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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Lexington County

Honorable Daniel McLeod Coble, Circuit Court Judge

JAMES LEE MCCOY, II,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001130

APPENDIX

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1 P R O C E E D I N G S

2 * * *

3 THE CLERK: 2020-GS-32-127, State versus James
4 Lee McCoy, indicted for armed robbery. He is
5 pleading to attempted armed robbery.6 2020-GS-32-128, State versus James Lee McCoy,
7 indicted for carjacking. He is pleading as charged.
8 Both indictments are true-billed. He is represented
9 by Mr. Moore.

10 Raise your right hand, please.

11 JAMES LEE MCCOY

12 being first duly sworn, testified as follows:

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Are you James Lee McCoy, sir?

15 THE DEFENDANT: Yes, sir, I am.

16 THE COURT: I have an indictment that charges
17 that in Lexington County, on or about May 5, 2019,
18 you knowingly and willfully, while armed with a
19 deadly weapon, specifically a handgun, feloniously
20 took from the person or presence of Angel Francisco
21 Valdes -- V-A-L-D-E-S -- by force, threats, or
22 intimidation, goods or monies described as United
23 States currency, with the intent to deprive the
24 owner of that property.

25 Upon your arraignment on that charge, it

1 appears that you wish to plead guilty to attempted
2 armed robbery. Is that correct?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: The other indictment charges that
5 in Lexington County, on or about May 5th, 2019, you
6 took or attempted to take a motor vehicle belonging
7 to Austin Clark from James Peters by force,
8 violence, or intimidation while James Peters was
9 operating the vehicle or inside of it.

10 Upon your arraignment on that charge of
11 carjacking, it appears that you wish to enter a
12 plead of guilty. Is that correct?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Mr. Moore, have you fully explained
15 to your client the nature and elements of the
16 offenses, the possible punishment, and his
17 constitutional rights, including trial by jury?

18 MR. MOORE: Yes, sir, Your Honor.

19 THE COURT: Are you satisfied there's a factual
20 basis for both pleas?

21 MR. MOORE: I am, Your Honor.

22 THE COURT: Do you agree with his decision to
23 enter a plea?

24 MR. MOORE: I do.

25 THE COURT: Mr. McCoy, today, are you under the

1 influence of any medicine, drug, or alcohol, or
2 anything that affects your thinking?

3 THE DEFENDANT: No, sir.

4 THE COURT: Do you have physical or mental
5 problems that affect your thinking today?

6 THE DEFENDANT: No, sir.

7 THE COURT: You're clearheaded; you know what
8 you're doing?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: When you plead guilty, you give up
11 important rights, including your right to remain
12 silent and your right to a jury trial. Do you know
13 that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: If you want a jury trial, you're
16 presumed innocent. The State has to prove you
17 guilty beyond a reasonable doubt to convict you.
18 You get to see, hear, and have your lawyer
19 cross-examine every witness against you. Do you
20 understand that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: By pleading guilty, you give up all
23 those rights; you give up defenses; you give up
24 challenges to evidence; you admit the charges are
25 true. You understand?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: If you had a jury trial and you
3 wanted to testify, that would certainly be allowed,
4 but no one could force you to testify. You have an
5 absolute right to remain silent, and if you
6 exercised that right and did not testify, the trial
7 judge would tell the jury they could not hold your
8 silence against you in any way at all. Do you
9 understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you want a jury trial on either
12 case?

13 THE DEFENDANT: No, sir.

14 THE COURT: Listen to the State, please.

15 MS. PATTERSON: Thank you, Your Honor. May it
16 please the Court? I'm standing in for assistant
17 solicitor Sutania Fuller.

18 With respect to attempted armed robbery, it did
19 occur May 5th, 2019, around 10:25 a.m. The
20 defendant arrived at the Red Roof Inn located on
21 Airport Boulevard in the Springdale area of
22 Lexington County. He approached the victim's hotel
23 room, engaged in a brief conversation, and
24 ultimately forced his way inside of the victim's
25 room.

1 The victim in this case, Your Honor, is Angel
2 Valdes. As the defendant is forcing his way into
3 Mr. Valdes' room, he's captured on video
4 surveillance also reaching inside of his pocket,
5 pulling out an object just prior to slamming the
6 door shut. The victim reported to law enforcement
7 that the defendant presented a firearm and demanded
8 money. The defendant stole \$300 in cash and
9 20-dollar bills from the victim.

10 Law enforcement made contact with a front-desk
11 employee who called 911 for Mr. Valdes. The victim
12 told the clerk that he was robbed. The clerk was
13 able to get the tag number from the vehicle that
14 Mr. McCoy was driving. She described the vehicle as
15 being an orange vehicle.

16 It was further described to law enforcement
17 that the suspect was a white male, wearing a
18 peach-colored shirt and beige pants. A BOLO was
19 issued for the vehicle, Your Honor. It was
20 determined that this vehicle had been entered in
21 NCIC as a felony vehicle that was stolen at gunpoint
22 on May 3rd, 2019. We don't have a charge for that
23 incident.

24 Shortly after this robbery occurred, about
25 11:15, Mr. McCoy traveled to the Circle K located on

1 Charleston Highway while still driving the orange
2 Caliber where he attempted to steal a Chevy Colorado
3 at gunpoint. He exited the car, approached the
4 driver's side window of this car, and spoke to a
5 James Peters. He asked Mr. Peters if the truck was
6 his, and then told Mr. Peters to get the eff out of
7 the truck before he blew his brains out. He also
8 had the gun pointed at Mr. Peters.

9 Mr. Peters was able to flee from the victim.
10 He reported that he was running for his life. He
11 actually ran into the store where his coworker,
12 Austin Clark, who was the owner of the truck, was
13 located. He told Mr. Clark what was going on.
14 Mr. Clark looked towards his truck, noticed that
15 Mr. McCoy was trying to place a bag into the bed of
16 the truck.

17 Mr. Clark acted fast; he pressed the button on
18 his lock button, and he was able to lock the door
19 and set off the alarm. At this time, Mr. McCoy fled
20 the seen, getting back into the orange Caliber
21 Dodge.

22 A short distance later, Mr. McCoy wrecked the
23 car, the Caliber, when he struck a light pole and
24 took off in the woods in the backyard of a nearby
25 residence. The home occupants called 911 to report

1 a suspicious person running through their yard,
2 shooting a gun. They reported hearing a gunshot,
3 and then they saw an individual, later determined to
4 be Mr. McCoy, jump the fence in the backyard and run
5 through the woods.

6 He came back out of the woods carrying the gun
7 towards the home. The father of that home grabbed
8 his gun, asked Mr. McCoy to drop his weapon at
9 gunpoint. Mr. McCoy dropped his weapon, ran back
10 into the woods. Law enforcement arrived and
11 detained him.

12 The clothes that Mr. McCoy was observed on the
13 video wearing at the Red Roof Inn was recovered near
14 where he was arrested, along with a firearm that he
15 had in his possession. Law enforcement also
16 recovered seven of the 20-dollar bills to --
17 believed to have been stolen in the robbery, along
18 with four dollars. They also located a tissue pack
19 from the Red Roof Inn.

20 Mr. McCoy was reported to have been on drugs at
21 the time. He was taken to Lexington Medical Center
22 for medical observations.

23 In exchange of this plea, Your Honor, the State
24 is dismissing some companion charges. In exchange
25 for allowing him to plead to an attempted armed

1 robbery from an armed robbery, the State is
2 dismissing a kidnapping, a possession of weapon
3 during the commission of a violent crime, also an
4 assault and battery first degree, and another
5 possession of a weapon during the commission of a
6 violent crime.

7 In addition to this, Your Honor, Mr. McCoy did
8 have a possession of a stolen vehicle under \$2,000,
9 but that's being handled in magistrate's court. And
10 we have not agreed to any resolution with regard to
11 that case.

12 Mr. McCoy does have a prior record. From 2009,
13 he has a reckless driving; 2010, a public disorderly
14 conduct; 2011, resisting arrest; 2013, malicious
15 injury to personal property. And the week prior to
16 these incidents, he was charged with leaving the
17 scene of the accident and malicious injury to
18 property. We're not sure of the disposition with
19 regards to those cases -- charges, Your Honor.

20 The victim of the armed robbery, Your Honor, is
21 not present; however, Austin Clark, who is the owner
22 of the truck that Mr. McCoy attempted to steal, he
23 is here. He doesn't wish to address the Court
24 orally, Your Honor, but he has submitted a letter,
25 and I've shown it to Mr. Moore, that he would like

1 Your Honor to consider in deciding how to sentence
2 Mr. McCoy. It is the State's position, Your Honor,
3 that we are asking for the maximum sentence in this
4 case.

5 Can I approach, Your Honor?

6 THE COURT: Sure.

7 You admit you're guilty of these charges,
8 Mr. McCoy?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Has anybody forced you, threatened
11 you, or coerced you in any way to get you to plead
12 against your will?

13 THE DEFENDANT: No, sir.

14 THE COURT: Any plea bargain the State might
15 have made with you, they have to tell me what it is
16 on the record or you lose what they haven't told me
17 about. Do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Mr. Moore, is everything on the
20 record by plea agreements?

21 MR. MOORE: Yes, sir.

22 THE COURT: Other than what's on the record,
23 Mr. McCoy, has anybody promised you anything to get
24 you to plead?

25 THE DEFENDANT: No, sir.

1 THE COURT: Are you fully satisfied with your
2 attorney?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Is there anything you want him to
5 do on the case that he has not done?

6 THE DEFENDANT: No, sir.

7 THE COURT: Do you have any complaints against
8 your attorney, law enforcement officials, anybody
9 who has dealt with your case?

10 THE DEFENDANT: No, sir.

11 THE COURT: Have you had enough time to meet
12 with your lawyer and discuss things with him so he
13 can represent you properly?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Have you had enough time to meet
16 with your lawyer and discuss things with him so that
17 he can represent you properly?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Have you had enough time to make up
20 your own mind about this?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Attempted armed robbery is a
23 felony; it carries up to ten years in prison. Do
24 you understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Carjacking is also a felony, and it
2 carries up to 20 years in prison. Do you understand
3 that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Both of these are classified as
6 violent crimes. Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Violent offenders are treated
9 differently by the Department of Corrections than
10 non-violent offenders. You will not be eligible for
11 programs and placements that a non-violent offender
12 would be eligible for. Do you understand that?

13 THE DEFENDANT: Does that include parole?

14 THE COURT: I don't know anything about parole.

15 THE DEFENDANT: Yes, sir. I understand.

16 THE COURT: Do you need to ask your lawyer
17 something or check about something?

18 THE DEFENDANT: No, sir.

19 THE COURT: Are you ready to go forward?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: On a second violent crime, you have
22 to do the sentence that you might receive on that if
23 you pick up one of those without parole. Do you
24 understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: The Legislature has also classified
2 both of these crimes under what's commonly called
3 two strikes you're out, three strikes you're out.
4 Technically, those things are called most-serious
5 offenses and serious offenses. Both of these are
6 most-serious offenses, meaning that both are
7 strikes. And if you get the right combination of
8 strikes, you have to do life in prison without
9 parole. Do you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Both of these fall under what's
12 commonly called truth in sentencing. Technically,
13 they're called no-parole offenses. What that means
14 is that you have to serve at least 85 percent of the
15 time, day-for-day, before you can possibly be
16 released from prison. Do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: That's no guarantee you get out in
19 85 percent; that's the least time you can possibly
20 do. You understand?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: When someone comes out of prison on
23 a no-parole offense, they automatically go on a
24 period of community supervision. You have to
25 successfully complete the community supervision. If

1 you fail to do so, then you can be sent back to
2 prison. Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: If you're not in the DNA database,
5 you'll have a DNA profile put in the central
6 computer registry. Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: They put a code on your driver's
9 license. So if you're ever stopped by a law
10 enforcement officer and they ask to see your
11 license, they're going to know that you have these
12 types of convictions on your record. Do you
13 understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: This affects your ability to ever
16 be a foster parent or adopt a child. Do you
17 understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Because these are both classified
20 as felonies and both classified as violent, you lose
21 your right under state law to transport, ship,
22 receive, or possess any type of firearm or
23 ammunition in the future. Do you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Have you understood everything that

1 I've been over with you, sir?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: You sure you want to give up your
4 rights and plead guilty to these charges?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Are you doing that because you are
7 in fact guilty of the charges?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Mr. McCoy has made a free, knowing,
10 voluntary, and intelligent decision to waive his
11 rights and plead guilty. He's done so upon the
12 advice of counsel with whom he's fully satisfied.
13 There is a factual basis for these pleas.

14 All right. Mr. Moore?

15 MR. MOORE: May it please? Thank you, Judge.

16 THE COURT: Yes, sir.

17 MR. MOORE: Your Honor, Jamie has been in the
18 Lexington County Detention Center now for nine
19 months. And I would like you to know that that has
20 basically been partly a result of the seriousness of
21 the charges, but also a conscious decision on the
22 part of his parents, myself, and Jamie.

23 We have made no motion to modify bond, set
24 bond, reduce bond, anything of that nature. We
25 basically made a conscious decision that the county

1 detention center, at that particular time in Jamie's
2 life, was actually the right place for him. He was
3 a danger to himself and others, and we felt it
4 completely appropriate for him to stay there.

5 I will tell you that I have, basically, his
6 entire family with me today. They're seated in the
7 courtroom. If y'all could just stand up for a
8 second.

9 I've got cousins, aunts, uncles, grandmother.
10 He's actually lost an uncle while he has been in the
11 county detention center that he was really close to,
12 and that's been hard. He has a pastor with him here
13 today. But, also, he has Joe Barrone here today who
14 is, basically, the head honcho, for lack of a better
15 term, for U-Turn for Christ, which I believe Your
16 Honor is probably familiar with, inpatient facility.
17 The patients --

18 THE COURT: You want them to keep standing?

19 MR. MOORE: Oh, y'all can sit down. I'm sorry.

20 Patients can live there, go through the
21 treatment, and then progress out. They have to have
22 job support with the -- the organization, and then
23 they can graduate. But before I talk any more about
24 that, I want to say that his parents, Kimberley and
25 James -- Alvin New used to occasionally send me a

1 client. And he would say, Jake, these are normal
2 people. And just -- he and I knew what that meant.

3 Kimberley and James are normal people. These
4 are good, good, solid people. They have five boys,
5 four of which have never been in any kind of trouble
6 at all. Very successful, good people. They've been
7 in the community -- Kimberley is from Texas, but
8 they've been in Lexington for well over 20 years.

9 And, you know, I -- they handed me a picture
10 today. I mean, this is just classic. This is what
11 I expect when I deal with these folks. These are --
12 it's just -- this whole situation is just bizarre,
13 just totally out of character for the family.

14 And Kimberley and James are extremely
15 embarrassed for the situation; they're extremely
16 sorry for what has happened. But they love Jamie
17 and they are willing to do whatever is necessary to
18 help him. Kimberley works as a real estate agent.
19 James is vice president for First Community
20 Mortgage. Kimberley is a deacon at her church.
21 They're just good, good, good, solid people.

22 Jamie actually has the -- he has graduated high
23 school; he's taken some classes at Midlands
24 Technical College. But it is a fair statement that
25 Jamie has had a significant problem with drugs for

1 the last 12 years. Not as bad for the last -- it's
2 been bad for the last ten. The last 12, his mother
3 would tell you, that we've had a problem.

4 Jamie is smart. When you talk to him, it is
5 just immediately apparent that you're not dealing
6 with an idiot. This is somebody who is capable.
7 This is somebody who is intelligent and who is
8 worthy and who is somebody who, you know, can be a
9 productive member of society when he is not high.

10 He has had a job with Guy Roofing on and off
11 for the last ten years. And every time -- and over
12 the last ten years, he has had to stop working with
13 them occasionally to go into rehab. He's been to
14 rehab four times.

15 And, Judge, I think the most important thing
16 for me to tell you is that every single time he's
17 been to rehab has been a voluntary decision to go.
18 And what happens is, he goes; he does well; he
19 starts feeling better, doing better, and then
20 believes he's kicked it; goes back to Guy Roofing;
21 they take him back because they love him, and then
22 he runs into the same sorts of problems again.

23 But while he's been working at Guy Roofing,
24 they've sent him all over the place as a salesman
25 for this company. He goes to North Carolina,

1 Upstate, just everywhere, and is a valued employee.

2 I was talking to Kimberley, his mother, the
3 other day about this, and I think she said what, to
4 me, is the most important thing here. I think it's
5 just -- Jamie, when he goes to rehab, just gets a
6 little cocky. He's never been on probation; he's
7 never had anything truly hanging over his head. And
8 what happens is, is he just feels he's kicked it,
9 and he moves on.

10 Judge, the record, as you've heard, the last
11 set of charges that was read where they didn't have
12 a disposition, those charges were dismissed. But,
13 you know, you're talking about reckless driving,
14 malicious injury to personal property, resisting
15 arrest, and disorderly conduct. I'm not trying to
16 minimize those, but they speak for themselves.

17 You're not talking about somebody with an
18 extensive criminal record. He's jumped off the deep
19 end big time with this. But I would say that,
20 Judge, he's never done any extensive time; he's
21 never been on probation; he's never had anything
22 hanging over his head.

23 So the question in my mind, I suppose, is, what
24 do you do with him? And, you know, I'm not sure.
25 But I will tell you that he's 31 years old. He's

1 never, never done anything like this before. I will
2 tell you that at the time that these crimes
3 happened, he was high as a kite, probably took every
4 drug you could possibly imagine, including
5 methamphetamine.

6 The discovery is interesting. I've talked with
7 the arresting officer, who is a very nice man, who
8 basically tells me, Jake, he was just nuts and
9 clearly intoxicated. He took him to the hospital.
10 This is just not Jamie. Totally out of character.

11 I want to apologize to the victims. The
12 conduct was unacceptable and inexcusable. I'm just
13 telling Your Honor, what this is, is just a classic
14 drug addiction that has caused a tremendous amount
15 of turmoil.

16 Judge, I will say this too: You know, we made
17 the decision to leave him right where he was. While
18 he's been in there, you know, there's not much to
19 do. But what he has done is he's taken a class
20 through LRADAC, for what it's worth. I'm not saying
21 this is the end-all, be-all, but it's something.
22 He's done something. And he's also taken a little
23 Bible class with this college here. He's stayed out
24 of trouble. And, you know, he's just done what he
25 can while he's been in.

1 Again, Judge, I -- let's see. He's got a
2 daughter, the prettiest little girl you've ever seen
3 in your life, ten years old, who he has a
4 relationship with heavy. And he understands that
5 this is just -- this sort of conduct is going to
6 wind up ruining that.

7 But the last thing, I suppose, Judge, that I
8 want to hand up by way of what do you do with him,
9 is this letter from U-Turn. And, let's see, it's
10 Joe, right? Yeah. Joe, stand up for me. Again,
11 Joe is the head honcho. He's here today to tell
12 this Court, if you need it, that Jamie is accepted;
13 he's welcome into the program. He is committed to
14 making sure that Jamie completes it.

15 And, you know, Jamie's parents have done
16 everything that I know to ask them to do in order to
17 prepare for the day that Jamie is released, if that
18 happens. And, you know, we just -- we want him
19 home. We believe we've got a plan to make things
20 better. It's just an awful situation.

21 So, Judge, what I'll tell you is, I love this
22 family; I think they're good people. I think Jamie
23 is smart. I think he's got a drug problem. I think
24 he can beat it. I think he's tried to deal with it
25 by himself for years. I think he needs significant

1 help, and we're prepared to give it to him. I will
2 vouch for this man. I believe he can do it.

3 I understand the State wants a maximum
4 sentence. Your Honor, with all due respect, I do
5 not -- as much as I love Ms. Patterson and --

6 THE COURT: You want him to keep standing too?

7 MR. MOORE: Oh, no. He can sit down too.
8 Gosh, I've got a bad habit. Thank you, Judge.

9 THE COURT: Go ahead.

10 MR. MOORE: As much as I love these two ladies
11 who -- these two solicitors, I respectfully disagree
12 with their recommendation. I believe -- I do
13 believe that if enough special conditions are placed
14 on Jamie, he can be successful. And I'm terribly
15 sorry to run my mouth. I just -- I care about this
16 one, and I believe that he can make it. And I
17 suppose that's it.

18 If his parents want to say anything, they're
19 here. And I'd ask you to allow them to speak, if
20 you've got the time, Judge.

21 THE COURT: I'd be happy to hear from anybody
22 who would like to speak.

23 MR. MOORE: Thank you, Judge.

24 Y'all can come up.

25 MR. MCCOY SR.: Your Honor, if it pleases the

1 Court, I just --

2 THE COURT: What is your name, sir?

3 MR. MCCOY SR.: James L. McCoy, Sr.

4 THE COURT: Yes, sir.

5 MR. MCCOY SR.: I'd like to apologize, on
6 behalf of my son, to the victims and the reason that
7 we're standing in front of you today. I do believe
8 in James. We will support him in whatever it takes,
9 at all costs, until there's no breath left in his
10 body. I would ask that the Court have mercy upon
11 him.

12 THE COURT: Hold on a second.

13 Go ahead, Mr. McCoy.

14 MR. MCCOY SR.: That's it, Your Honor. Thank
15 you.

16 THE COURT: Anyone else?

17 MRS. MCCOY: I'm Kimberley McCoy, James'
18 mother. And I would like to apologize to you, Your
19 Honor, to the Solicitor's Office and, more
20 importantly, to the victim's, Father God -- I mean,
21 Your Honor. Your Honor. And we plead for mercy and
22 grace.

