation." She said I'm going --

22 THE COURT: Mr. Dreher, this is not my first
23 rodeo. I appreciate your state, but I don't buy it.
24 Mr. Dreher, you know what, and I don't mean to be
25 sarcastic, but I bet you if you see the statistics, at

1 least 80 to 85 percent incarcerated are not guilty.

2 I'm sorry. No, sir. Good luck.

3 MR. McNEELY: Your Honor, can I request that
4 those two transcripts be made court exhibits?

5 THE COURT: It is already a part of the record.
6 Court's exhibits are always in the record. If there
7 is an appeal, they are a part of the record.

8 MR. McNEELY: That was our concern.

9 THE COURT: No question about it. I would say to
10 you, I'm relying on them. I'll -- you filed those.

11 MR. McNEELY: I did.

12 THE COURT: Then to cover both of you, all
13 filings submitted by either parties are incorporated
14 fully for purposes of review should that become
15 necessary, and that is in any stage, be it appellant
16 review or PCR; they are a part of the record.

17 MR. McNEELY: Thank you. And I'll prepare a
18 proposed order.

19 THE COURT: Thank you.

20 (Whereupon, the WebEx hearing concluded.)
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25

1 CERTIFICATE OF REPORTER

2 State of South Carolina)

3 County of Horry)

4
5 I, Natalie Dahl, Official Court Reporter for the
6 State of South Carolina, do hereby certify that the
7 foregoing is a true, accurate and complete Transcript
8 of Record of the proceedings had and evidence
9 introduced in the hearing of the captioned case,
10 relative to appeal, in the Court of General Sessions
11 for Berkeley County, South Carolina, on the 17th day
12 of June, 2021.

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

15
16 October 11, 2021

17 
18 _____

19 Natalie Dahl, RPR

20 Court Reporter
21
22
23
24
25

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BERKELEY)
)
 GEORGE RILEY DREHER)
 Inmate Number #00334165)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

~~FIRST~~ JUDICIAL CIRCUIT
 Ninth

APPLICATION FOR

POST-CONVICTION RELIEF

2022-CP-08-02034

1. Place of Detention: Ridgeland Correctional Institution
2. Name and location of Court which imposed sentence: Berkeley County General Session
3. Name(s) of co-defendant(s) (if any): N/A.
4. The indictment number(s) upon which and the offenses for which sentence was imposed:
 - (a) 2020-GS-08-2020 – Failure to stop for a blue light resulting in great bodily injury
 - (b) 2020-GS-08-2022 – Assault and battery of a high and aggravated nature
5. The date upon which the sentence was imposed and the terms of the sentence:
 - (a) April 12, 2021 – 12 years active on failure to stop for a blue light resulting in great bodily injury followed by 10 years suspended on probation for 5 years for assault and battery of a high and aggravated nature to be served consecutively.
6. A finding of guilty was made:
 - (a) After a plea of guilty before the Honorable R. Markley Dennis, Jr.
7. Did you appeal from the judgment of conviction and/or the imposition of the sentence?
 - (a) Yes.
8. If you answered “yes” to number (7), list:
 - (a) The name of each Court to which you appealed:
 - i. Berkeley County General Sessions – Motion to withdraw guilty plea & Motion to withdraw guilty plea based on after-discovered evidence.
 - ii. South Carolina Court of Appeals

2022 AUG 24 PM 12:17
 LEI
 CLERK OF COURT
 BERKELEY COUNTY, S.C.

cc:
 J.T.B.

SM

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

- i. Denied
- ii. Withdrawn

(c) The date of each result:

- i. June 22, 2021
- ii. May 3, 2022

(d) If known, citations of any written opinions or ordered entered pursuant to such result:

- i. See attached order denying motions to withdraw guilty plea.
- ii. See attached order accepting withdraw of appeal.

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

(a) N/A

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

(a) Plea Counsel denied Applicant's right to effective assistance of counsel as guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and Article I, Sections 3 and 14 of the South Carolina Constitution. Specifically, Plea Counsel's unreasonably deficient performance prejudiced Applicant because there is a reasonable probability that, but for Plea Counsel's errors, Applicant would not have pled guilty and would have invoked his right to a jury trial. See *Hill v. Lockhart*, 474 U.S. 52 (1985) (applying the *Strickland v. Washington*, 466 U.S. 668 (1984) standard to guilty plea challenges of ineffective assistance of counsel). Therefore, Applicant did not voluntarily, knowingly, and intelligently plead guilty. See *Boykin v. Alabama*, 395 U.S. 238 (1969).

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

(i) Plea Counsel failed to conduct a reasonable investigation and interview witnesses.

Specifically, Plea Counsel failed to have an investigator locate and interview Brandon Swain and obtain exculpatory witness statements despite being aware of such evidence and only after Applicant pled guilty did Plea Counsel file a motion to withdraw guilty plea and submitted to the Court an affidavit of Brandon Swain.

- (ii) Plea Counsel failed to inform Applicant of all available defenses and legal rights. Specifically, Applicant's right to compulsory process of witnesses on Applicant's behalf at a trial whether or not the witness wants to come to court.\

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 Federal Habeas Corpus or Post-Conviction Relief? No.
- (c) Any petition in the Supreme Court of the United States for certiorari other than petitions, if any, already specified in number (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 number (12), list with respect to each petition, motion, or application:

(a) The specific nature thereof:

- i. N/A.

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

- i. N/A.

(c) The disposition thereof:

- i. N/A.

(d) The date of each such disposition:

- i. N/A.

14. Has any ground set forth in number (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 number (14), identify:

(a) The grounds which have been presented:

i. N/A.

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

i. N/A.

16. If any ground set forth in number (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) The grounds for relief presented in this application were not appropriate to raise on Direct Appeal. Post-Conviction Relief is the proper forum and remedy for these allegations.

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

(a) Your plea hearing? Yes.

(b) Your trial? No. Guilty Plea.

(c) Your sentencing? Yes.

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

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

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

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

(i) Melisa W. Gay, 222 West Coleman Blvd., Suite 208 Mt. Pleasant, SC 29464.

(ii) J. Taylor Bell, 1333 Main Street, Suite 510 Columbia, SC 29201.

(b) The proceedings at which each attorney represented you:

(i) Melisa W. Gay as Plea Counsel.

(ii) J. Taylor Bell is representing Applicant on this application for Post-Conviction Relief.

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

Applicant seeks Post-Conviction Relief from his convictions and sentences by requesting a new trial based on ineffective assistance of plea counsel.

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

No.

WHM/0367270
WITNESSES

SC Highway Patrol

AGENCY CASE NUMBER

2020-CHTC20CAD035854

ARREST WARRANT NUMBER

2020A0810600014

DATE OF ARREST

04/11/2020

ACTION OF GRAND JURY

True Bill

John W. Wiers
Foreperson of Grand Jury

11/14/20
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2020-GS-08-02022

The State of South Carolina
County of Berkeley

COURT OF GENERAL SESSIONS
NOVEMBER TERM 2020

THE STATE

VS.

GEORGE RILEY DREHER A.K.A.

George Dreher

W/M



Indictment for

ATTEMPTED MURDER

SC Code: § 16-03-0029

CDR Code: 3410

20 NOV-4 PM 1:32
LEAH GUERRY, CLERK
CLERK OF COURT
BERKELEY COUNTY, SC

FILED

CS

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

INDICTMENT

At a Court of General Sessions, convened November 2020, the Grand Jurors of Berkeley County present upon their oath:

Attempted Murder

That in Berkeley County, South Carolina, on or about April 10, 2020, the Defendant, George Riley Dreher, did, with intent to kill and malice aforethought, attempt to kill Quinn Hayden. This is in violation of Section 16-3-29 of the South Carolina Code of Laws (1976) as amended.

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



WILTON H. MCNEELY
SENIOR ASSISTANT SOLICITOR

WHM/0367269
WITNESSES

Berkeley County Sheriff's Office

B. Kuf 5779

AGENCY CASE NUMBER

2020-04003341

ARREST WARRANT NUMBER

2020A0810200389

DATE OF ARREST

04/11/2020

ACTION OF GRAND JURY

True Bill

John W. Myers
Foreperson of Grand Jury

12/9/20
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2020-GS-08-02020

The State of South Carolina
County of Berkeley

COURT OF GENERAL SESSIONS
DECEMBER TERM 2020

THE STATE

VS.

GEORGE RILEY DREHER A.K.A.
George Dreher

W/M

Indictment for

FAILURE TO STOP FOR BLUE LIGHTS,
RESULTING IN GREAT BODILY INJURY

SC Code: § 56-05-0750(C)(1)
CDR Code: 2397

20 DEC -9 PM 1:38
LEAH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

FILED

COUNTY OF BERKELEY
STATE VS.

GEORGE RILEY DREHER

AKA: George Dreher, George Riley Dreher

Race: White Non-Latino/Caucasian

M Age: 32

DOB: [REDACTED]

Address: [REDACTED]

City, State, Zip: Goose Creek, SC 29445-4427

DL# [REDACTED]

SID# [REDACTED]

Sex:

CASE:

APR 12 2021

LEAH GUERRY DUFFREE
CLERK OF COURT
BERKELEY COUNTY, SC

INDICTMENT/CASE#: 2020-GS-08-02022

A/W: 2020A0810600014

Date of Offense: 04/10/2020

S.C. Code §: 16-03-0029

CDR Code #:

3410

SENTENCE SHEET

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

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

☐ CONVICTED OF or☒ PLEADS

TO: Assault and Battery of a High and Aggravated Nature

In violation of § 16-03-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411

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

ATTEST:

Wilton H. McNeely, Senior Assistant Solicitor SC Bar # 101638

Defendant

Attorney for Defendant

63773
SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____ plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 11 months☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

Recipient: _____

*Fines: _____ \$ _____

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

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

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

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

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

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

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

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

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

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

3% to County (if paid in installments) \$ \$ 3.75TOTAL \$ 128.75☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: C. SanchezCourt Reporter: Denise LauderPresiding Judge: [Signature]Judge Code: 2060Sentence Date: 4/12/21

COUNTY OF BERKELEY

STATE VS.

FILED

INDICTMENT/CASE#: 2020-GS-08-02020A/W: 2020A0810200389Date of Offense: 04/10/2020S.C. Code §: 56-05-0750(C)(1)GEORGE RILEY DREHERAKA: George Dreher, George Riley DreherRace: White Non-Latino/Caucasian

Sex:

APR 12 2021

M Age: 32DOB: [REDACTED]

ASE

CDR Code #: 2397

Address:

LEAH GUERRY DUPREE

City, State, Zip: Goose Creek, SC 29445-4427

CLERK OF COURT

DL#

SID#

BERKELEY COUNTY, SC

SENTENCE SHEET

0-10y

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

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

☐ CONVICTED OF or☒ PLEADSTO: Failure to Stop for Blue Lights - Resulting in Great Bodily InjuryIn violation of § 56-05-0750(C)(1) of the S.C. Code of Laws, bearing CDR Code # 2397☒ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury, (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Wilton H. McNeely, Senior Assistant Solicitor SC Bar # 101638

Defendant

Attorney for Defendant

63773

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$_____; provided that upon the service of _____ days/months/years and or payment of \$_____, plus costs and assessments as applicable*; the balance is suspended with probation for 5 months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2020 GS-08-2022☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

PTUP

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☒

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$_____ Beginning _____

\$_____ Paid to Public Defender Fund

Other: any counseling deemed necessary must take any medication as prescribed no tobacco for violation of non financial condition

☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before any other fees.

Recipient: _____

*Fine: _____ \$

§14-1-206 (Assessments 107.5%) \$

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

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

§56-5-2995 (DUI Assessment) \$12 \$

§56-1-286 (DUI Breath Test) \$25 \$

Proviso (Public Def/Probation) \$500 \$

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

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

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

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

3% to County (if paid in installments) \$ \$

TOTAL \$

Clerk of Court/Deputy Clerk:

Court Reporter: Denise Lauder

Presiding Judge:

Judge Code: 2040Sentence Date: 4/12/21

probation is rolled into the
sentence... the sentence is 2020 GS-08-08

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)
STATE OF SOUTH CAROLINA,)
Plaintiff)
VS.)
GEORGE RILEY DREHER,)
Defendant)

IN THE GENERAL SESSIONS COURT
NINTH JUDICIAL CIRCUIT
CASE NO: 2020GS0802021

**MOTION TO WITHDRAW GUILTY PLEA
BASED ON AFTER-DISCOVERED
EVIDENCE**

2021 APR 20 PM 2:57
CLERK OF COURT
BERKELEY COUNTY, SC

FILED
8/24

COMES NOW THE DEFENDANT, who by and through his undersigned attorney, does hereby move to withdraw his guilty plea entered on April 12, 2021 based on the statement recently provided indicating that a third party is responsible for the injury to the victim in the Assault and Battery of a High and Aggravated Nature charge. The plea was not voluntarily made because it was entered into before this evidence was obtained in his case.

The Defendant moves this court to allow him to withdraw his guilty plea based on after-discovered evidence.

Respectfully submitted,

Melisa W. Gay, Esquire
MELISA W. GAY, LLC
Attorney for the GEORGE RILEY DREHER
222 West Coleman Blvd., Suite 208
Mt. Pleasant, SC 29464
Ph: (843) 388-7907
Fax: (843) 416-8379

Moncks Corner, South Carolina
Dated: April 20, 2021

STATE OF SOUTH CAROLINA)

AFFIDAVIT OF BRANDON M. SWAIN

COUNTY OF BERKELEY)

Case Number: 2020A081600014

I, Brandon Swain, 22 years of age, resident of Berkeley County, South Carolina, do hereby swear that:

I was riding in the SUV driven by George (Lee) Dreher on Friday, April 10, 2020. Seconds before the accident I jerked the steering wheel while sitting in the passenger's seat.

DATED this 17 day of April, 2021.

B.M.S. Swain

Brandon Swain

Address: [REDACTED]

SWORN to before me on this 17th

Day of April, 2021.

Russ H. Henderson (SEAL)

Notary Public for South Carolina

My Commission Expires: 05/12/2021

FILED
2021 APR 20 PM 2:59
LEAH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

STATE OF SOUTH CAROLINA)

COUNTY OF BERKELEY)

STATE OF SOUTH CAROLINA)

Plaintiff)

VS.)

GEORGE RILEY DREHER,)

Defendant)

IN THE GENERAL SESSIONS COURT

NINTH JUDICIAL CIRCUIT

CASE NO: 2020GS0802021

MOTION TO WITHDRAW GUILTY PLEA

COMES NOW THE DEFENDANT, who by and through his undersigned attorney, does hereby move to withdraw his guilty plea entered on April 12, 2021. The Defendant asserts that he was not fully mentally sound at the time of his plea, therefore the plea process was not voluntarily entered in to.

The Defendant moves this court to allow him to withdraw his guilty plea and pursue this charge at a trial.

Respectfully submitted,

Melisa W. Gay, Esquire

MELISA W. GAY, LLC

Attorney for the GEORGE RILEY DREHER

222 West Coleman Blvd., Suite 208

Mt. Pleasant, SC 29464

Ph: (843) 388-7907

Fax: (843) 416-8379

Moncks Corner, South Carolina

Dated: April 16, 2021

STATE OF SOUTH CAROLINA **FILED** IN THE COURT OF GENERAL SESSIONS
 COUNTY OF BERKELEY JUN 22 2021 NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA **ORDER DENYING DEFENDANT'S**
 vs. **MOTIONS TO WITHDRAW GUILTY PLEA**
 CLERK OF COURT
 BERKELEY COUNTY

vs.
 GEORGE RILEY DREHER,
 DEFENDANT.

Arrest Warrant #2020A0810200389

Arrest Warrant #2020A0810600014

Indictment #2020-GS-08-02020

Indictment #2020-GS-08-02022

THIS MATTER CAME BEFORE THE COURT on June 17, 2021, for hearing on the Defendant's two separately filed Motions to Withdraw Guilty Plea. After hearing from the attorney for the Defendant, as well as the Assistant Solicitor on behalf of the State, the Court has determined that the Defendant's two separately filed Motions to Withdraw Guilty Plea should be denied.

The Court has fully considered the facts of this case, the two Motions of the Defendant, and the Response and Memorandum in Opposition filed by the State. Further, the Court has fully considered the transcripts of the two prior plea hearings in this matter, the first on February 18, 2021 when the Defendant's guilty plea was not completed, and then on April 12, 2021 when the Defendant's guilty plea was completed, accepted by the Court, and the Defendant was sentenced. The Court has also considered the alleged after-discovered evidence submitted by the Defendant as attached to the second filed Motion to Withdraw Guilty Plea, specifically the affidavit of Brandon M. Swain. In doing so, the Court has specifically considered the factors relevant to a Rule 29(b) motion for new trial on the basis of after-discovered evidence, to wit: whether the movant has shown that the alleged after-discovered evidence "(1) is such as will probably change the result if a new trial is granted; (2) has been discovered since the trial; (3) could not have been discovered before the trial by the exercise of due diligence; (4) is material to the issue; and (5) is not merely cumulative or

8/10/21

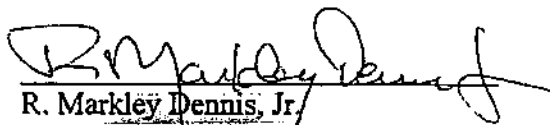
impeaching.” *State v. Harris*, 391 S.C. 539, 544-545, 706 S.E.2d 526, 529 (Ct. App. 2011), citing *State v. Spann*, 334 S.C. 618, 619-20, 513 S.E.2d 98, 99 (1999).

Having considered all of the forgoing, this Court hereby finds that the Defendant was fully competent and of sound mind when he entered his guilty plea on April 12, 2021, and that guilty plea was freely, voluntarily, knowingly, and intelligently entered and accepted by the Court. The Court further finds that the Defendant has failed to prove the above listed five factors required for granting a new trial on the basis of after-discovered evidence. Specifically, the evidence submitted is not after-discovered evidence, as it was clearly known to the Defendant prior to the guilty plea on April 12, 2021. The contents of the alleged after-discovered affidavit were expressly discussed by the Defendant with the Court on February 18, 2021. For the foregoing reasons, the Defendant’s Motions are denied.

THEREFORE, IT IS HEREBY ORDERED, that the Defendant’s two separately filed Motions to Withdraw Guilty Plea are hereby DENIED.

IT IS SO ORDERED.




 R. Markley Dennis, Jr.
 PRESIDING JUDGE
 NINTH JUDICIAL CIRCUIT

Dated: June 22, 2021
 Moncks Corner, South Carolina

NOTICE OF INTENT TO APPEAL
 STATE OF SOUTH CAROLINA
 IN THE SOUTH CAROLINA COURT OF APPEALS
 APPEAL FROM BERKELEY COUNTY
 HONORABLE WILLIAM H. SEALS JR.
 INDICTMENT NOS.: 2020-GS-08-02020;
 2020-GS-08-02022
 ARREST WARRANT: 2020A810200389; 2020A0810600014

RECEIVED
 JUL 12 2021
 SC Court of Appeals

STATE OF SOUTH CAROLINA, RESPONDENT

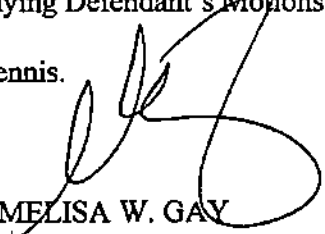
VS.

GEORGE RILEY DREHER

NOTICE OF APPEAL

2021 JUN 29 PM 12:42
 CLERK OF COURT
 BERKELEY COUNTY, SC

The Defendant appeals the Order Denying Defendant's Motions to Withdraw Guilty Plea dated June 22, 2021 signed by R. Markley Dennis.


 MELISA W. GAY
 ATTORNEY FOR APPELLANT
 P.O. BOX 2144
 MT. PLEASANT, SC 29465
 ATTORNEY FOR GEORGE RILEY DREHER

Other counsel of record are:
 Wilton H. McNeely
 Assistant Solicitor
 Ninth Circuit Solicitor's Office
 300-B California Avenue
 Moncks Corner, SC 29461

FORM 7
PROOF OF SERVICE OF A NOTICE OF APPEAL

NOTICE OF INTENT TO APPEAL
STATE OF SOUTH CAROLINA
IN THE SOUTH CAROLINA COURT OF APPEALS
APPEAL FROM BERKELEY COUNTY
HONORABLE WILLIAM H. SEALS JR.
INDICTMENT NOS.: 2020-GS-08-02020;
2020-GS-08-02022

ARREST WARRANT: 2020A810200389; 2020A0810600014

RECEIVED

JUL 12 2021

SC Court of Appeals

STATE OF
SOUTH CAROLINA,

Respondent,

v.

GEORGE RILEY DREHER,

Appellant.

CLERK OF COURT
BERKELEY COUNTY, SC

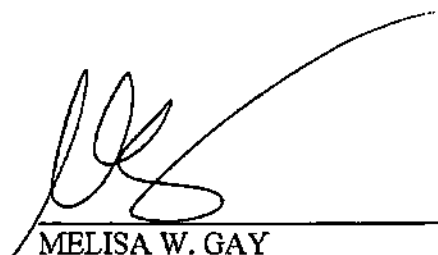
2021 JUN 29 PM 12:43

FILED
844

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Assistant Solicitor Wilton McNeely by placing a copy of this Notice by hand to the solicitor on June 29, 2021.

Wilton McNeely
300 California Ave
Moncks Corner, SC 29461



MELISA W. GAY
ATTORNEY FOR APPELLANT
222 WEST COLEMAN BLVD
SUITE 208
MT PLEASANT, SC 29464
ATTORNEY FOR GEORGE RILEY DREHER

2021 JUN 29 PM 12:43
J. JERRY DUFFEE
CLERK OF COURT
BERKELEY COUNTY, SC

2021 JUN 29 PM 12:43
J. JERRY DUFFEE
CLERK OF COURT
BERKELEY COUNTY, SC

AMENDED NOTICE OF INTENT TO APPEAL
 STATE OF SOUTH CAROLINA
 IN THE SOUTH CAROLINA COURT OF APPEALS
 APPEAL FROM BERKELEY COUNTY
 HONORABLE R. MARKLEY DENNIS, JR.
 INDICTMENT NOS.: 2020-GS-08-02020; 2020-GS-08-02022
 ARREST WARRANT: 2020A810200389; 2020A0810600014

RECEIVED
 JUL 12 2021
 SC Court of Appeals

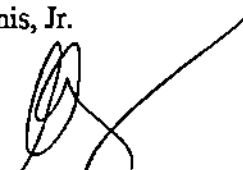
STATE OF SOUTH CAROLINA, RESPONDENT

VS.

GEORGE RILEY DREHER

AMENDED NOTICE OF APPEAL

The Defendant appeals the Order Denying Defendant's Motions to Withdraw Guilty Plea dated June 22, 2021 signed by R. Markley Dennis, Jr.



 MELISA W. GAY
 ATTORNEY FOR APPELLANT
 222 W. COLEMAN BLVD., SUITE 208
 MT. PLEASANT, SC 29464
 ATTORNEY FOR GEORGE RILEY DREHER

Other counsel of record are:
 Wilton H. McNeely
 Assistant Solicitor
 Ninth Circuit Solicitor's Office
 300-B California Avenue
 Moncks Corner, SC 29461

2021 JUL -8 PM 12:35
 LEAH JOSEPH DUBOIS
 CLERK OF COURT
 BERKELEY COUNTY, SC

J.H.
 FILED

FORM 7
PROOF OF SERVICE OF AN AMENDED NOTICE OF APPEAL

AMENDED NOTICE OF INTENT TO APPEAL

STATE OF SOUTH CAROLINA

IN THE SOUTH CAROLINA COURT OF APPEALS

APPEAL FROM BERKELEY COUNTY

HONORABLE R. MARKLEY DENNIS, JR.

INDICTMENT NOS.: 2020-GS-08-02020; 2020-GS-08-02022

ARREST WARRANT: 2020A810200389; 2020A0810600014

RECEIVED
JUL 12 2021
SC Court of Appeals

STATE OF
SOUTH CAROLINA,

Respondent,

v.

GEORGE RILEY DREHER,

Appellant.

FILED
2021 JUL -8 PM 12:35
LEAH GLENNY DUPRE
CLERK OF COURT
BERKELEY COUNTY, SC

PROOF OF SERVICE

I certify that I have served the Amended Notice of Appeal on Assistant Solicitor Wilton H. McNeely by placing a copy of this Notice by hand to the solicitor on July 8, 2021.

Wilton H. McNeely
300 California Ave
Moncks Corner, SC 29461



MELISA W. GAY
ATTORNEY FOR APPELLANT
222 WEST COLEMAN BLVD, SUITE 208
MT PLEASANT, SC 29464
ATTORNEY FOR GEORGE RILEY DREHER

FILED
2021 JUL -8 PM 12:35
LEAH ALLEGAY DUPPEL
CLERK OF COURT
BERKELEY COUNTY, SC

STATE OF SOUTH CAROLINA **FILED** IN THE COURT OF GENERAL SESSIONS
 COUNTY OF BERKELEY JUN 22 2021 NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA **ORDER DENYING DEFENDANT'S**
 VS. **MOTIONS TO WITHDRAW GUILTY PLEA**
 CLERK OF COURT
 BERKELEY COUNTY

GEORGE RILEY DREHER,
 DEFENDANT.

Arrest Warrant #2020A0810200389

Arrest Warrant #2020A0810600014

Indictment #2020-GS-08-02020

Indictment #2020-GS-08-02022

SC Court of Appeals
 JUL 12 2021

RECEIVED

THIS MATTER CAME BEFORE THE COURT on June 17, 2021, for hearing on the Defendant's two separately filed Motions to Withdraw Guilty Plea. After hearing from the attorney for the Defendant, as well as the Assistant Solicitor on behalf of the State, the Court has determined that the Defendant's two separately filed Motions to Withdraw Guilty Plea should be denied.

