RECEIVED
May 27 2026
S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Marlboro County

The Honorable S. B. Doby, Circuit Court Judge

ZAQUAI R. SHULER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2026-000006

APPENDIX

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Appellate Defender

South Carolina Commission on Indigent Defense
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PO Box 11589
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ATTORNEYS FOR RESPONDENT

INDEX

STATE OF SOUTH CAROLINA)
)
COUNTY OF MARLBORO)

Court of General Sessions
Fourth Judicial Circuit
2024-GS-34-00234

THE STATE,

Plaintiff,

vs.

ZAQUAI SHULER,

Defendant.

Transcript of Record

Bennettsville, South Carolina
August 27, 2024

B E F O R E:

The Honorable Kirk Griffin

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

Ms. Margaret Scott, Esquire
Attorney for the Plaintiff

Mr. Jacob Godwin, Esquire
Attorney for the Defendant

Lisa Carter
Circuit Court Reporter

I N D E X

WITNESSES PAGE

(NO WITNESSES INTRODUCED DURING HEARING)

(EXHIBITS INTRODUCED DURING HEARING)

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

THE CLERK: Do you solemnly swear or affirm to tell the truth, the whole truth, and nothing but the truth so help you God?

MR. SHULER: Yes, ma'am.

THE COURT: Ms. Scott?

MS. SCOTT: Thank you, Your Honor. May it please, the Court? Before you is Zaquai Shuler. He's represented today by Jacob Godwin with the public defender's office. Mr. Shuler is pleading guilty to indictment number 2024-GS-34-00234, originally a true bill indictment for attempted murder. We are reducing that down to assault and battery of a high and aggravated nature. This is a negotiated sentence, Your Honor, of 12 years in the Department of Corrections. The victim in this case Lieutenant Oscar Martinez is aware of the plea and is in agreement with the plea but is not present in court today. He did ask for me to go forward without his presence. Your Honor, Mr. Shuler is pleading guilty to these charges. We -- today we're discussing the fact that he gets out next year and so we are, obviously, looking for additional time and possibly putting this on a trial docket soon but Mr. Shuler is coming in front of, Your Honor, to plea guilty today.

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THE COURT: Okay. All right. Mr. Godwin, you represent the defendant?

MR. GODWIN: I do, judge.

THE COURT: Explain to him the nature of this charge, possibly penalty he could receive, his constitution rights regarding a jury trial?

MR. GODWIN: I have.

THE COURT: Mr. Shuler, today are you under the influence of any drug or alcohol, sir?

MR. SHULER: No, sir.

THE COURT: Ever had any treatment for any mental health problems?

MR. SHULER: No, sir.

THE COURT: You understand that assault and battery of a high and aggravated nature carries a maximum penalty of 20 years?

MR. SHULER: Yes, sir.

THE COURT: And it is considered a violent crime and a serious offense, you understand that?

MR. SHULER: Yes, sir.

THE COURT: Mr. Shuler, when you plead guilty you give up constitutional rights. You give up your right remain silent and your right to a jury trial. In a jury trial the State we have have the burden of

proving you guilty beyond a reasonable doubt to all 12 jurors. In that jury trial you can question the States witnesses against you. You can call witnesses to testify for you and you present a defense. But when you plead guilty you give up those jury trial rights. You waive any defenses that you might have and there will not be a trial. You understand all of that?

MR. SHULER: Yes, sir.

THE COURT: The indictment which has been true billed was originally for attempted murder and it states that you did here in Marlboro County on/about February 22nd of this year with specific intent to kill, attempt to kill Lieutenant Oscar Martinez with malice aforethought either expression or implied in violation Section 16-3-29 of the South Carolina Code. The State has reduced the charge to the lesser included offense of assault and battery of a high aggregated nature. How do you plead to the less included offense?

MR. SHULER: Guilty.

THE COURT: This being presented to me as a negotiated 12 year sentence, is that your understanding?

MR. SHULER: Yes, sir.

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THE COURT: Has anybody promised you anything to get you to plead guilty?

MR. SHULER: No, sir.

THE COURT: Anybody forcing you to do this?

MR. SHULER: No, sir.

THE COURT: You doing it freely and voluntarily?

MR. SHULER: Yes, sir.

THE COURT: Are you satisfied with the services of Mr. Godwin?

MR. SHULER: Yes, sir.

THE COURT: And you're pleading guilty because you are in fact guilty?

MR. SHULER: Yes, sir.

THE COURT: You have 10 days from today's day to appeal the plea or the sentence. If you wanted to appeal that appeal would have to filed in writing with this Court. The State is gonna give me the facts and I'll come back to you. Ms. Scott?