23 THE COURT: Thank you very much.

24 You want to say something, sir?

25 MR. BARRONE: Yes, sir, if I may.

1 THE COURT: You're Joe Barrone?

2 MR. BARRONE: Yes, sir.

3 THE COURT: What would you like to say?

4 MR. BARRONE: I am, as this gentleman
5 indicated, the assistant pastor of the U-Turn for
6 Christ Ministry. I don't know if you're familiar
7 with us, but it is located right here in Lexington.
8 It's right off of Barr Road. We are affiliated with
9 Calvary Chapel. I've been there several years,
10 serving and working there. Very recently, I got
11 ordained as a pastor.

12 I am a product of U-Turn for Christ. I have a
13 history of heroin addiction for over ten-plus years.
14 I came through the ministry in 2014. Before that, I
15 had been in detoxes, rehabs, hospitals; I've been
16 homeless; I've lived the life of somebody that
17 struggles with an addiction at the highest of
18 levels. And it was through the ministry of U-turn
19 for Christ that I was able to find sobriety.

20 I've been clean and sober for several years
21 now. And I know James very well, and I also agree
22 with what this gentleman said. I know what he's
23 like when he's sober, and I know what he's like when
24 he's intoxicated. He has -- absolutely has the
25 potential to be a productive member of society. He

1 is a respectable individual. He has a heart for
2 people. I do believe that our ministry can help
3 him.

4 I have provided a letter with my name on it
5 that says we've accepted him, if the Court would be
6 so gracious as to allow him to come to us. We would
7 expect a minimum of a year commitment. He would be
8 under our supervision and care 24/7. We would
9 comply with the Court in getting him to and from
10 probation, whatever it was that you guys demanded of
11 him, and we would be fully and completely and
12 totally cooperative.

13 And so I came here today to let you guys know
14 that, you know, if you would allow, that opportunity
15 is on the table for him.

16 THE COURT: Thank you, sir.

17 Anything else, Mr. Moore?

18 MR. MOORE: No, sir. Thank you so much.

19 THE COURT: You want to say anything,
20 Mr. McCoy?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Go ahead.

23 THE DEFENDANT: I'm extremely sorry for the
24 choices that led up to that day. I wish that I
25 could take it back. And, going forward, I can

1 assure you that I'll never make any bad choices to
2 lead me down a road like that again. If you will
3 give me one shot, you'll never see me again, ever.
4 Any chance to be back around -- in my daughter's
5 life and just not messing up, I promise you'll never
6 see me in this county, slash, state. The country
7 will never have a problem out of me ever again.
8 Thank you.

9 THE COURT: Yes, sir.

10 MS. PATTERSON: Your Honor, can I just add one
11 quick thing? I forgot to add that Mr. James Peters
12 couldn't be here. But he did talk to Mr. Clark, and
13 he would like to express how frightened he was when
14 the gun was put to his head. And he wanted Your
15 Honor to know that this was truly a traumatic
16 experience for him as well.

17 MR. MOORE: Your Honor, may it please?

18 THE COURT: Yes, sir.

19 MR. MOORE: There is a substantial factual
20 basis for the plea to carjacking. I will say that
21 we do dispute -- we agree that we said what the
22 State alleges we said. We do dispute there was a
23 gun used in the carjacking.

24 I've read the statute. And the threat and
25 intimidation alone, by what we said, is enough, in

1 my opinion, to create the factual basis. But I
2 don't want to make a big deal out of it because it
3 was incredibly wrong. But we do dispute, on that
4 particular charge, that a gun was used.

5 THE COURT: If nothing else, the Court accepts
6 the pleas.

7 Mr. McCoy, I've learned a long time ago not to
8 try to explain why I sentence people. All y'all
9 want to hear is the bottom line anyway. The only
10 thing I'm going to say in your case is that your
11 lawyer has done an excellent job presenting
12 mitigation evidence. Your family seems like a
13 wonderful family. You've got a lot of people who
14 believe in you, including the reverend.

15 And I have tried to donate and volunteer my
16 time over the years to help people who are wrestling
17 with addiction; since 1996, as a matter of fact. I
18 meet with drug addicts every Thursday night, and we
19 go through a special program. I understand
20 addiction probably better than you will ever realize
21 I would.

22 I've always had this belief, however, that you
23 cross lines. And you crossed this one big time. I
24 can't put you on probation for this; I can't let you
25 go out of here and go to U-Turn for Christ. I hope

1 you change your life's direction. I believe
2 everything they said about you can be a very
3 productive member of society.

4 But your sentence is 15 years in the department
5 of corrections, plus costs and assessments. I'm
6 recommending Addictions Treatment Unit while you're
7 incarcerated. The sentences run concurrently;
8 restitution is deferred. No criminal sexual conduct
9 is involved in this. I've written that on the
10 sentence sheet, which would affect your ability to
11 be considered for work release at the appropriate
12 time.

13 I made a specific finding on the record that
14 this is a violent felony, which prevents you from
15 transporting, shipping, receiving, or possessing a
16 firearm or ammunition.

17 You're given credit for jail time under
18 24-13-40, which the Department of Corrections will
19 calculate and apply. Pay your court costs within
20 one year of being released from prison. Do you
21 understand all that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Good luck, sir.

24 -- END OF TRANSCRIPT OF RECORD --

25

C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Criminal Court for Lexington County, South Carolina, on the 12th of February, 2020.

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

March 30, 2022

*s/Bethanie K. Creppon*Bethanie K. Creppon
Circuit Court Reporter

STATE OF SOUTH CAROLINA
 COUNTY OF LEXINGTON

State of South Carolina,
 Plaintiff,

vs.

James I. McCoy, II
 Defendant.

IN THE COURT OF GENERAL SESSIONS

ORIGINAL ⁵⁰

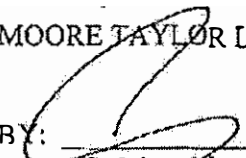
C.A. 2019A3220900047-49,
2019A3211000057, 58, 60

MOTION TO RECONSIDER

The Defendant, through his undersigned counsel, moves before this Honorable Court for an Order reconsidering the sentence issued by this Court on February 12, 2020. The Defendant hereby requests that this Court reconsider the mitigation evidence presented at the sentencing hearing and reduce the sentence appropriately.

Respectfully submitted.

MOORE TAYLOR LAW FIRM, P.A.

BY: 
 S. Jahue Moore, Jr.
 P.O. Box 5709
 West Columbia, SC 29171
 (803) 796-9160
 Attorney for the Defendant

West Columbia, South Carolina
 February 17, 2020

FILED
 2020 FEB 19 PM 3:59
 LISA M. COMER
 CLERK OF COURT
 LEXINGTON SC

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON)

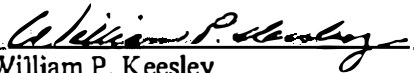
STATE OF SOUTH CAROLINA,)
) ORDER ON MOTION TO
-vs-) RECONSIDER SENTENCES
)
)
JAMES LEE McCOY, II,)
)
)
Defendant.)

Case Numbers:

2020GS3200127/ 2019A3220900047 – Armed Robbery
2019A3221100058 / 2020GS3200128 – Carjacking

A motion to reconsider sentences imposed upon the defendant on February 12, 2020, was filed, though the court does not recall being aware of it until contacted recently. A scheduling order was established pursuant to Rule 29(a), SCRCrimP, for written submissions, without oral argument. Defense counsel was granted an extension, and the documents and argument on behalf of the defendant have been reviewed. There is a provision in the scheduling order for a response from the State, but one is not deemed necessary for the court to decide the pending motion. Having reconsidered the matter, the motion is respectfully denied. The sentences shall remain as originally imposed.

AND IT IS SO ORDERED.


William P. Keesley
Judge

February 3, 2023

FILED

2023 FEB -6 AM 11:32

LISA M. GEMER
CLERK OF COURT
LEXINGTON, SC

2020CP3203652 FILED FORM 5

STATE OF SOUTH CAROLINA 2020 OCT 29 PM 1:55

IN THE COURT OF COMMON PLEAS

COUNTY OF Lexington LISAM. COMIR
CLERK OF COURT
LEXINGTON SC

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

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention SC Department of Corrections
2. Name and location of Court which imposed sentence Lexington County
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2019A3220900047
 - (b) 2019A3211000058
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 02/12/2020
 - (b) The term is 15 years ran concurrent @ Violent 85%.

- (c) _____
- 6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty ✓
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere _____

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

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

(a) the name of each Court to which you appealed:
 i. Lexington County Court of Correction Pleas an imposition of sentence

ii. _____

iii. _____

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

i. n/a

ii. _____

iii. _____

(c) the date of each such result:

i. n/a

ii. _____

iii. _____

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

i. n/a

ii. _____

iii. _____

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

(a) _____

(b) _____

(c) _____

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

³⁶ The following statement is the answer to ~~#~~ 8 B, C, & D.

Please understand that the reason these answers are marked N/A is because of the pandemic of Covid-19. Please accept this packet as we are operating under extraordinary circumstances. I only have 1 year to have this completed & do not want to run out of time. Please understand we are waiting for the court to respond for #8 B, C, & D.

Thank you

The grounds are ineffective assistance to counsel.

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

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

- (a) attached via extra papers.
- (b) _____
- (c) _____

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

- (a) any petition in a State Court under South Carolina Law? no
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no
- (d) any other petitions, motions or applications in this or any other Court? no

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

(a) the specific nature thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

- i. _____
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

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

No

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

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

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

(a) I was ...

(b) _____

(c) _____

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

- (a) your arraignment and plea? YES
- (b) your trial, if any? ---
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? YES
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Jake Moore Jr.
 - ii. P.O. Box 5709
 - iii. West Columbia, SC 29171
- (b) the proceedings at which each such attorney represented you:
- i. arraignment + plea
 - ii. my sentencing
 - iii. A motion to be sentenced
19. State clearly the relief you seek in filing this application:
I am seeking a new plea and a new trial
20. Are you now under sentence from any other court that you have not challenged?
No.

STATE OF SOUTH CAROLINA)

VERIFICATION

County of Lexington)

James McCoy

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

James G. McCoy

SWORN to and subscribed before me this 12th day of OCTOBER, 2020

[Signature] (L.S.)
Notary Public

My Commission Expires: MARCH 8, 2022



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

James McCoy

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

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

James McCoy

 Applicant

SWORN or affirmed to and subscribed before me this
12th day of OCTOBER, 2020

Ernie Belton

 Notary Public

My Commission Expires: MARCH 8, 2028



COUNTY OF Lexington

James Lee McCal

Plaintiff(s)

vs.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

-CP-

Submitted By: James McCal (CV 382397)
Address: Kirkland Rd #1E (102-35)
4434 Broad River Rd
Columbia SC 29210

SC Bar#: _____
Telephone #: _____
Fax #: _____
Other: _____
E-mail: _____

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

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

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

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|--|--|--|
| <p>Contracts</p> <ul style="list-style-type: none"> <input type="checkbox"/> Constructions (100) <input type="checkbox"/> Debt Collection (110) <input type="checkbox"/> General (130) <input type="checkbox"/> Breach of Contract (140) <input type="checkbox"/> Fraud/Bed Faith (150) <input type="checkbox"/> Failure to Deliver/Warranty (160) <input type="checkbox"/> Employment Discrim (170) <input type="checkbox"/> Employment (180) <input type="checkbox"/> Other (199) _____ | <p>Torts - Professional Malpractice</p> <ul style="list-style-type: none"> <input type="checkbox"/> Dental Malpractice (200) <input type="checkbox"/> Legal Malpractice (210) <input type="checkbox"/> Medical Malpractice (220) Previous Notice of Intent Case#
20 <u>-NI-</u> <input type="checkbox"/> Notice/ File Med Mal (230) <input type="checkbox"/> Other (299) _____ | <p>Torts - Personal Injury</p> <ul style="list-style-type: none"> <input type="checkbox"/> Conversion (310) <input type="checkbox"/> Motor Vehicle Accident (320) <input type="checkbox"/> Premises Liability (330) <input type="checkbox"/> Products Liability (340) <input type="checkbox"/> Personal Injury (350) <input type="checkbox"/> Wrongful Death (360) <input type="checkbox"/> Assault/Battery (370) <input type="checkbox"/> Slander/Libel (380) <input type="checkbox"/> Other (399) _____ | <p>Real Property</p> <ul style="list-style-type: none"> <input type="checkbox"/> Claim & Delivery (400) <input type="checkbox"/> Condemnation (410) <input type="checkbox"/> Foreclosure (420) <input type="checkbox"/> Mechanic's Lien (430) <input type="checkbox"/> Partition (440) <input type="checkbox"/> Possession (450) <input type="checkbox"/> Building Code Violation (460) <input type="checkbox"/> Other (499) _____ |
| <p>Inmate Petitions</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> PCR (500) <input type="checkbox"/> Mandamus (520) <input type="checkbox"/> Habeas Corpus (530) <input type="checkbox"/> Other (599) _____ | <p>Administrative Law/Relief</p> <ul style="list-style-type: none"> <input type="checkbox"/> Reinstate Drv. License (800) <input type="checkbox"/> Judicial Review (810) <input type="checkbox"/> Relief (820) <input type="checkbox"/> Permanent Injunction (830) <input type="checkbox"/> Forfeiture-Petition (840) <input type="checkbox"/> Forfeiture-Consent Order (850) <input type="checkbox"/> Other (899) _____ | <p>Judgments/Settlements</p> <ul style="list-style-type: none"> <input type="checkbox"/> Death Settlement (700) <input type="checkbox"/> Foreign Judgment (710) <input type="checkbox"/> Magistrate's Judgment (720) <input type="checkbox"/> Minor Settlement (730) <input type="checkbox"/> Transcript Judgment (740) <input type="checkbox"/> Lis Pendens (750) <input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760) <input type="checkbox"/> Confession of Judgment (770) <input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780) <input type="checkbox"/> Incapacitated Adult Settlement (790) <input type="checkbox"/> Other (799) _____ | <p>Appeals</p> <ul style="list-style-type: none"> <input type="checkbox"/> Arbitration (900) <input type="checkbox"/> Magistrate-Civil (910) <input type="checkbox"/> Magistrate-Criminal (920) <input type="checkbox"/> Municipal (930) <input type="checkbox"/> Probate Court (940) <input type="checkbox"/> SCDOT (950) <input type="checkbox"/> Worker's Comp (960) <input type="checkbox"/> Zoning Board (970) <input type="checkbox"/> Public Service Comm. (990) <input type="checkbox"/> Employment Security Comm (991) <input type="checkbox"/> Other (999) _____ |
| <p>Special/Complex /Other</p> <ul style="list-style-type: none"> <input type="checkbox"/> Environmental (600) <input type="checkbox"/> Automobile Arb. (610) <input type="checkbox"/> Medical (620) <input type="checkbox"/> Other (699) _____ <input type="checkbox"/> Sexual Predator (510) <input type="checkbox"/> Permanent Restraining Order (680) <input type="checkbox"/> Interpleader (690) | <ul style="list-style-type: none"> <input type="checkbox"/> Pharmaceuticals (630) <input type="checkbox"/> Unfair Trade Practices (640) <input type="checkbox"/> Out-of-State Depositions (650) <input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660) <input type="checkbox"/> Pre-Suit Discovery (670) | | |

Submitting Party Signature: _____ Date: _____

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

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

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

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

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

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

The following statements are the answer to # 11

**LEGAL
MAIL
ONLY**

To whom it may concern,

My name is James Lee McCoy and I am 30 years old. I was born Jan. 17th 1990 in Lexington, SC. The reason I am writing this letter is in regards to applying for a hearing for post conviction relief (PCR). I am seeking relief from a sentence of 15 years (violent) or charges stemming from 2 separate convictions. The first case/conviction was from an incident alleged to have taken place on May 4th 2019 in Lexington, CO - case/A-W# 2019A3211000058 of car jacking attempt to take vehicle by force without great bodily harm - sentence a 15 years SCDC (violent) The second case/conviction stems from an alleged incident that took place on May 5th 2019 also in Lexington, CO. case/A-W# 2019A3220900047 of Robbery Attempted Armed, or allegedly armed robbery - sentenced to 15 years (SCDC) violent to run concurrently with each other. I plead to these charges in Lexington Court of General Sessions on Feb. 12 in front of the Honorable William P. Keesley. I am asking and pleading for this post conviction relief on the grounds of ineffective assistance to counsel for several specific and vital reasons. My attorney spent very little time in regards to my case during the entire of my incarceration. I spoke with him briefly when he was retained and subsequently hired and only again once at my insistent request prior to court 10 months later. In a case of this magnitude I expected a lot more interaction and preparation leading up to pleas & sentencing. I requested more meeting but was "back burned" until the day of February 10th 2020

then he arrived to speak with me hurried and told me that the 45-
0 plea was "as good as it was going to get" and that if I didn't
take it I would essentially be "slapping the court's solicitor in the
face." I was extremely intimidated & in fear of the imprecations he
had just laid upon me. Basically "bulldozing" me into pleading guilty to
crimes I didn't actually commit. My attorney also failed (even after
I requested) to present my lab toxicology results to the court
which would have definitely made my case with substantial proof of
mitigating circumstances. I was having a drug-induced episode
and was critically impaired & out of my mind leaving me
extremely confused and incapable of making rational decisions. I
was never shown a motion of discovery concerning the Armed
Robbery which I asked for several times. I was never advised
of specific charges I'd ultimately lose due to a plea of guilty. All told I
am not a hardened criminal just a young man who got hooked
on drugs and made a couple terrible choices. Prior to this I was
a family man, role model citizen & hard working parent who had
a minimal criminal record. I am pleading with the courts to grant
me a post conviction relief (PCR) hearing on these grounds and
give me a chance at returning at some level soon to be a
productive part of society again. Also as another point in case
is a reason for me to hopefully & respectfully be granted this
post conviction relief (PCR) during these proceedings the
solicitor, whom I might add was a fill in (not even my
appointed case solicitor) bald faced lied in open court as to
the circumstances of the events as well to the use or way of
use of said firearm in question. These blatant lies and
misrepresentations by the state had the situation been reverse
I would have been in major penalty and peril to myself. Inste
ad the states ill-conceived statements were swept under the rug, A

represented by a half-hearted attorney. Again I'm just pleading for an opportunity to bring these misrepresentations to the light in my defense, in hopes of a better outcome. Also please consider that during this plea process I was a first-time, uninformed individual being led through a process I didn't completely understand. Therefore, in conclusion on my reasons respectfully requesting and praying for this post conviction relief are real and legitimate. I was greatly swayed by extremely ineffective counsel as my attorney hurried and rushed me through the pre-hearing process, explaining the entire list of ramifications & future consequences of plea guilty to these crimes & when I requested time to consider my options I felt I had no time and no other option when my counsel stated that by delaying or refusing this plea I would be putting myself at greater risk by upsetting the court by effectively "slapping the court and solicitor in the face" I was rushed, hurried and literally bulldozed through the process by all parties including and mostly by the person who "supposedly" had my best interest at heart. The solicitor was not even the one appointed to my case & blatant lies were told in open court not to mention my request & subsequent denial for my toxicology report to be presented. I feel and hope the deciding parties do also take into consideration, that I was young, misguided & most of all misrepresented and in the righteous name of justice, I deserve to be heard and given an opportunity for a different outcome on a level playing field. It's only fair.

Respectfully,

James McCoy

Please find written below the answers to #16. 47

I ~~neffective~~ assistance to Counsel has not been filed yet because I was attempting to await the verdict from the imposition of sentence.

I had filed to come back before filing this Post Conviction Relief, however

due to the COVID-19 I have yet to receive any information back yet.

Please understand the extenuating

circumstances we are presented with

due to the pandemic and still

process this application so I do not

surpass my 1 year time limit to file this

P.C.R., Thank you.

2578-002

LEGAL
MAIL
ONLY

STATE OF SOUTH CAROLINA)
 COUNTY OF LEXINGTON)
)
)
 James Lee McCoy, II, SCDC #382397,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)
)
 _____)

IN THE COURT OF COMMON PLEAS
 FOR THE ELEVENTH JUDICIAL CIRCUIT

Case No. 2020-CP-32-3652

**RETURN AND MOTION FOR A
 MORE DEFINITE STATEMENT
 (Counsel Appointed)**

In response to the post-conviction relief (PCR) action commenced by James Lee McCoy (Applicant) on October 29, 2020, and *received by the State* on February 1, 2022,¹ the State makes this return. In the interim, the Clerk appointed Ashley A. McMahan to represent the Applicant:

DR
 #1

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Lexington County Clerk of Court. Following his arrest on May 7, 2019, the Lexington County Grand Jury indicted Applicant for armed robbery (2020-GS-32-0127) and carjacking (2020-GS-32-0128) in January 2020.

¹ On January 20, 2022, the Lexington County Clerk of Court contacted the State regarding the instant PCR action. We realized at that time we were never served with the application. Accordingly, the State respectfully asks this Court to accept this return as timely filed. *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 . . .”) (emphasis added); *see also* S.C. Code Ann. § 17-27-70(a) (establishing that the Court may fix the time in which the State must respond); *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.).