The Court has fully considered the facts of this case, the two Motions of the Defendant, and the Response and Memorandum in Opposition filed by the State. Further, the Court has fully considered the transcripts of the two prior plea hearings in this matter, the first on February 18, 2021 when the Defendant's guilty plea was not completed, and then on April 12, 2021 when the Defendant's guilty plea was completed, accepted by the Court, and the Defendant was sentenced. The Court has also considered the alleged after-discovered evidence submitted by the Defendant as attached to the second filed Motion to Withdraw Guilty Plea, specifically the affidavit of Brandon M. Swain. In doing so, the Court has specifically considered the factors relevant to a Rule 29(b) motion for new trial on the basis of after-discovered evidence, to wit: whether the movant has shown that the alleged after-discovered evidence "(1) is such as will probably change the result if a new trial is granted; (2) has been discovered since the trial; (3) could not have been discovered before the trial by the exercise of due diligence; (4) is material to the issue; and (5) is not merely cumulative or

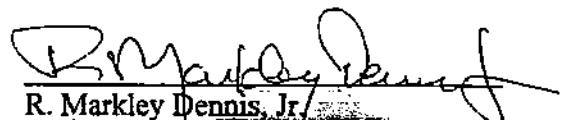
2021 1

impeaching." *State v. Harris*, 391 S.C. 539, 544-545, 706 S.E.2d 526, 529 (Ct. App. 2011), citing *State v. Spann*, 334 S.C. 618, 619-20, 513 S.E.2d 98, 99 (1999).

Having considered all of the forgoing, this Court hereby finds that the Defendant was fully competent and of sound mind when he entered his guilty plea on April 12, 2021, and that guilty plea was freely, voluntarily, knowingly, and intelligently entered and accepted by the Court. The Court further finds that the Defendant has failed to prove the above listed five factors required for granting a new trial on the basis of after-discovered evidence. Specifically, the evidence submitted is not after-discovered evidence, as it was clearly known to the Defendant prior to the guilty plea on April 12, 2021. The contents of the alleged after-discovered affidavit were expressly discussed by the Defendant with the Court on February 18, 2021. For the foregoing reasons, the Defendant's Motions are denied.

THEREFORE, IT IS HEREBY ORDERED, that the Defendant's two separately filed Motions to Withdraw Guilty Plea are hereby DENIED.

IT IS SO ORDERED.


R. Markley Dennis, Jr.
PRESIDING JUDGE
NINTH JUDICIAL CIRCUIT

Dated: June 22, 2021
Moncks Corner, South Carolina

The South Carolina Court of Appeals

The State, Respondent,

v.

George Riley Dreher, Appellant.

Appellate Case No. 2021-000753

The Honorable R. Markley Dennis, Jr.

Berkeley County

Trial Court Case No. 2020GS0802020, 2020GS0802022

ORDER

It appears that Appellant, with full understanding of all possible consequences of this action and with agreement of counsel, wishes to withdraw and dismiss this matter. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

FOR THE COURT

BY V. Claire Allen
CLERK

Columbia, South Carolina

cc:

George Riley Dreher, 00334165

Alan McCrory Wilson, Esquire

William M. Blitch, Jr., Esquire

Taylor Davis Gilliam, Esquire

FILED
May 03 2022

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

I, George Riley Dreher, 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.

George Dreher

Sworn to and subscribed before me this 28th
Day of June, 2022.

Virginia Robinson
Notary Public

My Commission Expires: April 21, 2031



STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

GEORGE RILEY DREHER

Plaintiff(s)

vs.

STATE OF SOUTH CAROLINA

Defendant(s)

Submitted By: J. Taylor Bell

Address: 1333 Main Street, Suite 510 Columbia, SC 29201

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2022-CP-08-02034

APPLICATION FOR
POST-CONVICTION RELIEF

SC Bar #: 100022

Telephone #: (803) 200-2000

Fax #: (803) 808-2240

Other:

E-mail: taylor@jeffcoatfirm.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filed out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

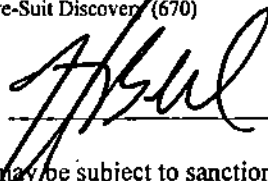
DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

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

NATURE OF ACTION (Check One Box Below)

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

Submitting Party Signature: 

Date: 8/21/2022

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



78

**THE
JEFFCOAT
FIRM**Post Office Box 11885
Columbia, SC 29211(803) 200-2000
(803) 808-2240SCInjuryLawFirm.com
CarolinaDefenseLawyers.com

August 21, 2022

Via Hand-DeliveryLeah Guerry Dupree
Berkeley County Clerk of Court
P.O. Box 219
Moncks Corner, SC 29461**2022-CP-08-02034****Re: George Riley Dreher v. State of South Carolina
APPLICATION FOR POST-CONVICTION RELIEF**

Dear Ms. Dupree

Please be advised that George Riley Dreher has retained J. Taylor Bell of The Jeffcoat Firm for legal representation on a Post-Conviction Relief action. I have enclosed an original and one copy of Mr. Dreher's Application for Post-Conviction Relief.

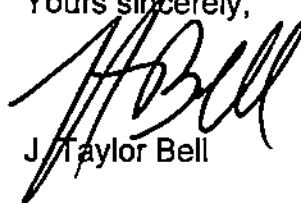
I have also enclosed the following attachments with the PCR application: (1) Indictments, (2) Sentencing sheets, (3) Motion to withdraw guilty plea based on after-discovered evidence, (4) Motion to withdraw guilty plea, (5) Order denying defendant's motions to withdraw guilty plea, (6) Notice of appeal, (7) Amended notice of appeal, and (8) Order dismissing appeal. I would greatly appreciate you filing the enclosed application and returning the clocked-in copy to me.

Please forward all future correspondence to this office. Thank you for your assistance in this matter.

If you have any questions or concerns, please do not hesitate to contact

With best regards, I am,

Yours sincerely,


J. Taylor BellLEAH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

2022 AUG 24 PM 12:11

FILED

enclosures (noted above)

cc: George Dreher



STATE OF SOUTH CAROLINA
COUNTY OF BERKLEY

George Riley Dreher, #334165,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2022-CP-08-02034

RETURN
(Counsel Retained)

LEAH GUERRY DUPRE
CLERK OF COURT
BERKELEY COUNTY, SC

2023 OCT -5 PM 2:26

FILED

In response to George Riley Dreher's (Applicant's) application for post-conviction relief (PCR) filed on August 24, 2022, Respondent makes the following return¹:

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving an active twelve-year sentence. In November 2020, the Berkley County Grand Jury indicted Applicant for attempted murder (2020-GS-08-02022), and further indicted Applicant in December 2020 for failure to stop for blue lights, resulting in great bodily injury (2020-GS-08-02020). The charges arose from an incident on April 10, 2020, when Applicant disregarded police's attempted traffic stop and led police on a high-speed chase. During the high-speed chase, Applicant struck a police officer with his vehicle. Applicant eventually crashed his vehicle and was arrested on scene.

On February 18, 2021, Applicant proceeded to a plea hearing before the Honorable R. Markley Dennis, Jr. However, Applicant failed to admit guilt, which concluded the hearing. On

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

April 12, 2021, Applicant appeared again before Judge Dennis and pled guilty to failure to stop for a blue light and, on the attempted murder charge, the lesser-included offense of assault and battery of a high and aggravated nature. Melisa W. Gay, Esquire, represented Applicant, and Senior Assistant Solicitor Wilton H. McNeely represented the State. Judge Dennis sentenced Applicant consecutively to twelve years for assault and battery; and ten years, suspended upon five years' probation, for failure to stop for a blue light.

On April 20, 2021, Applicant filed a motion to withdraw his guilty plea based on after-discovered evidence. On April 21, 2021, Applicant filed another motion to withdraw his guilty plea. On June 22, 2021, Judge Dennis issued an order denying both motions.

Applicant filed a timely notice of appeal. Appellate Defender Taylor D. Gilliam perfected the appeal by filing an Anders² brief. The South Carolina Court of Appeals dismissed the appeal pursuant to Anders. The remittitur was sent June 9, 2022.

CURRENT PCR APPLICATION

On August 24, 2022, Applicant filed this PCR application alleging the following:

1. Ineffective assistance of counsel/Involuntary guilty plea:
 - a. Counsel failed to investigate and interview witnesses, specifically Brandon Swain, and "only after Applicant pled guilty did Plea Counsel file a motion to withdraw guilty plea and submitted to the Court an affidavit of Brandon Swain."
 - b. Counsel failed to inform Applicant of all available defenses and legal rights, specifically Applicant's right to compel witnesses to court.

As for requested relief, Applicant requests a new trial. Attached to this return and incorporated by reference are the Berkley County Clerk of Court records regarding the subject conviction; Applicant's records from the South Carolina Department of Corrections; Applicant's plea hearing

² 386 U.S. 738, 875 S.Ct. 1396 (1967).

transcripts; and Applicant's records from his current PCR application.

INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant alleges plea counsel was ineffective for not fully investigating his case and properly advising him of his legal rights and defenses. To establish ineffective assistance of counsel, Applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) Applicant sustained prejudice because of counsel's deficient performance. Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). "The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases." Watson v. State, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). To establish prejudice, Applicant must prove "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Sixth Amendment right to counsel also applies to a defendant entering a guilty plea. Hill v. Lockhart, 474 U.S. 52 (1985). When reviewing a guilty plea, the Strickland deficiency prong remains unchanged—Applicant must show that counsel's representation fell below an objective standard of reasonableness. Hill, 474 U.S. at 58–59. To show prejudice, Applicant must show a reasonable probability exists "that, but for counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial." Id. at 59.

The Due Process Clause requires that guilty pleas are entered into voluntarily, knowingly, and intelligently. Boykin v. Alabama, 395 U.S. 238 (1969); Pittman v. State, 337 S.C. 597, 524 S.E.2d 623 (1999). To be intelligent, a plea must be made by a mentally competent defendant who understands both the charges against him and the consequences of his plea. Brady v. United States, 397 U.S. 742, 748 (1970). To be voluntary, a plea must be free of threats or other coercion that

would impermissibly distort the defendant's choice. Id. at 755. Before a court can accept a guilty plea, the defendant must be advised of the constitutional rights he is waiving, including the right to a jury trial, the right to confront one's accusers, and the privilege against self-incrimination. Boykin, 395 U.S. at 243. Additionally, the defendant "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman, 337 S.C. at 599. In determining whether a plea was voluntary, the reviewing court must consider the entire record, including the transcript of the guilty plea. Harres v. Leeke, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

"Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual . . . , a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed." Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007). Indeed, admissions made during a guilty plea should be considered conclusive unless an applicant presents valid reasons why he should be allowed to depart from the truth of his statements." Id. at 137-38, 654 S.E.2d at 874. An applicant who enters a plea on the advice of counsel may "only attack voluntary, knowing and intelligent character of the plea by showing that plea counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the [applicant] would not have pled guilty, but would have insisted on going to trial." Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). Surmounting Strickland's high bar is not easy, and the societal interest in finality has "special force with respect to convictions based on guilty pleas." Lee, 582 U.S. ___, 137 S. Ct. at 1967.

"Counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." Strickland, 466 U.S. at 691. Defense counsel will not be deficient if they conduct "a reasonable investigation, including interviewing potential

witnesses when it is reasonable to do so.” Edwards v. State, 392 S.C. 449, 457, 710 S.E.2d 60, 65 (2011). However, “[f]ailure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result.” Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998). Defense counsel is also responsible for informing “a defendant of the advantages and disadvantages of a plea agreement and the attendant statutory and constitutional rights that a guilty plea would forego.” Libretti v. U.S., 516 U.S. 29, 50-51 (1995). When defense counsel allegedly fails to advise the defendant of a potential affirmative defense, “the resolution of the ‘prejudice’ inquiry will depend largely on whether the affirmative defense likely would have succeeded at trial.” Hill, 474 U.S. at 59.

The record does not refute or disprove Applicant’s allegations; therefore, the State requests an evidentiary hearing. 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”).

ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY PROCESS

Respondent request Applicant specify any claims he intends to raise at the evidentiary hearing in advance of the hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP.

Pursuant to section 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, Respondent requests all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness

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

ALL OTHER ALLEGATIONS

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

CONCLUSION

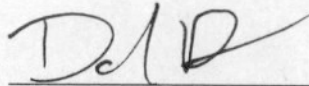
WHEREFORE, the State respectfully requests this Court convene an evidentiary hearing be held on Applicant's allegations of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

DANIELLE DIXON
Assistant Attorney General

By: 

Danielle Dixon
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

October 3, 2023

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

George Riley Dreher, #334165

Applicant,

vs

State of South Carolina,

Respondent,

IN THE COURT OF COMMON PLEAS

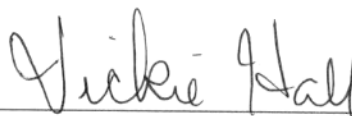
2022-CP-08-02034

CERTIFICATE OF SERVICE BY MAIL

FILED
 2023 OCT -5 PM 2:26
 LEAH GUERRY DUPRE
 CLERK OF COURT
 BERKELEY COUNTY, SC

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

Jacob Taylor Bell, Esquire
1333 Main Street, Suite 510
Columbia, SC 29201

DATED this 3rd day of October, 2023.


Vickie Hall, Legal Assistant
 For Respondent



State of South Carolina	)	
	)	In the Circuit Court
County of Berkeley	)	
	)	
George R. Dreher,	)	
	)	
Plaintiff,	)	2022-CP-08-2034
	)	
versus	)	
	)	
State of South Carolina,	)	
	)	
Defendant.	)	
_____	)	

Berkeley County Courthouse
March 11, 2024

TRANSCRIPT OF PCR HEARING

B E F O R E

The Honorable Walton McLeod

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

J. Taylor Bell, Esquire
Attorney for Plaintiff, George R. Dreher

Danielle Dixon, SC Assistant Attorney General
Attorney for the State of South Carolina

FOR COPIES CONTACT: Melissa R. Singletary
Certified Verbatim Court Reporter
msingletary@sccourts.org

I N D E X

<u>WITNESS (ES)</u>	<u>PAGE</u>
George R. Dreher	
Examination by Mr. Bell	5
Cross Examination by Ms. Dixon	21
Melisa W. Gay	
Examination by Ms. Dixon	32
Cross Examination by Mr. Bell	44
Certificate of Service	88

E X H I B I T S

Plaintiff's Exhibit Number One
Plaintiff's Exhibit Number Two
Plaintiff's Exhibit Number Three

1 MS. DIXON: This is the case of George Riley
2 Dreher v. State docket number 2022-CP-08-2034. Mr. Dreher
3 is currently serving an active 12 year sentence. In
4 November of 2020, he was indicted by the Berkeley County
5 grand jury for attempted murder, and then in December 2020,
6 for failure to stop for blue lights resulting in great
7 bodily injury. Those are indictment numbers 2020-GS-08-2022
8 and 2020. These charges arose from an April 10th incident -
9 -- April 10 2020 incident when he failed to stop for blue
10 lights. It resulted in a high speed chase and during the
11 chase he struck an officer with his vehicle. Eventually
12 crashed his vehicle and was arrested on the scene. On
13 February 18, 2021, he appeared before Judge Dennis to plead
14 guilty. However, during that hearing, Your Honor, he
15 basically asserted that he was not guilty of the I believe
16 they were doing the lesser included offense ABHAN and he
17 basically asserted during that hearing that his passenger
18 Brandon Swain had jerked the steering wheel. So at that
19 time, Judge Dennis stood down the plea and did not accept
20 it at that time. He reappeared before Judge Dennis on April
21 12th of 2001, and at that time, he did plead guilty. He
22 was represented by Melisa Gay, and then Wilton McNeely
23 represented the state at that plea. He was sentenced to 12
24 years for assault and battery and then a consecutive 10
25 year sentence for the failure to stop for blue light. That

George R. Dreher vs. State of South Carolina

4

1 sentence is suspended upon the service of five years
2 probation. He did their after file a motion to withdraw his
3 guilty plea. Actually, two separate motions. One being on
4 the basis of after discovered evidence in the form of a
5 affidavit signed by Brandon Swain attesting that he had
6 jerked the steering wheel. That motion was denied and he
7 filed a notice of appeal. It was perfected by Taylor
8 Gilliam through the filing of an Anders brief that was
9 dismissed by the court of appeals pursuant to Anders and
10 the remittitur was sent in June 9, 2022. He then timely
11 filed this current PCR application and, Your Honor, our
12 understanding today is the primary issue that he's going
13 forward on is that counsel was ineffective in her
14 investigation of Brandon Swain and her procuring him to
15 trial and also that he did not understand that he could
16 have a trial and subpoena Mr. Swain.

17 THE COURT: Okay. Mr. Bell are you ready to
18 proceed, sir?

19 MR. BELL: I am, Your Honor. I would make one
20 correction. That was not dismissed by way of an Anders
21 brief. That appeal was withdrawn voluntarily by Mr. Dreher
22 based on conversations that the proper venue for the appeal
23 was actually the post conviction relief proceedings because
24 it was not the proper venue to make that argument on
25 appeal. So it was actually withdrawn by him. So it would

1 not go through that process and we would be here for post
2 conviction relief on this.

3 THE COURT: Okay. Mr. Bell you can call your first
4 witness. Or if you want to make an introductory remarks
5 that's fine.

6 MR. BELL: I don't, Your Honor, it's listed here
7 in my --- in my application, my client's application, so I
8 would call to the witness stand, George Dreher.

9 CLERK: Do you solemnly swear or affirm the
10 testimony you give will be the truth, the whole truth and
11 nothing but the truth so help you God?

12 MR. DREHER: Yes ma'am.

13 CLERK: Thank you, you may be seated. State your
14 full name and spell your last name for the record.

15 MR. DREHER: George Riley Dreher, D-R-E-H-E-R.

16 Mr. George Dreher - Examination by Mr. Bell

17 Q: Mr. Dreher, how old are you?

18 A: 35.

19 Q: And where are you from Mr. Dreher?

20 A: Charleston.

21 Q: And where are you currently detained?

22 A: Turbeville.

23 Q: Turbeville. Okay. And what are you currently detained
24 in Turbeville for?

25 A: Assault and Battery, high and aggravated nature and

1 invading blue lights.

2 Q: Okay, failure to stop for a blue light?

3 A: Yes sir.

4 Q: Okay. And were you represented by counsel on those
5 charges previously? Were you represented by an attorney?

6 A: Yes sir.

7 Q: Okay, who was your attorney?

8 A: Melisa Gay.

9 Q: Okay, let's talk about when --- approximately when
10 did you hire Ms. Gay or your family hire Ms. Gay to
11 represent you?

12 A: I would say maybe around mid to the end of April or
13 the beginning of May of 2020.

14 Q: And did you ever get bond in this matter?

15 A: Yes, sir.

16 Q: Okay. Were you detained at the detention center
17 though for a majority of your time?

18 A: Yes, sir.

19 Q: Okay. And during this time, this is 2020. Correct?
20 And the virus hit the United States and the world in
21 December of 2020. Approximately, is that correct?

22 A: Yes, sir.

23 Q: And during this time, were there communication
24 restrictions at the detention center with your attorney at
25 all?

1 A: Yes, sir. I only got to see her once, maybe twice.

2 Q: Okay. How were those communications with your
3 attorney?

4 A: I would say not good.

5 Q: Well, I'm talking about the mode of communication.
6 Did you have face down sit conversations with your attorney
7 where you got to sit face to face? Or were they over the
8 telephone? Or were you subjected mostly to communications
9 via text message or emails?

10 A: Mostly, over the phone, phone text on the tablet,

11 Q: Okay, text on the tablet. So are you assigned a
12 tablet?

13 A: No. They got one tablet for the whole pod.

14 Q: Okay. Alright. And you have an account or you had an
15 account, tablet?

16 A: Yes sir.

17 Q: That you could get messages if you pay for those
18 messages or?

19 A: Yes sir.

20 Q: So I want to talk about February 18, 2021. And just
21 to jog your memory, that is your first time that you
22 appeared in front of Judge Dennis? And it appears --- was
23 that a virtual hearing that you had?

24 A: Yes, sir.

25 Q: Okay. And on that virtual hearing, you are scheduled

George R. Dreher vs. State of South Carolina

8

1 to plead guilty to assault and battery high and aggravated
2 nature. And you were scheduled to plead guilty to failure
3 to stop for a blue light causing great bodily injury,
4 correct?

5 A: Yes, sir.

6 Q: Alright. And Judge Dennis went through a series of
7 questions about pleading guilty. He asked you a series of
8 questions regarding whether or not you were pleading guilty
9 freely and voluntarily whether or not you understood what
10 you were doing. Do you recall those series of questions?

11 A: Yes, sir. Vaguely.

12 Q: Okay. Do you recall that the government, being the
13 Solicitor's Office, the assistant solicitor assigned to the
14 case, gave a synopsis of the factual recitation of the
15 events that occurred that led to your arrest?

16 A: I don't understand what you're asking me. You used
17 too big of words.

18 Q: Did the solicitor ask – Did the solicitor say what he
19 believed happened involving a high speed chase and an
20 injury to an officer to the judge on that plea?

21 A: I really don't recall.

22 Q: Alright, so I'm going to show you --- I'm going to
23 mark this as petitioners exhibit one. I apologize.

24 MADAM COURT REPORTER: You're fine. Is right here
25 okay?

1 (Plaintiff's Exhibit Number 1 was marked)

2 MR. BELL: Yes. Your Honor, what I'm marking is
3 transcript of February 2021. If I may approach the witness,
4 Your Honor?

5 THE COURT: Yes sir.

6 Q: Alright, Mr. Dreher, I'm going to have you briefly
7 read pages just to jog your memory and Mr. McNeely was the
8 assistant solicitor so it reads beforehand. I want you to
9 just briefly read here to yourself, you don't have to read
10 it out loud. Just to jog your memory about what Mr. McNeely
11 said there. You can flip it. Do you recall this being said
12 at any point in time?

13 A: Sir, it was hard to hear on the screen. I remember
14 being in the court but I don't recall everything verbatim.

15 Q: Did essentially he say that you intentionally hit the
16 officer that was the victim in this case with the vehicle?

17 A: That's what they're trying to say.

18 Q: Okay. So when you understood that to be what was
19 said. I'm gonna ask you, did you tell the court all besides
20 intentionally swerving I would have never intentionally
21 swerved to hit an officer?

22 A: I do recall saying that, sir.

23 Q: You told the court that and that was on April 12th of
24 --- I'm sorry, February 18th of 2021. Is that correct?

25 A: Correct.

George R. Dreher vs. State of South Carolina

10

1 Q: And does that accurately reflect what you've told the
2 Court? There I have it underlined.

3 A: Correct.

4 Q: I would move to introduce transcripts from the
5 February 18th, 2021 plea hearing.

6 THE COURT: Without objection?

7 MS. DIXON: Yeah, no objection.

8 THE COURT: So admitted for the purpose of this
9 hearing.

10 MR. BELL: Thank you. I may reference that, Your
11 Honor.

12 THE COURT: I have it on record for appeal. I'm
13 looking at it.

14 MR. BELL: I assumed that the Court had that.

15 THE COURT: That's smart to make it an exhibit for
16 the hearing too though.

17 Q: So what essentially what did Judge Dennis do at that
18 point, after you told the court that?

19 A: He told me that he had to stand down and he couldn't
20 continue with this hearing.

21 Q: Alright. Now, that was on February 18, of 2021. And
22 at that point in time, you were taken back to the detention
23 center, where you were housed. Correct.

24 A: Correct. Yes sir.

25 Q: And did you have any further communications with your

1 attorney at the time regarding this case, after that
2 hearing?

3 A: I tried to talk to her, sir, but she didn't really
4 want to talk to me.

5 Q: Okay. So, at any point in time, did you tell your
6 attorney prior to the February 8th 2021 court date that an
7 individual, who was the passenger, by the name of Brandon
8 Swain had grabbed the steering wheel and jerked it which
9 caused the vehicle to strike the officer who was the victim
10 in your assault and battery of a high and aggravated nature
11 case?

12 A: Can you repeat that question one more time please?

13 Q: Yes. At any point, in time, prior to you going in
14 front of Judge Dennis, on the February 18, of 2021 court
15 date in which the very first time which you appeared
16 virtually prior to that date, at any point in time, did you
17 tell your attorney Ms. Gay that Brandon Swain had grabbed
18 the steering wheel and jerked it which caused the vehicle
19 to strike the officer who was the victim in the assault and
20 battery of a high and aggravated case?

21 A: Yes, sir.

22 Q: Okay, So, after that hearing date, did you maintain
23 that position that Brandon Swain had jerked the steering
24 wheel causing you to strike the officer who was the victim
25 in that case?

George R. Dreher vs. State of South Carolina

12

1 A: Yes, sir.

2 Q: Okay. Are you aware of, at any point in time, that
3 Ms. Gay asked you --- During that conversation, did Ms. Gay
4 ever asked you where she could find Brandon Swain?

5 A: She said that she had a private investigator but they
6 went and looked for him and they couldn't find him, that
7 she believed that he fled the country. And I tried to
8 proceed to tell her that he didn't have some funds to flee
9 the country that I could get somebody to show her the woods
10 that he's staying in Boulder Bluff but she wouldn't listen
11 to what I was trying to tell her.

12 Q: So the words that you were staying in ...

13 A: No the woods that Brandon was staying in.

14 Q: I apologize. The woods that he stayed in. Where
15 would that be? Could you describe that with any
16 particularity that an individual if you gave that
17 information to should be able to go to?

18 A: You could go into the Boulder Bluff entrance by the
19 Circle K, you could go straight to the stop sign. You would
20 take a left at the stop sign, you would go down to the stop
21 sign where the school would be on your right hand side and
22 you would make that left. And there's woods back behind the
23 house to the left. And that's the field, the woods that he
24 was staying in in a tent at that time.

25 Q: Was that a sort of campground?

1 A: Yes.

2 Q: People that don't have a place to stay?

3 A: Yes sir.

4 Q: Okay. And so that's a known campground area?

5 A: Yes sir.

6 Q: Okay. But you could describe where that location is.
7 And you told Ms. Gay, you could tell her where he was?

8 A: Yes sir.

9 Q: Okay. Are you aware of whether or not she sent anyone
10 to those campgrounds to find Brandon Swain?

11 A: From what she told me she sent somebody to his
12 father's house and like I tried to tell her he was not
13 staying at his father's house.

14 Q: Okay. Alright. So during your --- during the pendency
15 of your case, prior to your first appearance in front of
16 Judge Dennis or your second appearance, which I'll get to
17 in a little bit. When I say appearance, I mean guilty
18 pleas are scheduled for guilty pleas. Did Ms. Gay ever
19 tell you that she has the ability to issue a subpoena with
20 the courts power and direct Berkeley County Sheriff's
21 Department to bring Brandon Swain to the court forcefully
22 against his will and sit in the witness chair?

23 A: No, sir.

24 Q: Okay. Did you firmly believe that Brandon Swain would
25 tell the truth and testify that he grabbed the steering

1 wheel and jerked it which caused the vehicle to strike the
2 officer in this case?

3 MS. DIXON: Object to speculation.

4 THE COURT: Why don't you rephrase the question,
5 Mr. Bell.

6 Q: Alright. I'm going to try and see if I can set the
7 question up in a better manner, Your Honor. Were you
8 willing to go to trial on the belief, your belief, that if
9 Brandon Swain were to take that witness stand that he would
10 testify that he grabbed the steering wheel which jerked it
11 and caused you to strike the officer?

12 A: Yes, sir.

13 Q: Now, you went back before the court on April 12 of
14 2021, back in front of Judge Dennis for another guilty
15 plea. Correct?

16 A: Correct. Yes sir.

17 Q: Okay. And at that point in time you went through very
18 similar questions that you did on the February 18, 2021
19 court date, but on this date you pled guilty, is that
20 correct? And you made it through the guilty plea and Judge
21 Dennis sentenced you?

22 A: Yes, sir.

23 Q: Okay. Why did you plead guilty on that date?

24 A: Because I was told by Ms. Gay that I didn't have no
25 choice but to plead guilty.

1 Q: What did that mean to you?

2 A: That I should do as I was told to do. Before I walked
3 in to the court room, Ms. Aguilar I think it is, told me
4 that I should just go through with this and just say yes,
5 and go through with this plea. So I was doing what they
6 told me to do.

7 Q: Who's Ms. Aguilar?

8 A: That sir, I don't know, I know she's the first lady
9 that I seen when I come in this afternoon as well.

10 Q: Okay. But your attorney at the time Ms. Gay told you
11 that you should plead guilty? Is that why you pled guilty?

12 A: Yes sir.

13 Q: Okay. Did she ever at any point in time, again,
14 explain your right to a jury trial and to confront your
15 witnesses and to have the subpoena power of the court to
16 call Brandon Swain to testify?

17 A: I don't remember so, no sir.

18 Q: Now, do you recall what it was --- Let's skip
19 forward. Did you appear back in front of judges at any
20 point in time after that?

21 A: After the second one?

22 Q: Yes.

23 A: After the second plea I went in front of him, on a
24 screen, I believe when I was in Kirkland to try to withdraw
25 the guilty plea.

George R. Dreher vs. State of South Carolina

16

1 Q: Okay. So you are aware that your attorney on April
2 16, of 2021 and April 20th, of 2021 filed two motions to
3 withdraw your guilty plea. Were you aware?

4 A: Yes sir.

5 Q: And you're aware and would you recognize these
6 documents as being documents filed by your attorney?

7 A: Yes, sir.

8 Q: Motion to withdraw guilty plea based on newly
9 discovered evidence, motion to withdraw your guilty plea
10 based on not fully mentally sound at the time. And then Ms.
11 Gay attached an affidavit of a Brandon Swain. Is that
12 correct?

13 A: Yes, sir.

14 Q: This was filed in your case?

15 A: Yes sir.

16 Q: And I forgot to mark this. What he was identifying
17 would be marked as Petitioner's Exhibit Two.

18 **(Plaintiff's Exhibit Two was marked)**

19 Q: So eight days after you pled guilty and were
20 sentenced, there was a motion filed by your attorney based
21 on newly discovered evidence, and you went before Judge
22 Dennis, on June 17 of 2021, for a hearing on that motion.
23 Would that be accurate?

24 A: I believe so.

25 THE COURT: And this was the motions filed so I'd

1 moved to introduced as petitioners exhibit two motions to
2 withdraw guilty pleas including the affidavit of Brandon
3 Swain.

4 MS. DIXON: No objection to the motion as to the
5 affidavit itself we do object to it on the basis of hearsay
6 in terms of evidence on what Brandon Swain would testify.
7 We would contend that he needs to be here to testify.
8 However, we do think it's relevant in terms of assessing
9 whether or not the lawyer should have done something.

10 MR. BELL: I'm not moving for ...

11 THE COURT: Just to be clear, this is the
12 affidavit presented to Judge Dennis?

13 MR. BELL: It was.

14 THE COURT: Then I'll allow for the purpose of
15 this hearing because it's apart of it.

16 MR. BELL: It's laying the foundation of what I --
17 - Thank you.

18 THE COURT: As far as what he meant in the
19 affidavit that would be outside. It says what it says.

20 Q: So you said that you appeared virtually, on June 17,
21 2021 in front of Judge Dennis, correct?

22 A: Yes, sir.

23 Q: Okay. And you're aware that obviously Judge Dennis
24 denied that motion, correct?

25 A: Yes, sir.

George R. Dreher vs. State of South Carolina

18

1 Q: Okay. And he, are you aware that Judge Dennis said
2 that the court that he denied it based on the fact that
3 this evidence was previously known to your defense counsel
4 Ms. Gay at the time?

5 A: I believe so.

6 Q: Alright, if I were to show you the order signed by
7 Judge Dennis, in your case, is that your name at the top
8 George Dreher?

9 A: Yes sir.

10 Q: Do you argue that this fairly and accurately
11 represents the Order signed by Judge Dennis? Would you
12 agree that this is his order?

13 A: Yes, sir.

14 Q: And if I told you that the order specifically states
15 here that specifically evidence submitted is not after
16 discovered evidence as it was clearly known to the
17 defendant prior to the guilty plea on April 12th, 2021. The
18 contents of the alleged after discovered affidavit were
19 expressly discussed by the defendant with the court on
20 February 18th, of 2021. Are you aware that that's why he
21 denied your motion?

22 A: Can you reiterate that question in simple terms
23 please sir?

24 Q: Yes. Are you aware that Judge Dennis, his order that
25 denied your motion for a new trial, while you were being

1 represented by Ms. Gay was denied based on specifically
2 quoted here, statements by or in the order from Judge
3 Dennis. Specifically, the evidence submitted is not after
4 discovered evidence, as it was clearly known to the
5 defendant prior to his guilty plea on April 12th, 2021. The
6 contents of the alleged after discovered affidavit were
7 expressly discussed by the defendant, with the court, on
8 February 18th, of 2020. He's referencing your discussion
9 that you had with him on the record at your very first plea
10 hearing.

11 A: Yes sir.

12 MR. BELL: Mark this as petitioners exhibit three
13 and I would move to introduce Judge Dennis's order.

14 MS. DIXON: No objection.

15 (Plaintiff's Exhibit Number 3)

16 Q: Are you aware of how the affidavit of Brandon Swain
17 was obtained after the guilty plea in April?

18 A: Yes, sir.

19 Q: Okay. Can you tell the Court?

20 A: I believe Brandon signed, wrote the affidavit, and
21 turned it in?

22 Q: Okay. Do you not know?

23 A: I really don't. I do not but I assume ...

24 Q: Okay. But somehow your attorney got that and filed
25 it. And you were incarcerated at that time?

George R. Dreher vs. State of South Carolina

20

1 A: Correct.

2 Q: Okay. You didn't create that affidavit because you
3 were incarcerated, correct?

4 A: Correct.

5 Q: Alright. After you were transported to SCDC in April
6 of 2021, what additional communication did you have with
7 Ms. Gay?

8 A: I spoke with her about the withdrawal of the guilty
9 plea and then I believe I tried to speak with her on the
10 phone one more time after that and like I said she didn't
11 really like to talk to me. So I mean, I don't really recall
12 talking I tried to talk to her but she didn't want to talk
13 to me. So it wasn't a good conversation, I reckon.

14 MR. BELL: Okay. I beg the Court's indulgence,
15 just one moment, Your Honor.

16 Q: And just one more time had you previously told your
17 attorney Ms. Gay, that Brandon Swain had grabbed the
18 steering wheel, which caused the vehicle to strike the
19 officer in this case prior to you going to court?

20 A: Yes sir.

21 Q: Okay.

22 MR. BELL: No further questions.

23 THE COURT: Cross examination.

24 MS. DIXON: May it please the court.

25 **Mr. George Riley Dreher - Cross Examination by Ms. Dixon**

1 Q: Mr. Dreher, on direct I believe you said you pled
2 guilty because you were told by Ms. Gay that you had no
3 choice but to plead guilty? Is that correct? Is that what
4 you testified to?

5 A: Yes ma'am.

6 Q: Do you recall at the plea hearing the judge telling
7 you you had a right to a jury trial?

8 A: I don't recall.

9 Q: You don't recall? If it's in the transcript, would
10 you dispute it?

11 A: Dispute it?

12 Q: Would you disagree with it if it's in the transcript?

13 A: No, it was hard to go through that trial because
14 like, when I would speak they were telling me they couldn't
15 hear me. I couldn't hear them. So it was hard to
16 understand, comprehend what was going on.

17 Q: Alright. And you told the judge at that time that you
18 had discussed defenses with Ms. Gay, correct? For the
19 record that's page 26 on the record of appeal, the second
20 plea transcript.

21 A: Can you say that question one more time please?

22 Q: Did you discuss defenses with Ms. Gay? Possible
23 defenses that you had.

24 A: No there was only the truth.

25 Q: The truth? Okay, and what do you contend happened?

George R. Dreher vs. State of South Carolina

22

1 A: That Brandon snatched the wheel.

2 Q: That Brandon snatched the wheel. Would you consider
3 Brandon cooperative?

4 A: Ma'am, I'm not Brandon. So, I wouldn't know. I don't
5 know.

6 Q: Well do you recall when your family was getting this
7 affidavit from him?

8 A: No I do not.

9 Q: You don't recall communicating with your family?

10 A: Recall communicating ...

11 Q: With your mother and Lisa. Let's see. Lisa Henderson
12 I believe was her name. Do you recall having an iPad to
13 communicate with at the prison?

14 A: An Ipad? No ma'am. I had a tablet.

15 Q: A tablet. Okay, you recall having a tablet to
16 communicate with at the prison?

17 A: Yes, ma'am. Whenever I could get one.

18 Q: Okay and you communicated with your mother while you
19 were there. Correct?

20 A: Yes, ma'am.

21 Q: And I believe you also communicated with Lisa
22 Henderson?

23 A: Yes, ma'am.

24 Q: Who is Lisa Henderson?

25 A: Lisa Henderson is --- Lisa Henderson is a friend

1 of the family.

2 Q: A friend of the family. And did you communicate with
3 her through this tablet about getting an affidavit from
4 Brandon Swain?

5 A: I do not recall ma'am.

6 Q: You don't recall? Sure we can go through some text
7 messages, that are in the records of appeal and see if that
8 helps trigger your recollection. Let's see on April 17
9 2021, you sent a text to Lisa, you've got to explain to him
10 that you will not get in trouble. This is page 131 of the
11 record on appeal. Do you recall this?

12 A: Yes ma'am.

13 Q: You've got to explain to him that he will not get
14 into any trouble. What were you talking about there?

15 A: That he should tell the truth. So that I --- You know
16 what I'm saying, he's not gonna get into trouble as long as
17 he tells the truth. The truth shall set you free. Is all I
18 know.

19 Q: Well when you said you've got to explain to him that
20 he's not gonna get in trouble. What do you think would you
21 --- Do you believe he was cooperating at that point in
22 time?

23 A: Ma'am, I mean, I don't know.

24 Q: Was he willingly signing this affidavit? Was he
25 willingly talking to your lawyer?

George R. Dreher vs. State of South Carolina

24

1 A: Yes he willing signed it.

2 Q: He was. Okay, how about let's see on April 16th,
3 2021, page 130 of the record, Lisa Henderson writes he
4 wants to talk to an attorney. What do you think that meant?

5 A: I don't know ma'am.

6 Q: No idea. Alright. Let's let's see. How about let's
7 see you text your mom April 16th, 2021 9:54 P.M., Lisa just
8 texted me and said he didn't sign. Man look y'all gotta
9 know how to talk explain to him he's not gonna get in
10 trouble just answer my call so I can explain to you over
11 the how to talk to him. What did you mean when you wrote
12 that?

13 THE COURT: What page are you in on the record?

14 MS. DIXON: 130, Your Honor.

15 THE COURT: Thank you.

16 A: That he should tell the truth.

17 Q: What do you mean whatever you said Lisa just text me
18 and said he didn't sign?

19 A: I reckon that Lisa text me and said he didn't sign.
20 Ma'am I don't really, I don't know.

21 Q: Okay. Alright let's see. Alright, let's see April.
22 Right, let's go back to April 14th, 2021, page 93 of the
23 transcript you wrote to your mom call the lawyer asked to
24 speak with --- these are these are not Ms. Gay by the way,
25 about withdrawing my guilty plea. Tell her about Brandon

1 grabbing the wheel and tell Hey, can you get him to sign
2 the affidavit stating that he did see if I should go
3 through signing the guilty plea or not? Do you recall
4 texting that?

5 A: No ma'am.

6 Q: You don't recall texting that? Okay. Moving on to
7 we're going to go to this is page 128, April 16th, 2021.
8 Let's see. One second. Sorry, scratch that. Alright, I've
9 got a text from you to Lisa Henderson, 04/16/2021, why
10 didn't he sign? What happened? What did you mean by that?

11 A: Why didn't he sign? What happened? Why didn't he sign
12 it.

13 Q: Why didn't who sign what?

14 A: Why didn't Brandon sign?

15 Q: Why didn't Brandon sign what?

16 A: We're talking about the affidavit.

17 Q: Okay. So you're asking her why didn't he sign the
18 affidavit?

19 A: Right.

20 Q: And then you send your mom Lisa, just text me. I
21 think we've already gone through this. Let's see, so you
22 don't recall these text messages at all?

23 A: I do not.

24 Q: Alright, and you said Lisa was a friend of yours?

25 A: Yes ma'am.

George R. Dreher vs. State of South Carolina

26

1 Q: And do you recall that she notarized the affidavit?

2 A: I do not.

3 Q: You do not. But if the affidavit has her name on it,
4 you would agree that?

5 A: I wouldn't have much choice.

6 MS. DIXON: Alright. Well, Your Honor, you have
7 the affidavit. You can see who notarized it.

8 THE COURT: Okay.

9 Q: Did you review discovery with your lawyer?

10 A: Can you elaborate?

11 Q: Did your lawyer show you the information that the
12 state had that they were going to use in your case?

13 A: I don't. I do not remember ma'am. I don't recall I
14 don't remember.

15 Q: Alright. One final quick question. So whenever you
16 initially got arrested I believe you told law enforcement
17 that Brandon had a gun in his hand?

18 A: He did have a shotgun.

19 Q: A shotgun. Okay, and tell me about a shotgun. Is it a
20 single hand gun, a double hand gun?

21 A: It's a shotgun.

22 Q: How do you hold it generally?

23 A: Well how was he holding it? Or how do you hold it?

24 Q: Well, how was he holding it?

25 A: He was holding it like this right here.

1 Q: Two hands? Two hands he was holding the shotgun. So
2 you were running from the police because he had two hands
3 holding the shotgun?

4 A: If he threatened my life with a gun in his hand, I
5 would do whatever I have to do to stay alive.

6 Q: And then at what point did he --- What did he do?
7 Explain how he jerked the wheel at that point.

8 A: Well, he threw the gun in the back of the car.

9 Q: Threw the gun. There's a seat there, right?

10 A: A seat where?

11 Q: In the car. He's sitting on a seat, right?

12 A: He's sitting on a seat. But there's ...

13 Q: Help me to understand.

14 A: There's, there's --- there's a gap in between, the
15 gap between the passenger seat and the driver's seat.

16 Q: I gotcha.

17 A: So I guess he threw the gun like this. Mind you now,
18 I'm driving the car. So I'm not like this, looking at him.

19 Q: Okay.

20 A: I'm like this paying attention to where I'm going.

21 Q: So all you know is at one point, he's got two hands
22 on the shotgun and holding it on you. And then somehow he
23 throws it in the back of the seat and jerks the wheel?

24 A: Yeah.

25 Q: Alright.

George R. Dreher vs. State of South Carolina

28

1 MS. DIXON: Nothing further.

2 THE COURT: Redirect?

3 MR. BELL: Briefly.

4 Mr. George Riley Dreher - Redirect by Mr. Bell

5 Q: The text messages. These text messages were from
6 three years ago, correct? Four years ago that she's
7 referencing if they were from 2021?

8 A: Yes, sir.

9 Q: Okay. You remember every single thing that you said
10 back in 2021?

11 A: No, sir.

12 Q: Do you remember what you ate back in 2021?

13 A: No sir.

14 Q: Do you remember who you talked to back in 2021?

15 A: No sir.

16 Q: Do you remember who all was in your dorms in the
17 detention center or whatever facility you were at back in
18 2021?

19 A: No, sir.

20 Q: How many conversations did you have in 2021?

21 A: I'm not sure.

22 Q: You can't tell me because you had that many
23 conversations. Correct?

24 A: Correct.

25 Q: And when you asking about an affidavit, this is

1 something important in your life. Is it not?

2 A: Yes sir.

3 Q: So you should be concerned about it, right?

4 A: Yes, sir.

5 Q: Because it matters?

6 A: Yes, sir.

7 Q: Okay. And it's something that your previous attorney
8 had not done, yet you were having your family reach out ...

9 MS. DIXON: Objection, leading.

10 Q: Were you having your family reach out to another
11 attorney at that point in time for this motion to
12 reconsider?

13 A: Yes, sir.

14 Q: Okay. So you're having your family reach out. So your
15 only means of communication during COVID were immediate
16 communications via text messages which the government had
17 access to you.

18 A: Yes sir.

19 Q: And at any point in time, did you threaten Brandon,
20 about any type of affidavit?

21 A: No, sir.

22 Q: And at any point in time, were you outside of bars in
23 the State Department of Corrections to threatened Brandon?

24 A: No, sir.

25 Q: People like me, I'm dressed in a suit, right?

George R. Dreher vs. State of South Carolina

30

1 A: Yes sir.

2 Q: People like him. He's got a badge. He's got a gun.
3 Where you're from, do people like you and people like
4 Brandon come up to us with suits, guys with badges and just
5 freely talk to them?

6 A: No, sir.

7 Q: Why is that?

8 A: Well, I can't speak for him. But I can speak for
9 myself, sir. I've been beat by the police on numerous
10 occasions. So yeah, I'm scared of ...

11 Q: Anytime that you've had interaction with law
12 enforcement, has it typically been good interactions?

13 A: No.

14 Q: And can you say the same thing about Brandon being
15 from the same type of neighborhood in the same type of
16 background as you and when people that dress nice in suits
17 like me that have combed hair clean, cut shaven and speak
18 the way that I do and articulate my words, do they think
19 that they're there because they're in trouble about
20 something typically?

21 A: Yeah, I would say.

22 Q: And people that show up with guns and people that
23 show up with badges, typically, people from your
24 neighborhoods and the background that you have, they're not
25 there because they want to give you a lollipop, correct?

1 A: Correct.

2 Q: They're there because they either have handcuffs or
3 something to take you away and detain you some time?

4 A: Correct.

5 Q: Okay, and so that's the type of scared that you're
6 talking about ...

7 MS. DIXON: Objection, leading.

8 Q: ... somebody getting in trouble with text messages.

9 THE COURT: Mr. Bell if you could just rephrase
10 that question if you can.

11 Q: What did you mean by scared or won't get in trouble
12 in text messages?

13 A: I mean I'm scared.

14 Q: No, what did you mean by Brandon won't get in trouble
15 make sure he knows he won't get in trouble.

16 A: Because if he tells the truth the truth shall set you
17 free. That's all I know sir.

18 Q: Do you think Brandon was worried that he would get in
19 trouble because he grabbed the steering wheel?

20 A: Yeah.

21 Q: And it could open up him to criminal liability?

22 A: Yes sir.

23 Q: And he doesn't typically talk to prosecutors too
24 often. He doesn't like to talk to police too often?

25 A: No sir.

George R. Dreher vs. State of South Carolina

32

1 Q: Like you?

2 A: Correct.

3 Q: Okay.

4 MR. BELL: No further questions.

5 THE COURT: Any cross?

6 MS. DIXON: Nothing further.

7 THE COURT: Okay, the witness is excused. Or may
8 step down, excuse me. Any other witnesses, Mr. Bell?

9 MR. BELL: No, Your Honor.

10 THE COURT: Any witnesses from the State?

11 MS. DIXON: The State calls Melisa Gay.

12 MS. GAY: I'm a diabetic and I have to drink some
13 of this. I don't want to do it but if I have to, y'all know
14 what I'm doing. Sorry.

15 CLERK: Do you solemnly swear or affirm the
16 testimony you give will be the truth, the whole truth and
17 nothing but the truth, so help you God?

18 MS. GAY: I do.

19 CLERK: Thank you. Please take a seat and state
20 your full name. Spell your last name for the record.

21 MS. GAY: My name is Melisa Gay. It's spelled G-A-
22 Y.

23 **Ms. Melisa Gay - Examination by Ms. Dixon**

24 Q: Ms. Gay, how are you today?

25 A: I'm fine. Thank you.

1 Q: And just tell us briefly how did you get involved in
2 this case. What was your role in this?

3 A: Yes I was retained by the family to represent Mr.
4 Dreher.

5 Q: And as part of that did you request and receive Rule
6 5 discover from the State?

7 A: Yes.

8 Q: And did you review that?

9 A: Yes.

10 Q: And did you review it with Mr. Dreher?

11 A: Yes and his family. Particularly with his mother. I
12 mean, it was during Covid so there were no visits that
13 could happen inside the jail.

14 Q: Okay.

15 A: Everything had to be done through phone or whatever.
16 His mother --- all of our hearings were done virtually. His
17 mother did not have a computer that was worthy or I don't
18 even know if she had a computer at all but she would come
19 to my office and meet with me when we were talking to the,
20 you know, when everything was being virtual and different
21 things were happenings, we would be in my office.

22 Q: I gotcha. And did y'all review any audio recordings
23 of Brandon Swain at that time?

24 A: We recorded everything. There's groups of recordings
25 that were so what I did was I gave that to his mother

George R. Dreher vs. State of South Carolina

34

1 because she had more time than I did obviously, but also
2 it's her son. So there's, you and I looked at those,
3 there's I think the actual DVDs are in the possession of
4 Mr. Bell but they are the containers or the packages for
5 them. The handwriting that's on them is from his mom.

6 Q: Okay.

7 A: Describing to me what it was that was on the back of
8 each one of them. She's describing you know, and one of
9 them says that it's the Swain interview and other things
10 would say this is --- there's one that says this is the
11 actual video of what the event that occurred and things
12 like that. So she took that home and brought it back to me
13 and wrote it on there or looked at it in my office. I think
14 maybe even. She was there. She would come and stay a while
15 to go over and do things. And so that handwriting is not
16 from anybody from my office that I'm aware of. Those
17 videos were seen and looked at. I'm not so sure that Mr.
18 Dreher saw every single bit of that because it's so
19 difficult to see things. But he definitely saw and we
20 talked about the actual video itself of the event and also
21 I am aware that I listened to those videos.

22 Q: Okay. And then in terms of Brandon Swain, were you
23 familiar with him as a potential witness?

24 A: Yes. Mr. Swain was evasive. We couldn't find him. I
25 understand that Mr. Dreher is now saying something about

1 telling me he was living in the woods somewhere but I would
2 have never sent my investigator in the woods looking for
3 anybody. I don't think that's an appropriate way to look
4 for a witness. And if that's going to be the answer here.
5 That didn't happen. I sent -- I had a male investigator who
6 worked for me for a number of years whose passed away now
7 and he went looking for him and went to his fathers house
8 on more than one occasion and we actively looked for him
9 but could not find him.

10 Q: Okay.

11 A: I can't --- I honestly don't know. We called him Mr.
12 Brooks. I honestly don't know if Mr. Brooks went out and
13 went into a field to look for him. But I do know that he
14 did go to the area where he was supposed to be. Of course
15 the dilemma with subpoenaing a witness that doesn't have an
16 address. We were trying to deal with an address that was
17 his father's address. There would not have been any value
18 in trying to personally serve a subpoena on somebody that
19 I couldn't find.

20 Q: And did you attempt more than one occasion to find
21 him?

22 A: Yes.

23 Q: Do you recall about how many?

24 A: I don't recall how many, because, you know, I'm doing
25 certain things and then this man that worked for me at that

1 time. He worked for me for 25 years, he's sort of
2 independently doing things. So he, we may have discussed it
3 and he went out there and looked again. Because if I
4 recall, we knew the area where his father's house was, and
5 we were trying to possibly find him there, by going out
6 there multiple times.

7 Q: Okay.

8 A: But we did not in my professional opinion, this is
9 just my professional opinion, he did not appear to want to
10 be found at that time. That is my professional opinion. We
11 were reaching out doing everything we could to let people
12 know that may have known him to get in touch with me. We --
13 - I knew that he had given a statement to the police. He
14 knew he had given a statement to the police obviously.

15 Q: He being Brandon Swain?

16 A: Yeah. And you know, we were trying to get to the
17 bottom of what it was that Mr. Dreher was telling me.

18 Q: Okay. Can I have this marked as State's Exhibit One.
19 Do you recognize?

20 A: Okay, so this has been --- it has the case number on
21 it, interview with Brandon Swain. And it says 04/24/2021
22 and this would have been Mr. McNeely gave me this. So this
23 would have been a duplicate of what I had.