On February 12, 2020, Applicant appeared before the Honorable William P. Keesley and pleaded guilty to the lesser-included offense of attempted armed robbery and as indicted to carjacking. The State dismissed two kidnapping charges, two possession of a weapon during the commission of a violent crime charges; and one first-degree assault and battery charge in exchange for Applicant's plea. Jake Moore, Jr., Esquire, represented Applicant and Assistant Solicitor Rhonda Patterson prosecuted the case. Judge Keesley accepted Applicant's plea, and sentenced him to concurrent terms of fifteen years' imprisonment for each charge.

Applicant filed a timely motion to reconsider on February 19, 2020. The order on the motion to reconsider was filed on February 6, 2023.

Applicant did not appeal.

II. FACTUAL BASIS OF THE PLEA

At approximately 10:25 am on May 5, 2019, Applicant arrived at the Red Roof Inn located on Airport Boulevard in the Springdale area of Lexington County. (Plea Tr. 7). He approached Angel Valdes's hotel room, engaged in a brief conversation, and ultimately forced his way into Mr. Valdes's hotel room. (Plea Tr. 7). Applicant was captured on video surveillance reaching inside of his pocket and pulling out an object just prior to slamming the door shut. (Plea Tr. 8). Mr. Valdes reported to law enforcement that Applicant presented a firearm and demanded money. (Plea Tr. 8). Applicant ultimately stole three-hundred dollars. (Plea Tr. 8).

Law enforcement made contact with a front-desk clerk who called 9-1-1 after Mr. Valdes told her that he had been robbed. (Plea Tr. 8). The clerk was able to get the tag number from the orange vehicle that Applicant was driving. (Plea Tr. 8). The suspect was described to law enforcement as a white male wearing a peach-colored shirt and beige pants. (Plea Tr. 8). A BOLO

was subsequently issued for the vehicle, which had been reported stolen on May 3, 2019. (Plea Tr. 8).

Shortly after the armed robbery occurred at the Red Roof Inn, Applicant traveled to the Circle K on Charleston Highway in the stolen Dodge Caliber. (Plea Tr. 8). He parked the car, exited the vehicle, and approached James Peters, who was sitting in the driver's side of a Chevrolet Colorado. (Plea Tr. 9). He pointed his gun at Mr. Peters, telling him to get the eff out of the truck before he blew his brains out. (Plea Tr. 9). Mr. Peters got out of the truck and ran into the store, where his co-worker and the owner of the truck, Austin Clark, was located. (Plea Tr. 9). Mr. Clark looked outside and noticed Applicant trying to place a bag into the bed of the truck. (Plea Tr. 9). Mr. Clark quickly pressed the lock button on his car key, which set the alarm off. (Plea Tr. 9). Applicant then fled the scene in the stolen Caliber. (Plea Tr. 9).

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Shortly thereafter, Mr. McCoy wrecked the Caliber when he struck a light pole. (Plea Tr. 9-10). He then took off into the woods in the backyard of a nearby residence. (Plea Tr. 10). The residents of the home called 9-1-1 to report a suspicious person running through their yard shooting a gun. (Plea Tr. 10). They reported hearing a gunshot, and then seeing an individual jump their fence in the backyard and run through the woods. (Plea Tr. 10). When Applicant emerged from the woods, one of the residents approached Mr. McCoy with his gun. (Plea Tr. 10). Applicant dropped his gun and ran back into the woods. (Plea Tr. 10). Law enforcement arrived shortly thereafter, and detained him. (Plea Tr. 10). Applicant was reported to have been on drugs at the time, and was taken to Lexington Medical Center for medical observation. (Plea Tr. 10).

The clothes Applicant was wearing at the Red Roof Inn along with the gun were recovered nearby. (Plea Tr. 10). Law enforcement also recovered seven twenty-dollar bills, four one-dollar bills, and a tissue pack from the Red Roof Inn. (Plea Tr. 10).

II. CURRENT APPLICATION

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

- (10) State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
 - (a) Ineffective Assistance of Counsel
- (11) State concisely and in the same order the facts which support each of the grounds set out in (10):
 - (a) Counsel spent insufficient time with Applicant after he was retained and when he met prior to the plea indicated only that 0-20 was as good as it would get.
 - (b) Counsel failed to present the lab toxicology results to court as Applicant requested to support that Applicant cant was having a drug induced episode and confused.
 - (c) Applicant was never shown a motion for discovery on the armed robbery.
 - (d) Counsel did not object t, to the alleged misrepresentation the fill-in prosecutor made during the plea.

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

V. REQUEST FOR A MORE DEFINITE STATEMENT


The State submits Applicant's allegations of ineffective assistance of counsel are without merit. However, it is difficult for the State to adequately respond to these claims because Applicant has failed to set forth facts to "support each ground" or to explain with specificity the facts upon which his claims are based. S.C. Code Ann. § 17-27-50 (requiring an applicant to "specifically set forth the grounds upon which the application is based");

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

Accordingly, the State requests for Applicant, through counsel, to amend his application to provide specific claims and facts to support these vague allegations pursuant to Rule 12(e), SCRPC, and the Post-Conviction Procedure Act. *See* S.C. Code Ann. § 17-27-50 (requiring an applicant to “specifically set forth the grounds upon which the application is based”); *see also Welch v. MacDougall*, 246 S.C. 258, 260, 143 S.E.2d 455, 456 (1965) (stating it is incumbent upon an applicant to make at least a prima facie showing entitling him to relief before an evidentiary hearing will be scheduled and held).

III. RESPONSE TO ALLEGATIONS OF INEFFECTIVE ASSISTANCE OF COUNSEL

A. Ineffective Assistance of Plea Counsel, Generally

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

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985); Rule

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

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

Because of the difficulties inherent in making such an evaluation, the reviewing court must indulge in a "strong presumption that counsel's conduct falls within the wide range of reasonably professional assistance." *Butler*, 286 S.C. at 445, 334 S.E.2d at 816. "The burden of rebutting this

presumption ‘rests squarely on the defendant,’ and ‘[i]t should go without saying that the absence of evidence cannot overcome [i]t.’ ” *Dunn v. Reeves*, 141 S. Ct. 2405, 2410 (2021) (alteration in original) (quoting *Burt v. Titlow*, 571 U.S. 12, 22–23 (2013)). In fact, “even if there is reason to think that counsel’s conduct ‘was far from exemplary,’ a court still may not grant relief if ‘[t]he record does not reveal’ that counsel took an approach that *no competent lawyer would have chosen*.” *Id.* (alteration in original) (emphasis added) (quoting *Titlow*, 571 U.S. at 23–24). Representation is constitutionally ineffectively only if counsel’s conduct “so undermined the proper functioning of the adversarial process” that the defendant was denied a fair proceeding. *Strickland*, 466 U.S. at 686; see *Nix v. Whiteside*, 475 U.S. 157, 175 (1986) (noting that under *Strickland*, the “benchmark” of the right to counsel is the “fairness of the adversary proceeding”).

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

applicant claims counsel's deficient performance caused him to accept a plea, the applicant "must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial." *Id.* at 59.

C. Failure to Adequately Consult, Review Discovery or Correct Prosecution Statements.

Applicant contends Counsel was ineffective for failing to sufficiently spend sufficient time with him, failed to review discovery with him and failed to correct the state's recitation of the facts at the plea. As discussed below, the State is presently without sufficient information to fully respond to this claim because Applicant does not indicate with any specificity what Counsel should have discussed or investigated, the basis of which Counsel should have made the motions and objections, and how Applicant was prejudiced.

At the time of his plea, the Applicant asserted that he was guilty of the charges, that he was fully satisfied with his attorney, that he had enough time to meet with his lawyer and discuss things and to make up his mind to plead guilty. Plea Tr.p. 13.

Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual . . . , a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed." *Dalton v. State*, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Blackledge v. Allison*, 431 U.S. 63, 74 (1977)); see also *Jamison v. State*, 410 S.C. 456, 469–71, 765 S.E.2d 123, 129–30 (2014)). Admissions made during a guilty plea should be considered conclusive unless an applicant presents valid reasons why he should be allowed to depart from the truth of his statements. *Id.* at 137–38, 654 S.E.2d at 874; see also *Blackledge*, 431 U.S. at 73–74 (pointing out that representations made by a defendant, his lawyer, and the prosecutor at a guilty plea hearing, as well as any findings made by the judge accepting the plea, constitute a "formidable barrier in any subsequent collateral proceedings").

The Applicant suggests a failure to adequately consult with him prior to the plea. There is no established “minimum number of meetings between counsel and client prior to trial necessary to prepare an attorney to provide effective assistance of counsel.” *United States v. Olson*, 846 F.2d 1103, 1108 (7th Cir.1988) (there is no constitutional minimum number of meetings between attorney and client and observes that an experienced attorney may get more out of a single meeting than a neophyte); *Moody v. Polk*, 408 F.3d 141, 148 (4th Cir. 2005); *Campbell v. Polk*, 447 F.3d 270, 279, n.2 (4th Cir. 2006) (“we cannot conclude that the fact that Campbell's counsel only met with him five times before trial made them ineffective.”). “[B]revity of consultation time between a defendant and his counsel, alone, ‘cannot support a claim of ineffective assistance of counsel.’” *Davis v. State*, 44 So. 3d 1118, 1130 (Ala. Crim. App. 2009) (quoting *Murray v. Maggio*, 736 F.2d 279, 282 (5th Cir. 1984)); *White v. Godinez*, 301 F.3d 796, 800 (7th Cir. 2002) (“A brief consultation does not by itself establish that counsel's performance was inadequate.”); *Chavez v. Pulley*, 623 F. Supp. 672, 685 (E.D. Cal. 1985) (“brevity of consultation time between a defendant and his counsel alone cannot support a claim of ineffective assistance of counsel,” especially where the defendant “fails to allege what purpose further consultation with his attorney would have served and fails to demonstrate how further consultation with his attorney would have produced a different result”). His bare allegation is insufficient to establish a Sixth Amendment violation.

Applicant further fails to specify what Counsel did not disclose to him from materials provided in discovery, or what, if anything, could have been achieved had Counsel spent more time with him in consultation regarding the contents of his discovery. *See Smith v. State*, 404 S.C. 493, 500–01, 745 S.E.2d 378, 382 (Ct. App. 2012) (noting that an applicant must present evidence to show how additional time spent in consultation regarding discovery would have resulted in a different outcome; mere speculation as to how the alleged lack of preparation prejudiced an

applicant is not sufficient to support a grant of relief).

Finally, the Applicant contends that the State made misrepresentations during the guilty plea, but fails to set forth, with any specificity what the solicitor stated during the proceedings was in error. Absent the specificity, the assertions must fail.

Conclusion and Action Requested

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

V. GENERAL DENIAL

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

VI. CONCLUSION

WHEREFORE, the State respectfully requests an evidentiary hearing be held on the claims of ineffective assistance of counsel.


Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA

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Deputy Attorney General

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

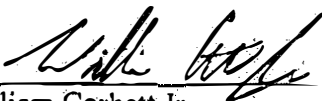
February 29, 2024

STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON)	
)	2020-CP-32-03652
)	
JAMES L. MCCOY, II # 382397)	
)	
Applicant,)	
)	
vs)	CERTIFICATE OF SERVICE BY MAIL
)	
STATE OF SOUTH CAROLINA,)	
)	
Respondent,)	
)	

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:

Ms. Ashley A. McMahan, Esquire
McMahan Law, LLC
PO Box 50536
Columbia, SC 29250

DATED this the 4th day of March 2024



 William Corbett Jr.
 Legal Assistant For Respondent

STATE OF SOUTH CAROLINA)	COURT OF COMMON PLEAS
)	FOR THE 11 th JUDICIAL CIRCUIT
COUNTY OF LEXINGTON)	Case No.: 2020-CP-32-03652
James L. McCoy, II, #382397,)	
)	
Applicant,)	AMENDED POST-CONVICTION
)	RELIEF APPLICATION
v.)	
)	
State of South Carolina.)	
)	

The Applicant, by and through his undersigned attorney, hereby amends his PCR application filed on or about October 29, 2020, to add the following allegations:

1. Ineffective Assistance of Counsel:
 - a. Failed to file an appeal from denial of the Motion to Reconsider.
 - b. Failed to adequately present mitigating evidence at sentencing
 - i. Applicant had permission to the drive the car and there was no car actually taken during the incident
 - ii. Applicant was under the influence at the time of the alleged crime.
 - c. Failed to adequately inform client that armed robbery is a no-parole offense and that he would be put on the Child Abuse & Neglect Registry. Applicant would have demanded a trial had ne known this information.
 - d. Applicant wanted to go to trial and not plead because what the Solicitor and law enforcement were saying happened was not what actually happened. Ultimately pleaded guilty based off what counsel told him.
 - e. Met with counsel approximately three times in total and counsel never asked for a bond hearing on Applicant’s behalf.
 - f. Counsel told Applicant’s parents it was likely that the Applicant would get probation.
 - g. Counsel failed to adequately review the Discovery with the Applicant, had he done so, Applicant would have insisted on a trial.
 - h. Morning of the guilty plea, the Applicant was under the influence of prescription drugs given to him by the detention facility.

Furthermore, the Applicant requests that he be permitted to amend his PCR application to conform to the evidence presented at the PCR hearing should any

new or unaddressed issues arise during the course of the hearing that have not been specifically addressed in the Application. See Simpson v. Moore, 367 S.C. 587, 627 S.E.2d 701 (2006).

Respectfully submitted,



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SC Bar No. 71676

ATTORNEY FOR APPLICANT

February 21, 2025

CERTIFICATE OF SERVICE

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

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

This 21st Day of February, 2025.



ASHLEY A. MCMAHAN

ATTORNEY FOR APPLICANT

1 State of South Carolina) Court of Common Pleas
2 County of Lexington) Eleventh Judicial Circuit

3

4 James L. McCoy, II,) Transcript of Record
5 Applicant,) 2020-CP-32-03652
6 vs.)
7 State of South Carolina,)
8 Respondent.)

9

March 4, 2025
Lexington, South Carolina

10

11 B E F O R E:

12 The Honorable Daniel Coble, Judge

13

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

14

Ashley A. McMahan, Esquire
On behalf of the Applicant

15

16 Donald J. Zelenka, Chief Deputy Attorney General
On behalf of the State of South Carolina

17

18

19

Reported by: Stacy S. Johnson, RPR
Circuit Court Reporter

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	I N D E X	
2	WITNESS/DESCRIPTION	PAGE
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E X H I B I T S

(Exhibits on file in Clerk of Court's Office.)

State's Exhibit

4	No.		MKD.	ADM.
5	1	Letter dated 2-11-2020	29	29
6	2	Letter dated 2-27-2020	33	33

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1 (The following proceedings were held March 4,
2 2025, beginning at 10:34 AM.)

3 THE COURT: All right. Do we have James McCoy
4 here?

5 THE APPLICANT: Yes, sir.

6 THE COURT: Okay.

7 Yes, sir, Mr. Zelenka.

8 MR. ZELENKA: Thank you, Your Honor.

9 This is James McCoy versus State of South
10 Carolina. Mr. McCoy filed a pro se application for
11 post-conviction relief on October 29, 2020. The Court
12 subsequently appointed Ashley McMahan to represent the
13 Applicant and the Applicant through Counsel McMahan has
14 filed an amended application in this matter.

15 This matter involves an arrest that occurred on
16 May 7, 2019, in Lexington County, in which he was
17 indicted for armed robbery and carjacking.

18 He appeared on February 12, 2020, before Judge
19 Keesley and pled guilty to the lesser offense of
20 attempted armed robbery and is indicted on carjacking
21 with dismissal of two kidnapping charges, two
22 possession of a weapon during the commission of a
23 violent crime charge and one first degree assault and
24 battery charge in exchange for the Applicant's plea.

25 He was represented in the matter by Jake Moore,

1 Jr., and Assistant Solicitor Rhonda Patterson
2 prosecuted the case. Judge Keesley accepted the
3 Applicant's plea and sentenced him to concurrent terms
4 of fifteen years imprisonment on each charge and he
5 moved for a motion to reconsider on February 19, 2020,
6 and the Order to Reconsider was denied and was filed on
7 February 6, 2023.

8 The Applicant did not appeal and we're here
9 before the Court on this matter.

10 THE COURT: Yes, ma'am.

11 MS. McMAHAN: Your Honor, at this time we call
12 James McCoy.

13 THE COURT: All right. Mr. McCoy, if you'd come
14 up here and be sworn.

15 (Whereupon, James McCoy was duly sworn by the
16 Clerk of Court.)

17 THE CLERK: Thank you. Please be seated in the
18 witness stand and watch your step. And when you're
19 seated, if you'd please state your name, spelling your
20 last name for the record.

21 THE APPLICANT: James McCoy. M-c-C-O-Y.

22 JAMES McCOY,

23 having been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MS. McMAHAN:

1 Q. Mr. McCoy, did you filed this PCR application?

2 A. Yes, ma'am.

3 Q. And -- I'll get you a little closer to the microphone.

4 THE COURT: You've got to speak up louder, okay?

5 THE WITNESS: Yes, ma'am.

6 BY MS. McMAHAN:

7 Q. And who was your attorney that represented you?

8 A. Mr. Moore. Jahue Moore.

9 Q. Was it senior or junior?

10 A. Junior.

11 Q. And did you retain him? Was he appointed to you?

12 A. He was retained.

13 Q. And how soon after your arrest did you obtain

14 Mr. Moore?

15 A. I don't recall. It was brief. It wasn't too long.

16 Q. Okay. So shortly after you were arrested?

17 A. Yes, ma'am.

18 Q. And did you have any bond hearings or anything?

19 A. No, it was discussed that we weren't gonna do that.

20 Q. So you had a discussion with him that it was just
21 strategic that you decided not to ask for a bond hearing?

22 A. That is correct.

23 Q. Do you remember the conversation about why that was
24 strategic? Was it so that you could earn some time or
25 anything?

1 A. Yes, and at the time I had a bad drug addiction, so it
2 was wise.

3 Q. Okay. And then how many times did you think you met
4 with Mr. Moore?

5 A. Prior to the Monday that we discussed the plea deal, I
6 believe there was two previous meetings, so three in all.

7 Q. Okay. And what did you guys talk about; do you
8 remember?

9 A. Each time it was just a runoff. We were waiting on
10 the State to provide the motion up until the Monday that we
11 discussed it, which was only, in part, a motion that was
12 brought on that Monday.

13 Q. And what do you mean the motion? Do you mean the
14 discovery, the evidence related to your case?

15 A. Yes, ma'am.

16 Q. And you said that Monday there was -- it was partial
17 discovery. Do you remember what that partial discovery
18 was?

19 A. I remember seeing a video from a hotel that I was
20 there and we went over some paperwork, but I don't -- it
21 is not the same thing that I have now.

22 Q. So the stuff you have now is different than what you
23 had had?

24 A. It was more -- it was more detailed. There was a lot
25 more information.

1 Q. And that's the -- that's what I have provided to you,
2 that I mailed to you?

3 A. Yes, which Jake may have had at the time. I just
4 never saw it.

5 Q. Okay. And when you said that you saw a video of you,
6 from a hotel?

7 A. Yes, ma'am.

8 Q. Okay. And when you guys were talking about, you know,
9 his representation, were you ever in a situation where you
10 wanted a trial or did you just want to see what kind of
11 plea you could get?

12 A. No, I wanted a trial whole time.

13 Q. And why did you want a trial?

14 A. Because I was innocent of what they were trying to say
15 fully occurred.

16 Q. And what were they trying to say fully occurred?

17 A. That there was an armed robbery. It was more of a
18 misunderstanding in -- that cured inside the hotel room
19 and I was charged and convicted of a -- well, I pled to
20 a carjacking where a car was never taken. It was bad
21 misunderstanding. I was completely high, out of my mind.

22 Q. So you were under the influence when this incident
23 occurred?

24 A. Extremely.

25 Q. Then when you say it was -- that no car was taken,

1 what was the issue with the car not being taken?

2 Now remember Judge Coble doesn't know anything
3 about the facts of the case, so.

4 A. I just remember thinking it was my brother's truck,
5 loading the stuff up in the back of it and then whenever
6 the dude in the passenger wasn't my brother or someone I
7 knew, I told him to get out or I was gonna shoot him, but
8 I didn't have a gun in that -- in the altercation. I did
9 later be found in possession of a gun or one near me, but
10 that -- that instance never used a gun in it.

11 Q. So you -- at some point you realized you were in a
12 truck and there was somebody --

13 A. I never was in it.

14 Q. And what?

15 A. I was talking to the guy through the window.

16 Q. Okay. But you realized that wasn't your brother?

17 A. Right, and I just left.

18 Q. Did you leave in the car or did you leave --

19 A. The car that I was given permission to drive there.

20 Q. Okay. So it wasn't the truck, it was a different
21 car?

22 A. That's right.

23 Q. Okay. And who gave you permission to drive that
24 car?

25 A. The female of the house that I was at before I had

1 left.

2 Q. Okay. And in your conversations with Mr. Moore,
3 did you ever ask him to file a motion to reconsider or
4 anything on your behalf?

5 A. I believe he did that and informed me that he was
6 going to do that on my behalf and he did follow through.
7 It took some time because the judge had a medical
8 condition.

9 Q. It took more than a year, right, to get an order on
10 that?

11 A. Over two.

12 Q. And then -- but you had already -- you filed your PCR
13 application before you even got an answer on the motion to
14 reconsider, right?