24 MS. DIXON: A duplicate, okay. Your Honor, we'd
25 like to move this into evidence.

1 MR. BELL: Your Honor, I would make the same
2 objection for the truth of the matter if that's what we're
3 trying to introduce it as.

4 MS. DIXON: No we're trying to ...

5 MR. BELL: If they're trying to establish the
6 statement that he gave a statement to law enforcement the
7 same basis of which I'm trying to establish which I
8 introduced an affidavit after the fact I'm okay with that.

9 THE COURT: That statement, being the statement
10 that Brandon gave to law enforcement? I mean how long is
11 that statement for?

12 MS. DIXON: It's about 30 minutes.

13 THE COURT: And does he talk about him grabbing
14 the wheel?

15 MS. DIXON: He denies it.

16 THE COURT: Okay.

17 MS. DIXON: Which in my point to that would be
18 that we're not putting it in for the truth of the matter
19 asserted so much as we're putting it in to show whether the
20 lawyers decision making was reasonable under --- If you
21 have a statement, a police statement from a witness denying
22 something ...

23 THE COURT: So you're offering it to show the
24 lawyer reviewed it.

25 MR. BELL: I can understand that and that's the

George R. Dreher vs. State of South Carolina

38

1 basis of what I entered my statement for and I'm just
2 making the same objection that she's making that we're not
3 entering it for the truth of the matter asserted.

4 MS. DIXON: And I agree.

5 MR. BELL: We're, I believe, we are both entering
6 it for the same purpose here is that there's conflicting
7 stories here.

8 THE COURT: We'll admit it for the purposes you
9 just said, both of you just said. It is admitted.

10 MS. GAY: Could you hand me that water?

11 MS. DIXON: Yes, of course. I'd like to publish
12 it, Your Honor.

13 THE COURT: The whole thing? 30 minutes?

14 MS. DIXON: 30 minutes.

15 MR. BELL: May we approach?

16 THE COURT: Sure.

17 MS. GAY: Could y'all do that maybe after I leave?
18 Is that possible? I was supposed to be going to ...

19 MS. DIXON: I mean, I was going to ask questions
20 but that's ...

21 THE COURT: I don't know the schedule right now.

22 MR. BELL: Oh, you're gonna ask questions on it?

23 MR. DIXON: After it, Yeah.

24 THE COURT: Well is there a specific spot you want
25 to get to?

1 MR. BELL: I was just going to say can we not just
2 introduce it? I'm not objecting to anything.

3 THE COURT: Is there a specific spot?

4 MS. DIXON: I can fast forward to a specific spot.

5 THE COURT: Mr. Bell do you have an objection to
6 her going to the point?

7 MR. BELL: I have no objection to that, Your
8 Honor. I don't believe 30 minutes of listening to ...

9 THE COURT: I don't believe it needs to be
10 reviewed for its entirety but let's get to the specific
11 point.

12 MS. GAY: Your Honor, if you don't mind I can get
13 something out of my bag?

14 THE COURT: Go ahead and walk back there.

15 MS. DIXON: I don't know if it's going to play. We
16 can listen to it later.

17 THE COURT: Those computers are designed not to
18 work when people need them too.

19 MS. DIXON: I know, I know. They make it so hard
20 with fire walls and stuff.

21 THE COURT: For the purpose, I'll need a copy for
22 me as well.

23 MS. DIXON: Absolutely. Yeah, we'll get that for
24 you.

25 MR. BELL: So I do have a question for you, Your

George R. Dreher vs. State of South Carolina

40

1 Honor, if I may. I'm unsure if we're not offering if for
2 the truth of the matter, and we're just offering it for
3 what the lawyer knew. Is my understanding, correct? I'm
4 just wondering what purview the court is going to view this
5 recording?

6 THE COURT: Well ...

7 MR. BELL: Are you following ...

8 MS. DIXON: May I offer argument?

9 THE COURT: Sure.

10 MS. DIXON: It's relevant to the reasonableness to
11 her decision making if there was a statement that he gives
12 to law enforcement shortly after the incident, denying that
13 you had anything to do with jerking the wheel and claiming
14 that he was telling the defendant to stop, stop, stop,
15 stop, stop, stop stop the whole time. That's very relevant
16 as to now she did testify that she sent an investigator but
17 in terms of subpoenaing a cold, blind witness that you've
18 ever talked to, it is relevant that they gave a statement
19 to police saying what this statement says.

20 THE COURT: Besides that, I mean her testifying to
21 it of course it's here in court of it also I think this
22 cooperates the strategy that she --- Well I haven't heard
23 all the testimony yet but I assume that State's going down
24 that line but I mean did she answer your questions, Mr.
25 Bell?

1 MR. BELL: Yeah, I'm not phrasing it correctly. I
2 don't --- They're arguing there. But what she reviewed is
3 that she believed was the truth. That's what they're
4 essentially trying to say.

5 MS. DIXON: No.

6 THE COURT: I think ...

7 MR. BELL: They're trying to say that she believed
8 that witness statement that law enforcement took,
9 therefore, there was no purpose of further --- of calling
10 that witness.

11 THE COURT: Well I think you're getting into
12 recross already.

13 MR. BELL: Yeah.

14 THE COURT: Cross examination already.

15 MS. DIXON: That's not my argument. But can I ask,
16 can I ask Ms. Gay?

17 THE COURT: Honestly, I think just to get through
18 the examination.

19 MR. BELL: I apologize.

20 THE COURT: But I think you wait for that on
21 cross.

22 Q: But what relevance would a statement to police have
23 that a witness made to you in general? If a potential
24 witness had given a statement to law enforcement, what
25 relevance would that have to you as an attorney reviewing

1 the case?

2 A: Okay, so I've done this for 33 years and at that time
3 maybe over 30. I never would have believed that would have
4 been the last word. I always would have believed that if I
5 could find the man and he said something different, that I
6 would then provide that information to the solicitor. So it
7 wasn't an end of all ends. I was just aware and the
8 question you asked me was did you review it? Yes, I
9 reviewed it. How I viewed it would've been completely
10 different had I found the man. How the solicitor viewed it
11 was the only thing we were left with because I was unable
12 to find him. And the solicitor viewed it as this man said
13 that he didn't yank the steering wheel. And so in the
14 negotiations of what was going to be his factual
15 presentations at trial or whatever. There was no question
16 about his, in his mind, that there was not this defense
17 that someone else had yanked the steering wheel and I
18 couldn't confirm that. It was part of that, you know, after
19 the fact that he, I guess, at that time agreed to surface.
20 And agreed --- I mean, you're the people who brought the
21 statement to me, the notarized statement to me was his
22 family. So the piece of paper was brought to me notarized
23 and that was after the sentencing because he was then
24 willing, I guess, it's my opinion, but willing to sign the
25 statement or be available to be talked to. I did. I tried

1 very hard to find him and was not able to find him. My
2 staff tried very hard to find him, you know, the thing
3 about going in the woods to try to find him, he, Mr. Dreher
4 may have mentioned that to my investigator, he may have
5 said, well, I looked for him in various areas. I can't
6 remember if it was the woods or not, but we never found
7 him. And looked for him more than one time.

8 Q: Can you subpoena someone that lives in the woods?

9 A: You can't subpoena someone without an address or at
10 least a physical locality where you can serve it on him.
11 That would be my position.

12 Q: And your understanding was his father's address was
13 his address? Is that correct? Is that was you testified or
14 ...

15 A: Yes.

16 Q: And did y'all ...

17 A: The father's address was the only place that maybe he
18 would come back to at some point. But ...

19 Q: Did y'all ...

20 A: ... I don't have any idea. I personally don't
21 remember the part about if you go down past two trees and
22 turn right to a field. I don't remember that. But it's
23 possible that my investigator may have been more aware of
24 that.

25 Q: Did y'all go to the father's house more than once

1 looking for him?

2 A: Yes.

3 Q: Were you ever able to find him there?

4 A: No.

5 Q: Nothing further.

6 THE COURT: Cross examination.

7 MR. BELL: May it please the Court, Your Honor.

8 Ms. Melisa Gay - Cross Examination by Mr. Bell

9 Q: So you would agree that you were made aware of Mr.
10 Dreher telling you that Brandon Swain had jerked the
11 steering wheel? You would agree with that?

12 A: I was aware Mr. Dreher told me that he believed that
13 the guy was gonna say that. Honestly, I couldn't find him.

14 Q: Okay. And he actually said that in court that he
15 didn't intend, he would never intentionally harm an officer
16 on the first plea. Correct.

17 A: Okay. So the time the procedures of coming before
18 the judge at different times, there was, I think, a level
19 of different understanding, at different periods of time.
20 Mr. Dreher's understanding of the plea process is maybe
21 what it was, you know, the reason that the plea didn't
22 happen the first time was because he did say to Judge
23 Dennis that it was not an intentional act. And so then, as
24 we went forward, there was a couple of major things that
25 were involved with Mr. Dreher's case. The victim in the

1 case, a man who's a police officer was significantly hurt,
2 and he had a bunch of surgeries and was walking with a
3 walker or something like that, a cane. He had shown up to
4 everything and was very vocal about the fact that, you
5 know, his whole career had been ruined, and a few other
6 things like that. So he was going to make a good witness
7 for the state. We watched really closely, frame by frame
8 what happened in the incident, and whether or not we were
9 going to have any kind of defense that we could actually
10 present to a jury that made any sense. And so the problem
11 was, is that if you went to trial, and lost, that it was my
12 professional opinion and I told it to his mother and told
13 it to his family and told it to him that he's probably
14 going to get a much larger sentence than what the
15 negotiations that we had been able to get together. So when
16 he came back, the next time, he was saying things
17 differently, or understanding the process different. So
18 that we ended up getting through the plea. After he was
19 sentenced is when all of a sudden Brandon shows up. And
20 there's a statement Brandon wants to give, okay, get a
21 statement from Brandon. And then finally, we get this
22 statement, notarized statement. I never saw Brandon, but
23 you know, I believed it was notarized. And that, you know,
24 I filed the additional motions to try to see if we could
25 overturn the plea, reconsider, or whatever based on it. And

1 so when the judge is saying, well you already knew this.
2 Yeah, I knew, but I could never find Brandon. So no matter
3 what I tried, I couldn't get him to have that kind of
4 statement. And if he was going to go to trial, I would
5 assume that Wilton would have found Brandon, if you wanted
6 to, to bring him in as a witness. But what he would have
7 said I had no idea. So ...

8 Q: So ...

9 A: ... I don't know if I would have gone to the effort
10 to try to subpoena him or not.

11 Q: He would have found him but you can't find him? I
12 mean, I'm really confused here.

13 A: No the police can find people that I can't.

14 Q: You have the power of the court. Don't you?

15 A: Not if I don't know where they are.

16 Q: You can file ...

17 A: Stop for a minute, sir. I tried everything I could.
18 If I'm saying something that's causing you to go a
19 different direction, I do believe that if the police want
20 to find somebody that they might stake them out in the
21 middle of the night or something, I'm not going to do that.
22 And I'm going --- I'm not gonna put my staff in that
23 position. I did all reasonable means to try to find the man
24 and I couldn't find him. And after the sentencing he
25 appeared and he gave a statement. Voluntarily at that

1 point. It was given to me and I did all the procedural
2 things I could do afterwards to try to see if I could fix
3 the situation afterwards.

4 Q: Okay. So let me start back at the beginning, you made
5 a quote, and I can go back and if I'm incorrect, more time
6 than I did ...

7 A: She had more time than I did.

8 Q: Is what you referenced in his --- what you referenced
9 his mother about the case, they hired you as the attorney.

10 A: No I'm talking about the video. She had ...

11 Q: She had more time than I did, is what your quote was.

12 A: Because she had them. Okay, this is what we did. She
13 came to my office, and she sat on a computer in my office,
14 and she watched all the things and she would say this is
15 something good, and I was in the office or someone else may
16 have been there, and I was like, okay, I'll go back and
17 look, because there were hours and hours and hours of it.
18 And she's the first person, she wanted to do that. She
19 wanted to go through and be in seeing it all. In the video
20 that we watched the most many, many times, to the point
21 where we stopped every single frame, trying to, you know,
22 we stopped to technologically kind of stop every, you know,
23 five seconds or something looking at how that car went.
24 There were two videos, a video on the front of the car,
25 there's a video on the police officer. So we had the car

1 coming. And we had the car passing. And once it came past
2 the course, right dashcam it came past and then the
3 officers camera caught the rest of it. And so we were
4 picking at it, going literally frame by frame. Whatever
5 happened with some of the rest of that stuff. I had seen
6 Brandon's statement. If you look at the statements it says
7 BS from Brandon's statement was fine. It was determined by
8 all of us that he had said a bunch of crap that they know
9 nothing --- that we cared that much about because he didn't
10 say anything, but to help him on that video or on that
11 audios but all that stuff was gone through by my office,
12 gone through about what happened in the actual event.

13 Q: I'm just asking the question about you saying you had
14 more time that she had more time than I did. But you're the
15 attorney on the case, correct?

16 A: Yeah. But she helped me do that because she wanted
17 to.

18 Q: I understand that.

19 A: It wasn't that she did it and I didn't.

20 Q: Okay.

21 A: It was that she didn't have a computer. So I couldn't
22 give it to her take it to her house to do it so she came to
23 my office and we would go and she sat and went through
24 videos and watched the stuff on my computer in my office
25 with her in there. So we were doing it together.

1 Q: And like you said, everything was virtual at this
2 time. Correct?

3 A: Yes.

4 Q: You couldn't go ...

5 A: Yes, it's extremely difficult to do all of this.

6 Q: And you couldn't go down to --- and you couldn't go
7 down to the detention center?

8 A: Yeah. We were very clear on what we saw. I think, I
9 mean, obviously he saw it. And we talked about it and
10 talked about it all the time. Because the video, as I said,
11 there was like, I said, the front of the car. Okay, the
12 officers throwing the sticks out. And this, how this
13 happens is he's failing to stop for a blue light. It's
14 egregious stuff like that high speed, that kind of stuff.
15 And he comes past this police car. And he's passing the
16 police car and police officers cars in the median. And as
17 he passes the police car, the officers that's standing at
18 the very back of the police car is throwing the sticks out
19 and the car, his car, hits the bumper like clips the guy
20 right in the leg and flies him backwards and then that's
21 the problem. And so you see, as he's coming up, you see the
22 Dash Cam, and the first car on the front of the car. And
23 then you see the officers body cam as he comes through and
24 you actually see the car kind of wiggle to the left. That's
25 the whole case. It wiggled to the left and when it wiggled

George R. Dreher vs. State of South Carolina

50

1 to the left it hit the guy in the leg.

2 Q: And they were throwing spike strips at the time,
3 right?

4 A: Yeah.

5 Q: Okay.

6 A: He was throwing the spikes.

7 Q: I'm not here to necessarily talk about the facts. I'm
8 just trying to get to what was done in this case. I
9 understand that you are explaining the case I'm trying to
10 get at what was done in this case.

11 A: I went through that video frame by frame.

12 Q: I got a copy of your file.

13 A: I know.

14 Q: Do you have any notes of where you met with Mr.
15 Dreher?

16 A: I don't give my notes to other people. They're mine.
17 I do have notes.

18 Q: Okay. Do you have notes --- can you tell me how many
19 times you've met with Mr. Dreher?

20 A: Hold on a second, let me look. It says 1/21/20 I met
21 with Mr. Dreher because we were talking about something
22 that's the jail visit that I did. I'm kind of much weirder
23 about dating things now, but this one I had an initial jail
24 visit. It says Foresight, very hurt, surgery, no
25 opportunity. Failure to stop for blue light resulting in

1 serious bodily injury. I don't know what the date is.

2 That's a different date. Every piece of paper is a
3 different day for 04/30/2020 is different day, 08/26/2020.
4 I talked to his mom, may not have been with him. But I
5 talked to his mom. This is a jail visit from my
6 investigators from 12/7/2020. This is another page of that
7 visit.

8 Q: So at 12/20 your investigator went down there, did
9 you say?

10 A: Yeah.

11 Q: And that's two months before he pled two months
12 before he pled guilty?

13 A: Maybe, I don't know.

14 Q: Is that correct?

15 A: I'm trying to see what I'm doing here. Let me see.

16 Q: The first day, the first date we went in front of
17 Judge Dennis would have been would have been the February
18 18th, 2021. And you just told me you had an initial you
19 have a note that you have an initial visit. You said you
20 said the initial visit said failure to stop for blue light,
21 we can go back to the very first note that you have.

22

23 A: Okay, so this failure to stop for a blue light is not
24 dated but it would've been right after this arrest.

25 Q: Okay, so that's your initial visit?

1 THE COURT: Don't talk over each other the best
2 you can as well. Thank you.

3 Q: Yes, Your Honor.

4 A: This one is from 4/30/2020.

5 Q: Okay.

6 A: This one is from 8/26/2020. This one is from
7 12/07/202. This one is around the time of bond hearing it
8 looks like. Age 32, electrical helper, age of child eight.
9 This is something that's got to do with -- This doesn't have
10 a date on it. But that was also from my investigator. This
11 say 01/20. That we had a bond hearing.

12 Q: So 1/20 ...

13 A: Lots of motions, lots of times Mr. Dreher was texting
14 me on his smart mail. So on smart mail --- Let me see what
15 this is. This is 02/03/2021 which would have been Ms.
16 Dreher and I talking about things. Often times she, when
17 she came in, she'd have messages that I was going to ask
18 for.

19 Q: Let's stay on track. I'm trying to ask you how many
20 times you met with Mr. Dreher?

21 A: Okay, I don't remember how many times because like
22 you said earlier, I don't remember what I was doing two
23 years ago every minute but I do have ...

24 Q: Do you have electronic data that you keep on notes?

25 A: He sent me a copy of all emails. I don't. I gave it

1 to you. If there was anything on paper, you would have a
2 copy of the paper. It's the notes that I keep. The paper, I
3 give to you.

4 Q: You don't have any type of database systems that
5 every time you speak with a client that you go in and type
6 a note that automatically dates the note in which you spoke
7 with your client or you spoke with a witness on the case,
8 or you spoke with the prosecutor in the case or you had a
9 court hearing in the case, there's no type of system that
10 you have in place?

11 A: Yes I do. I do DropBox and if I look at my DropBox
12 file for Mr. Dreher, I can tell you what I got here.
13 I had spoken to him a lot actually about all of this.
14 Whether, I don't even know what version of speaking was
15 whether it was on the smart mail, whether it was on
16 telephone calls, but with his family. I don't know. At that
17 point, I could not get into the jail. So I keep a Dropbox
18 program. On my Dropbox program, I have all the different
19 documents that I've ever created for him. Plus, I have many
20 of the things that I kept pictures that have to do with the
21 messages between the two of us. So I'm not --- this is not
22 allowing me to pull it up. But I have a huge file for Mr.
23 Dreher in my Dropbox file.

24 Q: Is there any kind of time line to that that it can
25 tell me that I initially met with the client to discuss

1 intake. We talked about his background and you know talk
2 about his family. Alright, that was my first then we have
3 our next visit with our client where we ...

4 A: Can I answer the question? Because I understand
5 you're telling me what I don't have. I'm telling you what I
6 do have.

7 Q: Yes ma'am. I'm just ...

8 A: What I have is a --- a very large file in the Dropbox
9 that starts with all kinds of documentation. Very large
10 file that I have. That starts on, we have stuff here from
11 5/20/20, 09/28/20, 09/18/20, 08/27/20, 08/03/21, 07/30/21,
12 07/29/21, 07/23/20. It goes on and on and on of those
13 things and documents and different things that I've done it
14 related to Mr. Dreher. You asked me how many times that
15 I've met with him. I cannot remember.

16 Q: Okay.

17 A: If you're asking me did I believe professionally that
18 I met with him enough for him to understand what's going
19 on? My answer is yes.

20 Q: Okay.

21 THE COURT: Alright. And I'm just going to
22 interrupt here for a minute. Y'all sort of feel the tension
23 for the moment. So just try to get through these questions.
24 If the witness is answering, give a little bit more time to
25 answer it. Take a pause there. And obviously Mr. Bell has

1 questions to ask and please don't get frustrated by him
2 trying to ask questions.

3 MR. BELL: Yes, Your Honor. I will do my best to
4 not interrupt her. I do apologize. Alright, so you would
5 say that you sent your investigator to talk with Mr.
6 Dreher, correct?

7 A: Yes. His name was Brooks.

8 Q: Alright. And is he licensed through SLED?

9 A: No he worked for me for 25 years.

10 Q: He's a private investigator? He's not licensed?

11 A: He's a lay investigator. Someone to be --- We can
12 call him, he was a man that worked for me. And his job for
13 me was to meet with clients sometimes to go out and pick up
14 different things for me. And I mean, he does not have a
15 sled verification, he was not an investigator. If you want
16 me to call him something else, I will. I refer to him as my
17 investigator because he went out and did things for me when
18 I asked him to. What do you want me to call him because ...

19 Q: Well when you say investigator ...

20 A: He's a person that worked for me.

21 Q: When you say investigator that implies that there a
22 licensed investigator through sled. In order to be called a
23 licensed investigator through sled, you have to go through
24 a background check, you have to have credentialing. And so
25 that's what I call an investigator.

George R. Dreher vs. State of South Carolina

56

1 A: He was not one of those but he was an employee that I
2 used to get to help me to go find people and do things. He
3 was a 58 year old man, who was mature, who had to if there
4 was a --- it is very possible, as I said, that, Mr. Dreher
5 may have told him about this location in the woods. And he
6 would have probably tried to do that. But he's not alive
7 anymore. So I can't ask him.

8 Q: Now, you said he would have tried to do that. But you
9 also on direct said, I would never send my investigator
10 into the woods?

11 A: Okay, into the woods is different than going out and
12 maybe look for him in a particular area. The way he
13 described it, we had to go down a path. And into the woods
14 and all that. I don't know that I would have asked my
15 client, the man who worked for me, Mr. Brooks to do that,
16 too. He would have talked to Mr. Dreher and maybe they
17 discussed how to find the man in a campground somewhere.
18 But what, what I'm not, you know, I'm not going to say I
19 don't know how to describe. I don't know how to answer your
20 question other than I never found him. I tried and tried to
21 find that guy. His family was trying to help me find them
22 at that time. Everybody was trying to help find Brandon at
23 that time. They were they knew his groups of people where
24 he hung out.

25 Q: Who's ...

1 A: Eventually, they're the ones who brought me the
2 statement. But I didn't find him. I tried.

3 Q: And you said you let people know we were looking for
4 him. Who are those people that you let know we were looking
5 for him?

6 A: Brandon's father may have been someone he talked to.
7 There were friends that I think Mr. Dreher might have been
8 some kind of --- I don't remember.

9 Q: Who were those friends?

10 A: I don't remember the people.

11 Q: Okay.

12 A: I don't remember, Brooks may have spoken to.

13 Q: Okay.

14 A: I had asked him. He'd worked for me for 25 years. I
15 had asked him to please help me locate Brandon, what he did
16 when he went out to Brandon's father's house and who he may
17 have spoken to, or if anybody was even there. I don't know
18 all that information. I knew that on more than one
19 occasion. He came up to wherever this area was where the
20 man lived and tried to find Brandon. And Brandon did not
21 want to be found. See that's ultimately what I'm trying to
22 say. I couldn't find him. The family was trying to find
23 him. Everybody's trying to find Brandon at that point. Once
24 he was sentenced, Brandon surfaced and you know whatever. I
25 guess Mr. Dreher wasn't able to talk to him directly, but

George R. Dreher vs. State of South Carolina

58

1 whatever it was being said by his family. They are the ones
2 who found him and brought the statement, not something I
3 did because I never could find him.

4 Q: Okay. Now just shift gears just briefly, and I'll get
5 back to there. You say Brandon didn't want to be found?

6 A: That's my opinion.

7 Q: And would that be because maybe he had not told the
8 truth to law enforcement previously in your professional
9 opinion as a prior attorney?

10 MS. DIXON: Object to speculation.

11 THE COURT: I'm going to sustain the objection.
12 You've got to ask the question in another way.

13 Q: Yes, in your experience of 33 years of being an
14 attorney, do you believe people that give statements to law
15 enforcement always provide the truth when they speak with
16 law enforcement?

17 A: No.

18 Q: So you have learned over the years in the criminal
19 justice system that many times that people give self
20 serving statements to law enforcement to distance
21 themselves from crimes?

22 A: So yes, so. If we look at Brandon's statement after
23 the fact where he says that he did yank the wheel and did
24 the types of things that Mr. Dreher had been saying all
25 along. I'm assuming that's a notarized statement, that

1 let's assume that that's the facts or now what he's saying
2 the truth is. That wasn't available before hand. And I
3 tried because I told the family I would, I tried to file a
4 motion to withdraw his guilty plea. I tried to say this is
5 new, because we have the statement now. And it didn't work.
6 I mean, if I just do nothing, then, you know, I would have
7 tried to get --- to get some kind of way that that
8 notarized statement could, I guess if you want to say, be
9 the truth.

10 Q: Okay. Did you ever file any motions in circuit court
11 to try to effectuate any type of service of a subpoena and
12 with the help of law enforcement, and ask a circuit court
13 judge at any point in time, to help effectuate and service
14 any type of subpoena?

15 A: I did not file for a subpoena. And I also have never
16 asked for law enforcement to ever help me find anybody
17 ever. I would have to think about that one. That's not
18 something I've done before. Usually, I can find them
19 myself. And I don't know that I would have ever thought to
20 file a subpoena for when he was pleading guilty, but also,
21 because I didn't have any address for him.

22 Q: So well, I'm just asking. So we have the
23 availability, the ability to file a subpoena, and we put a
24 court date on there, correct? Did you ever seek ...

25 A: Where would I have given it to him? I didn't know

1 where he was.

2 Q: Well, I'm just --- I'm aware of that. I'm aware of
3 that.

4 A: I did not get a subpoena.

5 Q: Just hear me out. Go to the court on that court date
6 and say, I've been unable to serve this individual based on
7 him making himself unavailable, and ask a circuit court
8 judge for a bench warrant for this individual, and then
9 seek the help of law enforcement for him failing to make
10 himself available?

11 A: Well, I didn't have a court date, that would have
12 been the one before. I guess I could have made one up.

13 Q: You could have made a court date.

14 A: Right.

15 Q: You could have filed a motion. So I apologize.

16 A: That was not something that I thought through,
17 because I have never done that before. And I did not have a
18 court date that I was expecting him to show up for. That's
19 a new one on me. I just have never thought to do that. No.

20 Q: As attorneys, we sometimes have to be creative,
21 right? Because we have to find ways to learn information.
22 But the state always doesn't give us everything correct?

23 A: Mr. Bell, if you want me to agree with you then yes.

24 Q: Okay.

25 A: But I just --- I've never done that one before. There

1 could have been some version of reality that I created some
2 subpoenas situation to try to find the witness. However, I
3 didn't know where he was, so it would have been difficult
4 for me to do that in my professional opinion.

5 Q: Now. Did you provide any of that information to Judge
6 Dennis, on your motion?

7 A: Did I provide ...

8 Q: Based on newly discovered evidence, did you ever in
9 your motion, or argue in front of the court that you were
10 unable to find him, that he had provided you this
11 information? And that at any point in time, you had sent
12 your investigator --- you had called people, you had done
13 all these things, everything that you possibly could think
14 about. Is there anything in your motion for a new trial
15 that you ever put that on the record for Judge Dennis to
16 make that decision based on the newly discovered evidence?

17 A: You have a copy of the motion. I guess if it's not in
18 there it's not.

19 Q: I can provide you a copy of the transcript.

20 A: No, it's fine. It's just that what I did at that
21 time, was I was trying to withdraw his guilty plea. And so
22 I was indicating that we have this now. And so we needed to
23 withdraw his guilty plea and so that we can have a trial.
24 The judge, as he ruled said, and talked about this already
25 because he had. And the judge didn't find that it was newly

George R. Dreher vs. State of South Carolina

62

1 discovered because it had been discussed. But I did not. So
2 to me, his response wasn't all about that I tried to learn
3 not to find it was that he just didn't think it was newly
4 discovered.

5 Q: But what I'm asking you now is you're now saying that
6 you did everything you possibly could have, correct?

7 A: At the time ...

8 Q: And arguing that ...

9 A: ... Before the plea.

10 Q: ... And saying that you did, you know, did everything
11 you're supposed to do. That's what you're expressing to the
12 court here today?

13 A: Okay.

14 Q: Correct to say that it was newly discovered evidence,
15 correct at that time?

16 A: I was making a motion to withdraw his plea.

17 Q: Based on newly discovered evidence?

18 A: Yes. Based on the fact that there was now a signed
19 notarized statement that contradicted his previous
20 statements to the police.

21 Q: And did you ...

22 A: That was the newly discovered part. Even though Mr.
23 Dreher, he said Mr. Dreher's, told me that before. My newly
24 discovered part was that we had the statement that was
25 different than what it is that was on their previous

1 videos. Mr. Wilton had even previously said in some of
2 these paperwork that there was a recorded interview of him.
3 And he, you know, denied that he pulled the steering wheel
4 and all that. So my newly discovered part was that he had
5 given us a completely different story about it, and now
6 admitted to having pulled the steering wheel.

7 Q: Yes ...

8 A: So that was the newly discovered part that was
9 changed his story.

10 Q: And did you make Judge Dennis aware of all the
11 efforts that you had gone through to try to locate this
12 witness? And that that now is the newly discovered part of
13 being able to locate the witness? Did you ever make aware
14 the circuit court judge that you had gone, exhausted every
15 avenue to locate this witness prior to him going in there
16 and pleading guilty?

17 A: Judge Dennis was aware that I couldn't find him
18 beforehand but that I did find him at that point.

19 Q: Was that made part of the record at any point in
20 time?

21 A: Who knows if it was made part of the record. We were
22 having conversations about it all. I'm not making --- I'm
23 not putting anything that's not part of the record into the
24 record, it's just that, you know, Wilton knew the judge, we
25 were all trying to figure out the path that I was gonna try

George R. Dreher vs. State of South Carolina

64

1 to take to see if I could get this hearing, you know, this
2 plea overturned. And so I did procedurally, what I thought
3 I could. Now if I didn't say the right thing in it to get
4 the right conclusion. Okay. But I did try.

5 Q: Okay. I understand. I'm just --- I'm just trying to
6 lay some foundation here that this information about all
7 your work that you put in it, you're telling the court here
8 today, the circuit court judge was not aware of that, on
9 your initial, after discovered evidence rule, I think 29, I
10 think is what it falls underneath. It's based on a new
11 trial, you didn't make that circuit court, aware of
12 everything that you had done.

13 A: Okay. If you want to know my opinion of what Judge
14 Dennis thought of all of it, is probably not, you know, it
15 was --- he obviously denied my motion. But, you know, I
16 tried to get to have a situation where Mr. Dreher could
17 have a second chance to figure out how to have a jury
18 trial, because that's what he was --- After he got
19 sentenced he wanted, all he wanted to say was, and
20 everybody wanted to say is that he should have had a trial.
21 Which my concern was if George Dreher got convicted by a
22 jury, he was going to get a much worse scenario. So, you
23 know, people get to do what they want.

24 Q: Sure.

25 A: They want to have a jury trial, they can have a jury

1 trial. But I was very clear to all of them, that in
2 reopening anything having a jury trial, there's always the
3 possibility he's gonna get, you know, much worse sentence.
4 And so I was honestly, dealing with the fact that, you
5 know, procedurally to open up this Pandora's box. You know,
6 mine could have gotten a whole lot worse situation with Mr.
7 Dreher, but I did do that I did file a motion, and I did
8 try to get the Judge to start over.

9 Q: And you filed a motion because you had an affidavit,
10 and did not submit anything to the court that you believe
11 is fraudulent, correct? As an officer of the court, you
12 would not submit fraudulent documents to the court?

13 A: Okay. So I have an affidavit signed by a man I've
14 never met. Who was notarized by someone Mr. Dreher know.
15 And I believe her that she is a notary. And she was able to
16 proof and sign it because I would assume and always do that
17 if someone is a notary that they're following their rules
18 and guidelines and is not going to bring me something
19 that's not that person's signature. So yes, I did believe
20 it was his piece of paper.

21 Q: Thank you. And you then argued for the court to grant
22 him a new trial because you believed he was entitled to a
23 new trial?

24 A: I believe that it was a change in circumstances
25 because we did not see it, now then he has a notarized

1 document indicating that the man was going to be, contrary
2 to the element of intent, so therefore, I wanted the judge
3 to withdraw his guilty plea and give him a trial. So that
4 we could utilize that information to establish that there
5 was no intent to harm the man.

6 Q: Okay.

7 A: However, as we both know, that the jury would have
8 had to decide, and if they found him guilty, based on the
9 victim and a few other things, I was confident in my mind
10 that it could have gotten to be a worse sentence if the
11 judge if jury convicted him. That didn't mean I wasn't
12 going to do exactly everything I possibly could to get his
13 case overturned.

14 Q: And what's the possible punishment for ABHAN?

15 A: It wasn't. It was a failure to stop for a blue light
16 ...

17 Q: I understand.

18 A: ... with great bodily harm. I think it's 30 years.

19 Q: Failure to stop for a blue light with great bodily
20 injury?

21 A: I think so. I mean it's one of those ...

22 Q: It's 0 to 10 years.

23 A: No it's not. He got 12 years. There's no way he could
24 have. The failure to stop for blue light...

25 Q: The ABHAN is 0 to 20 years.

1 A: So that's the one ...

2 Q: 0 to 20.

3 A: So that's what he got sentenced on.

4 Q: He got 12 years on that. He then got ...

5 A: I want to say he was charged with other things that
6 were dismissed.

7 Q: He was charged with attempted murder, and it was pled
8 down, which was ...

9 A: That's the zero to 30.

10 Q: ... Attempted murder to zero to 30.

11 A: Right.

12 THE COURT: Y'all have got to try to not talk over
13 each other.

14 Q: Okay. Zero to 30, so it pled down to a zero to 20. He
15 got 12, correct? He then got consecutive time, the max
16 sentence suspended to probation on the failure to stop for
17 a blue light. So he got consecutive time on this plea. And
18 he got more than half of the possible sentence on an ABHAN
19 of active time. So you're ...

20 A: If he got convicted by a jury, it would have
21 potentially been attempted murder.

22 Q: Sure Sure.

23 A: Which is zero to 30.

24 Q: Sure. Specific intent has to be proven though,
25 correct?

George R. Dreher vs. State of South Carolina

68

1 A: Yeah well that's what I was saying. We had that
2 potential argument at the time, with this man's statement
3 that there would be an issue with him not having intent to
4 kill the guy. I mean it was one of these. It was a car, so
5 it was obviously a deadly weapon.

6 Q: I understand. Okay. But he still got a consecutive
7 sentence on the two charges that he pled guilty to,
8 correct?

9 A: Well Judge Dennis sentenced him. I mean I didn't ...

10 Q: I mean I'm just correct.

11 A: Part of it was because the victim was there.

12 Q: I understand. Oh, I understand the dynamics. It was a
13 law enforcement officer. I understand the dynamics. How
14 many times in your career, you could probably count on both
15 hands. You've gotten consecutive sentences from a judge at
16 a plea, correct? You could probably count maybe on one
17 hand.

18 A: In my career, more than that, but not that many.

19 Q: Not that many. It's not that often when you plead
20 guilty, you typically get a concurrent sentence from the
21 charges in which you plead guilty to, correct?

22 A: Right. Well there wasn't any real specific plea,
23 okay. I can't remember everything. But I think that Mr.
24 McNeely could have, would have maybe done a few other
25 things if we would have wanted to do more of you know, like

1 a specific sentence negotiated or whatever. Then he kind of
2 came out real strong, based on ...

3 Q: You thought he would have done more. Did you not ask
4 him to do more?

5 A: No, less. I'm just saying that we were talking about
6 whether or not Mr. Dreher, would have to negotiate the
7 sentence and whether the judge --- there was a lot of
8 discussion about negotiations related to his case. That one
9 I would have to dig through a lot of stuff. I can't
10 remember specifics. But he did choose, as I was talking to
11 Wilton, Mr. McNeely, there were different things we were
12 talking about and then when we went in, it was Judge Dennis
13 who picked the sentence.

14 Q: Okay.

15 A: It wasn't ...

16 Q: Was there every any ...

17 A: ... It wasn't Mr. McNeely that said we're going to do
18 it this way. The judge is the one.

19 Q: Were you ever offered any caps or any ranges or
20 anything of that nature?

21 A: That's the part I can't remember.

22 Q: Did you ever advise Mr. Dreher, if he was ever given
23 any or any ranges of negotiations?

24 A: I think so but honestly, I just don't remember all of
25 it. But we talked about ...

George R. Dreher vs. State of South Carolina

70

1 MS. DIXON: Your Honor, I'm going to object to
2 relevance at this point. This is beyond the scope of the
3 grounds that they've raised. And I don't want to get into
4 on a appellant review that I'm trying to shuffle up some
5 new issue. They haven't alleged --- any plea wasn't
6 conveyed or anything like that.

7 THE COURT: Mr. Bell?

8 MR. BELL: I'm just asking a question based on
9 what she said. I'm trying to ...

10 THE COURT: And we've talked about the numbers ...

11 MR. BELL: She's mentioned that --- I apologize.

12 THE COURT: ... We've talked exponentially about
13 what the exposure was, potential crimes that were indicted
14 even if they weren't ultimately pled to. But the amount of
15 time you got is not an issue on this PCR. Is that accurate
16 Mr. Bell?

17 MR. BELL: That's correct, Your Honor.

18 THE COURT: Alright, so I think that will remedy
19 whether he's trying to, whether the petitioner is trying to
20 bring new issues in.

21 MS. DIXON: I also want to clarify for the record
22 that there is no allegation that there was a plea that was
23 not conveyed. It seems that those questions could be going
24 down that road. And that's not something they've alleged
25 and sometimes appellant defense pulls new things out so.

1 THE COURT: Mr. Bell, I'll let you speak to that.

2 MR. BELL: I'm not --- She mentioned that there
3 was negotiations back and forth and I was unaware of any
4 negotiations. Like I said, I didn't have any of her notes
5 that were provided of any communications that were made to
6 my client. So I don't have access to that. And you know,
7 when she mentioned --- we talked about in the years, we
8 talked about she started talking about the back and forth
9 that was going on. I just asked the question, and I
10 understand her concern.

11 THE COURT: Sure. And if I can paraphrase with it,
12 The root cause --- the root issue we're faced here today
13 with is whether or not, the issues with Mr. Swain, when he
14 was found and what involvement he had or didn't have in the
15 life of this plea. So I would just ask that the issue of
16 time is not --- I understand it's part of it. So just get
17 on down your examination.

18 MR. BELL: I will, Your Honor. I just think a lot
19 of it goes to just overall handling of the case in and of
20 itself.

21 THE COURT: Of course.

22 MR. BELL: I'm asking about, you know,
23 organization of notes and organization of a case. And we're
24 struggling to answer questions here about that. And that's
25 why I'm inquiring into more.

1 THE COURT: I'm trying to give you as much leeway
2 as I can without opening up the door to new issues.

3 MR. BELL: Understood.

4 Q: So, you submitted the affidavit to the court and argued
5 to Judge Dennis that it was newly discovered evidence.
6 Judge Dennis disagreed. Correct?

7 A: Yes.

8 Q: Alright. And then you filed an appeal on that issue.
9 Correct?

10 A: Yes.

11 Q: And at no point in time, did you try to seek help
12 from a circuit court to effectuate a subpoena on the case?

13 A: That would not have been something that I think I
14 could do, but if you say it's possible. I just didn't know
15 where the man was.

16 Q: We have a Rule 13, right? That we can effectuate
17 file, request permission from the court in order to get
18 personal records, correct?

19 A: Okay, but in my mind hindsight, but I thought I would
20 at least needed to know where he is, or have some knowledge
21 about how to communicate with them and I did not.

22 Q: Okay.

23 A: Eventually, as I said, I don't exactly know what
24 happened, the statement was brought to me. And I don't know
25 if Brandon decided to come out of the woods at that point,

1 or he thought maybe he didn't think he was gonna be in
2 trouble or whatever, but it was not --- it was ...

3 Q: Is that because Mr. Dreher had been punished for
4 something that Brandon had done?

5 A: How do I know that?

6 Q: I'm just asking. I mean you were speculating.

7 A: I mean I don't know why Brandon came out. I mean I
8 know that it was helpful to him --- speculated. I don't
9 know and maybe he at that point decided he was going to
10 come clean. I mean we have to assume that but I don't --- I
11 tried.

12 Q: Understood. I beg the court's indulgence a moment.

13 MS. GAY: Does anyone have a bottle of water? Yes,
14 thank you.

15 Q: Just a few more questions. During your discussions
16 with Mr. Dreher, at any point in time, did you tell him
17 that you had the subpoena power of the court and that you
18 could have a subpoena issued and if you got a trial date
19 and you couldn't effectuate, you could bring that to the
20 court's attention and have deputies go find that witness?

21 A: I don't know. The final witness part, if there was
22 going to be a trial, probably we would have looked at it
23 differently. If there was going to be a trial. I think that
24 there wasn't a trial. So ...

25 Q: You never ...

George R. Dreher vs. State of South Carolina

74

1 A: ... Whether or not I was discussing with him after --
2 - after his --- we talked about how to build and having a
3 trial. We talked about how and that all came up. Where can
4 we find this guy and then he appeared. But maybe not before
5 the actual ... I don't remember.

6 Q: You never intended on trying the case when you took
7 the case and talked to him?

8 A: Okay, that is absolutely not what I'm saying.

9 THE COURT: Witness can provide just a little bit
10 of expound on the response.

11 A: Okay. So when I took the case, Mr. Dreher --- wanted
12 him to be innocent. His family wanted him to be innocent.
13 We all looked at the case about whether or not it could be
14 a trial. We all looked at the videos about whether or not
15 there was going to be any kind of defense that he could
16 present. We all watched them as I said earlier, we went
17 through frame by frame like every three seconds stopping
18 the camera looking at it, looking at it, looking at it and
19 there was always the possibility that there might be a
20 trial. It's just that that's not what he chose to do. For
21 exposure reasons, for factual reasons, elements of the
22 offense reasons, victim reasons, you know, the decision
23 wasn't made for him to have a trial. So if I'm talking to
24 him or even his family about him going to trial there was
25 always this discussion about where's Brandon? Where is

1 Brandon, you know, but we couldn't find him. So no, I may
2 not have ever said, I honestly don't remember. It may have
3 been something I talked about. But I don't know, he was not
4 as it was a whole lot more discussion with his mother about
5 the procedural stuff. And how we're talking about all this.
6 And, you know, to talk about trying to get a subpoena for a
7 person that I didn't know where it was. I don't remember
8 specific sentences. But it could have been something that
9 we were discussing about, well, how would you, you know,
10 could I get Brandon there and all that, but it may not have
11 been in my conversation as I'm going to issue a subpoena
12 because I didn't think I knew where he was. So, I didn't
13 know this concept of going to the court and saying, I can't
14 find this person, will you send the sheriff to look out for
15 him for a court date that doesn't exist. I don't know that
16 I thought that through.

17 Q: So, again, let's go back to discuss what a trial
18 would look like meaning witnesses would be called, they
19 would take the witness stand?

20 A: Yes sir.

21 Q: He had the right to use you to confront them,
22 correct?

23 A: Yes.

24 Q: And that he had the right for compulsory process to
25 force people to come into court under the threat of arrest

1 and detainment to take the witness stand. Did you ever have
2 those conversations with Mr. Dreher, not his mother, not
3 his family?

4 A: No, I never use those words. So if I never used those
5 words, that I had to write to compulsory process to force a
6 witness to come, I never used those words. I did discuss
7 the fact that if we had a trial, it would be great if we
8 could find Brandon. And how we could find him. But I did
9 not think of supporting a person that I didn't know what it
10 was because in my head, I thought, I believed, that I
11 needed to have a way to find the guy to serve the subpoena
12 on him. So I was discussing the fact that you --- he
13 couldn't be found for the trial. Not compulsory process,
14 how it can get to the sheriff's to go find him before the
15 trial. That was and I didn't know what he was gonna say,
16 you know I was being told by all this stuff about what his
17 that he had done this or he'd done that his statement said
18 that he didn't do it. So I didn't know what he was gonna
19 say. I didn't know if I compulsory found him for something
20 if he was going to agree with us or not? That's what I kept
21 trying to explain this is that without speaking to him, how
22 was I going to know if he's gonna be helpful or not?

23 Q: Did you at any point in time, pull a sled report of
24 Brandon Swain?

25 A: I always look people up on like court things. So it

1 is very likely that we did look and see whether he had been
2 arrested for. There was discussion about that. Whether or
3 not --- I don't remember.

4 Q: Do you remember if he had been arrested between the
5 time in which Mr. Dreher was arrested and had he been
6 arrested for something else during that period of time?

7 A: I don't remember. But I do remember when I first got
8 involved with him and we were looking for him and pulling
9 up of his name and trying to figure out who he was and all
10 that I mean if you're telling me he'd been arrested and my
11 client's arrest and the time he gave the statement I don't
12 know. I'm not aware of that. But I would have looked him up
13 at some point to see where like what address was he listed
14 at and all that kind of stuff.

15 Q: Do you have that in your notes?

16 A: I don't know where it is but I could have been
17 something we looked up on the screen. I didn't print. You
18 know, the computer screen you just go on.

19 Q: Did you write that on your notes?

20 A: No.

21 Q: Did you write anything about discussing trial with
22 Mr. Dreher on your notes?

23 A: Yes.

24 Q: You did?

25 A: Yes.

1 Q: Talking.

2 A: I wrote things down about okay once again my phone is
3 now dead. I got at least 85 entries on my Dropbox about Mr.
4 Dreher whether or not anything in there might be a memo or
5 something that is not part of what's in this stuff right
6 here. I don't know. I have pieces of paper notes that I've
7 kept over time, about different things that I spoke to him.
8 And when we're talking about this ...

9

10 Q: And you say 85 entries ...

11 A: I don't know. I looked him up before my phone died.

12 Q: I understand I understand.

13 A: Hundreds of them even.

14 Q: But those also include every single email in which
15 you had with the prosecutor. They also include every time
16 you got an email from discovery.

17 A: Excuse me sir, I don't have the same computer system
18 that you do. And in my computer system is not something
19 that I actually put into Dropbox, my emails, but if I go to
20 my yahoo account and put Mr. Dreher's name in, I have every
21 single email ever for Mr. Wilton, from William McNeely. I
22 have every single email ever from the court about his case,
23 we have no --- I've never thrown anything away or dumped
24 anything at all on the cases. I can establish through every
25 single email that I have every word I ever spoke to Mr.

1 McNeely, and I can do that. And in terms of talking to him
2 ...

3 Q: I understand.

4 A: I have notes.

5 Q: I'm not ...

6 A: I haven't --- this is about on 01/21/2021, we're
7 talking about sentencing, we're talking about electronic
8 monitors this is about --- This is all about when to try to
9 tag us, labor, things like that. The admitted video, please
10 tell me, I'm not the guy with multiple officers on. This is
11 all about issues with the defense. This is about the
12 defense as well, when he's talking to my prosecutor, my
13 friend, the man worked with me. Then this is about all of
14 the things that he wants to tell me that he didn't mean to
15 hit him. This was about he apparently didn't see him. There
16 was no intent to kill him. All that is in my notes.

17 Q: Okay.

18 A: So these would have been in furtherance of the fact
19 that we did not think he was guilty. And we would have been
20 discussing that he would have had a trial if he wanted to.
21 Everything about Mr. Dreher was do you want a trial or not?
22 At the point where we had gone before the judge in the plea
23 was didn't happen and fell apart. Everything from that
24 point on was now do you want a jury trial, is that what you
25 want? Let's talk about your jury trial. Are you sure that's

George R. Dreher vs. State of South Carolina

80

1 what you want? And then he decided to plead guilty.

2 Q: Okay. At any point in time after the first plea
3 hearing in February, did you send additional people out to
4 look for Mr. Swain?

5 A: Yes, yes.

6 Q: In your notes, because the only note ...

7 A: I don't have notes of that. I know my own personal
8 mind. I know what I was trying to do for Mr. Dreher at that
9 point. I just trying to get Mr. Dreher's case ready for
10 trial. If that's what Mr. Dreher wanted. We were talking
11 about what do you even need to do to have a jury trial,
12 because he's completely falling apart. And I was trying to
13 figure it out with Mr. McNeely to see if you can come back
14 and figure out what we're going to do. And in that interim
15 period of time, we were trying to find Brandon.

16 Q: Okay. But it's not in your notes.

17 A: It's in my head. I don't have to have notes of this.
18 I know Mister --- I remember Mr. Dreher's case, like it was
19 yesterday. You know, there was a lot that went on to this,
20 in this case, lots of effort that I put into this case. And
21 I know what I was trying to do, between the time that the
22 plea fell apart and the time he came back in, because I
23 wanted him to make sure that if he chose to have a trial
24 that he understood what he would be doing, and I wanted him
25 to understand his exposure. So I was looking at the case of

1 is this going to be a trial now? And then it just --- he
2 decided not to it? Yes, that was a period of time in there.
3 And I cannot make --- the man who worked for me is dead.

4 Q: Okay.

5 A: So I mean, he kept his own. He had different things
6 in my office, there were his own notebooks and things. He's
7 deceased.

8 Q: Okay. But it was your employee, right?

9 A: He was my employee ...

10 Q: There's ...

11 A: And I sent him there to do it.

12 Q: And it was Mr. Dreher's file, correct?

13 A: Yes.

14 Q: And where are those notes in Mr. Dreher's file from
15 your investigator?

16 A: Could you please ask him to not ask me this question
17 again? I don't have pieces of paper with it.

18 THE COURT: Hold on. Hold on ma'am. Have we not
19 addressed the question?

20 MR. BELL: I just asked her that she brought up
21 additional notes, Your Honor, about her investigator having
22 his own stuff and she's testified that was her employee. So
23 I'm now asking where are her investigators ...

24 THE COURT: I thought you said her notes?

25 MR. BELL: No, I asked about her investigators

1 notes.

2 THE COURT: I thought you said her notes.

3 MR. BELL: Oh no. I'm just --- she brought up an
4 investigator that now has his own notes and stuff. That's
5 part of Mr. Dreher's file and the entire file is Mr.
6 Dreher's. It's his file. And I'm just trying to figure out
7 where those notes are now that say that he went out to a
8 location to keep tracking I'm sure there's mileage that has
9 to be paid. I'm sure all this other stuff. Where's the
10 notes of this tracking people that drive mileage to pay
11 them?

12 THE COURT: Well I don't know.

13 MR. BELL: I'm just ...

14 THE COURT: I'll let her answer.

15 MR. BELL: That's --- that's where I'm going, Your
16 Honor. Because we ...

17 THE COURT: Hey stop for a minute. I thought you
18 asked her about her specific notes, not her investigators.

19 MR. BELL: I apologize if --- I apologize if that
20 was what I ...

21 THE COURT: That's why I thought it was a
22 previously asked question. Maybe you said it right and I
23 misheard it. The witness can answer the specific question
24 about her investigator's notes if they exist. At some point
25 we have to except the answer that they don't exist.