15 A. Yeah, I had some extenuating circumstances.

16 Q. And then did you want an appeal from that motion to
17 consider?

18 A. I don't know anything about that.

19 Q. Did you ever ask for an appeal, for him to file an
20 appeal for you?

21 A. I don't -- I didn't even know if you can do that.

22 Q. Okay. But you never had a conversation about appeals
23 with Mr. Moore?

24 A. At that time I had already went -- filed the PCR, so.

25 Q. Okay.

1 A. I didn't even know that was an option because I
2 just spoke to Mr. Moore one time and he informed me that
3 he was still going to work on my behalf because it had
4 taken so long and he had to get a special permission
5 from Mr. Wilson, I believe, because of the conundrum with
6 Quagmire, whatever you would say, that he was fired, but
7 yet still had his bar license associated with that case.

8 Q. Okay. And then when you were being sentenced, did
9 you feel that Mr. Moore did an adequate job representing
10 your situation and what you had gone through?

11 A. Mr. Moore really believed in me. Mr. Moore -- some
12 of what he did was very good. I believe he could have
13 done a lot -- a lot better and...

14 Q. What specifically do you feel like he could have done
15 better?

16 A. He could have known more details about my case.

17 Q. So you don't think he knew all the details about
18 everything?

19 A. I don't believe that he knew much at all about --
20 about anything about my case.

21 Q. And was that based on your conversations with him?

22 A. Yes, ma'am.

23 Q. And was that also based on the discovery that you
24 went over with him?

25 A. The discovery was never really went over. He just

1 showed me the video from the Red Roof.

2 Q. Did you have a conversation with him about armed
3 robbery being a no parole offense at all?

4 A. Never.

5 Q. Did he ever tell you how much time you were gonna
6 be expected to serve on that before you were eligible for
7 parole?

8 A. No.

9 Q. Did he tell you that you were gonna be placed on the
10 child abuse and negligent registry because of that charge?

11 A. Never.

12 Q. And so ultimately why did you decide to plead guilty?

13 A. Because I was under the impression that with the
14 eight being taken off -- well, let me give you context.
15 The first of several pleas were eight to twenty, eight to
16 twenty, eight to twenty, and then Sutania, I believe that's
17 how you say her name, decided that she wanted to take me
18 to trial and at the last second the eight was redacted
19 or changed to zero and then I was under the impression
20 that I would be able to get a suspended sentence or the
21 possibility of probation or parole. I'm not sure which
22 one you would say.

23 Q. So you thought that you would have the possibility of
24 going to court and maybe walking out on probation?

25 A. Even to the extent that I had my daughter waiting at

1 a different restaurant. Yeah, I was -- I was under the
2 impression I was gonna be able to walk out of the courtroom
3 with extreme circumstances hanging over my head.

4 Q. So you had your daughter waiting for you after the
5 plea?

6 A. Yeah.

7 Q. Do you recall if -- if you had had all the discovery
8 that you have on you now, would you have asked for a trial
9 or would you have gotten a guilty plea?

10 A. I would have went to trial.

11 Q. And why is that?

12 A. Because what occurred inside that hotel room was not
13 a true armed robbery and there was never a car taken. So
14 with two separate incidences at two different locations at
15 two different times, there would be no way to convict me
16 on all of the charges that I ended up pleading to.

17 Q. Okay. And were you under the influence of any
18 prescription drugs that morning of the guilty plea?

19 A. Yes.

20 Q. Do you remember what those drugs were that you were
21 taking?

22 A. Wellbutrin.

23 Q. Anything else?

24 A. I think that's it.

25 Q. Okay. Is there anything in that PCR application we

1 haven't talked about that you want to tell Judge Coble
2 about?

3 A. Uh --

4 THE COURT: Anything else?

5 BY MS. McMAHAN:

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

8 A. No.

9 MS. McMAHAN: Answer any questions the Attorney
10 General has for you.

11 CROSS-EXAMINATION

12 BY MR. ZELENKA:

13 Q. Mr. McCoy, on February 12, 2020, you were aware what
14 you were pleading guilty to on that date, didn't you --
15 aren't you?

16 A. Yes, sir.

17 Q. And you were aware of the range of punishment that you
18 could face; isn't that correct?

19 A. Not fully.

20 Q. And what did you think the range of punishment was on
21 that date that you were told by your attorney?

22 A. Well, I thought probation was an option or -- yeah,
23 probation with a suspended sentence, and that I knew that
24 it was a zero to twenty.

25 Q. Well, zero is zero, isn't it?

1 A. Yes, sir.

2 Q. Okay. So you knew no sentence -- no sentence of
3 incarceration was a possibility?

4 A. Yes, sir.

5 Q. And Solicitor Patterson went thoroughly over the
6 facts of the case; do you recall that? At the time of
7 the plea?

8 A. I don't know about if we'd call them facts, but I
9 remember her going over a lot of things that day.

10 Q. And you told the Court after she went over that that
11 you were guilty of the charges that she described; isn't
12 that correct?

13 A. I was told to say that.

14 Q. But you were under oath, you knew to tell the truth,
15 and that's what you said, that you're guilty, correct?

16 A. That's correct.

17 Q. All right. And so the facts of the case as described
18 by Solicitor Patterson you were asserting that you were
19 aware of at the time of your plea and you were agreeing
20 that you were guilty of those charges, yet today it sounds
21 like you're asserting you weren't guilty of the charges;
22 is that correct?

23 A. I knew that I had to say that that day.

24 Q. Okay. You knew you had a right to a jury trial on
25 those particular charges; is that not correct?

- 1 A. Not fully.
- 2 Q. Okay.
- 3 A. Meaning that I didn't know I could take one to trial
4 and one not. Sutania had come to us and said if you take
5 this to trial what you can beat me on, then I'll take you
6 to trial on the other which I can convict you on.
- 7 Q. Okay. But that's true, isn't it?
- 8 A. What? What is true?
- 9 Q. She could have taken you to trial on those charges and
10 you were aware of that, correct?
- 11 A. Yes, sir.
- 12 Q. And you acknowledge you were guilty of those charges
13 at the time, but what did you think the State was charging
14 you with at the time of the guilty plea? What are the
15 facts that you thought the State was gonna present; do you
16 recall?
- 17 A. What was -- what's in the motion?
- 18 Q. That you were charged with armed robbery.
- 19 A. Right.
- 20 Q. And what was the State's armed robbery charge that
21 they had against you?
- 22 A. Well, you just said it was the charge, you just said
23 it was armed robbery.
- 24 Q. What were the facts?
- 25 A. There were -- there were none. That was the reason I

1 was pushing for a trial. There was a disagreement inside
2 of a hotel room.

3 Q. And what was the result of that disagreement with
4 Angel Valdez?

5 A. Well, I left.

6 Q. So Valdez asserted you presented a firearm.

7 A. Not true.

8 Q. Huh?

9 A. That was never true.

10 Q. But you told the Court you were guilty of it?

11 A. Yeah, I did that day. I just said I was guilty so I
12 could get it all behind me.

13 Q. And you watched a video at the hotel, correct?

14 A. That video is not incriminating.

15 Q. Pardon me?

16 A. The video is not incriminating.

17 Q. Okay. What did the video show you doing?

18 A. Walking up, presenting myself to two of Angel's
19 associates and walking inside the room, discussing what
20 we needed to discuss, and then I left.

21 Q. Okay. And what was the deal with the vehicle? You
22 were charged with carjacking.

23 A. The vehicle was from a separate incident where I went
24 -- whenever I left there with Angle I went to a gas station
25 up the road and when I backed into my spot I remembered --

1 I had remembered to calling my brother and somehow I got
2 the cars confused and when I came too I realized what was
3 going on and I left.

4 Q. Okay. And had you told all of that to your lawyer?

5 A. Yes.

6 Q. Mr. Moore?

7 A. Yes.

8 Q. And did he tell you what the version the State was
9 asserting actually occurred? Did he tell you that?

10 A. Yes.

11 Q. Okay. So when you were at the guilty plea and you
12 heard the State put forth the facts of the case, their
13 version, you were aware of what the State's version was
14 that was going to be presented based upon your discussions
15 with Mr. Moore, correct?

16 A. Yes, sir.

17 Q. All right. Now with respect to your assertion that
18 you wanted to go to trial and not plead guilty, you weren't
19 surprised that you were in the courtroom that day. You
20 weren't surprised you were pleading guilty on that day,
21 correct?

22 A. I never decided until the true bill was brought to me
23 that morning. At the time Jake said look, if you don't
24 want to plea, that's fine. I'm just gonna take you to the
25 courthouse anyway and you can decide after.

1 Q. Okay. And you met with counsel three times prior to
2 the entry of the plea, correct?

3 A. The first two times were just very brief. The first
4 time was hey, I'm him, I was hired to represent you. The
5 second time we just talked. It was literally I'm still
6 waiting on the motion, and that's it, which I understand
7 there's no length of requirement of how long you need to
8 be informed about your motion. I understand that.

9 Q. Okay. And you're asserting that you were taking
10 Wellbutrin on the day of the guilty plea; is that correct?

11 A. It's just a fact.

12 Q. Pardon me?

13 A. It's just a fact, yes, sir.

14 Q. Okay. But you understood everything the judge was
15 telling you during the guilty plea, correct?

16 A. For the most part. It kind of came -- it came quick.
17 I don't know that I truly processed everything.

18 Q. Okay. But you had control of your faculties?

19 A. I can't disagree with you.

20 Q. Okay.

21 MR. ZELENKA: I have no further questions.

22 THE COURT: Any redirect?

23 REDIRECT EXAMINATION

24 BY MS. McMAHAN:

25 Q. Did you ever have a discussion with Mr. Moore that

1 the solicitor is the one that determines the charges
2 against you?

3 A. No, I don't believe so.

4 Q. And you were saying earlier that -- I guess there
5 was some back and forth about one set of charges you could
6 probably be found not guilty on, but the other ones you
7 probably would be found guilty on?

8 A. Yes.

9 Q. And that was between, what, Mr. Moore and the
10 solicitor?

11 A. Right.

12 Q. Okay. And Mr. Moore had come to you and talked to
13 you about that?

14 A. Yes, on that date, that Monday, which would have
15 been --

16 Q. And that Monday is the day that you kind of went over
17 that discovery a little bit?

18 A. Right.

19 Q. Okay. And then that's when he showed you the true
20 bill?

21 A. No, that was on the day of court.

22 Q. The day of your plea --

23 A. Right.

24 Q. -- you saw the true bill.

25 And then were you set to go to trial that day or

1 was that set to be a guilty plea day?

2 A. That was a continuation day for me until the point
3 that I decided well, if I can go home, yeah, I'll plea.

4 Q. But you were under the impression that you could walk
5 out of there possibly with nothing and maybe probation or
6 up to whatever the range was that they had discussed with
7 you?

8 A. That is correct.

9 Q. Okay.

10 MS. McMAHAN: I have no further questions, Your
11 Honor.

12 THE COURT: All right. Thank you, sir. You may
13 step down.

14 (Witness excused.)

15 MS. McMAHAN: The Applicant rests, Your Honor.

16 THE COURT: All right. We're gonna take a short
17 recess before the State calls any witnesses. About a
18 five to 10-minute recess.

19 (Recess taken at 11:01 AM.)

20 (Back on the record at 11:12 AM.)

21 THE COURT: All right. The Applicant rested
22 their case; is that correct?

23 MS. McMAHAN: Yes, sir.

24 THE COURT: All right. Anything from the State?

25 MR. ZELENKA: The State calls Jake Moore, Jr.

1 (Whereupon, Jake Moore, Jr., was duly sworn by
2 the Clerk of Court.)

3 THE CLERK: Please be seated in the witness stand
4 and once you are seated, if you'd please state your
5 name, spelling your last name for the record.

6 THE WITNESS: My name is Jake Moore. M-O-O-R-E.

7 JAKE MOORE, JR.,

8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. ZELENKA:

11 Q. And, Mr. Moore, how long have you been practicing law?

12 A. Since 2004.

13 Q. And as part of your practice, did you represent the
14 defendant in this case?

15 A. I sure did.

16 Q. Mr. James McCoy?

17 A. Yes, sir.

18 Q. And how did that representation occur?

19 A. Well, I was -- I was hired by his parents, I believe,
20 to represent him on some very serious charges in Lexington
21 County, which I did to the best of my ability.

22 Q. Okay. And briefly describe what your client was
23 charged with, if you could.

24 A. Sure. When I got with James, he was in the Lexington
25 County Detention Center. He was charged with armed

1 robbery, two counts of kidnapping, possession of a weapon
2 during a violent crime, two counts of that, I believe,
3 assault and battery first degree, carjacking, possession
4 of a stolen vehicle and possession of a weapon during a
5 violent crime. I think I mentioned that twice now. He --

6 Q. And --

7 A. I'm sorry.

8 Q. Go ahead.

9 A. Well, I was just going to say he was in the county
10 detention center, very serious -- extremely serious
11 charges that nobody should take lightly. We had a
12 situation where a young man had an obvious drug problem
13 that he acknowledged right out the gate, which I'm
14 sympathetic to, but it really doesn't change the fact
15 that there has been a path of destruction just created.

16 Now the question becomes is he guilty or is he
17 not, and I basically got the version from James as to
18 what happened, you know, considering that he was at
19 least high enough to where he didn't recognize his
20 brother's truck at a gas station so he says. It's very
21 difficult to basically just take your client's word for
22 what happened, which is why we filed our motion to get
23 the evidence that we -- we knew would be in existence
24 in this case.

25 We made a conscious decision as a family not to

1 file for a bond for a number of reasons. Number one,
2 we wanted him to dry out. Number 2, we had victim
3 issues, two sets of victim issues. Not just the armed
4 robbery at the hotel, but the carjacking at the gas
5 station. We had potentially two sets of witnesses who
6 we knew would come, show up at the bond hearing and
7 basically protest any sort of bond.

8 In addition, you know, I've been working with
9 Ms. Sutania for a long time now, and I have all the
10 respect for her in the wide world, but you go in and
11 try to file for a bond modification on something like
12 this, you're gonna put a bigger target on your back
13 that's already there, and there were just a lot of
14 different reasons that we choose not to handle it that
15 way.

16 In addition, every day that he was in he was
17 gonna get credit for, so we made the decision not to
18 do that. We ended up getting the discovery. In the
19 meantime, negotiations were made with Sutania to try
20 to come up with some sort of resolution, and it was
21 basically made clear to me that -- you know, first,
22 it was trying to get the most serious charge, quite
23 frankly, and the most dangerous, I guess, would be the
24 -- the armed robbery charge. You've got, you know, a
25 10-year minimum on this thing that -- that you can't --

1 you know, that you've got to deal with. So getting
2 that negotiated down was -- was, you know, difficult
3 and a priority.

4 And then you had a period of time where it was
5 okay, well, we'll give you a range, but there was
6 always a minimum. There was always a minimum range,
7 eight years or so, if I'm not mistaken, I can't
8 remember specifically, but that was the hang up with --
9 with James. He's like look, you know -- yeah, Jake, I
10 hear what you're saying, these are bad charges and I am
11 guilty of a lot of this, you know, do what you can and
12 negotiate for me, but it was always also in the back of
13 my head, you know, okay, if we can't work something
14 out, what's the alternative? Well, I'm gonna go to
15 trial on a case where we are at the Red Roof Inn on
16 video in hoodie essentially going into a room with
17 witnesses who are gonna identify him as the man who
18 robbed them at gunpoint, then you're gonna have him on
19 video leaving the scene. You're gonna have witnesses,
20 two witnesses at least at the gas station, who identify
21 him as basically saying that he told an individual to
22 get out of a truck or he was going to blow their F'ing
23 head off, and, you know, I just didn't like my chances
24 of going to trial.

25 Now that's not my decision to make. That's

1 James's decision to make. And would I have gone to
2 trial on this one? Sure, I would have. Would we have
3 lost? Yes, we would have. I do believe we would have,
4 but I would have done everything within my power to
5 give him the best trial possible.

6 It pains me today to listen to the man say that
7 he wanted a trial because obviously I have failed the
8 man in a certain degree. If he truly wanted that
9 trial, you know, he certainly didn't tell me at the
10 time that we decided to plead guilty. If I had to do
11 this case over again, I'd still do it the same way. We
12 ended up negotiating a deal that dismissed virtually
13 all of the charges save two and reduced one to where at
14 least we had a chance; a zero to twenty range on an
15 attempted armed robbery. I thought that was the best
16 thing to do. He understood through my conversations
17 there was going to be a degree of risk no matter what
18 we did and we made the decision to do what we did. I
19 wrote him a letter and explained to him those were his
20 options.

21 We pled. We pled in front of Judge Keesley.
22 Obviously, you know, I did the best I could from a
23 mitigation standpoint, handed up some certificates that
24 he had earned, basically told Judge Keesley, who runs
25 drug court or has run drug court in the past, to have

1 mercy on the man based upon his history of drug use and
2 abuse.

3 You know, I -- I do believe in James and I do
4 believe that he made some horrible mistakes with regard
5 to drugs that, you know, led to some of this stuff,
6 but, you know, in mitigation I did the best I could and
7 Judge Keesley hit him with a 15-year sentence. I'm not
8 happy with that, James isn't happy with that. Nobody's
9 happy with that. His parents aren't happy with that,
10 but that's basically the risk you take. Had we gone to
11 trial and lost, which, again, I believe we would have,
12 it would have -- could have been potentially worse.

13 As far as what we did afterwards, I wrote him a
14 letter, James a letter, basically told him look, we
15 can file a motion to reconsider, which I thought was
16 about the only course we had. Now listening to the
17 testimony today, it is, you know, coming back a little.
18 I believe that was around the time Judge Keesley had
19 his heart attack, but we filed a motion to reconsider.
20 It did take a long time to come a back. Whether I
21 discussed with -- with James the ability to appeal a
22 guilty plea, I believe I put it in the letter that I
23 wrote to him that we could do that, but that I did not
24 believe he had a ground on which to appeal.

25 But that's basically where we are and, you know,

1 it's -- it's just incredibly unfortunate, a true
2 tragedy all the way around, but I did the best I could
3 for the man and would still. I -- I just did the best
4 I could, I guess.

5 Q. Okay. In light of your testimony, let me -- let me
6 approach.

7 Mr. Moore, you indicated about an initial letter
8 that you wrote to Mr. McCoy?

9 A. Yes, sir.

10 Q. Can you identify that document?

11 A. This appears to be a letter that I wrote to James on
12 February the 11th, 2020.

13 Q. And what was the purpose of that letter?

14 A. It looks like I was documenting an in-person
15 conversation with him. This would have been the letter
16 where I basically told him what was offered, the fact
17 that he could take the offer, he could go to trial. I
18 explained to him that I thought that he had strengths
19 and weaknesses in the case, but it was my -- let's see.
20 Basically just pointed out to him the risks of going
21 either way, which is -- is how this thing works, and I
22 just tried to give him all of the information I could so
23 that he could make the decision for himself as to what
24 to do. I would help him in any way, shape or form no
25 matter which decision he made and I would stand behind

1 him wholeheartedly either way.

2 Q. Okay.

3 MR. ZELENKA: The State would like to introduce
4 that as State Exhibit 2.

5 THE COURT REPORTER: No.

6 MS. McMAHAN: Shouldn't it be 1?

7 MR. ZELENKA: I'm sorry. State's Exhibit 1.

8 THE COURT: Any objection?

9 MS. McMAHAN: No objection.

10 (State's Exhibit No. 1, a letter dated 2-11-2020,
11 was marked and admitted into evidence.)

12 BY MR. ZELENKA:

13 Q. And in that letter, what did you indicate the offer
14 from the State was at that time?

15 A. Let me read it. The State will allow you to plead
16 guilty to carjacking and attempted armed robbery. The
17 State previously demanded a negotiated sentencing range
18 of eight to twenty years as we discussed. The State is
19 now allowing you to plea to the above charges with no
20 range. Essentially a judge could sentence you between
21 zero to twenty years; although I supposed a judge could
22 sentence you to consecutive time on the two charges.
23 That outcome is highly unlikely. In my opinion, your
24 sentence would be somewhere between zero and twenty
25 years if you took the plea. There's absolutely no way

1 to predict what a judge would do.

2 Q. Okay. And is that consistent with what occurred at
3 the time of the plea?

4 A. It is.

5 Q. Let me ask you about your meetings with the Applicant.

6 A. Yes, sir.

7 Q. Approximately how often did you meet with him after
8 you were retained, if you recall?

9 A. I don't know. I honestly don't know. He says I met
10 with him three times at the county jail. It certainly
11 felt like it was more than that, but I have no way to
12 know. All I can tell you is, you know, I went to the
13 jail, I met with the man, when it was time to have a
14 legitimate discussion about certain things. If I
15 don't have anything new to discuss, where if there's
16 no additional evidence to basically talk about, all I'm
17 doing is just visiting a man in the jail.

18 But I -- you know, when it was time to talk
19 turkey, when it was time to basically make decisions,
20 when it was time to review evidence, I went to that
21 jail and sat behind that glass and explained as best
22 anybody could under those circumstances what the
23 possibilities were, and I discussed the case with him.
24 That's -- that's what I did, but I can't tell you how
25 many times I went. I can't remember.