1 MR. BELL: I agree.

2 MS. GAY: There were yellow pads of paper that he
3 carried around with him often times. Those pieces of paper
4 that might have been related to Mr. Dreher may or not exist
5 and he's dead. And those pieces of paperwork were cleaned
6 out. Any paperwork from him, 20 years the man worked for
7 me, in his office that might have been loose pieces of
8 paper or something, his family threw all that away. So I
9 can't verify any piece of paper that said he went, but I
10 know he did. Because I was the one in charge of the file.
11 And I'm the attorney. And I asked the person who's not an
12 investigator but he just works for me to drive out to look
13 for the guy again. And he came back saying I did that I
14 went, I'm still looking for him and we could not find him.
15 Q: Okay. And you never made notes by your investigator
16 or your employer parts of your files?

17 MS. DIXON: Objection, he has the answer.

18 A: Yes. I have notes and things that I've done in other
19 cases, whether they're in this one or not, they're probably
20 on my phone, because I didn't print every single piece of
21 paper from the file to come here today, but I did give you
22 a copy of everything.

23 Q: Oh, I have everything I have, I don't have any notes
24 or anything or anything, but I do ...

25 A: Because they're mine. They're my notes.

George R. Dreher vs. State of South Carolina

84

1 THE COURT: I'm trying but I can't even get in a
2 response here. It's tough to have a no answer at this point
3 because we are ...

4 MR. BELL: I understand.

5 THE COURT: We are really ...

6 MR. BELL: I'm about the end, Your Honor.

7 THE COURT: We've really plowed this field pretty
8 well.

9 MR. BELL: I'm about to end, Your Honor.

10 THE COURT: I mean Mr. Bell you take as much time
11 as you need. I just feel like the notes that she's been
12 heavily ...

13 Q: Understood, how did you pay your employee?

14 A: Is that relevant?

15 MS. DIXON: Object to relevance.

16 Q: On an hourly basis on a job basis of what was he paid
17 on?

18 THE COURT: Overruled. I mean its her
19 investigator. Is that correct?

20 MS. GAY: Yes.

21 THE COURT: Okay then you can answer the question.

22 A: I paid him by case.

23 Q: Okay.

24 A: I paid him by the number of hours and time he spent.
25 Latter years of his life was on salary.

1 Q: So he's a salaried employee?

2 A: A person who's a 1099 employee from my office. So
3 he's not a salary --- a salaried employee. He is a person
4 who worked for me for 27 years.

5 Q: Okay. And did he submit billing for each individual
6 case?

7 A: No.

8 Q: To keep track of billing within a case?

9 A: No, he did not.

10 Q: Okay.

11 A: He worked for me in my general practice, and did lots
12 of things all the times, though, in some of the cases, we
13 did do specific type of stuff, but not in Mr Dreher's. Mr.
14 Dreher, he and I were talking about it very regularly, and
15 that's working closely with me. And I was aware of what he
16 was doing.

17 Q: Okay. Did you pay mileage to the individual that
18 drove locations and gave a list of what you were paying
19 mileage for?

20 A: No.

21 Q: Okay. how was that compensated?

22 A: He was a 1099 employee who deducted his own milage
23 from the IRS, so he drove around and did things when he
24 filed his tax returns. He handled his own milage.

25 Q: Alright. I have no further questions, Your Honor.

George R. Dreher vs. State of South Carolina

86

1 THE COURT: Redirect?

2 MS. DIXON: Nothing, Your Honor.

3 THE COURT: Witness can step down.

4 MS. GAY: May I be excused, Your Honor?

5 THE COURT: Without objection?

6 MR. BELL: No objection.

7 MS. DIXON: No objection, thank you.

8 THE COURT: Let's take five minutes here. We've
9 been going for two hours.

10 **(There was a break in the proceeding)**

11 THE COURT: Okay we are back on the record in the
12 matter of George Dreher verses the State. We spoke with the
13 attorneys, the attorneys kind of --- First of all does the
14 State have anymore witnesses?

15 MS. DIXON: No more witnesses, Your Honor.

16 THE COURT: Alright. I spoke with the lawyers
17 during our recess. I believe our plan is that Mr. Bell will
18 take 30 days to work on this. I'm fine to give you more
19 time. I know you have a lot of things going on. I just want
20 to give you the amount of time you need to do it. I just
21 want in writing a supplemental memorandum to summarize your
22 points of law specific to the PCR. And when you submit it,
23 if you need more time, please just reach out and I'll allow
24 it. Defendant, and after you get yours in ...

25 MS. DIXON: I'll do my best to respond. I am going

1 to be in Europe for most of June so I don't know where it's
2 going to fall but I'm not planning to work while I'm there.

3 THE COURT: Just take your laptop computer with
4 you.

5 MS. DIXON: Nope. I'm just kidding, sir.

6 THE COURT: Just work together to get it in. 30
7 and 30 seems like a pretty reasonable timely to get it in.
8 Based on the time lines in theory, we'll have to go outside
9 to review this. We've got the file. We've got our notes.
10 Mr. Bell, you mentioned a request for transcript last time.

11 MR. BELL: Yes, Your Honor. I'm going to get with
12 the Court Reporter today and get that started.

13 THE COURT: Okay. It's no ones fault, there's just
14 a lot of transcripts being requested.
15 We'll just cross that bridge when we get there.

16 MR. BELL: Yes, sir.

17 THE COURT: Anything else for the record?

18 MS. DIXON: Nothing from the State.

19 MR. BELL: Nothing, Your Honor.

20 THE COURT: Alright. Nice to see y'all.

21 **(End of Hearing)**

22

23

24

25

George R. Dreher vs. State of South Carolina

88

1 STATE OF SOUTH CAROLINA)

2) CERTIFICATE

3 COUNTY OF BERKELEY)

4
5 Be it known that I, the undersigned Melissa R.
6 Singletary, Certified Verbatim Reporter, for the State of
7 South Carolina, do hereby certify that the foregoing
8 transcript represents a true, accurate and complete
9 transcript of record of the testimony and evidence
10 introduced in during this testimony of the captioned case,
11 before the Circuit Court for Berkeley County, South
12 Carolina, so given on March 11, 2024, to the best of my
13 skill and ability;

14 That I am not related to nor an employee of any of
15 the parties hereto, nor a relative or employee of any
16 attorney or counsel employed by the parties hereto, nor
17 interested in the outcome of this action.

18 IN WITNESS WHEREOF I have here unto set my hand this
19 11th day of April, 2024.

20 *Melissa R. Singletary*

21 _____
22 Melissa R. Singletary, CVR
23 Certified Verbatim Reporter
24
25

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

COURT OF GENERAL SESSIONS
DOCKET NO. 2020-GS-08-2020
2020-GS-08-2022

STATE OF SOUTH CAROLINA

vs.

GEORGE RILEY DREHER
Defendant



TRANSCRIPT OF RECORD

February 18, 2021
Via: Virtual Courtroom

B E F O R E:

THE HONORABLE R. MARKLEY DENNIS, JR., JUDGE

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

WILTON H. McNEELY, ESQ.
Attorney for the State

MELISA W. GAY, ESQ.
Attorney for the Defendant

JOYCE C. RUEGER,
Certified Verbatim Reporter-Master
Circuit Court Reporter

[Certified Copy of Transcript Provided to: SCCID]

INDEX TO PROCEEDINGS

	PAGE
PROCEEDINGS	3
GUILTY PLEA	3
CERTIFICATE OF THE COURT REPORTER	16

INDEX TO EXHIBITS

No Exhibits were introduced

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

PROCEEDINGS

THE COURT: Thank you so much.

MS. GAY: The next one on the list is actually George Dreher.

THE COURT: Yes, I see that. All right and is that a ---

MS. GAY: --- that's with Wilton.

THE COURT: Yes, Wilton was on but I don't -- hello, Wilton.

MR. McNEELY: Good afternoon, Your Honor. How are you?

THE COURT: I'm fine.

MS. GAY: Judge, me one second. I'm going to turn my computer around because his Mom's here. I just need to mute you from -- you can't see me for one minute and I'm just going to turn around ---

THE COURT: --- you don't -- I don't need to see her if she can hear me; that's okay. She doesn't ---

MS. GAY: --- why don't you come and stand this way and then ---

THE COURT: --- she doesn't need to ---

MS. GAY: --- she can hear.

THE COURT: And I can hear her if she speaks; that will be fine.

MS. GAY: Yes.

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 THE COURT: Okay. I found out today that sometimes
2 if we turn off the video the speaking stays pretty
3 consistent. So that may have something to do with the
4 buffering overload. I really don't -- it's beyond my pay
5 grade; I can tell you that. Are you Mr. Dreher?

6 MR. DREHER: [No response]

7 THE COURT: Mr. Dreher, I need for you to answer
8 me. Are you George Dreher? I didn't hear you.

9 [Technical difficulties -- background noise]

10 MR. DREHER: Yes, Your Honor.

11 THE COURT REPORTER: Judge, I'm sorry; there's some
12 really loud background noise.

13 [Off the record momentarily working on technical
14 issues]

15 THE COURT: Mr. Dreher, I have failure to stop.
16 Your lawyer has explained that charge to you, sir?

17 MR. DREHER: Yes sir, Your Honor.

18 THE COURT: It's great bodily injury and it carries
19 a potential ten year sentence. Do you understand that?

20 MR. DREHER: Yes sir, Your Honor.

21 THE COURT: What is your plea, guilty or not
22 guilty?

23 MR. DREHER: Guilty.

24 THE COURT: I also have indictment 2020-2022
25 charging you with attempted murder. And that carries a

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 potential sentence -- well, you're pleading to a lesser
2 included offense of assault and battery of a high and
3 aggravated nature; you understand that?

4 MR. DREHER: Yes sir, Your Honor.

5 THE COURT: And your lawyer has explained the
6 difference between the two?

7 MR. DREHER: Yes sir, Your Honor.

8 THE COURT: And you understand that for that I
9 could sentence you up to 20 years in jail?

10 MR. DREHER: Yes sir, Your Honor.

11 THE COURT: You also understand it is considered a
12 serious offense?

13 MR. DREHER: Yes sir, Your Honor.

14 THE COURT: And your lawyer has explained what that
15 is?

16 MR. DREHER: Yes sir, Your Honor. That's correct.

17 THE COURT: That is correct. It's also a non-
18 paroleable offense; you understand that?

19 MR. DREHER: Yes sir, Your Honor.

20 THE COURT: Which means that any sentence that I
21 impose you would be required to serve 85 percent and then
22 once released you still would be required to complete a
23 two year community supervision program, which is a fancy
24 word for probation for two years. If you fail to
25 complete that a violation of that could result in your

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 being incarcerated up to one year at a time until the
2 balance of your sentence is satisfied; do you understand
3 that?

4 MR. DREHER: Yes sir, Your Honor.

5 THE COURT: Understanding all of that what is your
6 plea, guilty or not guilty?

7 MR. DREHER: Guilty.

8 THE COURT: Are you satisfied with your lawyer?

9 MR. DREHER: Yes sir, Your Honor.

10 THE COURT: Solicitor, any agreement other than
11 allowing him to plead to the lesser included offense?

12 MR. McNEELY: No, Your Honor. This is without
13 recommendation. Each side will be requesting a separate
14 sentence at the appropriate time.

15 THE COURT: Very well. Ms. Gay, you can unmute
16 your mic and we'll mute the jail.

17 [Whereupon, Ms. Gay complies]

18 THE COURT: You've discussed this matter fully with
19 your client?

20 MS. GAY: I have, sir. Yes.

21 THE COURT: And he's been advised of his rights and
22 the consequences of his plea?

23 MS. GAY: Yes, sir.

24 THE COURT: Based on your investigation on his
25 behalf do you concur with his decision to enter the

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 guilty pleas?

2 MS. GAY: Yes, sir.

3 THE COURT: Is all that correct, Mr. Dreher?

4 MR. DREHER: Yes sir, Your Honor.

5 THE COURT: You understand if I accept your plea
6 you will not have a jury trial, you will not confront the
7 witnesses against you and you're giving up the right to
8 remain silent?

9 MR. DREHER: Yes sir, Your Honor.

10 THE COURT: Have there been any threats or promises
11 made to you to get you to plead guilty?

12 MR. DREHER: No sir, Your Honor.

13 THE COURT: Are you under the influence of any
14 alcohol or any medication here today?

15 MR. DREHER: No sir, Your Honor.

16 THE COURT: Have you taken any type of medication
17 or consumed any alcohol in the last 24 hours?

18 MR. DREHER: No sir, Your Honor.

19 THE COURT: Have you ever been treated for any
20 emotional illness or mental illness?

21 MR. DREHER: Yes sir, Your Honor.

22 THE COURT: Tell me about it.

23 MR. DREHER: I've been in MUSC. There was a place
24 somewhere in Columbia, Trident; they said I got PTSD and
25 paranoid schizophrenia. I'm supposed to take medicine.

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 But I lost my brother; I need to take the medicine. They
2 got me on Zoloft now.

3 THE COURT: So you're taking Zoloft now?

4 MR. DREHER: Yes sir, Your Honor.

5 THE COURT: Does that affect how you can think or
6 reason?

7 MR. DREHER: No sir, Your Honor.

8 THE COURT: Probably helps make it better.

9 MR. DREHER: Yes sir, Your Honor.

10 THE COURT: You understand what you're doing today?

11 MR. DREHER: Yes sir, Your Honor.

12 THE COURT: I've been provided with a report dated
13 October the 19th, 2020 from MUSC that outlines his
14 history of treatment for mental illness. I assume both
15 sides; Ms. Gay do you have that report for your file as
16 well?

17 MS. GAY: [No response]

18 THE COURT: Lisa?

19 MS. GAY: Hold on. I'm trying to get there, Your
20 Honor.

21 [Whereupon, Ms. Gay reviews documents]

22 MS. GAY: We've talked about this man for a long
23 time, Your Honor so if it's in something I have it in my
24 file, yes.

25 THE COURT: Solicitor, do you have it?

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 MR. McNEELY: I do, Your Honor. I provided the
2 copy for the Court today and I'd ask that it be made a
3 Court's exhibit for purposes of the hearing.

4 THE COURT: That's precisely why I'm asking that
5 question. It will be Court's exhibit number 1 for
6 purposes of this hearing and will be retained with all
7 other pleadings in the Clerk's file. I've reviewed it
8 and ---

9 MR. McNEELY: --- there should be two.

10 THE COURT: Well, I've got one document. I don't
11 know that it might contain two different reports.

12 MR. McNEELY: There were two separate documents.
13 One was for competency to stand trial and the other one
14 was criminal responsibility.

15 [Whereupon, the Court reviews documents]

16 THE COURT: Well, what I have right here I haven't
17 read fully.

18 MS. GAY: Your Honor, at this time Mr. Dreher is
19 competent. There is no -- even though he was evaluated
20 they did not say that he was not competent. And he's
21 also not asserting a mental health defense.

22 THE COURT: That's fine. I don't have that he's
23 competent but I don't see anything or any indication that
24 he's not competent; he's answered my questions. But if
25 you have a report that has that you can file it with the

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 Clerk; that's fine. The report that I have is submitted
2 by Allison Floyd. And it basically, and may even be
3 contained in there but the findings are and the doctors
4 that examined him were Tiffany Harrop and Emily Godfrey.
5 They also say he's competent. He meets the standard for
6 competency; it's all stated in this one form; so it's
7 there.

8 MR. McNEELY: Thank you.

9 THE COURT: Uh Huh. You understand and you know
10 fully what you're doing today, sir?

11 MR. DREHER: Yes sir, Your Honor.

12 THE COURT: Okay. Tell me the facts, please?

13 MR. McNEELY: Thank you, Your Honor. On April 10th,
14 2020 at approximately 10:40 p.m. Berkeley County deputies
15 responded to Fiddle Way and Old Whitesville Road in the
16 Moncks Corner area of Berkeley County due to a noise
17 complaint.

18 Upon arrival officers observed a white Chevrolet
19 Tahoe vehicle operating without a headlight leaving at a
20 high rate of speed almost striking the deputy's vehicle.
21 A stop was initiated by lights and sirens on Old
22 Whiteville Road. The driver of the Tahoe failed to stop
23 and accelerated away at a high rate of speed making a
24 right turn onto 17-A continuing to disregard signals to
25 stop and accelerating away towards Goose Creek. While on

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 17-A the vehicle drove recklessly at excessive speeds
2 disregarding traffic control devices --

3 [Whereupon, technical issues with the video during
4 part of Mr. McNeely's remarks]

5 MR. McNEELY: -- he kept weaving in and out of
6 traffic ---

7 THE COURT REPORTER: --- Mr. McNeely, Mr. McNeely?
8 We lost you at some point so you need to back up a couple
9 of sentences.

10 MR. McNEELY: Okay. While on 17-A the vehicle
11 drove recklessly at excessive speeds, disregarded traffic
12 control devices, weaved in and out of traffic and failed
13 to maintain his lane of travel driving into the median.

14 Deputies attempted to stop stick the vehicle on 17-A
15 but he drove through the median and made a left hand turn
16 onto 176 continuing to speed and driving recklessly
17 weaving over the road.

18 Thereafter Deputy Quinn Hayden had positioned
19 himself in the median of 176 where he was attempting to
20 deploy stop sticks. At the time the defendant approached
21 he swerved from his lane of travel into the median where
22 he struck Deputy Hayden causing significant great bodily
23 injury to his leg. The vehicle then lost control,
24 crossed all oncoming lanes of traffic and wrecked out
25 striking a curved power box electrical pole and tree

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 which caused significant damage to the vehicle. The
2 defendant was extracted and placed under arrest. The
3 front seat passenger Brandon Swain [phonetic] was
4 entrapped in the vehicle and had significant injuries as
5 well.

6 Deputy Hayden was taken to the hospital for
7 treatment of his injuries which have required multiple
8 surgeries and he is still experiencing significant
9 impairment and limited function. Deputy Hayden is on the
10 call today with his attorney Mason West and they will
11 address the Court at the appropriate time.

12 THE COURT: Okay. Are those facts correct, Mr.
13 Sanders [sic]? Excuse me. Mr. Sanders [sic] Mr. Dreher,
14 are those facts correct?

15 MR. DREHER: All besides intentionally swerving. I
16 would have never intentionally swerve and hit an officer.

17 THE COURT: Well sir, you're pleading guilty to
18 assault and battery of a high and aggravated nature which
19 requires an intentional act on your part.

20 MR. DREHER: I was driving the car, Your Honor, and
21 there was a passenger in the car. He snatched the wheel.
22 I would never intentionally -- I'm pleading guilty, Your
23 Honor. I'm not changing ---

24 THE COURT: --- no sir, you're not pleading guilty
25 without admitting your guilt. Right now you've now

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 vacillated. You said no, I didn't intentionally do
2 anything; it was all an accident. So which is it?

3 MR. DREHER: I'm guilty, Your Honor.

4 THE COURT: No, you just told me you weren't. How
5 can you be guilty unless you did something else that you
6 haven't told me? I assume Solicitor that's the act of
7 swerving into the vehicle is the assault and battery of a
8 high and aggravated nature.

9 MR. McNEELY: That's correct, Your Honor.

10 THE COURT: From what I've heard there is no
11 question about the failure to stop; all that has been
12 established. But clearly the assault and battery of a
13 high and aggravated nature is the threat to the people as
14 a result of what happened after that. So, you're telling
15 me I didn't mean to swerve, I didn't intentionally do
16 that. I would never -- I think you said I would never do
17 that.

18 MR. DREHER: Correct, Your Honor.

19 MS. GAY: Your Honor, I just would like to
20 interject for just a second. The timeframe ---

21 THE COURT: --- Ms. Gay, you can interject all you
22 want. You're going to have to take this interjection
23 before somebody else. Your client just looked at me and
24 said no, I didn't do this.

25 MS. GAY: I understand. I heard that, Your Honor.

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 There was about three seconds between the time that he;
2 we have video of everything, when the issue is.

3 And I think what happened when the man jumped out he
4 said his car did cross that area but I think it was you
5 know and he did hit the guy. There is no doubt that he
6 hit the guy. And so I've talked to him about this
7 extensively. We've been working on this one for a while.

8 THE COURT: Ms. Gay, you're not helping me at all.
9 You might be helping yourself but you're not helping me
10 at all. I'm the person that has to be convinced. And
11 the crime was when he swerved the car and the State is
12 alleging he intentionally did that.

13 MS. GAY: I understand what -- the elements of the
14 offense Your Honor and I've spoken to him about this.

15 THE COURT: Well that's fine but he doesn't agree
16 with you. You may but he doesn't agree with it.

17 MS. GAY: Well, my suggestion Your Honor is that we
18 stand down then.

19 THE COURT: You don't have to suggest; I'm not
20 going to take the plea. I assume you don't want me --
21 obviously his plea to one is already done but I don't, I
22 assume that's not the State's desire to get a conviction
23 on the failure to stop.

24 MR. McNEELY: It's all or nothing, Your Honor.

25 THE COURT: I figured it was. No sir, thank you

State v George Riley Dreher
Guilty Plea Hearing
February 18, 2021

1 very much Mr. Dreher.

2 MS. GAY: It didn't work; sorry. He won't say it.
3 He won't say what happened. I did not cause the accident
4 ---

5 THE COURT: --- he won't tell the truth, ma'am.
6 Whatever; but maybe he is. I don't know; that's up to a
7 jury.

8 MS. GAY: I understand, sir.

9 THE COURT: Thank you. Mason, I'm sorry. Thank
10 you for attending. Thank you, Will.

11 *****END OF TRANSCRIPT OF RECORD*****
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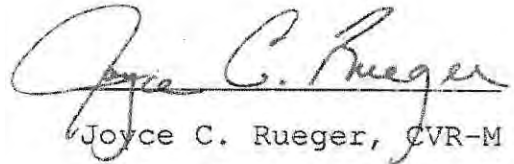
State v George Riley Dreher
Certificate of the Court Reporter
February 18, 2021

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit of
the State of South Carolina, do hereby certify that the
foregoing is, to the best of my ability, a complete
Transcript of Record of the proceedings had, using WebEx
videoconferencing, and evidence introduced in the trial
of the captioned case, relative to appeal, in the Court
of General Sessions for Berkeley County, South Carolina
on the 18th day of February, 2021.

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

April 22, 2021


Joyce C. Rueger, CVR-M

Court Reporter



COPY

STATE OF SOUTH CAROLINA)
 COUNTY OF BERKELEY)
 IN THE GENERAL SESSIONS COURT
 NINTH JUDICIAL CIRCUIT
 CASE NO: 2020GS0802021

STATE OF SOUTH CAROLINA)
 COUNTY OF BERKELEY)
 LEAH GUERRY DUPREE
 CLERK OF COURT
 BERKELEY COUNTY, SC

Plaintiff)

VS.)

GEORGE RILEY DREHER,)

Defendant)

MOTION TO WITHDRAW GUILTY PLEA

RECEIVED

JUL 12 2021

SC Court of Appeals

COMES NOW THE DEFENDANT, who by and through his undersigned attorney, does hereby move to withdraw his guilty plea entered on April 12, 2021. The Defendant asserts that he was not fully mentally sound at the time of his plea, therefore the plea process was not voluntarily entered in to.

The Defendant moves this court to allow him to withdraw his guilty plea and pursue this charge at a trial.

Respectfully submitted,

Melisa W. Gay, Esquire
 MELISA W. GAY, LLC

Attorney for the GEORGE RILEY DREHER
 222 West Coleman Blvd., Suite 208
 Mt. Pleasant, SC 29464
 Ph: (843) 388-7907
 Fax: (843) 416-8379

Moncks Corner, South Carolina
 Dated: April 16, 2021

PETITIONER'S
 EXHIBIT

3/11/24

2

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)
STATE OF SOUTH CAROLINA,)
Plaintiff)
VS.)
GEORGE RILEY DREHER,)
Defendant)

IN THE GENERAL SESSIONS COURT
NINTH JUDICIAL CIRCUIT
CASE NO: 2020GS0802021

MOTION TO WITHDRAW GUILTY PLEA
BASED ON AFTER DISCOVERED
EVIDENCE

JUL 12 2021

SC Court of Appeals

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CLERK OF COURT
BERKELEY COUNTY, SC

FILED
8/4

COMES NOW THE DEFENDANT, who by and through his undersigned attorney, does hereby move to withdraw his guilty plea entered on April 12, 2021 based on the statement recently provided indicating that a third party is responsible for the injury to the victim in the Assault and Battery of a High and Aggravated Nature charge. The plea was not voluntarily made because it was entered into before this evidence was obtained in his case.

The Defendant moves this court to allow him to withdraw his guilty plea based on after-discovered evidence.

Respectfully submitted,


Melissa W. Gay, Esquire
MELISA W. GAY, LLC
Attorney for the GEORGE RILEY DREHER
222 West Coleman Blvd., Suite 208
Mt. Pleasant, SC 29464
Ph: (843) 388-7907
Fax: (843) 416-8379

Moncks Corner, South Carolina
Dated: April 20, 2021

STATE OF SOUTH CAROLINA)

AFFIDAVIT OF BRANDON M. SWAIN

COUNTY OF BERKELEY)

Case Number: 2020A081600014

I, Brandon Swain, 22 years of age, resident of Berkeley County, South Carolina, do hereby swear that:

I was riding in the SUV driven by George (Lee) Dreher on Friday, April 10, 2020. Seconds before the accident I jerked the steering wheel while sitting in the passenger's seat.

DATED this 17 day of April, 2021.

B.M.S. Swain

Brandon Swain

Address: [REDACTED], Goose Creek, SC 29445

SWORN to before me on this 17th

Day of April, 2021.

Russ H. Henderson (SEAL)

Notary Public for South Carolina

My Commission Expires: 05/12/2021

RECEIVED

JUL 12 2021

SC Court of Appeals

FILED
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LEAH GUERRY-DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC



STATE OF SOUTH CAROLINA **FILED** THE COURT OF GENERAL SESSIONS
 COUNTY OF BERKELEY JUN 22 2021 NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA CASE NO. DEAH GUERRY DUPRE CLERK OF COURT BERKELEY COUNTY SC **ORDER DENYING DEFENDANT'S MOTIONS TO WITHDRAW GUILTY PLEA**

VS.

GEORGE RILEY DREHER,
 DEFENDANT.