1 Q. Okay.

2 A. If I didn't go enough, I didn't go enough, and I --
3 I'm sorry for that if that's the case.

4 Q. Do you recall when you received the discovery from
5 the State?

6 A. I do not.

7 Q. Did you have an opportunity to review the discovery
8 that you received from them with your client?

9 A. Yes, sir.

10 Q. And how was that done?

11 A. Well, it was done through a pane of glass. I mean,
12 I went to the jail, sat there with the paper, put the
13 video, I believe, on my phone so that I could show him,
14 but I -- I mean, I just communicated -- and I sent it to
15 him. I mailed him the discovery. I did that.

16 Q. Okay.

17 A. So I don't know how else to do it other than sit down
18 and talk to with him and mail it to him.

19 Q. So did you -- to clarify, did you provide him all the
20 documented discovery that you had received?

21 A. I certainly hope so. I've listened to the testimony
22 today alleging that I possibly did not. I don't believe
23 that is the case.

24 Q. Okay.

25 A. But I -- everything I got from the solicitor's office

1 I certainly hope I shared with James, and I believe that
2 I did.

3 Q. Okay.

4 A. I'm not -- these are very serious charges and I
5 don't know how I would discuss the specifics of the case
6 without having the proper discovery to discuss with him,
7 so I certainly believe I discussed everything with him,
8 which amounted to, again, two sets of witnesses saying
9 that he did what he did or what they said he did.

10 Q. Okay. You indicated that you were retained by his
11 parents?

12 A. That's right.

13 Q. Did you ever indicate to the parents that he would
14 receive probation?

15 A. No, sir. We knew that we had a difficult situation
16 on our hands.

17 Q. Now subsequent to his sentence, you indicated that
18 you had filed a motion for reconsideration and you
19 referred to a letter that you had sent him.

20 A. Yes, sir.

21 Q. Does that appear to be the letter you sent him?

22 A. Yes, sir, I believe so.

23 MR. ZELENKA: I'd like to have that marked as
24 State Exhibit 2.

25 MS. McMAHAN: Is this the February 27th letter?

1 MR. ZELENKA: Yes. I'm sorry.

2 MS. McMAHAN: No objection, Your Honor.

3 THE COURT: All right. So entered.

4 (State's Exhibit No. 2, a letter dated 2-27-2020,
5 was marked and admitted into evidence.)

6 BY MR. ZELENKA:

7 Q. Let me show you again State Exhibit 2 and if you
8 could describe the purpose of that letter on February 27th.

9 A. The purpose of this letter, and it's just easier
10 to read it, I suppose. You have the ability to file an
11 appeal; however, you have no grounds for an appeal. An
12 appeal is not simply a method to have the appellate court
13 change your sentence. You must present legal grounds for
14 the basis of an appeal. We have discussed the potential
15 for an appeal and the fact that you simply do not have
16 a ground. Additionally, you have one year from last
17 Wednesday to file any sort of post-conviction relief. A
18 post-conviction relief petition would essentially allege
19 that I, as your lawyer, have done something improper in
20 representing you. Obviously I feel I've done nothing
21 improper. I simply mention this because I want you to
22 have all possible options on the table. I know this is
23 very difficult on you. There's really nothing I can
24 say to make things better. Hopefully the judge will
25 reconsider his sentence. If he does not, we're left with

1 very few options. On the other hand, we still have the
2 ability to perhaps make something happened with the matters
3 we previously discussed.

4 So this was -- the purpose of this letter was to
5 essentially let him know what I thought about what
6 options I believed he had on the table. The tail end
7 of this letter truly is something between he and I and
8 Sutania with regard to possibly some assistance in
9 other cases. Nothing ever came of that other than I
10 was asked -- well, nothing ever came of that.

11 Q. Okay. When the State presented the factual basis at
12 the time of the guilty plea, was that consistent with your
13 understanding of the factual basis for the particular
14 charges that he was facing?

15 A. Unfortunately it was.

16 Q. And was that consistent with the discovery that you
17 have received in this particular case?

18 A. Yes, sir.

19 Q. And did you have an understanding that your client
20 was acknowledging his guilt pursuant to those particular
21 facts?

22 A. Yes, sir.

23 Q. Is there any indication to you at the time of the
24 sentencing about other circumstances of mitigation that
25 you thought you neglected to present on your client's

1 behalf at the time of the guilty plea?

2 A. I don't. I mean, I believe that I presented in
3 mitigation everything that I had to mitigate a young man
4 who is pleading to a serious charge as -- as we did. I
5 mean, I just -- what I had at that time was what I had.
6 I don't -- I don't know if there's anything more I could
7 have presented, and if I could have, then I would have.

8 Q. At the time of the plea, did your client appear to
9 be full of his faculties and his ability to understand
10 the nature of the proceedings that were going on?

11 A. There's absolutely no doubt in my mind that James
12 was in his right state of mind when I talked to him on
13 that day when he entered into the guilty plea. Quite
14 frankly, all the other times I talked to him.

15 Q. Okay.

16 MR. ZELENKA: I believe I have no other questions
17 at this time.

18 THE COURT: All right. Cross.

19 CROSS-EXAMINATION

20 BY MS. McMAHAN:

21 Q. Was there an incident that occurred at a Circle K?

22 A. Ma'am, I'm not sure I know what you're referring to.
23 An incident that occurred at the Circle K?

24 Q. I'm sorry, let me back up. In the facts of the
25 case that you were representing him on, did part of the

1 incident occur at a Circle K or was there an issue with
2 the Circle K in trying to get a video of it?

3 A. I don't know. I know that there -- I can't remember
4 specifically if it was a Circle K or if it was a Kangaroo
5 or if it was a 76. I know that there's was a gas station
6 and at the gas station it was alleged that James tried to
7 rob a truck.

8 Q. And was that the one that -- I guess there was no
9 video on that one, that you guys had tried to locate it,
10 but it had already been destroyed, I think?

11 A. I believe that is the case, but I'm uncertain.

12 Q. Did you ever tell his parents he would get probation
13 at that guilty plea?

14 A. No, ma'am.

15 Q. Was this matter set for a trial? Was it gonna be put
16 on a trial docket?

17 A. I cannot remember. I do know that had we rejected
18 the plea offer at that particular date that we were staring
19 down the barrel of a trial, which I would have been happy
20 to go try.

21 Q. And do you recall if Mr. McCoy was in the hospital
22 prior to going to the detention center just after his
23 arrest?

24 A. I believe he was. He was found in a field basically
25 with no clothes on after having shot a pistol in the air

1 multiple times and he was -- like you said, I mean, he
2 was -- I don't know what drugs were in his system, I can't
3 remember, but we discussed that, too, but it was a lot and
4 he was -- he was taken to the hospital, I believe.

5 MS. McMAHAN: Nothing further, Your Honor.

6 THE COURT: Any redirect?

7 MR. ZELENKA: No redirect.

8 THE COURT: All right. Thank you. You may step
9 down.

10 THE WITNESS: Your Honor, I have a hearing
11 downstairs. Would it be possible to be excused? I
12 believe I am under a subpoena?

13 THE COURT: Any objection to him being excused
14 from the State?

15 MR. ZELENKA: No objection.

16 MS. McMAHAN: No.

17 THE COURT: All right. You're free to leave.
18 Thank you.

19 (Witness excused.)

20 MR. ZELENKA: Court's indulgence one moment.

21 The State has no further witnesses, Your Honor.

22 We rest on the inclusion of the transcript of the
23 guilty plea in this matter.

24 THE COURT: Anything else from the Applicant
25 before I take this under advisement?

1 MS. McMAHAN: None, Your Honor.

2 THE COURT: All right. I'm gonna take this under
3 advisement and review everything before I make my
4 decision. Hopefully I'll have something for you-all
5 shortly.

6 Thank you for being here today, Mr. McCoy.

7 (Whereupon, the proceedings were concluded at
8 11:36 AM.)

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CERTIFICATE OF REPORTER

I, Stacy S. Johnson, Official Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned case in Circuit Court on the 4th day of March, 2024.

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

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

August 17, 2025

Stacy S. Johnson
STACY S. JOHNSON RPR
CIRCUIT COURT REPORTER



S. Jahue Moore†
 J. Mark Taylor*
 C. Vance Stricklin, Jr.
 James Edward Bradley†
 Shella McNair Robinson
 Christian G. Spradley
 William H. Edwards
 Stanley L. Myers
 Jane H. Downey*
 S. Jahue Moore, Jr.
 John C. Bradley, Jr.
 Melissa K. Moore
 William B. Fortino
 Ralph Nichols Riley, Jr.
 Amber Cary Fulmer
 Lester McGill Bell, Jr.
 Bryan C. Letteer
 Edward Hood Dawson
 Sierra D. Carini
 Nicole E. Jackson

 Robert D. Hazel†
 C. David Sawyer, Jr.*
 Billy C. Coleman
 1916-2019

February 11, 2020

James L. McCoy, II
 Lexington County Detention Center
 521 Gibson Road
 Lexington, SC 29072

Re: State of South Carolina vs. James L. McCoy, II

Dear Jamie:

I send this letter simply to document the in person conversation you and I had on Monday, February 10th.

As you know, I have been in extensive plea negotiations concerning your case. I have obtained what I believe will be the State's final plea offer. The State will allow you to plead guilty to carjacking and attempted armed robbery.

The State previously demanded a negotiated sentencing range of eight to twenty years. As we discussed, the State is now allowing you to plead to the above charges with no range. Essentially, a judge could sentence you between zero and twenty years. Although I suppose a judge could sentence you to consecutive time on the two charges, that outcome is highly unlikely. In my opinion, your sentence would be somewhere between zero and twenty years if you took the plea. There is absolutely no way to predict what a judge will do.

I have gone over with you the dangers of trial. I have gone over our strengths and weaknesses. Today, you seemed fairly certain you did not want to take advantage of the plea offer. That is certainly okay and your decision. However, I need you to be aware that if you reject this offer, it may never be made again and we would be left facing trial on some very serious charges.

Again, I simply send this letter so that everyone is clear on the matter. I know this is a difficult decision and I know there are risks either way. On the other hand, I simply need you to be aware of what those risks are and the consequences of all decisions you could possibly make.

At this point, the decision is in your hands. I stand ready to go whichever direction you choose.

With kindest regards, I am,

Yours very truly,



Jake Moore, Jr.

SJMjr/kls



S. Jahue Moore*
 J. Mark Taylor*
 C. Vance Stricklin, Jr.
 James Edward Bradley†
 Sheila McNair Robinson
 Christian G. Spradley
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 Robert D. Hazel*
 C. David Sawyer, Jr.*
 Billy C. Coleman
 1916-2019

February 27, 2020

James L. McCoy, II, 00382397
 Kirkland Correctional Institution
 4344 Broad River Road
 Columbia, SC 29210

Re: State of South Carolina vs. James L. McCoy, II

Dear Jamie:

Obviously, I am not satisfied with the result of our sentencing. I am filing a Motion to Reconsider the sentence. As of right now, this is about the only thing we can do.

You have the ability to file an appeal; however, you have no grounds for an appeal. An appeal is not simply a method to have the appellate court change your sentence. You must present legal grounds for the basis of an appeal. We have discussed the potential for an appeal and the fact that you simply do not have a ground.

Additionally, you have one year from last Wednesday to file any sort of post-conviction relief. A post-conviction relief petition would essentially allege that I, as your lawyer, have done something improper in representing you. Obviously, I feel I have done nothing improper. I simply mention this because I want you to have all possible options on the table.

I know this is very difficult on you.. There is really nothing I can say to make things any better.

Hopefully, the Judge will reconsider his sentence. If he does not, we are left with very few options. On the other hand, we still have the ability to perhaps make

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something happen with the matters we have previously discussed. I will keep you updated on that front.

With kindest regards, I am,

Yours very truly,

Jake Moore, Jr.

SJMjr/kds

FILED

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

) IN THE COURT OF COMMON PLEAS
2025 MAY 24 PM 1:06 IN THE ELEVENTH JUDICIAL CIRCUIT

James Lee McCoy, II #382397
Applicant,

LISA M. COMER
CLERK OF COURT No. 2020-CP-32-3652
LEXINGTON SC

v.

ORDER OF DISMISSAL

State of South Carolina,
Respondent.

This matter is before the Court by way of an application for post-conviction relief (PCR) filed by James Lee McCoy (Applicant) on October 29, 2020. On March 4, 2025, an evidentiary hearing on the matter was held before the Honorable Daniel M. Coble. Applicant was present and represented by Ashley A. McMahan, Esquire (PCR Counsel). Deputy Attorney General Donald Zelenka represented Respondent. Following a thorough review of the guilty plea transcript and the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant did not meet his burden of proof. This Court denies relief and dismisses this application with prejudice for the following reasons.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving concurrent sentences of fifteen years. Applicant was arrested on May 7, 2019, after law enforcement received a call about a suspicious person running through a resident's yard shooting a gun. During its January 2020 term, the Lexington County Grand Jury indicted Applicant for armed robbery (2020-GS-32-0127) and carjacking (2020-GS-32-0128). Jake Moore, Jr., Esquire (Plea Counsel), represented Applicant. Assistant Solicitor Rhonda Patterson prosecuted the case.

On February 12, 2020, Applicant appeared before the Honorable William P. Keesley and pleaded guilty to the lesser-included offense of attempted armed robbery and as indicted to

carjacking, Judge Keesley accepted Applicant's plea, and sentenced him to concurrent terms of fifteen years' imprisonment for each charge. Applicant filed a timely motion to reconsider on February 19, 2020. The order on the motion to reconsider was filed on February 6, 2023.

Applicant timely commenced this PCR action on October 29, 2020.

STATEMENT OF FACTS

At approximately 10:25 am on May 5, 2019, Applicant arrived at the Red Roof Inn located on Airport Boulevard in the Springdale area of Lexington County. (Plea Tr. 7). He approached Angel Valdes's hotel room, engaged in a brief conversation, and ultimately forced his way into Mr. Valdes's hotel room. (Plea Tr. 7). Applicant was captured on video surveillance reaching inside of his pocket and pulling out an object just prior to slamming the door shut. (Plea Tr. 8). Mr. Valdes reported to law enforcement that Applicant presented a firearm and demanded money. (Plea Tr. 8). Applicant ultimately stole three-hundred dollars. (Plea Tr. 8).

Law enforcement made contact with a front-desk clerk who called 9-1-1 after Mr. Valdes told her that he had been robbed. (Plea Tr. 8). The clerk was able to get the tag number from the orange vehicle that Applicant was driving. (Plea Tr. 8). The suspect was described to law enforcement as a white male wearing a peach-colored shirt and beige pants. (Plea Tr. 8). A BOLO was subsequently issued for the vehicle, which had been reported stolen on May 3, 2019. (Plea Tr. 8).

Shortly after the armed robbery occurred at the Red Roof Inn, Applicant traveled to the Circle K on Charleston Highway in the stolen Dodge Caliber. (Plea Tr. 8). He parked the car, exited the vehicle, and approached James Peters, who was sitting in the driver's side of a Chevrolet Colorado. (Plea Tr. 9). He pointed his gun at Mr. Peters, telling him to get the eff

out of the truck before he blew his brains out. (Plea Tr. 9). Mr. Peters got out of the truck and ran into the store, where his co-worker and the owner of the truck, Austin Clark, was located. (Plea Tr. 9). Mr. Clark looked outside and noticed Applicant trying to place a bag into the bed of the truck. (Plea Tr. 9). Mr. Clark quickly pressed the lock button on his car key, which set the alarm off. (Plea Tr. 9). Applicant then fled the scene in the stolen Caliber. (Plea Tr. 9).

Shortly thereafter, Mr. McCoy wrecked the Caliber when he struck a light pole. (Plea Tr. 9–10). He then took off into the woods in the backyard of a nearby residence. (Plea Tr. 10). The residents of the home called 9-1-1 to report a suspicious person running through their yard shooting a gun. (Plea Tr. 10). They reported hearing a gunshot, and then seeing an individual jump their fence in the backyard and run through the woods. (Plea Tr. 10). When Applicant emerged from the woods, one of the residents approached Mr. McCoy with his gun. (Plea Tr. 10). Applicant dropped his gun and ran back into the woods. (Plea Tr. 10). Law enforcement arrived shortly thereafter and detained him. (Plea Tr. 10). Applicant was reported to have been on drugs at the time and was taken to Lexington Medical Center for medical observation. (Plea Tr. 10).

The clothes Applicant was wearing at the Red Roof Inn along with the gun were recovered nearby. (Plea Tr. 10). Law enforcement also recovered seven twenty-dollar bills, four one-dollar bills, and a tissue pack from the Red Roof Inn. (Plea Tr. 10).

CURRENT APPLICATION

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

- (10) State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
 - (a) Ineffective Assistance of Counsel

- (11) **State concisely and in the same order the facts which support each of the grounds set out in (10):**
- (a) **Counsel spent insufficient time with Applicant after he was retained and when he met prior to the plea indicated only that 0-20 was as good as it would get.**
 - (b) **Counsel failed to present the lab toxicology results to court as Applicant requested to support that Applicant cant was having a drug induced episode and confused.**
 - (c) **Applicant was never shown a motion for discovery on the armed robbery.**
 - (d) **Counsel did not object to the alleged misrepresentation the fill-in prosecutor made during the plea.**

On February 25, 2025, Applicant filed an amended application to include the following additional claims for relief:

1. **Ineffective Assistance of Counsel:**
 - a. **Failed to file an appeal from denial of the Motion to Reconsider.**
 - b. **Failed to adequately present mitigating evidence at sentencing**
 - i. **Applicant had permission to the drive the car and there was no car actually taken during the incident**
 - ii. **Applicant was under the influence at the time of the alleged crime.**
 - c. **Failed to adequately inform client that armed robbery is a no-parole offense and that he would be put on the Child Abuse & Neglect Registry. Applicant would have demanded a trial had he known this information.**
 - d. **Applicant wanted to go to trial and not plead because what the Solicitor and law enforcement were saying happened was not what actually happened. Ultimately pleaded guilty based off what counsel told him.**
 - e. **Met with counsel approximately three times in total and counsel never asked for a bond hearing on Applicant's behalf.**
 - f. **Counsel told Applicant's parents it was likely that the Applicant would get probation.**
 - g. **Counsel failed to adequately review the Discovery with the Applicant, had he done so, Applicant would have insisted on a trial.**

- h. ~~Moving~~ of the guilty plea, the Applicant was under the influence of prescription drugs given to him by the detention facility.**

Applicant requests relief as follows:

"I am seeking a new plea and or a new trial."

Before this Court are the Lexington County Clerk of Court records of the subject conviction; Applicant's records from the South Carolina Department of Corrections; the plea transcript; and the records of the current post-conviction relief action.

TESTIMONY PRESENTED AT EVIDENTIARY HEARING

APPLICANT'S TESTIMONY

On direct examination, Applicant testified that he did not ask for a bond hearing because he had a bad drug addiction at the time, so it was wiser for him to remain in custody. He testified he met with Plea Counsel three total times. Applicant testified he and Plea Counsel discussed that they were waiting for discovery and evidence related to the case for the first two meetings. Applicant recalled seeing a video showing him at the hotel. He testified that he and Plea Counsel went over some paperwork, but the discovery provided to Applicant by PCR Counsel is different and more detailed. Applicant claimed Plea Counsel had that discovery at the time of his representation, but Applicant just never saw it. Applicant testified he understood there was no length of time that Plea Counsel was required to meet with him.

Applicant testified he wanted a trial the whole time because he was innocent of what the State was asserting. Specifically, Applicant alleged that the armed robbery was a misunderstanding, that he never took a car, and that he was under the extreme influence of drugs at the time. Applicant recalled loading up a truck he thought was his brother's and saw a man in the truck, so Applicant told the man he would shoot him if he didn't get out. Applicant claims he

was never in the truck and that he was talking to the man through the window. Applicant testified he then left the scene in a car he was permitted to drive. Applicant claimed that because what occurred was not a true armed robbery, there was never a car taken, and there would be no way to convict him on all the charges he pleaded to, he would have gone to trial if he had all his discovery.

The Applicant testified that he asked his counsel to file a motion to reconsider. It took time before the motion was denied. Applicant testified he didn't know if he wanted an appeal, and he didn't even know if that was possible. He testified that he never had a conversation about appeals with Plea Counsel, and he had already filed this PCR before the motion was denied and didn't know he could do an appeal when the motion to reconsider was ruled on.

Applicant felt that Plea Counsel understood him and that some of his representation was very good, but Applicant believed Plea Counsel could have done a lot better, and could have known more details about the case. Applicant testified that based on his conversations with Plea Counsel, Applicant didn't think Plea Counsel knew much at all about the case. Applicant reiterated that they never went over discovery, only the video. Applicant testified Plea Counsel never discussed the offense, how much time Applicant would have to serve before being eligible for parole, or that Applicant would be placed on the Child Neglect Registry¹ because of the charge. Applicant testified he pleaded guilty because he was under the impression that since the sentencing range was zero to twenty, he would be able to get a suspended sentence with the possibility of parole or probation. Applicant stated that he had his daughter waiting for him after the plea because he thought he would get probation. Applicant testified he was under the influence of prescription drugs the morning of the plea, specifically Wellbutrin.

On cross-examination, Applicant testified he was not fully aware of the range of

¹ This is an apparent reference to the Central Registry of Child Abuse and Neglect.

punishment because he thought probation was an option, although he knew the range was zero to twenty and knew what he was pleading guilty to. Applicant claimed he was told to say he was guilty of the charges that the State went over that day. Applicant acknowledged that at the guilty plea, he was under oath and knew to tell the truth, and he still said he was guilty. Applicant testified he did not know he could take one of the charges to trial and plead guilty on the other.