Arrest Warrant #2020A0810200389

Arrest Warrant #2020A0810600014

Indictment #2020-GS-08-02020

Indictment #2020-GS-08-02022

RECEIVED
 JUL 12 2021
 SC Court of Appeals

THIS MATTER CAME BEFORE THE COURT on June 17, 2021, for hearing on the Defendant's two separately filed Motions to Withdraw Guilty Plea. After hearing from the attorney for the Defendant, as well as the Assistant Solicitor on behalf of the State, the Court has determined that the Defendant's two separately filed Motions to Withdraw Guilty Plea should be denied.

The Court has fully considered the facts of this case, the two Motions of the Defendant, and the Response and Memorandum in Opposition filed by the State. Further, the Court has fully considered the transcripts of the two prior plea hearings in this matter, the first on February 18, 2021 when the Defendant's guilty plea was not completed, and then on April 12, 2021 when the Defendant's guilty plea was completed, accepted by the Court, and the Defendant was sentenced. The Court has also considered the alleged after-discovered evidence submitted by the Defendant as attached to the second filed Motion to Withdraw Guilty Plea, specifically the affidavit of Brandon M. Swain. In doing so, the Court has specifically considered the factors relevant to a Rule 29(b) motion for new trial on the basis of after-discovered evidence, to wit: whether the movant has shown that the alleged after-discovered evidence "(1) is such as will probably change the result if a new trial is granted; (2) has been discovered since the trial; (3) could not have been discovered before the trial by the exercise of due diligence; (4) is material to the issue; and (5) is not merely cumulative or

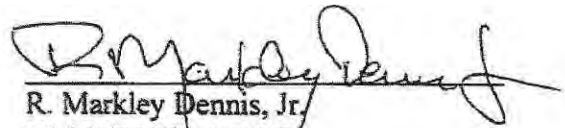
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impeaching." *State v. Harris*, 391 S.C. 539, 544-545, 706 S.E.2d 526, 529 (Ct. App. 2011), citing *State v. Spann*, 334 S.C. 618, 619-20, 513 S.E.2d 98, 99 (1999).

Having considered all of the forgoing, this Court hereby finds that the Defendant was fully competent and of sound mind when he entered his guilty plea on April 12, 2021, and that guilty plea was freely, voluntarily, knowingly, and intelligently entered and accepted by the Court. The Court further finds that the Defendant has failed to prove the above listed five factors required for granting a new trial on the basis of after-discovered evidence. Specifically, the evidence submitted is not after-discovered evidence, as it was clearly known to the Defendant prior to the guilty plea on April 12, 2021. The contents of the alleged after-discovered affidavit were expressly discussed by the Defendant with the Court on February 18, 2021. For the foregoing reasons, the Defendant's Motions are denied.

THEREFORE, IT IS HEREBY ORDERED, that the Defendant's two separately filed Motions to Withdraw Guilty Plea are hereby DENIED.

IT IS SO ORDERED.


R. Markley Dennis, Jr.
PRESIDING JUDGE
NINTH JUDICIAL CIRCUIT

Dated: June 22, 2021
Moncks Corner, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BERKELEY	)	FOR THE NINTH JUDICIAL CIRCUIT
	)	
George Riley Dreher, #334165,	)	Case No.: 2022-CP-08-02034
	)	
Applicant,	)	
	)	SUPPLEMENTAL MEMORANDUM
v.	)	IN SUPPORT OF PCR APPLICANT'S
	)	REQUESTED RELIEF
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

TO: THE HONORABLE WALTON MCLEOD, PRESIDING JUDGE FOR THE NINTH JUDICIAL CIRCUIT; AND DANIELLE DIXON, ATTORNEY FOR THE STATE OF SOUTH CAROLINA:

THIS MATTER comes before the Court upon the Applicant's, George Riley Dreher's, Application for Post-Conviction Relief alleging ineffective assistance of counsel, filed on August 24, 2022 by his attorney of record, J. Taylor Bell. Respondent State of South Carolina, by and through its attorney of record, Danielle Dixon, subsequently filed a Return to Applicant's Application for Post-Conviction relief on or about October 3, 2023, requesting this Court convene an evidentiary hearing be held regarding Applicant's allegations.

A PCR hearing was thereafter held on March 11, 2024 in front of the Honorable Walton McLeod. Present at this hearing was J. Taylor Bell, on behalf of the Applicant, and Assistant Attorney General Danielle Dixon, on behalf of the Respondent for the State of South Carolina. Sworn testimony was taken from Applicant George Riley Dreher, and from his trial court plea counsel, Melisa W. Gay. At the conclusion of the PCR Evidentiary Hearing, the Court requested Supplemental Memorandums of Law in Support of the respective party's position, and the foregoing is being presented in accordance therewith.

APPLICANT'S GROUNDS FOR POST-CONVICTION RELIEF

In his PCR Application, Applicant asserted the following grounds on which he is being held in custody unlawfully within the South Carolina Department of Corrections:

"Plea Counsel denied Applicant's right to effective assistance of counsel as guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution and Article I, Sections 3 and 14 of the South Carolina Constitution. Specifically, Plea Counsel's unreasonably deficient performance prejudiced Applicant because there is a reasonable probability that, but for Plea Counsel's error, Applicant would not have pled guilty and would have invoked his right to a jury trial. See *Hill v. Lockhart*, 474 U.S. 52 (1985) (applying *Stickland v. Washington*, 466 U.S. 668 (1984) standard to guilty plea challenges of ineffective assistance of counsel). Therefore, Applicant did not voluntarily, knowingly, and intelligently plead guilty. See *Boykin v. Alabama*, 395 U.S. 238 (1969)."

As the grounds set forth in the Application, Applicant set forth the following factual bases:

1. Counsel failed to investigate and interview witnesses, specifically Brandon Swain, and only after Applicant pled guilty did Plea Counsel file a motion to withdraw guilty plea and submitted to the Court an affidavit of Brandon Swain.
2. Counsel failed to inform Applicant of all available defenses and legal rights, specifically Applicant's right to compel witnesses to court.

APPLICABLE STANDARD OF LAW

Applicant alleges plea counsel was ineffective for not fully investigating his case and properly advising him of his legal rights and defenses. To establish ineffective assistance of counsel, Applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) Applicant sustained prejudice because of counsel's deficient performance. *Strickland v. Washington*, 466 U.S. 668, 687-88 (1984); *Cherry v. State*, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989).

"The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases." *Watson v. State*, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). To establish prejudice, Applicant must prove "there is a reasonable

probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. The Sixth Amendment right to counsel also applies to a defendant entering a guilty plea. Hill v. Lockhart, 474 U.S. 52 (1985). When reviewing a guilty plea, the Strickland deficiency prong remains unchanged, Applicant must show that counsel's representation fell below an objective standard of reasonableness. Hill, 474 U.S. at 58-59. To show prejudice, Applicant must show a reasonable probability exists "that, but for counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial." Id. at 59.

The Due Process Clause requires that guilty pleas are entered into voluntarily, knowingly, and intelligently. Boykin v. Alabama, 395 U.S. 238 (1969); Pittman v. State, 337 S.C. 597, 524 S.E.2d 623 (1999). Before a court can accept a guilty plea, the defendant must be advised of the constitutional rights he is waiving, including the right to a jury trial, the right to confront one's accusers, and the privilege against self-incrimination. Boykin, 395 U.S. at 243. Additionally, the defendant "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman, 337 S.C. at 599.

"Admissions made during a guilty plea should be considered conclusive unless an applicant presents valid reasons why he should be allowed to depart from the truth of his statements." Id. at 137-38, 654 S.E.2d at 874. An applicant who enters a plea on the advice of counsel may "only attack voluntary, knowing and intelligent character of the plea by showing that plea counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the [applicant] would not have pled guilty, but would have insisted on going to trial." Roscoe v. State, 345 S.C. 16, 20,546 S.E.2d 417,419 (2001).

"Counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." Strickland, 466 U.S. at 691. Defense counsel will not be deficient if they conduct "a reasonable investigation, including interviewing potential witnesses when it is reasonable to do so." Edwards v. State, 392 S.C. 449,457, 710 S.E.2d 60, 65 (2011). "Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result." Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998).

Defense counsel is also responsible for informing "a defendant of the advantages and disadvantages of a plea agreement and the attendant statutory and constitutional rights that a guilty plea would forego." Libretti v. U.S., 516 U.S. 29, 50-51 (1995). When defense counsel allegedly fails to advise the defendant of a potential affirmative defense, "the resolution of the 'prejudice' inquiry will depend largely on whether the affirmative defense likely would have succeeded at trial." Hill, 474 U.S. at 59.

LEGAL ANALYSIS AND FACTUAL BASES FOR PCR RELIEF

I. Counsel failed to investigate and interview witnesses, specifically Brandon Swain, and only after Applicant pled guilty did Plea Counsel file a motion to withdraw guilty plea and submitted to the Court an affidavit of Brandon Swain.

Applicant alleges that his plea counsel's representation fell below an objective standard of reasonableness, and that there is a reasonable probability that, but for counsel's errors, he would not have pled guilty, but would have insisted on going to trial. It is well established in the Applicant's PCR record, that Applicant conveyed to plea counsel his affirmative defense of lack of criminal intent to commit the charge of Attempted Murder prior to entering his guilty plea. Specifically, Applicant informed his attorney that the moment before his vehicle struck a police

officer during a high-speed chase, his codefendant, Brandon Swain, grabbed the steering wheel and jerked it, thereby causing the vehicle to swerve into the victim.

In *State v. King*, our supreme court affirmed that "the Legislature intended to require the State to prove specific intent to commit murder as an element of attempted murder." 422 S.C. 47, 55, 810 S.E.2d 18, 22 (2017) (quoting *State v. King*, 412 S.C. 403, 411, 772 S.E.2d 189, 193 (Ct. App. 2015)); S.C. Code Ann. § 16-3-29 (2015) ("A person who, with intent to kill, attempts to kill another person with malice aforethought, either expressed or implied, commits the offense of attempted murder.").

Considering the particular facts established in Applicant's case, it is clear that he informed his plea counsel that the vehicle striking the alleged victim was involuntary in nature and therefore, lacked any intent, specific or otherwise, to kill the police officer. The same lack of criminal intent would also be an applicable affirmative defense to the Applicant's plea charge to the lesser included offense of assault and battery of a high and aggravated nature. Upon notice of this affirmative defense, plea counsel failed to conduct a reasonable investigation into this defense, including interviewing witness Brandon Swain (hereinafter referred to as "Swain"), thereby resulting in the failure to procure direct evidence of the Applicant's innocence.

a) Reasonableness of investigation and interview of Brandon Swain.

At the PCR hearing of this case, plea counsel Melisa W. Gay was examined regarding her efforts to locate and interview Swain, and her advisement to Applicant for him to plea to the lesser included offense of assault and battery of a high and aggravated nature. Plea counsel was questioned by Applicant Counsel as to her efforts to locate Swain as a potential defense witness, responding that:

“Yes. Mr. Swain was evasive. We couldn’t find him. I understand that Mr. Dreher is now saying something about telling me he was living in the woods somewhere but I would have never sent my investigator in the woods looking for anybody. I don’t think that’s an appropriate way to look for a witness.” Dreher v. South Carolina, *PCR Hearing Tr. 34:24*, March 11, 2024.

Further stating:

“The way [Applicant] described it, we had to go down a path. And into the woods and all that. I don't know that I would have asked my client, the man who worked for me, Mr. Brooks to do that, too.” *PCR Hearing Tr. 56:12*.

Plea counsel went on to explain that her investigator Mr. Brooks was a “lay investigator”, and later clarified that “he does not have a SLED verification, he was not an investigator.” *PCR Hearing Tr. 55:11*. In addition to her admission that she would not send her lay investigator into the woods to find Swain, plea counsel also testified that she never attempted any type of service of a subpoena with the assistance of law enforcement, nor did she ask the circuit court to help effectuate the service of any type of subpoena to compel his testimony.

Despite plea counsel’s statement that she exercised reasonable efforts to secure the statement of Swain, she did not send her lay investigator to the known location of the witness, and failed to take any additional steps to utilize the Court, or law enforcement, to effectuate service of a related subpoena. The failure to take these steps is reflective of a lack of reasonable efforts to secure the statement of Swain, a vital witness to the Applicant’s defense. Additionally, her utilization of a “lay investigator” who was not licensed by SLED, resulted in the failure of plea counsel’s investigation to utilize investigative techniques to locate this witness that would have likely been known to a SLED licensed investigator in the same position. For these reasons, plea counsel’s rendered ineffective assistance by failing to conduct a reasonable investigation of Applicant’s case, and as her performance fell below an objective standard of reasonableness, Applicant sustained prejudice because of plea counsel's deficient performance.

b) Lack of mere speculation as to result of failed independent investigation.

In the Applicant's case, we are not left to conjecture as to whether the locating of Swain, and subsequently procuring his statement, would have resulted in the discovery of exculpatory information which would have been vital to the defense of his case. This is shown by the sworn "Affidavit of Brandon Swain" dated April 17th, 2021, after the Applicant entered into his guilty plea, stating:

"I was riding in the SUV driven by George (Lee) Dreher on Friday, April 10, 2020. Seconds before the accident I jerked the steering wheel while sitting in the passenger seat." Affidavit of Brandon Swain, April 17, 2021.

Brandon Swain's sworn statement directly supports the affirmative defense conveyed by Applicant to his plea counsel evidencing his lack of criminal intent to commit the offense of attempted murder. Specifically, showing that the moment before Applicant's vehicle struck a police officer during a high-speed chase, Swain grabbed the steering wheel and jerked it, thereby causing the vehicle to swerve into the alleged victim. Further, this statement directly lines up with other exculpatory evidence in the Applicant's case, including the Applicant's statement, as well as the digital evidence of the alleged victim's body cam that shows the vehicle "wiggle to the left and when it wiggled to the left it hit the [victim] in the leg" at the moment of impact. *PCR Hearing Tr.*, 49:25.

This after-acquired direct evidence clearly corroborates the affirmative defense of lack of criminal intent by Applicant, thereby creating a clear reasonable probability that, but for counsel's shortcomings in her investigation, he would not have pled guilty, but would have insisted on going to trial. Additionally, the corroborating nature of Swain's statement would have been compelling

direct evidence that resulted in a high likelihood of the Applicant's affirmative defense succeeding at the trial of his case.

II. Counsel failed to inform Applicant of all available defenses and legal rights, specifically Applicant's right to compel witnesses to court.

As outlined above, plea counsel in Applicant's case failed to take the reasonable investigatory steps to procure the statement of Swain, whose subsequent sworn statement directly evidenced the affirmative defense of lack of criminal intent in the Applicant's case. In addition to failing to conduct a reasonable investigation, plea counsel also failed to advise of Applicant of his legal right to use the Court's compulsory powers to compel Swain to a Court appearance to secure his statement in support of Applicant's defense.

Specifically, plea counsel failed to advise Applicant of the ability to compel the presence of Swain in a compulsory manner through the utilization of South Carolina Rules of Criminal Procedure, Rule 13. Rule 13 (a)(1) states (in relevant part):

Upon the request of any party, the clerk of court shall issue subpoenas or subpoenas duces tecum for any person or persons to attend as witnesses in any cause or matter in the General Sessions Court. An attorney, as an officer of the court, may also issue and sign subpoenas or subpoenas duces tecum for any person or persons to attend as witnesses in any cause or matter in the General Sessions Court. The subpoena shall state the name of the court, the title of the action, and shall command each person to whom it is directed to attend and give testimony, or otherwise produce documentary evidence at a specified court proceeding. Rule 13(a)(1), SCRCrimP.

By failing to advise Applicant of the alternative compulsory powers available to him to secure the presence of a witness, that plea counsel's lay investigator was unable to locate, she failed to properly advise him of his attendant statutory and constitutional rights that a guilty plea would forego. Plea counsel explains in her testimony that she never thought to utilize these compulsory processes. Therefore, she failed to conduct her representation within the range of competence demanded of attorneys by failing to inform Applicant of the processes within her, and the Court's,

control to produce Swain as a defense witnesses. The significance of this failure is evidenced through the contents of the after-procured statement of Swain, a witness vital to the affirmative defenses in Applicant's case.

Additionally, plea counsel failed to conduct her representation within the range of competence demanded of attorneys by failing to present the pre-plea investigatory efforts that she took to secure the statement of Swain in her subsequent Motion to Withdraw Guilty Plea Based on Newly Discovered Evidence. Applicant maintains that the Court would have given those investigatory steps significant weight in consideration of granting his post-plea motions. The explanation of these failed investigatory steps would have assisted the Court in distinguishing the Applicant's pre-plea assertion of his affirmative defense with the significance of the procurement of Swain's post-plea statement by emphasizing the difficulties plea counsel had in locating the witness beforehand. Applicant maintains that, but for the failure to competently present this information in Applicant's post-plea motions, he would have succeeded in his request for the Court withdraw his guilty plea on the basis of newly discovered evidence.

a) Plea counsel's admissions regarding her failure to advise Applicant of compulsory processes to produce witness.

In the examination of Applicant at the PCR Hearing, he testified that he was never advised that he had the right to utilize the subpoena power of the court to call Brandon Swain to testify. *PCR Hearing Tr. 15:13*. This failure to advise Applicant was acknowledged by plea counsel in her testimony when she stated that she did not subpoena Swain because "you can't subpoena someone without an address or at least a physical locality where you can serve it on him. That would be my position." *PCR Hearing Tr. 43:9*. However, plea counsel went on to admit in her testimony that law enforcement would have likely been able to find him, stating "... the police can find people I

can't... I do believe that if the police want to find somebody that they might stake them out in the middle of the night or something, I'm not going to do that." *PCR Hearing Tr. 46:13*.

Plea counsel further stated she never filed any motions in the circuit court to try to effectuate the service of a subpoena of Swain, and that she failed to seek any assistance of law enforcement to locate this vital witness in Applicant's case. *PCR Hearing Tr. 59:10*. Plea counsel maintained this subpoena process "... was not something that I thought through, because I have never done that before... I just have never thought to do that." *PCR Hearing Tr. 60:15*. She went on to explain, "there could have been some version of reality that I created some subpoenas situation to try to find the witness.. however, I didn't know where he was, so it would have been difficult for me to do that in my professional opinion." *PCR Hearing Tr. 60:25*. In making this statement, plea counsel appears to admit that, while it would have been difficult to navigate the subpoena process to procure the testimony of Swain without his address, she acknowledges it was possibility.

Plea counsel was then examined regarding whether she had, in her discussions with Applicant, advised him that she could utilize the subpoena powers of the court on his behalf, and utilize law enforcement to go locate Swain. She responded that:

"... if there was going to be a trial, probably we would have looked at it differently. I think that there wasn't a trial... So no, I may not have ever said, I honestly don't remember... I didn't know this concept of going to the court and saying, I can't find this person, will you send the sheriff to look out for him for a court date... I don't know that I thought that through." *PCR Hearing Tr. 73:21*.

When questioned if she ever advised Applicant about the right to the exercise the compulsory process to force people to come into court to testify under the threat of arrest or detainment through contempt, plea counsel responded:

“No, never use those words. So if I never used those words, that I had [the right] to compulsory process to force a witness to come, I never used those words. I did discuss the fact that if we had a trial, it would be great to find Brandon.” *Id.* at 76:4.

Upon review of plea counsel’s testimony at this PCR Hearing, it is clear that she fundamentally failed to advise Applicant of his legal rights and abilities under the South Carolina Rules of Criminal Procedure to compel Swain’s testimony in support of his affirmative defense. Plea counsel explained that, while she believes that law enforcement can find witnesses that she cannot locate, she thought that it would be difficult to exercise the powers set forth in Rule 13 because she didn’t have the exact location of the witness. Further, plea counsel’s testimony confirmed that she never even thought of utilizing the compulsory powers of the Court to compel Swain’s presence, as she had never exercised this compulsory process with the assistance of law enforcement in her previous representation of criminal defendants. Applicant maintains that plea counsel’s lack of experience in utilizing the compulsory processes of the Court to produce a defense witness does not excuse her failure to advise Applicant of the attendant statutory and constitutional rights in his case.

b) Plea counsel’s admissions regarding failure to present failed investigatory steps in Applicant’s post-plea motions.

When plea counsel was questioned if she ever presented the trial court with any factual arguments regarding the pre-plea investigatory efforts made to procure the statement of Swain during Applicant’s Motion to Withdraw Guilty Plea Based on Newly Discovered Evidence, she simply responded that “you have a copy of the motion ... I guess if it’s not in there it’s not.” *PCR Hearing Tr. 61:17.*

Based on plea counsel’s response to this question, it is clear that she did not sufficiently present the pre-plea investigatory steps taken to secure the statement of Swain in support of Applicant’s Motion to Withdraw Guilty Plea Based on Newly Discovered Evidence. As Swain’s

statement directly corroborates the affirmative defense of his lack of criminal intent for the crime of attempted murder, Applicant argues that the Court would have given those pre-plea investigatory steps significant weight in consideration of his request to withdraw his guilty plea. But for plea counsel's failure to competently present this information in Applicant's post-plea motions, Applicant would have likely succeeded in his request for the Court withdraw his guilty plea through his Motion to Withdraw Guilty Plea Based on Newly Discovered Evidence.

CONCLUSION

Applicant presents the following Conclusions of Law, and request for relief based on the above-stated factual arguments and assertions:

Plea counsel failed to conduct her representation within the range of competence, and an objective standard of reasonableness demanded of attorneys in criminal cases. This is evidenced in her failure to conduct a reasonable investigation into Applicant's case, the failure to advise him of his rights, and by the failure to sufficiently present the failed investigative steps to the Court in her post-plea motions. Applicant has suffered actual prejudice by demonstrating to this Court that there is a reasonable probability that, but for plea counsel's unprofessional errors, the result of the proceeding would have been different. This prejudice is based on Applicant's contention that, but for plea counsel's errors as outlined above, he would not have pleaded guilty and would have insisted on going to trial.

Applicant maintains that plea counsel failed in her duty to make reasonable investigations, by failing to utilize reasonable investigatory steps, and the compulsory subpoena powers of the Court, to compel the testimony of a witness that was vital to Applicant's presentation of his affirmative defense. Applicant further argues that the result of this failure to conduct a reasonable

investigation is not left to mere speculation, as the contents of Swain's post-plea statement clearly shows exculpatory information that would have been vital to the defense of his case.

Applicant alleges plea counsel was ineffective for not fully investigating his case and properly advising him of his legal rights and defenses. Specifically, that Applicant maintains that plea counsel failed to advise him to the right to subpoena a vital defense witness by using the compulsory powers of the court to compel the witness's attendance. Applicant has shown plea counsel's performance fell below an objective standard of reasonableness, and Applicant sustained direct prejudice because of counsel's deficient performance. Applicant has demonstrated this failure through the testimony of plea counsel, and the factual bases as set forth above in this memorandum.

Additionally, Applicant maintains that his guilty plea was not entered into voluntarily, knowingly, and intelligently. Specifically, in that plea counsel did not sufficiently advise Applicant of his right to confront one's accusers, and to compel the presence of a defense witness through the compulsory powers of the Court, through the assistance of law enforcement, as set forth in the South Carolina Rules of Criminal Procedure. Applicant has presented sufficient cause in his PCR Application as to why he should be allowed to depart from the truth of his statements that were presented to the Court during his guilty plea. Further, Applicant would maintain that his guilty plea was not voluntary, knowing and intelligent in character as plea counsel's representation fell below an objective standard of reasonableness, and that there is a reasonable probability that, but for counsel's errors, the Applicant would not have pled guilty, but would have insisted on going to trial.

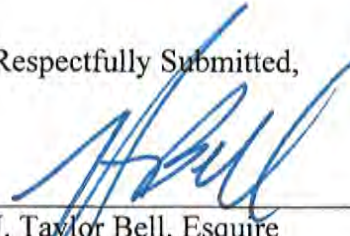
Applicant also maintains that plea counsel failed to properly inform defendant of the advantages and disadvantages of a plea agreement, and the attendant statutory and constitutional

rights that a guilty plea would forego by proceeding therewith. Again, plea counsel did not sufficiently advise Applicant of his right to confront one's accusers, and to compel the presence of a defense witness through the compulsory powers of the Court, through the assistance of law enforcement, as set forth in the South Carolina Rules of Criminal Procedure. Plea counsel's failure to properly advise him as to his rights to utilize the compulsory powers of the Court to present his affirmative defense, would have resulted in the production of exculpatory testimony, as evidenced by the Affidavit of Brandon Swain, and the affirmative defense of lack of criminal intent would have succeeded at trial in his charge of Attempted Murder.

Lastly, Applicant maintains that Plea counsel's representation failed to be within the range of competence, and an objective standard of reasonableness demanded of attorneys in criminal cases, as shown through her failure to present the failed investigative steps to procure Swain's statement to the Court in her post-plea motions. As Swain's statement directly corroborates the affirmative defense of his lack of criminal intent for the crime of attempted murder, Applicant maintains that the plea court would have given those pre-plea investigatory steps to locate the witness significant weight in consideration of his Motion to Withdraw Guilty Plea Based on Newly Discovered Evidence. But for plea counsel's failure to competently present this information in Applicant's post-plea motions, Applicant would have likely succeeded in his request for the Court withdraw his guilty plea through the Motion to Withdraw Guilty Plea Based on Newly Discovered Evidence.

Therefore, based on Applicants arguments, factual bases, and conclusions of law, Applicant would hereby reiterate his request to this Court to GRANT his request for Post-Conviction Relief from his related convictions and sentences, by GRANTING a new trial based on the ineffective assistance of plea counsel that has been established through these proceedings.

Respectfully Submitted,



J. Taylor Bell, Esquire
The Jeffcoat Firm
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Columbia, South Carolina 29201
Phone: (803) 200-2000
Fax: (803) 808-2240
Email: taylor@thejeffcoatfirm.com
Bar No. 100022

ATTORNEY FOR THE APPLICANT

Date: **December 17, 2024**

FILED

STATE OF SOUTH CAROLINA
COUNTY OF BERKLEY

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

2025 FEB 13 PM 2:51

George Riley Dreher, #334165,

Case No.: 2022-CP-08-02034

Applicant,

JEAN QUERRY DUPRE
CLERK OF COURT
BERKELEY COUNTY, SC

v.