Applicant claimed it was not true that he presented a firearm and that the video was not incriminating. He stated the video showed him walking up, walking inside the hotel room, discussing what he needed to discuss, and then leaving. Applicant testified the carjacking was a separate incident. He testified that he told Plea Counsel his version of the events, and Plea Counsel told Applicant the State's version of what occurred, so he knew which version would be presented at the guilty plea. Applicant testified Plea Counsel said it was fine if Applicant did not want to plea, and that Applicant could decide when he got to the courthouse. Applicant mostly understood everything Judge Keesley told him during the plea, but stated that it was very quick, so he wasn't sure if he had time to process it. Applicant indicated he had control of his faculties during the plea.

On redirect examination, Applicant testified that on the Monday before the guilty plea, there was some back and forth between Plea Counsel and the solicitor about charges Applicant would probably be found guilty on and some he wouldn't be found guilty on. Applicant also testified that Plea Counsel went over the discovery a little bit with Applicant that same day, and that Plea Counsel showed Applicant the true bill the day of the plea. Applicant reiterated that he was under the impression he could walk out of the guilty plea with possibly nothing or probation, based on what was discussed with him.

PLEA COUNSEL JAKE MOORE JR.'S TESTIMONY

Plea Counsel testified that he was hired by Applicant's parents to represent Applicant on

armed robbery, two counts of kidnapping, assault and battery, carjacking, and possession of a stolen vehicle. Plea Counsel testified that they were extremely serious charges, and that while Applicant acknowledged immediately that he had an obvious drug problem, it didn't change the fact that there was a path of destruction. Plea Counsel stated that he listened to Applicant's version of what happened, but that it was very difficult to take Applicant's word as to what happened considering he was intoxicated enough that he couldn't recognize his brother's truck at a gas station. Plea Counsel then filed a motion to get the evidence. He testified that himself, Applicant, and Applicant's family made a conscious decision not to file for bond because of Applicant's drug problem and because they had two sets of victims who would show up to protest the bond. Additionally, Applicant would get credit for every day he was in custody.

Plea Counsel testified it was clear they needed to deal with the most serious charge of armed robbery first, because there was a 10 year minimum to deal with. Plea Counsel indicated that after negotiations, they had a range with a minimum, but Applicant was hung up on those minimum ranges even though he understood he was guilty of a lot of the allegations. Plea Counsel testified that he did not think it was a good idea to go to trial because there was video evidence with witnesses identifying Applicant as the man who robbed them at gunpoint and two witnesses at a gas station who would testify about Applicant threatening an individual. Even though Plea Counsel believed they would have lost, he stated it was Applicant's decision whether to go to trial. Plea Counsel testified that Applicant never communicated he wanted a trial. He stated that if he had to do the case again, he would do it the same way.

Plea Counsel testified he wrote a letter to Applicant explaining Applicant's options. He testified he did the best he could from a mitigation standpoint, asking for mercy based on the drug use and providing certificates. Plea Counsel also testified that while Applicant made some bad

mistakes regarding drugs, he believed in Applicant. He testified he was not happy that Applicant was hit with a fifteen-year sentence, but that it could have been way worse if they went to trial, Plea Counsel testified that he wrote a letter to Applicant after the guilty plea saying that they could file a motion to reconsider. He also believed he stated in the letter that they could appeal the guilty plea, but that he didn't believe Applicant had a ground on which to appeal. Plea counsel reiterated that it was unfortunate and that he did the best he could for Applicant.

Plea Counsel testified to the contents of a letter documenting an in-person conversation with Applicant about the options with his case. Plea Counsel felt like he met with Applicant more than three times, but testified he had no way to know. He stated he met with Applicant when it was time to have a legitimate discussion, review evidence, or make decisions, but not if there's nothing to discuss or talk about. Plea Counsel testified he went to the jail and explained and discussed the case with Applicant. He could not recall when he received discovery, but testified he reviewed discovery through the jail glass with Applicant, and that he also mailed Applicant all the discovery he got from the solicitor's office. Plea Counsel testified he never indicated Applicant would receive probation, and that they knew Applicant's case was a difficult situation. He also testified that he filed a motion to reconsider.

Plea Counsel agreed that the factual basis presented by the State at the time of the guilty plea was consistent with his understanding of the charges and the discovery he received. Plea Counsel's understanding was that Applicant was acknowledging his guilt. Plea Counsel believed he presented all the mitigation evidence he could for such a serious charge, and stated that if there was anything more he could have presented, he would have. Plea Counsel testified there was absolutely no doubt in his mind that Applicant had the ability to understand everything during the guilty plea and all the other times he spoke with Applicant.

On cross-examination, Plea Counsel believed there was no video for the gas station carjacking. He reiterated that he never told Applicant he might get probation. He testified Applicant was found in a field with multiple drugs in his system, and that Applicant was taken to the hospital prior to going to the detention center because it was a lot of drugs.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Applicant has alleged and elected to pursue various claims of ineffective assistance of counsel through the post-conviction relief action presently before this Court. In analyzing these claims, this Court has considered the legal arguments by counsel and thoroughly reviewed the record in its entirety. This Court additionally heard the testimony presented at the evidentiary hearing and was able to observe the witnesses, which allowed the Court to evaluate and scrutinize their credibility.

Upon conducting and completing its analysis, this Court finds that Applicant has failed to establish any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. See Rule 71.1(e), SCRPC (stating that in a post-conviction relief action, "[t]he applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) ("The burden of proof is on the Applicant in post-conviction proceedings to prove the allegations in his application.").

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

INEFFECTIVE ASSISTANCE OF PLEA COUNSEL, GENERALLY

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to effective assistance of counsel. Strickland v.

Washington, 466 U.S. 668 (1984); Taylor v. State, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). The reviewing court applies the two-part test outlined in Strickland to determine whether counsel's conduct "was so [ineffective] as to require reversal" of the applicant's conviction or sentence. 466 U.S. at 687. First, the applicant must show that counsel's performance was deficient; and second, that the deficient performance prejudiced the applicant. Id. at 668; Butler, 286 S.C. at 442, 334 S.E.2d at 814.

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

Accordingly, "[j]udicial scrutiny of counsel's performance must be highly deferential[, as] [i]t is all too tempting for a defendant to second-guess counsel's assistance after conviction or adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable." Strickland, 466 U.S. at 689; see also Yarborough v. Gentry, 540 U.S. 1, 8 (2003) ("The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight."). Unlike a later reviewing court, the attorney observed the relevant proceedings; knew of materials outside the record; and interacted with the client, opposing counsel, and the judge. Thus, the question is whether an attorney's representation amounted to incompetence under "prevailing professional norms," not whether it deviated from best practices or most common

custom. *Id.* (quoting *Strickland*, 466 U.S. at 690).

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

The second, or "prejudice" prong of *Strickland* is rooted in the very purpose of the Sixth Amendment guarantee of counsel—to ensure a defendant has the assistance necessary to justify reliance on the outcome of the proceeding. *Id.* at 691–92. In order to prove prejudice, an applicant must demonstrate counsel's deficient performance prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable probability is a probability "sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. Thus, it is not enough "to show that the errors had some conceivable effect" on the outcome of the proceeding—counsel's errors must be "so serious as to deprive the defendant of a fair trial." *Id.* at 693 (emphasis added).

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

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

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

The second, or "prejudice" prong, however, "focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process." Id. at 58–59. Specifically, when an applicant claims counsel's deficient performance caused him to accept a plea, the applicant "must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial." Id. at 59. This inquiry "focuses on a defendant's decision making" and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. Lee v. United States, 582 U.S. 357, 137 S. Ct. 1958, 1966, 198 L. Ed. 2d 476 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. Padilla, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—not whether counsel would have still advised him or her to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999).

Surmounting Strickland's high bar is never an easy task, and the strong societal interest in Guilty has "special force with respect to convictions based on guilty pleas." Lee, 582 U.S. 357, 137 S. Ct. at 1967 (internal citations and quotation marks omitted); cf. Hill, 474 U.S. at 58 ("[R]equiring a showing of 'prejudice' from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel 'will serve the fundamental interest in the finality of guilty pleas.'"). Reviewing "[c]ourts should not upset a plea solely because of *post hoc* assertions from a defendant about how he would have pleaded but for his attorney's deficiencies. Lee, 582 U.S. 357, 137 S. Ct. at 1967. Rather, judges should "look to contemporaneous evidence to substantiate a defendant's expressed preferences. Id. In determining whether a guilty plea was taken in accordance with constitutional standards, the reviewing judge must analyze and consider the entire record, including the transcript of the plea and the evidence presented at the Evidentiary hearing. Harres v. State, 282 S.C. at 134, 318 S.E.2d at 361 (1984).

This Court finds Applicant has not met his burden as to his claims of ineffective assistance of plea counsel rendering his guilty plea involuntary. The specific claims are addressed below.

INITIAL FINDINGS

As a matter of general impression, this Court finds Plea Counsel Moore's testimony at the evidentiary hearing credible and persuasive, where he presented well-recalled testimony of relevant background, facts, and discussions leading up to and during the plea hearing. This Court further finds applicable the strong presumption that at all stages of counsel's representation of Applicant, he rendered adequate assistance and exercised reasonable professional judgment in his representation. And v. Gatoe, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (citing Strickland, supra). The United States Supreme Court has cautioned that "every effort be made to eliminate the distorting effects of hindsight" and evaluate counsel's decisions at the time they were made.

Strickland, 466 U.S. at 689, 104 S.Ct. 2052; see Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992).

This Court makes the following findings from the record: 1) Applicant swore on the record to tell the whole truth and nothing but the truth. (Plea Tr. p. 4); 2) Applicant understood he was pleading to attempted armed robbery and carjacking. (Plea Tr. p. 4); 3) Applicant understood that attempted armed robbery was a felony carrying up to ten years in prison. (Plea Tr. p. 13); 4) Applicant understood that carjacking was a felony carrying up to 20 years in prison. (Plea Tr. p. 14); 5) Applicant pled guilty to each charge. (Plea Tr. p. 5); 6) No one promised or coerced Applicant into pleadings. (Plea Tr. p. 12); 7) Applicant pled guilty of his own free will. (Plea Tr. p. 6); 8) Applicant was not under the influence of any drugs, alcohol, or anything else that would affect his judgement in pleadings. (Plea Tr. p. 6); and 9) Applicant understood he had a right to a jury trial, a right to present a defense, a right to confront witnesses against him, a right to remain silent, and that he would be presumed innocent at trial. (Plea Tr. pp. 6-7);

The record further shows: 9) Applicant stated he did not want a jury trial on either case. (Plea Tr. p. 7); 10) Applicant admitted he was guilty of the charges as presented by the State. (Plea Tr. p. 12); 11) Applicant testified he had enough time to meet and discuss with Plea Counsel, had no complaints against Plea Counsel or anybody who dealt with his case, was completely satisfied with Plea Counsel's services, and there was nothing Applicant wanted Plea Counsel to do on the case that he had not done. (Plea tr. p. 13); 12) Applicant understood that any plea bargain must be communicated by the State on the record. (Plea Tr. p. 12); 13) Plea Counsel fully explained to Applicant the nature and elements, the possible punishment, and the constitutional rights regarding the offenses, including trial by jury. (Plea Tr. p. 5); 14) Plea Counsel was satisfied that there was a factual basis for both pleas and agreed with Applicant's decision to plea. (Plea Tr. p. 5); 15)

Applicant did not need to ask Plea Counsel questions or check with him about anything. (Plea Tr. p. 14); 16) Judge Keesley explained the consequences of having violent and most serious offenses to Applicant, and Applicant indicated he understood that the offenses were considered "no-parole offenses." (Plea Tr. p. 15); and 17) Judge Keesley found there was a factual basis for Applicant's plea, and qualified Applicant's plea as given freely, voluntarily, and intelligently with advice of satisfactory counsel. (Plea Tr. p. 17).

Plea Counsel Failed to File Appeal from Denial of Motion to Reconsider

Applicant alleges that Plea Counsel failed to file an appeal from the denial of the Motion to Reconsider on Applicant's behalf. This Court finds this allegation meritless and without credible factual support.

Plea Counsel filed a Motion to Reconsider on February 19, 2020, one week after Applicant was sentenced. That motion was denied on February 3, 2023, after the filing of this PCR. An appeal was not filed, and Applicant testified he never had a conversation about appeals with Plea Counsel and did not know he could appeal. Applicant testified he did not even know if he wanted an appeal because he had already filed a PCR by the time the Motion to Reconsider was ruled upon. Additionally, the option to appeal and to file a PCR petition was properly discussed with Applicant as reflected by State's Exhibit 2, the February 27, 2020, letter from Plea Counsel to Applicant.

On direct-examination, Applicant testified he did not know if he could even do an appeal. When asked if he ever had a conversation about appeals with Plea Counsel, Applicant testified they had not discussed appeals and he had already filed a PCR. This Court rejects the Applicant's testimony.

This Court finds credible and persuasive the testimony of Plea Counsel that reflects Applicant knowingly waived his right to appeal. This Court finds as a fact after the plea, Plea

Counsel filed a Motion to Reconsider and wrote a letter to Applicant about his ability to appeal the guilty plea. Plea Counsel informed Applicant of his right to appeal, but stated he did not have grounds for an appeal because it requires a legal basis. Plea Counsel stated in the letter that he and Applicant discussed the potential for an appeal, indicating there was likely an in-person conversation about Applicant's right to appeal. Plea Counsel also discussed Applicant's ability to file a PCR petition in the letter, explaining that he mentioned PCR simply because he wanted Applicant to have all possible options on the table. As revealed from a review of the plea, no objections were made at the plea and the sentence was within the available sentencing range for the crimes. Plea Counsel's advice was legally and factually correct. State v. McKinney, 278 S.C. 107, 108, 292 S.E.2d 598, 599 (1982) ("Absent timely objection at a plea proceeding, the unknowing and involuntary nature of a guilty plea can only be attacked through the more appropriate channel of [PCR]."); In re Antonio H., 324 S.C. 120, 122, 477 S.E.2d 713, 714 (1996) ("The proper avenue in which to challenge a guilty plea which is not objected to at the time of its entry is through [PCR]").

Plea Counsel preserved Applicant's ability to appeal by filing the Motion to Reconsider, but Applicant filed this PCR before it was denied. This court finds Applicant never affirmatively asked for an appeal, despite being informed of his right to one.

"Following a trial, counsel must make certain the defendant is made fully aware of the right to appeal." Simuel v. State, 390 S.C. 267, 270, 701 S.E.2d 738, 739 (2010). "However, the standard for a guilty plea differs." Turner v. State, 380 S.C. 223, 224, 670 S.E.2d 373, 374 (2008). "Absent extraordinary circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing, there is no constitutional

requirement that a defendant be informed of the right to a direct appeal from a guilty plea." *Id.* See also Roe v. Flores-Ortega, 528 U.S. 470, 480 (2000) (imposing the duty to consult when there is reason to think either that a rational defendant would want to appeal or that the particular defendant reasonably demonstrated interest in doing so); contra Frazer v. South Carolina, 430 F.3d 696 (4th Cir. 2005) (reading Flores-Ortega to mean counsel generally has a duty to consult with his client regarding whether to pursue an appeal). Therefore, in a collateral action attacking a guilty plea, the "bare assertion that a defendant was not advised of appellate rights is insufficient to grant relief." Jones v. State, 382 S.C. 589, 596, 677 S.E.2d 20, 23-24 (2009) (quoting Weathers v. State, 319 S.C. 59, 61, 459 S.E.2d 838, 839 (1995)). "Acts inconsistent with the continued assertion of a right, such as a failure to insist upon the right, may constitute waiver." Bonnette v. State, 277 S.C. 17, 18, 282 S.E.2d 597, 598 (1981) (citing 92 C.J.S. Waiver, p. 1063 (1955)).

This Court finds Applicant never asked Plea Counsel to appeal his convictions, and no nonfrivolous issues existed that would have prompted Plea Counsel to file an appeal on Applicant's behalf, especially since Applicant had filed his PCR before the Motion to Reconsider was denied. Applicant's testimony that he did not know if he wanted an appeal contradicts his claim that an appeal should have been filed. Applicant was aware of his right to appeal and had the ability to file an appeal following the denial of the Motion to Reconsider, but did not request an appeal or indicate any desire for one. Plea Counsel's advice was not deficient. Therefore, Applicant's allegation of ineffective counsel for failure to file an appeal is DENIED and DISMISSED with prejudice.

Plea Counsel Failed to Present Mitigating Evidence At Sentencing

Applicant alleges that Plea Counsel failed to present mitigating evidence at his sentencing. Specifically, Applicant claims Plea Counsel should have presented that Applicant was under the

influence at the time of the crime as evidenced by toxicology reports, Applicant had permission to drive the car he drove to and from the gas station, and there was no car actually taken during the incident. This Court finds this allegation to be without merit.

Counsel may be found deficient for failing to sufficiently investigate and present mitigating evidence. See Council v. State, 380 S.C. 159, 172, 670 S.E.2d 356, 363 (2008) (finding it unreasonable for counsel not to further investigate the defendant's background and present even minimal mitigating evidence obtained); Wiggins v. Smith, 539 U.S. 510, 521 (2003) (finding it unreasonable when Counsel failed to investigate mitigating evidence beyond a couple retained records, including the presentence investigation report and social service records); Williams v. Taylor, 529 U.S. 362, 398 (2000) (finding that Counsel was unreasonable for failing to evaluate the totality of available mitigation evidence). An applicant is prejudiced by this deficiency if there is a reasonable probability that a different sentence would have been imposed but for Counsel's failure to investigate and present mitigating evidence. Council v. State, 380 S.C. 159, 171, 670 S.E.2d 356, 362 (2008).

Applicant testified that the charges were a misunderstanding because he was highly intoxicated that day. He testified that he thought the truck at the gas station was his brother's, so he told the man inside to get out, and then he left in a car he was allowed to drive. Notably, Applicant did not present evidence that he had permission to drive the car, which had been entered into NCIC as a felony vehicle stolen at gunpoint a few days before Applicant's arrest. (Plea Tr. p. 8). Applicant testified he left the hotel, went to a gas station up the road, remembered he called his brother, and somehow got the cars confused. Applicant testified told the man in the truck at the gas station that he would shoot the man if he did not get out of the truck, and that he was speaking

to him through the window of the truck. He testified he came to, realized what he was doing, and left.

Plea Counsel testified that it was very difficult to take the client's word as to what happened when his client said he was so intoxicated he could not recognize his brother's truck at the gas station. He testified that he filed a motion to get evidence to find out what happened, and he agreed that the State's presentation of the facts during the guilty plea was consistent with his understanding of the charges. Plea Counsel testified he did the best he could from a mitigation standpoint, asking the Court to have mercy based on the drug use and provided the certificates Applicant earned. Plea Counsel's understanding was that Applicant acknowledged his guilt in this case. He testified if there was anything more he could have presented for mitigation purposes, he would have presented it. Plea Counsel recalled that Applicant was found in a field with multiple drugs in his system and was taken to the hospital.

This Court finds that Plea Counsel was not deficient in his presentation of mitigation evidence. It is clear throughout the plea transcript that Plea Counsel zealously advocated for Applicant, presenting to the Court that Applicant was a good person who had never been in serious trouble, and that Applicant voluntarily goes to drug rehabilitation. (Plea Tr. pp. 18-20). Plea Counsel presented evidence that he spoke with the arresting officer, who told Plea Counsel that Applicant was clearly intoxicated, so the officer took Applicant to the hospital first. (Plea Tr. p. 22). Plea Counsel reiterated that Applicant was taking classes, staying out of trouble, and doing what he could while he was in jail. (Plea Tr. pp. 18, 22-23). Plea Counsel talked about Applicant's relationship with his daughter and Applicant's desire to avoid ruining that relationship with this type of conduct. (Plea Tr. p. 23). Plea Counsel stated to the Court, "I love this family; I think they're good people. I think Jamie is smart. I think he's got a drug problem. I think he can beat it.

I think he's tried to deal with it by himself for years. I think he needs significant help, and we're prepared to give it to him. I will vouch for this man. I believe he can do it." (Plea Tr. pp. 23-24). He also introduced Applicant's family to the Court to say some words about the case. (Plea Tr. pp. 24-25). Finally, Plea Counsel presented to the Court that Applicant disputes that there was a gun used in the carjacking, and explained his understanding that the statute still applied even if a gun was not used. (Plea Tr. pp. 28-29).

This Court finds that Plea Counsel not presenting further evidence that Applicant was intoxicated, that he had permission to use the stolen vehicle, and that no car was stolen was reasonable in light of Applicant's circumstances. "[S]trategic choices made after thorough investigation of law and facts relevant to plausible options are virtually unchallengeable; and strategic choices made after less than complete investigation are reasonable precisely to the extent that reasonable professional judgments support the limitations on investigation." Strickland, 466 U.S. at 690-91. "In other words, counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." Id. at 691. "In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel's judgments." Id.

"The reasonableness of counsel's actions may be determined or substantially influenced by the defendant's own statements or actions." Id. "Counsel's actions are usually based, quite properly, on informed strategic choices made by the defendant and on information supplied by the defendant." Id. Here, Plea Counsel's actions were based on information supplied by Applicant that he was highly intoxicated and was not perceiving things rationally the day he was arrested. Plea Counsel testified he reviewed the discovery and found the State's version of events to be most

consistent with the evidence, so he focused on the mitigating factors to the best of his ability. Applicant alleges Plea Counsel was ineffective for failing to present mitigating evidence because he was under the influence at the time of the crime, but this Court finds Plea Counsel did present to Judge Keesley that Applicant was under the influence numerous times, both through his recognition of the State's facts as accurate and through his own words. (Plea Tr. pp. 10, 22, 23). Therefore, Plea Counsel was not deficient for the failure to present evidence of Applicant's intoxication when he did present such evidence and it was admitted by all parties.

The State's presentation of the facts, which Applicant agreed with, included information that Applicant's possession of a stolen vehicle under \$2,000 was being handled in magistrate's court, but there had not yet been a resolution in that case. (Plea Tr. p. 11). As for the fact that no vehicle was actually taken, the facts presented by the State agreed with the assertion that no vehicle was taken, because the owner of the truck at the gas station locked the car door and set off the alarm before Applicant could take the vehicle. (Plea Tr. p. 9). Thus, Plea Counsel was not deficient for not offering that no vehicle was taken, nor was he deficient for not arguing Applicant had permission to use a car when it was stolen and Applicant provided no evidence of permission.

Since Applicant did not provide evidence of permission to use the car, and there was no dispute that Applicant was highly intoxicated and that no vehicle was taken in this case, it is unlikely that a different sentence would have been imposed but for Counsel's failure to investigate and present mitigating evidence. See Council v. State, 380 S.C. 159, 171. Voluntary intoxication is not a valid defense for the charges Applicant was facing. See State v. Bellue, 260 S.C. 39, 194 S.E.2d 193 (1973); State v. Blassingame, 221 S.C. 169, 69 S.E.2d 601 (1952).

This Court finds Plea Counsel's testimony credible, and finds the Applicant failed in his burden of proof to show either deficient performance or prejudice as it relates to the presentation

of mitigating evidence. Accordingly, this Court finds this allegation is DENIED and DISMISSED WITH PREJUDICE.

Plea Counsel Failed to Turn Over All Discovery to Applicant and Review Discovery

Applicant alleges that Plea Counsel failed to turn over all of the discovery materials to Applicant and that Plea Counsel did not adequately review discovery with Applicant. The Court finds this allegation meritless.

To prove prejudice from failure to review discovery, a PCR applicant must present some new evidence or defenses that could have been discovered by counsel's further review of the discovery. Harris v. State, 377 S.C. 66, 75-76, 659 S.E.2d 140, 145-46 (2008) (citing Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998)), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836. Likewise, in order to prevail on a claim that counsel did not review discovery with applicant, the applicant must demonstrate prejudice by showing what evidence could have been discovered or what other defenses could have been pursued. Id. Furthermore, an applicant must also show how the new evidence or defenses would have resulted in a different outcome. Id. (citing David v. State, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); Skeen v. State, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997)). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. Id., 377 S.C. at 75, 659 S.E.2d at 145 (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

At the evidentiary hearing, Applicant testified that he was only shown the video from the hotel prior to his guilty plea, but that Plea Counsel did not go over any other discovery. He testified they did not have any conversation about the offenses. He testified that the discovery he has now is a lot more information and more detailed than the paperwork he went over with Plea Counsel.

Applicant testified that if he had all the discovery he has now, he would have gone to trial, because there would have been no way to convict him on all the charges for which he pleaded guilty.

However, Plea Counsel credibly testified that he visited Applicant to explain and discuss the case with him multiple times, that he reviewed the discovery with Applicant through the pane of glass at the jail, showed Applicant the video on his phone, and mailed Applicant all the discovery he got from the Solicitor's office. Plea Counsel testified that he did not know how he would have discussed the case with Applicant without discussing the discovery.

This Court finds Plea Counsel reviewed Applicant's discovery with him and conducted reasonable and thorough investigations prior to the entry of the guilty plea. The Court finds Applicant failed to show Plea Counsel was deficient under prevailing constitutional standards or any resulting 6th Amendment prejudice on this ground. Additionally, Applicant failed to present evidence or testimony of what additional evidence or defense Plea Counsel could have discovered had he further reviewed discovery with him. This Court further notes Applicant's representation to the plea judge that he was completely satisfied with Plea Counsel and that Plea Counsel had answered all of Applicant's questions. (Plea Tr. p. 13). Applicant also represented to the plea court that Plea Counsel had done everything Applicant wanted. (Plea Tr. p. 13); see Dalton v. State, 376 S.C. 130, 137–38, 654 S.E.2d 870, 874 (Ct. App. 2007) ("[S]tatements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements."). To whatever extent Applicant was not entirely satisfied with Plea Counsel's discovery investigation or his time spent reviewing discovery, Applicant was presented an opportunity to express his dissatisfaction to the plea court, knowingly opted not to do so, and instead chose to proceed with his guilty plea.

Accordingly, this Court finds this allegation is DENIED and DISMISSED WITH PREJUDICE.

Plea Counsel Failed to Meet with Applicant a Sufficient Number of Times

Applicant alleges Plea Counsel was constitutionally ineffective for failing to meet with him a sufficient number of times prior to his plea. This Court finds this allegation to be without merit.

Federal case law holds that there is no constitutional minimum number of meetings between attorneys and their clients to satisfy competency. Campbell v. Polk, 447 F.3d 270, 279 fn.2 (4th Cir. 2006) (no constitutional minimum number of meetings to satisfy competency); United States v. Olson, 846 F.2d 1103, 1108 (7th Cir. 1988) (reciting that there is no constitutional minimum number of meetings between attorney and client and observing that an experienced attorney may get more out of a single meeting than a neophyte). "Brevity of time spent in consultation, without more, does not establish that counsel was ineffective." Easter v. Estelle, 609 F.2d 756, 759 (5th Cir. 1980) (holding it is not enough to merely show that counsel only met with his client twice before trial as long as counsel devoted sufficient time to ensure an adequate defense and to become thoroughly familiar with the facts of the case and the law applicable to the case, and holding the record revealed that counsel was so prepared.).

South Carolina case law has established that even if counsel only met with his client very briefly, that alone does not establish that he was unprepared or ineffective at trial. See Harris v. State, 377 S.C. 66, 75, 659 S.E.2d 140, 145 (2008) (citing Easter) ("First, there is no question that counsel met with [Applicant] on several occasions prior to the first trial. Even if the meetings were brief, this fact alone is not indicative of inadequate trial preparation."). Mere speculation and conjecture are insufficient to substantiate allegations that counsel's deficient performance was

prejudicial. See Harris v. State, 377 S.C. 66, 659 S.E.2d 140 (2008), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018).

Applicant testified he met with Plea Counsel three times total. Applicant testified that for the first two meetings, Plea Counsel talked about how they were waiting on the State to provide discovery and evidence. Applicant stated that he understood there was no length of time Plea Counsel was required to meet with him. Applicant testified those first two meetings were very brief, and the third took place the Monday before the plea hearing to discuss the plea negotiations and the State's offer. Applicant claimed Plea Counsel did have all the discovery at the time of the first two meetings, but Applicant just never saw it.

Plea Counsel testified that he first met with Applicant to discuss his version of events, and then filed a motion to get the evidence. He stated that while waiting for discovery and once he received discovery, he was negotiating with the State for a plea offer. Plea Counsel did not know exactly how often he met with Applicant, but testified that it felt like more than three times. He testified he went to the jail to speak with Applicant whenever it was time to discuss things, whether that was reviewing evidence, making decisions, or something else. Plea Counsel testified he explained and discussed the case with Applicant, and at some point he went to the jail to review the discovery and showed Applicant the hotel video on his phone. This Court finds credible and persuasive the testimony of Plea Counsel and rejects the Applicant's testimony.

This Court further finds Applicant failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [his] case." Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (citing Strickland). Plea Counsel's testimony indicates he met with Applicant several times and reviewed Applicant's charges and the evidence against him. Notably, Applicant failed to present

"any evidence of how additional preparation or communication would have resulted in a different outcome." Smith v. State, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (Ct. App. 2012); see Harris, 377 S.C. at 75, 659 S.E.2d at 145 (finding that, when there is evidence counsel met with a defendant in preparation for trial and there is no evidence additional preparation on the part of counsel would have affected the outcome at trial, counsel cannot be said to have been ineffective), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018).

Moreover, to whatever extent Applicant was not entirely satisfied with the number of times Plea Counsel met with him, he was presented an opportunity to express his dissatisfaction to the plea court, knowingly opted not to do so, and instead chose to avail himself of the benefit of his guilty plea.

Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Plea Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Plea Counsel committed either errors or omissions to prove the second prong of Strickland as laid out in Hill—that but for Plea Counsel's deficient performance, Applicant would have gone to trial and not pled guilty.

Accordingly, this Court finds that the Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, Applicant's request for relief by way of this allegation is **DENIED** and **DISMISSED**.

Involuntary Guilty Plea

Applicant alleges his plea was involuntary as he wanted to go to trial the whole time and only pleaded guilty because he was coerced by Plea Counsel. This Court finds this allegation to be without merit.

To find a guilty plea is voluntarily and knowingly entered into, the record must establish Applicant had a full understanding of the consequences of the plea and the charges against him or her. Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991); see also Boykin v. Alabama, 395 U.S. 238, 243 (1969) (Courts must make sure defendants have “a full understanding of what the plea connotes and of its consequence. When the judge discharges that function, he leaves a record adequate for any review that may be later sought, and forestalls the spin-off of collateral proceedings that seek to probe murky memories.”). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the evidentiary hearing. See Harris v. Leeke, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

An applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel’s representation fell below an objective standard of reasonableness, and that there is a reasonable probability that, but for counsel’s errors, the defendant would not have pled guilty, but would have insisted on going to trial instead. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001); Richardson v. State, 310 S.C. 360, 363, 362 426 S.E.2d 795, 797 (1993). Given Applicant’s burden of proof and the analysis to be applied to this claim, Applicant’s claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it will be treated as such.

The following colloquy occurred during the guilty plea proceedings:

The Court: If you want a jury trial, you’re presumed innocent. The State has to prove you guilty beyond a reasonable doubt to convict you. You get to see, hear, and have your lawyer cross-examine every witness against you. Do you understand that?

[Applicant]: Yes, sir.

The Court: By pleading guilty, you give up all those rights; you give up defenses; you give up challenges to evidence; you admit the charges are true. You understand?

[Applicant]: Yes, sir.

The Court: If you had a jury trial and you wanted to testify, that would certainly be allowed, but no one could force you to testify. You have an absolute right to remain silent, and if you exercised that right and did not testify, the trial judge would tell the jury they could not hold your silence against you in any way at all. Do you understand that?

[Applicant]: Yes, sir.

The Court: Do you want a jury trial on either case?

[Applicant]: No, sir.

....

The Court: You admit you're guilty of these charges, Mr. McCoy?

[Applicant]: Yes, sir.

The Court: Has anybody forced you, threatened you, or coerced you in any way to get you to plead against your will?

[Applicant]: No, sir.

The Court: Any plea bargain the State might have made with you, they have to tell me what it is on the record or you lose what they haven't told me about. Do you understand that?

[Applicant]: Yes, sir.

....

The Court: Other than what's on the record, Mr. McCoy, has anybody promised you anything to get you to plead?

[Applicant]: No, sir.

The Court: Are you fully satisfied with your attorney?

[Applicant]: Yes, sir.

The Court: Is there anything you want him to do on the case that he has not done?

[Applicant]: No, sir.

The Court: Do you have any complaints against your attorney, law enforcement officials, anybody who has dealt with your case?

[Applicant]: No, sir.

The Court: Have you had enough time to meet with your lawyer and discuss things with him so he can represent you properly?

[Applicant]: Yes, sir.

The Court: Have you had enough time to make up your own mind about this?

[Applicant]: Yes, sir.

The Court: Attempted armed robbery is a felony; it carries up to ten years in prison. Do you understand that?

[Applicant]: Yes, sir.
 The Court: Carjacking is also a felony, and it carries up to 20 years in prison. Do you understand that?
 [Applicant]: Yes, sir.
 The Court: Both of these are classified as violent crimes. Do you understand that?
 [Applicant]: Yes, sir.

 The Court: Have you understood everything that I've been over with you, sir?
 [Applicant]: Yes, sir.
 The Court: You sure you want to give up your rights and plead guilty to these charges?
 [Applicant]: Yes, sir.
 The Court: Are you doing that because you are in fact guilty of the charges?
 [Applicant]: Yes, sir.
 The Court: Mr. McCoy has made a free, knowing, voluntary, and intelligent decision to waive his rights and plead guilty. He's done so upon the advice of counsel with whom he's fully satisfied. There is a factual basis for these pleas.

(Plea Tr. pp. 6-7, 12-14, 16-17).

Applicant testified at the evidentiary hearing that he wanted a trial the whole time because he was innocent of the specific charges he was facing. Specifically, he stated he was innocent of carjacking because he did not take a car, and innocent of armed robbery because it was a misunderstanding. Applicant testified he decided to plead guilty because he was under the impression that he would be able to get a suspended sentence with possibility of parole or probation because the possible range was zero to twenty. On cross-examination, Applicant admitted he was aware of what he was pleading guilty to, and he knew the sentencing range was zero to twenty. He testified that he knew he was under oath, knew to tell the truth, and he still stated at the plea hearing that he was guilty of the charges the State described. Applicant claimed he did not know he could take one charge to trial and not the other, but he was aware he could have gone to trial on his

~~charges~~ He testified that he told this version of events to Plea Counsel, and that Plea Counsel told him the State's version, and he acknowledged he was aware that the State's version would be presented at the guilty plea. Applicant testified Plea Counsel said to him that it was fine if he did not want to plea, but he would take Applicant to the courthouse and he could decide there.

Plea Counsel testified that he explained Applicant's options to him and wrote him a letter that he was ready to go to trial if that was what Applicant wanted. He testified he tried to give Applicant all the information so Applicant could make the decision for himself, and that Plea Counsel would stand behind him wholeheartedly no matter what. Plea Counsel's understanding was that Applicant was acknowledging his guilt. He testified that he did not think trial was a good idea, but that it was Applicant's decision. Plea Counsel testified that Applicant never communicated to Plea Counsel that he wanted a trial. This Court finds credible and persuasive the testimony of Plea Counsel.

This Court finds Applicant has failed to show his plea was coerced by Plea Counsel's advice. The record before this Court reflects that Applicant entered his plea knowingly and voluntarily, engaged in an intelligent colloquy with the plea court, and gave appropriate responses to the plea court's questions. Additionally, the PCR testimony and State's Exhibit 1 show that Plea Counsel advised Applicant it was his decision to plea, and Applicant chose to plead guilty. Plea Counsel testified he advised Applicant of the plea negotiations, and Applicant chose to accept it. Plea Counsel testified he reviewed discovery with Applicant. Applicant has presented no valid reason why he should be able to depart from the statements made during his guilty plea as provided *supra*. See Crawford v. United States, 519 F.2d 347, 350 (4th Cir. 1975), overruled on other grounds by United States v. Whitley, 759 F.2d 327 (4th Cir. 1985) (finding that the accuracy and

truth of an accused's statements at a guilty plea proceeding are "conclusively" established unless he makes some reasonable allegation why this should not be so).

Moreover, to whatever extent Applicant was not entirely satisfied with Plea Counsel's representation, he was presented an opportunity to express his dissatisfaction to the plea court, knowingly opted not to do so, and instead chose to avail himself of the benefit of his guilty plea.

Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Plea Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Plea Counsel committed either errors or omissions to prove the second prong of Strickland as laid out in Hill—that but for Plea Counsel's deficient performance, Applicant would have gone to trial and not pled guilty.

Accordingly, this Court finds that the Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, Applicant's request for relief by way of this allegation is DENIED and DISMISSED.

Plea Counsel Failed to Adequately Inform Applicant of Collateral Consequences

Applicant alleges Plea Counsel failed to adequately inform Applicant that armed robbery is a no-parole offense and that he would be put on the Child Abuse & Neglect Registry. This Court finds this allegation to be without merit.

This Court finds that his assertion that his conviction for attempted armed robbery and carjacking would place him on the Central Registry for Child Abuse and Neglect is without factual or legal merit. The Registry is established in S.C. Code § 63-7-1910 – 2010. There is no statutory requirement that these convictions would place an individual automatically on this registry.² None

² § 63-7-1940. Court order for placement in Central Registry of Child Abuse and Neglect.

of the conditions precedent to this Registry exists with these convictions. The Applicant has failed to suggest how counsel would be deficient based upon this conviction to have a constitutional duty to advise him related to this Registry which is not a direct consequence of either conviction.

South Carolina case law has held that "a defendant need not be advised of all collateral consequences of his or her plea in order for the plea to withstand constitutional scrutiny." Williams v. State, 378 S.C. 511, 515 (2008) (citing Brown v. State, 306 S.C. 381 (1991)). Applicant need not be informed of the collateral consequences of his guilty plea unless the consequence impacts the range of the sentence, meaning it is a direct consequence. Williams at 515 ("Therefore, a consequence that the defendant must be informed of is one which impacts the sentence imposed on the defendant, and as such, is a direct consequence.").

The following colloquy occurred during the guilty plea proceedings:

-
- (A) At a hearing pursuant to Section 63-7-1650 or 63-7-1660, at which the court orders that a child be taken or retained in custody or finds that the child was abused or neglected, the court:
- (1) shall order, without possibility of waiver by the department, that a person's name be entered in the Central Registry of Child Abuse and Neglect if the court finds that there is a preponderance of evidence that the person:
 - (a) physically abused the child; however, if the only form of physical abuse that is found by the court is excessive corporal punishment, the court only may order that the person's name be entered in the central registry if item (2) applies;
 - (b) sexually abused the child;
 - (c) wilfully or recklessly neglected the child; or
 - (d) gave birth to the infant and the infant tested positive for the presence of any amount of controlled substance, prescription drugs not prescribed to the mother, metabolite of a controlled substance, or the infant has a medical diagnosis of neonatal abstinence syndrome, unless the presence of the substance or metabolite is the result of a medical treatment administered to the mother of the infant during birth or to the infant;
 - (2) may, except as provided for in item (1), order that the person's name be entered in the central registry if the court finds by a preponderance of evidence that:
 - (a) the person abused or neglected the child in any manner, including the use of excessive corporal punishment; and
 - (b) the nature and circumstances of the abuse indicate that the person would present a significant risk of committing physical or sexual abuse or wilful or reckless neglect if the person were in a position or setting outside of the person's home that involves care of or substantial contact with children.
- (B) At the probable cause hearing, the court may order that the person be entered in the central registry if there is sufficient evidence to support the findings required by subsection (A).

The Court: Both of these are classified as violent crimes. Do you understand that?

[Applicant]: Yes, sir.

The Court: Violent offenders are treated differently by the Department of Corrections than non-violent offenders. You will not be eligible for programs and placements that a non-violent offender would be eligible for. Do you understand that?

[Applicant]: Does that include parole?

The Court: I don't know anything about parole.

[Applicant]: Yes, sir. I understand.

The Court: Do you need to ask your lawyer something or check about something?

[Applicant]: No, sir.

The Court: Are you ready to go forward?

[Applicant]: Yes, sir.

The Court: On a second violent crime, you have to do the sentence that you might receive on that if you pick up one of those without parole. Do you understand that?

[Applicant]: Yes, sir.

The Court: The Legislature has also classified both of these crimes under what's commonly called two strikes you're out, three strikes you're out. Technically, those things are called most-serious offenses and serious offenses. Both of these are most-serious offenses, meaning that both are strikes. And if you get the right combination of strikes, you have to do life in prison without parole. Do you understand that?

[Applicant]: Yes, sir.

The Court: Both of these fall under what's commonly called truth in sentencing. Technically, they're called no-parole offenses. What that means is that you have to serve at least 85 percent of the time, day-for-day, before you can possibly be released from prison. Do you understand that?

[Applicant]: Yes, sir.

The Court: That's no guarantee you get out in 85 percent; that's the least time you can possibly do. You understand?

[Applicant]: Yes, sir.

The Court: When someone comes out of prison on a no-parole offense, they automatically go on a period of community supervision. You have to successfully complete the community supervision. If you fail to do so, then you can be sent back to prison. Do you understand that?

- [Applicant]: Yes, sir.
 The Court: If you're not in the DNA database, you'll have a DNA profile be put in the central computer registry. Do you understand that?
- [Applicant]: Yes, sir.
 The Court: They put a code on your driver's license. So if you're ever stopped by a law enforcement officer and they ask to see your license, they're going to know that you have these types of convictions on your record. Do you understand that?
- [Applicant]: Yes, sir.
 The Court: This affects your ability to ever be a foster parent or adopt a child. Do you understand that?
- [Applicant]: Yes, sir.
 The Court: Because these are both classified as felonies and both classified as violent, you lose your right under state law to transport, ship, receive, or possess any type of firearm or ammunition in the future. Do you understand that?
- [Applicant]: Yes, sir.

(Plea Tr. pp. 14--16).

At the evidentiary hearing, Applicant testified Plea Counsel did not tell Applicant how much time he'd have to serve on his charges before being eligible for parole. Applicant testified Plea Counsel did not tell Applicant he would be placed on the Child Neglect Registry because of his charge. He claimed he was under the impression he would be able to get a suspended sentence with the possibility of parole or probation.