**Memo in Opposition to
Post-Conviction Relief**

State of South Carolina,

Respondent.

This matter is before the Court by way of an application for post-conviction relief (PCR) filed by George Riley Dreher (Applicant) on August 24, 2022. On March 11, 2024, an evidentiary hearing convened before the Honorable Walton McLeod. Applicant was present and represented by J. Taylor Bell, Esquire. Assistant Attorney General Danielle Dixon represented Respondent. At the hearing, Applicant testified on his behalf and called as a witness plea counsel Melissa W. Gay. Following the hearing, the Court requested Memorandum from each party. Respondent submits Applicant—who pled guilty—failed to meet his burden of proving counsel’s actions fell below prevailing professional norms, or that his plea was involuntary. This Court should thus deny relief.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving an active twelve-year sentence. In November 2020, the Berkley County Grand Jury indicted Applicant for attempted murder (2020-GS-08-02022). In December 2020, the Berkeley County Grand Jury indicated Applicant for failure to stop for blue lights, resulting in great bodily injury (-02020). The charges arose from a high-speed chase on April 10, 2020, where Applicant struck a police officer with his vehicle. After crashing his vehicle, Applicant was arrested on scene.

On February 18, 2021, Applicant appeared before the Honorable R. Markley Dennis, Jr. to

n/c

FILED

enter a plea. However, Applicant failed to admit guilt, which concluded the hearing. On April 12, 2021, Applicant again appeared before Judge Dennis and pled guilty to failure to stop for a blue light and, on the attempted murder charge, the lesser-included offense of assault and battery of a high and aggravated nature (ABHAN). Melisa W. Gay, Esquire, represented Applicant, and Senior Assistant Solicitor Wilton H. McNeely represented the State. Judge Dennis sentenced Applicant consecutively to twelve years for ABHAN and ten years, suspended upon five years' probation, for failure to stop for a blue light.

On April 20, 2021, Applicant filed a motion to withdraw his guilty plea based on after-discovered evidence. On April 21, 2021, Applicant filed another motion to withdraw his guilty plea. On June 22, 2021, Judge Dennis issued an order denying both motions.

Applicant filed a timely notice of appeal. Appellate Defender Taylor D. Gilliam perfected the appeal by filing an Anders¹ brief. The South Carolina Court of Appeals dismissed the appeal pursuant to Anders. The remittitur was sent June 9, 2022.

CURRENT PCR APPLICATION

On August 24, 2022, Applicant filed this PCR application alleging plea counsel was ineffective for:

- a. Failing to investigate and interview witnesses, specifically Brandon Swain, and only after Applicant pled guilty did counsel file a motion to withdraw guilty plea and submit Swain's affidavit to the Court; and
- b. Failing to inform Applicant of all available defenses and legal rights, specifically Applicant's right to compel witnesses to court.

At the evidentiary hearing, Applicant proceeded on the foregoing allegations.

¹ 386 U.S. 738 (1967).

INEFFECTIVE ASSISTANCE OF COUNSEL / INVOLUNTARY PLEA

To establish ineffective assistance of counsel, Applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) Applicant sustained prejudice from counsel's deficient performance. Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). "The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases." Watson v. State, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). To establish prejudice, Applicant must prove "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. When reviewing a guilty plea, the Strickland deficiency prong remains unchanged—Applicant must show that counsel's representation fell below an objective standard of reasonableness. Hill, 474 U.S. at 58–59. To show prejudice, Applicant must show a reasonable probability exists "that, but for counsel's [alleged] errors, he would not have pled guilty and would have insisted on going to trial." Id. at 59.

To be intelligent, a plea must be made by a mentally competent defendant who understands both the charges against him and the consequences of his plea. Brady v. United States, 397 U.S. 742, 748 (1970). To be voluntary, a plea must be free of threats or other coercion that would impermissibly distort the defendant's choice. Id. at 755. Before a court can accept a guilty plea, the defendant must be advised of the constitutional rights he is waiving, including the right to a jury trial, the right to confront one's accusers, and the privilege against self-incrimination. Boykin, 395 U.S. at 243. In determining whether a plea was voluntary, the reviewing court must consider the entire record, including the transcript of the guilty plea. Harres v. Leeke, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

Failure to investigate Brandon Swain

Applicant first asks this Court to find counsel ineffective for not investigating Brandon Swain, the passenger in Applicant's vehicle. However, counsel's investigation of Swain was reasonable under prevailing professional norms and not deficient. Further—and critically—Swain did not testify at the PCR hearing, leaving this Court to speculate about what Swain may have even been able to testify to at a trial and how such testimony may have impacted Applicant's decision to plead guilty. It is incredulous to suggest counsel was deficient for not interviewing a witness that Applicant did not even produce at the PCR hearing. Thus, this Court should deny this ground.

“Counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary.” Strickland, 466 U.S. at 691. Defense counsel will not be deficient if they conduct “a reasonable investigation, including interviewing potential witnesses *when it is reasonable to do so*.” Edwards v. State, 392 S.C. 449, 457, 710 S.E.2d 60, 65 (2011), emphasis added. “Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result.” Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998).

At the PCR hearing, counsel was questioned extensively about her attempts to locate and interview Swain. She testified she utilized an investigator, but he was unable to locate Swain. She further explained Swain provided a statement to police where he (1) denied putting a gun to Applicant's head during the car chase, (2) claimed he blacked out before the wreck and did not recall what happened, (3) claimed he jerked the wheel *earlier* in the chase to prevent Applicant from hitting a family, and (4) denied saying he snatched the wheel at the time of the collision. Applicant testified Swain was “staying in a tent in the wood” and averred counsel should have gone into the woods looking for Swain.

Based on counsel's foregoing credible² testimony, this Court should find her actions were reasonable under prevailing professional norms and not deficient. Critically, prevailing professional norms do not require an attorney to go hiking through the woods to search for a potential witness—as Applicant suggests counsel should have done. Likewise, prevailing professional norms do not require counsel to subpoena a witness to attend a *plea hearing* that counsel (1) cannot find and (2) never spoke to, and (3) who gave a damaging statement to police. Counsel did what is required under prevailing professional norms: she reviewed Swain's statement, attempted to locate him through an investigator, and advised Applicant about the statement and her attempts to locate Swain. The fact Applicant did not even call Swain at the PCR hearing further illustrates his inability to prove counsel's performance fell below prevailing professional norms. In other words, he is asserting counsel was deficient for not doing something he himself did not do. It is incredulous to suggest Applicant's plea should be vacated so he can proceed to trial and have Swain testify when ***he did not even produce Swain at the PCR hearing.*** Likewise, because Swain did not testify, it is speculative what he would have even said at trial and what impact such testimony may have had on Applicant's decision to plead guilty. See Moorehead, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998) ("Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result."). Applicant thus did not prove deficiency or prejudice.

Failed to advise

Applicant next contends counsel was ineffective for failing to advise him of all defenses—specifically that she could subpoena witnesses to Court. Again, Applicant has not met his burden.

Applicant focuses this allegation on his claim that counsel should have advised him of her

² Counsel's testimony that she was unable to locate and speak to Swain is further corroborated by Applicant's inability to procure Swain's testimony for the PCR hearing.

subpoena power and used it to subpoena Swain to Court. Again, it is incredulous to suggest counsel was deficient in this regard when Applicant himself did not produce Swain at the PCR hearing. Further, plea counsel credibly testified she met with Applicant multiple times and discussed his constitutional rights. A review of the plea transcript itself shows Applicant entered this plea freely, voluntarily, and knowingly, and that he specifically understood he was waiving his constitutional right to a jury trial. (Apr. Plea 8-9). Applicant failed to produce Swain at the PCR hearing and thus failed to meet his burden of proving counsel was ineffective for not subpoenaing Swain to the plea hearing or advising him that she had the power to do so. Thus, this claim should be denied.

CONCLUSION

Based on the foregoing, Respondent requests this Court deny and dismiss this application with prejudice.

Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

D. RUSSELL BARLOW, II
Senior Assistant Deputy Attorney General

DANIELLE DIXON, 73999
Assistant Attorney General

By: 
Danielle Dixon, 73999
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

February 10, 2025

STATE OF SOUTH CAROLINA)

COUNTY OF BERKLEY)

George Riley Dreher, #334165,)

Applicant,)

vs.)

State of South Carolina,)

Defendant.)

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

CASE NO(S): 2022-CP-08-02034

ORDER DENYING PCR2025 MAR 12 AM 10:07
LEAH GUFFERY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

FILED

This matter came before the Court by way of an application for post-conviction relief (PCR) filed by George Riley Dreher (Applicant) on August 24, 2022. On March 11, 2024, an evidentiary hearing was held on this matter before Judge Walton J. McLeod, IV. Applicant was present and represented by J. Taylor Bell, Esq. Respondent was represented by Assistant Attorney General Danielle Dixon. At the hearing, Applicant testified and also called plea counsel Melissa W. Gay as a witness. Following the hearing, this Court requested Memorandum from each party. Based upon the witness testimony, arguments of counsel, memorandums submitted to this Court, and relevant case law, this Court DENIES Applicant's Petition.

PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections serving a twelve-year sentence. In November 2020, Applicant was indicted by the Berkeley County Grand Jury for Attempted Murder (2020-GS-08-02022). In December 2020, Applicant was indicted by the Berkley County Grand Jury for Failure to Stop for a Blue Light, Resulting in Great Bodily Injury (-02020). The charges arise from a high-speed chase that occurred on April 10, 2020. On that day, Applicant struck a police officer with his vehicle, crashed, and was ultimately arrested at the scene.

On February 18, 2021, Applicant appeared before Judge R. Markley Dennis, Jr., to enter a plea. At that hearing, Applicant failed to admit guilt, and a guilty plea was not entered. On April 12, 2021, Applicant again appeared before Judge Dennis, and entered a guilty plea for Failure to Stop for a Blue Light. As to the Attempted Murder charge, Applicant pled down to the lesser-included offense of Assault and Battery of a High and Aggravated Nature (ABHAN). Applicant was represented by Melisa W. Gay, Esq. Assistant Solicitor Wilton H. McNeely appeared on behalf of the State. Applicant was sentenced concurrently to twelve years for ABHAN and ten years, suspended upon five years' probation for failure to stop for a blue light.

On April 20, 2021, Applicant filed a motion to withdraw his guilty plea based on after-discovered evidence. On April 21, 2021, Applicant filed another motion to withdraw his guilty plea. On June 22, 2021, Judge Dennis issued an order denying both motions.

Applicant timely filed a Notice of Appeal. Appellate Defender Taylor D. Gilliam perfected the appeal by filing an Anders¹ brief. The South Carolina Court of Appeals dismissed the appeal pursuant to Anders. The remittitur was sent on June 9, 2022.

CURRENT PCR APPLICATION

On August 24, 2022, Applicant filed this PCR application alleging plea counsel was ineffective on the following grounds:

1. Failure to investigate and interview witnesses, specifically Brandon Swain, and only after Applicant pled guilty did counsel file a motion to withdraw his guilty plea and submit Swain's affidavit to the Court; and

¹ 386 U.S. 738 (1967)

2. Failure to inform Applicant of all available defenses and legal rights, specifically Applicant's right to compel witnesses to court.

At the evidentiary hearing, Applicant proceeded on the foregoing allegations.

INEFFECTIVE ASSISTANCE OF COUNSEL / INVOLUNTARY PLEA

To establish ineffective assistance of counsel, Applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) Applicant sustained prejudice from counsel's deficient performance. Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). "The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases." Watson v. State, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). To establish prejudice, Applicant must prove "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. When reviewing a guilty plea, the Strickland deficiency prong remains unchanged—Applicant must show that counsel's representation fell below an objective standard of reasonableness. Hill, 474 U.S. at 58–59. To show prejudice, Applicant must show a reasonable probability exists "that, but for counsel's [alleged] errors, he would not have pled guilty and would have insisted on going to trial." Id. at 59.

To be intelligent, a plea must be made by a mentally competent defendant who understands both the charges against him and the consequences of his plea. Brady v. United States, 397 U.S. 742, 748 (1970). To be voluntary, a plea must be free of threats or other coercion that would impermissibly distort the defendant's choice. Id. at 755. Before a court can accept a guilty plea, the defendant must be advised of the constitutional rights he is waiving, including the right to a jury trial, the right to confront one's accusers, and the privilege against self-incrimination. Boykin,

395 U.S. at 243. In determining whether a plea was voluntary, the reviewing court must consider the entire record, including the transcript of the guilty plea. Harres v. Leeke, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

Failure to investigate Brandon Swain

Applicant first asks this Court to find counsel ineffective for not investigating Brandon Swain, the passenger in Applicant's vehicle. However, I find counsel's investigation of Swain was reasonable under prevailing professional norms and not deficient. Further—and critically—Swain did not testify at the PCR hearing, leaving this Court to speculate about what Swain may have even testified to at a trial and how much, if at all, the testimony may have impacted Applicant's decision to plead guilty. Based on the evidence presented, counsel was not deficient for not interviewing a witness that Applicant failed to produce at the PCR hearing.

"Counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." Strickland, 466 U.S. at 691. Defense counsel will not be deficient if they conduct "a reasonable investigation, including interviewing potential witnesses *when it is reasonable to do so*." Edwards v. State, 392 S.C. 449, 457, 710 S.E.2d 60, 65 (2011), emphasis added. Additionally, "[f]ailure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result." Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998).

At the PCR hearing, plea counsel, Ms. Gay, was questioned extensively about her attempts to locate and interview Swain. She testified she utilized an investigator, but he was unable to locate Swain. She further explained Swain provided a statement to police where he (1) denied putting a gun to Applicant's head during the car chase, (2) claimed he blacked out before the wreck and did not recall what happened, (3) claimed he jerked the wheel *earlier* in the chase to prevent Applicant

from hitting a family, and (4) denied saying he snatched the wheel at the time of the collision. Applicant testified Swain was “staying in a tent in the wood” and trial counsel should have gone into the woods looking for Swain.

Based on counsel’s foregoing credible² testimony, this Court should find her actions were reasonable under prevailing professional norms and not deficient. Critically, prevailing professional norms do not require an attorney to go hiking through the woods to search for a potential witness—as Applicant suggests counsel should have done. Likewise, prevailing professional norms do not require counsel to subpoena a witness to attend a *plea hearing* that counsel (1) cannot find and (2) never spoke to, and (3) who gave a damaging statement to police about Applicant. This Court finds Counsel did what was required under prevailing professional norms. She reviewed Swain’s statement, attempted to locate him through an investigator, and advised Applicant about the statement, and her attempts to locate Swain. This Court finds that Applicant not calling Swain is significant and further supports a finding that counsel’s performance did not fall below prevailing professional norms. Even though there is an affidavit from Swain presented by PCR counsel, this testimony is insufficient as the Court is unable to observe the witness and properly weigh his credibility. Without Swain’s testimony, the Court would have to speculate about his testimony and whether it may have impacted Applicant’s decision to plead guilty. See Moorehead, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998) (“Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result.”). In sum, even if assuming *arguendo*

² Counsel’s testimony that she was unable to locate and speak to Swain is further corroborated by Applicant’s apparent inability to procure Swain’s testimony for the PCR hearing.

counsel was deficient, Applicant cannot show adequate prejudice to support his petition. Therefore, I find Applicant did not prove deficiency or prejudice.

Failure to advise

Applicant next contends counsel was ineffective for failing to advise him of all defenses—specifically that she could subpoena witnesses to Court. I find Applicant has not met his burden.

Applicant alleges that counsel should have advised him of her subpoena power to subpoena Swain to Court. While Applicant has asserted his counsel was deficient for failing to produce Swain, he himself did not produce Swain at the PCR hearing. Further, I find credible plea counsel's testimony that she met with Applicant multiple times and discussed his constitutional rights. A review of the plea transcript itself shows Applicant entered this plea freely, voluntarily, and knowingly, and that he specifically understood he was waiving his constitutional right to a jury trial. (Apr. Plea 8-9). Applicant did not produce Swain at the PCR hearing and thus failed to meet his burden of proving counsel was ineffective for not subpoenaing Swain to the plea hearing or advising him that she had the power to do so.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 5 day of MARCH, 2023.


WALTON J. MCLEOD, IV
Presiding Judge
Ninth Judicial Circuit

Lexington, South Carolina

WHM/0367269
WITNESSES

Berkeley County Sheriff's Office

B. Kuf 5779

AGENCY CASE NUMBER

2020-04003341

ARREST WARRANT NUMBER

2020A0810200389

DATE OF ARREST

04/11/2020

ACTION OF GRAND JURY

True Bill

Quinn W. WHELF
Foreperson of Grand Jury

12/9/20
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2020-GS-08-02020

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

DECEMBER TERM 2020

THE STATE

VS.

GEORGE RILEY DREHER A.K.A.

George Dreher

W/M DOB: [REDACTED]-1988

Indictment for

**FAILURE TO STOP FOR BLUE LIGHTS,
RESULTING IN GREAT BODILY INJURY**

SC Code: § 56-05-0750(C)(1)
CDR Code: 2397

20 DEC -9 PM 1:38
LEAH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

FILED

jt

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

INDICTMENT

At a Court of General Sessions, convened December 2020, the Grand Jurors of Berkeley County present upon their oath:

Failure to Stop for Blue Lights, Resulting in Great Bodily Injury

That in Berkeley County, South Carolina, on or about April 10, 2020, the Defendant, George Riley Dreher, while driving a motor vehicle on a road, street, or highway of the State did, in the absence of mitigating circumstances, knowingly fail to stop after being signaled to do so by a law enforcement vehicle by means of flashing light and/or a siren, and performed an act forbidden by law or neglected a duty imposed by law in the driving of the vehicle, resulting in great bodily injury to Quinn Hayden, in violation of Section 56-5-750 of the South Carolina Code of Laws (1976) as amended.

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



WILTON H. MCNEELY
SENIOR ASSISTANT SOLICITOR

WHM/0367270
WITNESSES

SC Highway Patrol

AGENCY CASE NUMBER

2020-CHTC20CAD035854

ARREST WARRANT NUMBER

2020A0810600014

DATE OF ARREST

04/11/2020

ACTION OF GRAND JURY

True Bill

Quin W. Wiers
Foreperson of Grand Jury

11/14/20
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2020-GS-08-02022

The State of South Carolina
County of Berkeley

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2020

THE STATE

VS.

GEORGE RILEY DREHER A.K.A.

George Dreher

W/M DOB: [REDACTED]-1988

Indictment for

ATTEMPTED MURDER

SC Code: § 16-03-0029

CDR Code: 3410

20 NOV -4 PM 1:32
LEAH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

FILED

CS

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

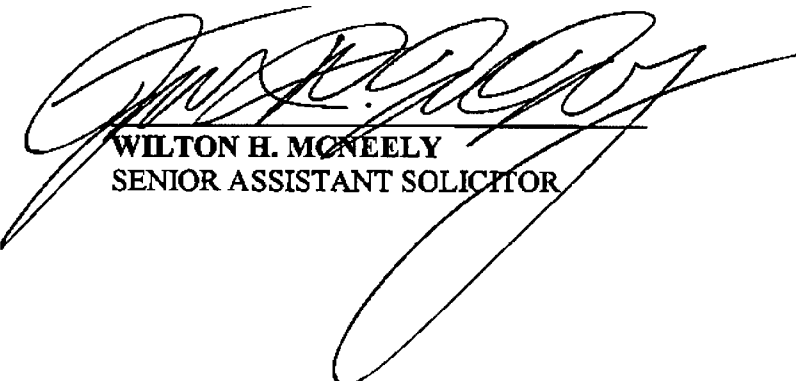
INDICTMENT

At a Court of General Sessions, convened November 2020, the Grand Jurors of Berkeley County present upon their oath:

Attempted Murder

That in Berkeley County, South Carolina, on or about April 10, 2020, the Defendant, George Riley Dreher, did, with intent to kill and malice aforethought, attempt to kill Quinn Hayden. This is in violation of Section 16-3-29 of the South Carolina Code of Laws (1976) as amended.

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



WILTON H. MCNEELY
SENIOR ASSISTANT SOLICITOR

FILED

INDICTMENT/CASE#: 2020-GS-08-02020

A/W: 2020A0810200389

Date of Offense: 04/10/2020

S.C. Code §: 56-05-0750(C)(1)

AKA: GEORGE RILEY DREHERAKA: George Dreher, George Riley DreherRace: White Non-Latino/Caucasian

Sex:

APR 12 2021

M Age: 32

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Goose Creek, SC 29445-4427DL# [REDACTED] SID# SC01683359LEAH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SCCDR Code #: 2397

SENTENCE SHEET

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

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

☐ CONVICTED OF or☒ PLEADSTO: Failure to Stop for Blue Lights - Resulting in Great Bodily InjuryIn violation of § 56-05-0750(C)(1) of the S.C. Code of Laws, bearing CDR Code # 2397☒ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)

The charge is:

☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is:

☒ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Wilton H. McNeely, Senior Assistant Solicitor SC Bar # 101638

Defendant

Attorney for Defendant

63773

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

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

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5 months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2020 GS-08-2022☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

PTUP

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

Payment Terms: _____

_____ days/hours Public Service Employment

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☒

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: any counseling deemed necessary must take any medication as prescribed no tolerance for violation of non financial condition☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before any other fees.

Recipient: _____

*Fine:

§14-1-206 (Assessments 107.5%)		\$	
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	<u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$	
§56-5-2995 (DUI Assessment)	\$12	\$	
§56-1-286 (DUI Breath Test)	\$25	\$	
Proviso (Public Def/Probation)	\$500	\$	
§14-1-212 (Law Enforce. Funding)	\$25	\$	<u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$	
§50-21-114 (BUI Breath Test Fee)	\$50	\$	
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
3% to County (if paid in installments)	\$	\$	
TOTAL		\$	

Clerk of Court/Deputy Clerk: C. SanchezCourt Reporter: Denise LauderPresiding Judge: [Signature]Judge Code: 2040Sentence Date: 4/12/21

probation is rolled into the sentence in 2020 GS-08-2022

COUNTY OF BERKELEY

STATE VS.

FILED

INDICTMENT/CASE#: 2020-GS-08-02022A/W: 2020A0810600014Date of Offense: 04/10/2020S.C. Code §: 16-03-0029

O-20y

GEORGE RILEY DREHER

AKA: George Dreher, George Riley DreherRace: White Non-Latino/CaucasianM Age: 32DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Goose Creek, SC 29445-4427DL# [REDACTED] SID# SC01683359Sex: M
CASE NO. NO
LEAH GUERRY DUFFREE
CLERK OF COURT
BERKELEY COUNTY, SCCDR Code #: 3410

SENTENCE SHEET

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

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

☐ CONVICTED OF or☒ PLEADSTO: Assault and Battery of a High and Aggravated NatureIn violation of § 16-03-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411☐ NON-VIOLENT☒ VIOLENT☒ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)

The charge is:

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

The plea is:

☒ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

[Signature] 101638
Wilton H. McNeely, Senior Assistant Solicitor SC Bar #

Defendant

Attorney for Defendant

63773
SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION:☐ Deferred☐ Def. Waives Hearing☐ OrderedPTUP Total: \$ plus 20% fee: \$ days/hours Public Service EmploymentPayment Terms: Obtain GED ☐☐ Set by SCDPPPS Attend Voc. Rehab. Or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning \$ Paid to Public Defender FundOther: Recipient: *Fine: \$

§14-1-206 (Assessments 107.5%)

\$

§14-1-211 (A)(1)(Conv. Surcharge)

\$100

\$ 100.00

§14-1-211 (A)(2)(DUI Surcharge)

\$100

\$

§56-5-2995 (DUI Assessment)

\$12

\$

§56-1-286 (DUI Breath Test)

\$25

\$

Proviso (Public Def/Probation)

\$500

\$

§14-1-212 (Law Enforce. Funding)

\$25

\$ 25.00

§14-1-213 (Drug Court Surcharge)

\$150

\$

§50-21-114 (BUI Breath Test Fee)

\$50

\$

§56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

3% to County (if paid in installments)

\$

\$ 3.75

TOTAL

\$ 128.75☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: C. SanchezCourt Reporter: Denise LauderPresiding Judge: [Signature]Judge Code: 2010Sentence Date: 4/12/21

COUNTY OF BERKELEY

STATE VS.

GEORGE RILEY DREHER

AKA: George Dreher, George Riley Dreher

Race: White Non-Latino/Caucasian Sex: M

Age: 32

DOB: 1988 SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Goose Creek, SC 29445-4427

DL# [REDACTED] SID# SC01683359

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

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

TO: Assault and Battery of a High and Aggravated Nature

In violation of § 16-03-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

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

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

ATTEST:

Virtual 101638 63773
Wilton H. McNeely, Senior Assistant Solicitor SC Bar # _____ Defendant Attorney for Defendant SC Bar # _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 12 days/month/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

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

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

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

SPECIAL CONDITIONS:

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

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED ☐

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

Recipient: _____ May serve W/E beginning _____

*Fine: _____ Substance Abuse Counseling ☐

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

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

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

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

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

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

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

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

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

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

3% to County (if paid in installments) \$ \$ 3.75

TOTAL \$ 128.75

Clerk of Court/Deputy Clerk: Off Bill

Court Reporter: Natalie Dahl

INDICTMENT/CASE#: 2020-GS-08-02022

A/W: 2020A0810600014

Date of Offense: 04/10/2020

S.C. Code §: 16-03-0029

CDR Code #: 3410

Amended
SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

☐ Ordered PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

FILED

JUN 17 2021

CASE NO. LEAH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

☐ Appointed PD or appointed other counsel

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before any other fees.

Presiding Judge: R. Mark Denny

Judge Code: 2060

Sentence Date: 6/15/21