Plea Counsel testified he never indicated Applicant would receive probation. He testified he went over the charges and evidence with Applicant. This Court finds credible and persuasive the testimony of Plea Counsel.

While Applicant alleges he thought there was a possibility of probation or parole, this Court finds that Plea Counsel did not communicate that to Applicant based on the exhibits and Plea Counsel's testimony. The plea transcript shows the plea court thoroughly explained the consequences of these charges, that the charges were no-parole offenses, and that Applicant

understood this. When Applicant asked about parole, Judge Kessley checked to make sure Applicant did not want to speak with Plea Counsel about anything, and Applicant confirmed he understood and was ready to go forward. Since being placed on the Child Neglect Registry is not a direct consequence such that it impacts the length or range of Applicant's sentence, Plea Counsel was not required to inform Applicant of this consequence. The plea court also informed Applicant that the conviction would affect his ability to ever be a foster parent or adopt a child, to which Applicant indicated he understood.

Accordingly, this Court finds that the Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, Applicant's request for relief by way of this allegation is **DENIED** and **DISMISSED**.

Plea Counsel Misadvised Applicant That He Would Receive Probation

Applicant alleges that Plea Counsel told him and his parents that he would likely receive probation and claims that he would have gone to trial if he knew he would not get probation or parole. This Court finds this allegation to be without merit.

In evaluating an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing. Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997); cf. Rayford v. State, 314 S.C. 46, 443 S.E.2d 805 (1994) (finding that where the transcript of the guilty plea proceeding refuted applicant's claim that he did not understand the terms of a plea bargain, granting PCR was inappropriate notwithstanding applicant's claim his lawyer misadvised him).

The following colloquy occurred during the guilty plea proceedings:

The Court: Both of these are classified as violent crimes. Do you understand that?

[Applicant]: Yes, sir.
The Court: Violent offenders are treated differently by the Department of Corrections than non-violent offenders. You will not be eligible for programs and placements that a non-violent offender would be eligible for. Do you understand that?

[Applicant]: Does that include parole?
The Court: I don't know anything about parole.
[Applicant]: Yes, sir. I understand.
The Court: Do you need to ask your lawyer something or check about something?

[Applicant]: No, sir.
The Court: Are you ready to go forward?
[Applicant]: Yes, sir.
The Court: On a second violent crime, you have to do the sentence that you might receive on that if you pick up one of those without parole. Do you understand that?

[Applicant]: Yes, sir.
The Court: The Legislature has also classified both of these crimes under what's commonly called two strikes you're out, three strikes you're out. Technically, those things are called most-serious offenses and serious offenses. Both of these are most-serious offenses, meaning that both are strikes. And if you get the right combination of strikes, you have to do life in prison without parole. Do you understand that?

[Applicant]: Yes, sir.
The Court: Both of these fall under what's commonly called truth in sentencing. Technically, they're called no-parole offenses. What that means is that you have to serve at least 85 percent of the time, day-for-day, before you can possibly be released from prison. Do you understand that?

[Applicant]: Yes, sir.
The Court: That's no guarantee you get out in 85 percent; that's the least time you can possibly do. You understand?

[Applicant]: Yes, sir.
The Court: When someone comes out of prison on a no-parole offense, they automatically go on a period of community supervision. You have to successfully complete the community supervision. If you fail to do so, then you can be sent back to prison. Do you understand that?

[Applicant]: Yes, sir.

.....

The Court: Have you understood everything that I've been over with you, sir?
[Applicant]: Yes, sir.
The Court: You sure you want to give up your rights and plead guilty to these charges?
[Applicant]: Yes, sir.

(Plea Tr. pp. 14–17).

At the evidentiary hearing, Applicant testified that he was aware of the range of punishment, but he thought there was a possibility of probation and even had his daughter waiting for him after the plea. Notably, Applicant did not call his parents to testify that Plea Counsel told them he would likely get probation, and did not offer any evidence of that allegation. Plea Counsel testified he did not tell Applicant he would get probation because the charges were very serious and he knew what they were facing.

This Court finds Plea Counsel's testimony credible and persuasive. Nothing in Plea Counsel's written communications to Applicant indicated he would likely receive probation, and Applicant did not offer any evidence or testimony for that claim. Additionally, the plea transcript shows any alleged deficiency by Plea Counsel was cured by the plea court's questioning. The plea court informed Applicant of the range for each charge and told him his offenses were considered no-parole offenses. This Court specifically finds as a fact that counsel did not advise the Applicant or his family that he would receive probation on these charges.

Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Plea Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Plea Counsel committed either errors or omissions to prove the second prong of Strickland as laid out in Hill—that but for Plea Counsel's

deficient performance, Applicant would have gone to trial and not pled guilty.

Accordingly, this Court finds that the Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, Applicant's request for relief by way of this allegation is DENIED and DISMISSED.

Plea Counsel Failed to Object to the State's Presentation of the Facts

Applicant alleges that Plea Counsel failed to object to a misrepresentation the solicitor made during the plea. This Court assumes arguendo that this allegation refers to the solicitor's statement that Applicant's vehicle was stolen. This Court finds this allegation to be without merit. However, if the allegation refers to a different statement, this Court finds insufficient evidence was presented to address this allegation.

The following facts were taken from the plea transcript as articulated by the State:

The clerk was able to get the tag number from the vehicle that Mr. McCoy was driving. She described the vehicle as being an orange vehicle. It was further described to law enforcement that the suspect was a white male, wearing a peach-colored shirt and beige pants. A BOLO was issued for the vehicle, Your Honor. It was determined that this vehicle had been entered in NCIC as a felony vehicle that was stolen at gunpoint on May 3rd, 2019. We don't have a charge for that incident.

....

In addition to this, Your Honor, Mr. McCoy did have a possession of a stolen vehicle under \$2,000, but that's being handled in magistrate's court. And we have not agreed to any resolution with regard to that case.

(Plea Tr. pp. 8, 11).

Applicant testified at the evidentiary hearing that he left the gas station in the car he was allowed to drive. He stated someone gave him permission to drive the car. Plea Counsel testified that it was difficult to take Applicant's word as to what happened because of Applicant's

intoxication, and that the evidence presented by the State reflected his understanding of the facts and charges.

This Court finds that the Applicant failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [his] case." Ard v. Catoe, *supra*. This Court further finds the combination of the record and Plea Counsel's credible testimony that Applicant has failed to overcome his burden in proving Plea Counsel's representation was deficient and any resulting prejudice from that alleged deficiency. See Butler, *supra*. Plea Counsel testified he was diligent in his efforts to investigate the facts and obtain discovery. He agreed with the State's version of the facts, which included the statement that the car was stolen, so he had no basis for an objection to a correct statement of the circumstances. See Miller v. Keeney, 882 F.2d 1428, 1434 (9th Cir. 1989) (noting that if a petitioner challenges a futile objection, he fails both Strickland prongs); U.S. ex rel. Link v. Lane, 811 F.2d 1166, 1170 (7th Cir. 1987) (finding there is no prejudice from the failure to object unless there is a legally supportable argument for exclusion of the evidence).

Nevertheless, Applicant avers that this somehow prejudiced his case. This Court is not persuaded by Applicant's conjecture. See Clark v. State, 315 S.C. 385, 388, 434 S.E.2d 266, 267 (1993) (concluding pure conjecture fails to establish prejudice). Applicant was not prejudiced because there was no charge before the plea court about the car being stolen, and it was not a factor in his sentencing. Neither the State nor Plea Counsel claimed that Applicant himself stole the car, so it had no impact on the outcome of his plea.

Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Trial Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has

failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland—that he was prejudiced by Trial Counsel's performance.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Trial Counsel or any prejudice flowing therefrom. Thus, this allegation must be **DENIED** and **DISMISSED**.

Plea Counsel Failed to Request a Bond Hearing

Applicant alleges Plea Counsel failed to request a bond hearing for Applicant. This Court finds this allegation to be without merit.

At Applicant's plea hearing, Plea Counsel told the plea court the following:

We have made no motion to modify bond, set bond, reduce bond, anything of that nature. We basically made a conscious decision that the county detention center, at that particular time in Jamie's life, was actually the right place for him. He was a danger to himself and others, and we felt it completely appropriate for him to stay there.

(Plea Tr. pp. 17-18).

At Applicant's evidentiary hearing, Plea Counsel testified that they made a conscious decision as a family not to file for bond. Plea Counsel testified the first reason was because they wanted Applicant to dry out due to his drug problem. The second reason was because there were two sets of victims who would both show up to protest the bond. Additionally, Plea Counsel testified it was better not to request bond because every day Applicant was in, he would get credit for time served. Notably, Applicant testified he did not have any bond hearings because he discussed it with Plea Counsel and they decided not to request bond for strategic reasons. He testified he had a bad drug addiction at the time, so it was wise for him to not request bond.

This Court finds Plea Counsel made a strategic decision not to request a bond hearing after thorough investigation of the facts relevant to the option of requesting a bond hearing. See Strickland, 466 U.S. at 690 ("[S]trategic choices made after thorough investigation of law and facts relevant to plausible options are virtually unchallengeable"). This was after consulting with Applicant and his family about the options, and this Court notes from the testimony at the evidentiary hearing that Applicant agreed the decision was best for him and those around him. "Counsel's actions are usually based, quite properly, on informed strategic choices made by the defendant and on information supplied by the defendant." Id. at 691. Therefore, Plea Counsel was not deficient for not requesting bond.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Trial Counsel or any prejudice flowing therefrom. Thus, this allegation must be DENIED and DISMISSED.

Applicant Was Under the Influence of Prescription Drugs During Plea

Applicant alleges he was under the influence of prescription drugs given by the detention facility the morning of his plea. Specifically, he alleges he had taken Wellbutrin. This Court finds this allegation to be without merit for post-conviction relief.

A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." Roddy v. State, 339 S.C. at 34, 528 S.E.2d at 421 (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). "[T]he voluntariness of a guilty plea is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing." Dalton, 376 S.C. at 138, 654

S.E.2d at 874 (quoting Harnes v. Leeke, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984)). Further, "guilty pleas, freely and voluntarily entered, act as a waiver of all non-jurisdictional defects and defenses, including the claims of a violation of a constitutional right prior to the plea." Whetsell v. State, 276 S.C. 295, 297, 277 S.E.2d 891, 892 (1981).

The following colloquy occurred during the guilty plea **proceedings**:

The Court: Mr. McCoy, today, are you under the influence of any medicine, drug, or alcohol, or **anything** that affects your thinking?

[Applicant]: No, sir.

The Court: Do you have physical or **mental** problems that affect your thinking today?

[Applicant]: No, sir.

The Court: **You're clearheaded; you know what you're doing?**

[Applicant]: Yes, sir.

....

The Court: **Have you understood everything that I've been over with you, sir?**

[Applicant]: Yes, sir.

The Court: **You sure you want to give up your rights and plead guilty to these charges?**

[Applicant]: Yes, sir.

The Court: **Are you doing that because you are in fact guilty of the charges?**

[Applicant]: Yes, sir.

The Court: **Mr. McCoy has made a free, knowing, voluntary, and intelligent decision to waive his rights and plead guilty. He's done so upon the advice of counsel with whom he's fully satisfied. There is a factual basis for these pleas.**

(Plea Tr. pp. 5-6, 16-17).

This Court finds the combination of the record and Plea Counsel's credible testimony at the evidentiary hearing provides Applicant knew the nature of the charges against him, the terms of the plea agreement, and the consequences of pleading guilty pursuant to the requirements of Boykin. See Boykin supra. At the evidentiary hearing, Applicant testified he was under the

influence of Wellbutrin the morning of the plea. On cross-examination, Applicant testified he understood everything during the plea hearing for the most part, but that it was very quick, and he did not know if he had time to process. Applicant agreed that he had control of his faculties. Plea Counsel testified that there was absolutely no doubt in his mind that Applicant had the ability to understand everything, both at the time of the plea hearing and all the other times Plea Counsel spoke with him.

As to McCoy's claim his guilty plea was rendered involuntary due to the medication he was prescribed, we find he failed to show "that his mental faculties were so impaired by drugs when he pleaded that he was incapable of full understanding and appreciation of the charges against him, of comprehending his constitutional rights, and of realizing the consequences of his plea." Garren v. State, 423 S.C. 1, 15, 813 S.E.2d 704, 712 (2018) (quoting United States v. Truglio, 493 F.2d 574, 578 (4th Cir. 1974)).

Moreover, the plea colloquy cured any alleged deficiency regarding Plea Counsel's alleged erroneous advice. The plea transcript reflects that Applicant entered his plea knowingly and voluntarily, engaged in an intelligent colloquy with the plea court, and gave appropriate responses to the plea court's questions. Applicant told the plea court he was not under the influence of any medicine or drug that affected his thinking and confirmed that he was clearheaded. Applicant has presented no valid reason why he should be able to depart from the statements made during his guilty plea as provided *supra*. See Crawford v. United States, 519 F.2d 347, 350 (4th Cir. 1975), overruled on other grounds by United States v. Whitley, 759 F.2d 327 (4th Cir. 1985) (finding that the accuracy and truth of an accused's statements at a guilty plea proceeding are "conclusively" established unless he makes some reasonable allegation why this should not be so). See Suber v. State, 371 S.C. 554, 558, 640 S.E.2d 884, 886 (2007) ("In determining guilty plea issues, it is

proper to consider the guilty plea transcript as well as evidence at the PCR hearing.”). Accordingly, this Court finds McCoy failed to show his mental faculties were so impaired by medication at the time of the plea hearing that it rendered him incompetent. See Garren, 423 S.C. at 15, 813 S.E.2d at 712 (“A PCR court must consider ‘objective data’ about the nature and effect of the medication the defendant had taken and evaluate whether such medication ‘had the capability to produce a sufficient effect on his mental faculties to render him incompetent to enter a guilty plea.’” (quoting United States v. Damon, 191 F.3d 561, 565 (4th Cir. 1999))).

Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Plea Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Plea Counsel committed either errors or omissions to prove the second prong of Strickland as laid out in Hill—that but for Plea Counsel's deficient performance, Applicant would have gone to trial and not pled guilty.

Accordingly, this Court finds this allegation is **DENIED** and **DISMISSED WITH PREJUDICE**.

CONCLUSION

Based on the foregoing, this Court finds and concludes Applicant has not shown that Counsel was deficient or that alternatives suggested by Applicant would have changed the outcome. Thus, this application is denied and dismissed with prejudice.

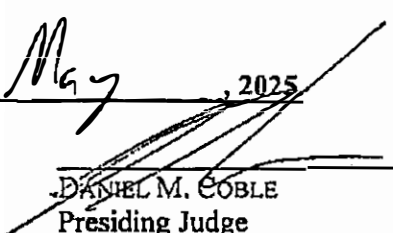
This Court notifies the Applicant that he must file and serve a notice of appeal within thirty days of receipt by counsel of the judgment entry's written notice to secure appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991),

an Applicant has the right to appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate appellate procedures.

IT IS THEREFORE ORDERED:

1. This application for PCR is denied and dismissed with prejudice; and
2. Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED THIS 5 day of May, 2025


 DANIEL M. COBLE
 Presiding Judge
 Fifth Judicial Circuit

WITNESSES

Springdale Police Department

Forrest T Gantt

Law Enforcement Case #: 2019050325

SF

ARREST WARRANT NUMBER

2019A3220900047

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 1-6-20

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2020GS3200127

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

JANUARY TERM 2020

THE STATE

vs.

James Lee McCoy

CDR #: 0139

Indictment for

Armed Robbery

§ 16-11-0330(A)

S.R. Hubbard III, SOLICITOR

ATLUE COPY
L. H. HUBBARD III, S.C. JUDGE

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Armed Robbery

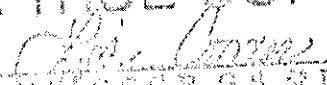
§ 16-11-0330(A)

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

That **James Lee McCoy** did, in Lexington County, South Carolina, on or about May 5, 2019, knowingly and willfully while armed with a deadly weapon, to wit: a handgun, feloniously take from the person or presence of Angel Francisco Juanes Valdes, by means of force, threats or intimidation goods or monies being described as follows: U.S. Currency with intent to deprive the owner of the use of such property, in violation of Section 16-11-330 (A) of the Code of Laws of South Carolina (1976, as amended).

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


ASSISTANT SOLICITOR

A TRUE COPY

Lexington County, S.C.

0-20415

STATE OF SOUTH CAROLINA)
 COUNTY OF Lexington)
 STATE VS.)
James Lee Mccoy)
 AKA:)
 Race: White Sex: M Age: 30)
 DOB: [REDACTED] SS# [REDACTED])
 Address: [REDACTED] Fort Ridge Trl)
 City, State, Zip: Peleton, SC 29123-8981)
 DL#: [REDACTED] SID#: [REDACTED])

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020GS3200127
 A/W#: 2019A3220900047
 Date of Offense: 6/4/2019
 S.C. Code § : 16-11-0330(A)
 CDR Code #: 0139

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was
 TO: Robbery / Attempted armed, or allegedly armed, robbery

CONVICTED OF or PLEADS

in violation of § 16-11-0330(B) of the S.C. Code of Laws, bearing CDR Code # 0026
 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. (defendant's initials)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] 100730 [Signature] 72584
 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 15 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.
 CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the SCDOP.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
 Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
 Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 Set by SCDPPPS _____

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

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

Other: NO CSC INVOLVED FOR
PURPOSES OF WORK RELEASE CONSIDERATION
PAY COURT COSTS WITHIN 1 YR. OF
RELEASE FROM PRISON

TOTAL \$ 125
 Clerk of Court/ Deputy Clerk [Signature]
 Court Reporter: [Signature]

Appointed PD or appointed other counsel,
 §Proviso requires \$500 be paid to Clerk
 during probation and shall be collected before
 any other fees.
 Presiding Judge [Signature]
 Judge Code: 2050
 Sentence Date: FEB. 12, 2020

SCCA217 (04/2018) SPECIFIC FINDING OF RECORD THAT THIS IS A VIOLENT FELONY THAT PROHIBITS
DEF. FROM POSSESSING A FIREARM

WITNESSES

Lexington County Sheriffs Department

Brian E Milhous

Law Enforcement Case #: 19008620

SF

ARREST WARRANT NUMBER

2019A3211000058

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 1-6-20

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2020GS3200128

**The State of South Carolina
County of Lexington**

COURT OF GENERAL SESSIONS

JANUARY TERM 2020

THE STATE

vs.

James Lee Mccoy II

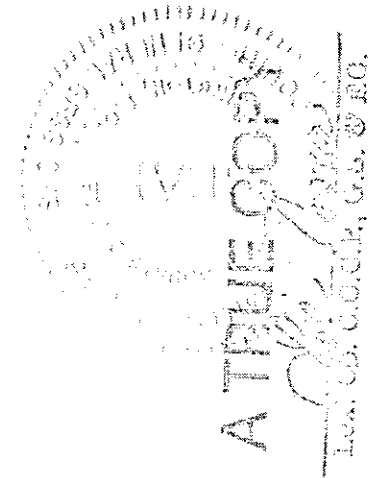
CDR #: 2599

Indictment for

Carjacking

§ 16-03-1075(B)(1)

S.R. Hubbard III, SOLICITOR



LEXINGTON COUNTY, SOUTH CAROLINA

A TRUE COPY

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

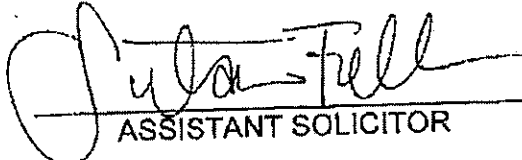
INDICTMENT FOR
Carjacking

§ 16-03-1075(B)(1)

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

That **James Lee McCoy II** did, in Lexington County, South Carolina, on or about May 5, 2019, take or attempt to take a motor vehicle belonging to Austin Clark from James Peters by force, violence, or intimidation while James Peters was operating the vehicle or inside of the vehicle; in violation of Section 16-3-1075(B)(1) of the Code of Laws of South Carolina (1976, as amended).

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


ASSISTANT SOLICITOR

O-WYKs

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA
COUNTY OF Lexington
STATE VS. James Lee Mccoy II
AKA:
Race: White Sex: M Age: 30
DOB: SS#:
Address: Old Chapin Rd
City, State, Zip: Lexington, SC 29073
DL#: SID#:

INDICTMENT/CASE#: 2020GS3200128
A/W#: 2019A3211000058
Date of Offense: 5/5/2019
S.C. Code § : 16-03-1075(B)(1)
CDR Code #: 2599

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: Carjacking / Take or attempt a vehicle from person by force without great bodily harm

in violation of § 16-03-1075(B)(1) of the S.C. Code of Laws, bearing CDR Code # 2599
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Solicitor 100730 SC Bar# Defendant Attorney for Defendant 72584 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

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

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 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, § 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)

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: NO CSC INVOLVED FOR PURPOSES OF WORK RELEASE CONSIDERATION PAY COVER LOSSES WITH M.R. OF RELEASE FROM PRISON

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 William P. ...
Judge Code: 2050
Sentence Date: FEB. 12, 2020

TOTAL \$ 159
Clerk of Court/ Deputy Clerk Lisa ...
Court Reporter: B. ...

SCCA217 (04/2018) SPECIFIC FINDING MADE ON RECORD THAT THIS IS A VIOLENT FELONY THAT PROHIBITS DEF. FROM POSSESSING OR RECEIVING A FIREARM OR AMMUNITION