MS. SCOTT: Thank you, Your Honor. On January 27th of this year Special Agent Jared Greenway with the Office of Inspector General with SCDC was notified that there was an inmate on an employee assault that took place in Evans Correctional Institution here in Marlboro County. When he arrived he spoke to numerous witnesses to include the victim

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in this case, Lieutenant Oscar Martinez. He was able to pull video surveillance, get reports from all the officers that were working that day. Essentially, about eight o'clock that morning Officer Martinez was tasked with the, um, going to get - remove one inmate from a cell on the I believe to KIOWA Dorm, the second floor. When he went up there to remove that inmate for safe keeping, the defendant Mr. Shuler stood in the doorway and wouldn't let him get through. They were exchanging words and it became violent when Mr. Shuler pushed Officer Martinez. He fell to the ground, hit his face. At that point, he began punching him numerous times I believe anywhere from roughly 30 punches, blows to the head. He also began kicking him. At one point, he attempted to do a choke hold, the defendant did, but was not successful, luckily. But while he was on the ground he took a few seconds break from the assault and then went back at it again. Luckily, the victim, Mr. Martinez, was able to break free from this. He did end up going to hospital that night. He had multiple contusions on his head. He did also have a brain bleed, one on the left frontal head area, and then one to the right. I did speak to the victim. He says he's physically doing well now. He did have -- he

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was discharged that day but had to go back for follow ups to make sure that the bleeding didn't get worse. But he is doing well. He is suffering, he says, from PTSD from the assault. Your Honor, I do have a video of the assault if you would like to see it. It's pretty brutal. Just the amount of violence from this defendant.

THE COURT: Given that it's negotiated, I don't see any real need to watch it unless ---

MS. SCOTT: Yes, Your Honor.

THE COURT: --- y'all absolutely want me to.

MS. SCOTT: No, Your Honor. And and as I said the, um, Mr. Shuler is currently in SCDC on an armed robbery conviction from 2016. His projected release date was February 17th of next year. So this is a -- what he is pleading guilty to is a serious offense and he already has one so now he LWOP eligible in the future when he gets out.

THE COURT: Okay. All right. Mr. Shuler, the facts about this assault, do you agree those facts are substantially correct?

MR. SHULER: I seen the video. I don't remember doing any of those things but I seen the video so I'm saying I did what I did, I did but at that time I was under the influence ---

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THE COURT: Okay.

MR. SHULER: --- so I don’t remember.

THE COURT: All right. So there's no doubt in your mind that it’s you on the video, you just don't have any independent recollection of doing it?

MR. SHULER: Yes, sir.

THE COURT: Okay. I find there is a substantial factual bases for the plea. I find the defendant’s decision to plead guilty is freely, voluntarily, and intelligently made. He’s had the advice of counsel, an attorney, with whom he is satisfied, I’ll accept the plea. Now, Mr. Shuler, I’m sure that Mr. Godwin advised you of this but what Ms. Scott was alluding to if you were to get out, once you get out of the Department of Corrections if you are convicted of another serious or most serious offense you'd be facing potentially mandatory life without parole if you were convicted of a, of a third offense that was classified as serious or most serious, you understand that?

MR. SHULER: Yes, sir.

THE COURT: That’s the two strikes, three strikes law. All right. Mr. Godwin, I’ll be happy to hear from you, sir.

MR. GODWIN: Thank you, judge. May it please, the

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Court? First of all he's entitled to credit for 214 days. I calculated that from date this incident happened.

THE COURT: Okay.

MR. GODWIN: Since he was already in custody that was the only way I knew how to do it. He's already done the 8 years on this armed robbery sentence, judge. He tells me that he has been locked up since he was 17-years-old and that he was never locked up as a juvenile. So he went on this armed robbery charge, he was 17. And today with the light at the end of the tunnel, um, the tunnel is getting a little longer. I'm confident that he understands that. But I say that, judge, to bring some gravity to the decision that he's making here today. I know you understand that but I think it's just worth acknowledging. Certainly, we cannot undone, undo what's, what's happened to this officer and he's taking responsibility for that today. So I don't want what I'm about to say to discredit that. But, judge, this was actually his first time meeting with me today. They actually I think had him transported so he can get assigned a public defender. We've been back in the back talking for at least an hour, if not more and this decision to go forward here today this

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is his decision. I've made it very clear to him that we could have come back another day and do this another day and he, he said, no, I want to go forward. I want to enter a plea. I say on that, judge, to say I think his level of acceptance and responsibility shows his respect for the Court time, the victims time. SCDC drove for Columbia today. So I think that our negotiated sentence appropriately rewards him for his acceptance of responsibility while also punishing him for something that is very serious. He has no children. He tells me that he has been stabbed multiple times while he is in SCDC. So I don't think he has had an easy road. He also tells me the officer was rough housing with him before the video picks up. Again, judge, I don't think that abrogates any responsibility for what I saw, I just think that in a totality of considerations. Also as he told the, judge, he was high on meth when this happened. He was very candid with me about that. Given all of that, judge, I think a negotiated 12 years is an appropriate sentence.

THE COURT: All right. And one thing I forgot to mention I'm sure y'all, you discussed with him, this assault and battery of the high and aggravated is a

85% ---

MR. GODWIN: Yes, judge. We discussed that.

THE COURT: Similarly to the armed robbery sentence this too is an 85% crime. All right. Just want to make sure that that was placed on the record. Mr. Shuler, anything that you want to say, sir?

MR. SHULER: No, sir.

THE COURT: Okay. All right. Given the totality and circumstances that's been presented to me me today, given the fact that the victim in this case is on board with the guilty plea, and given the fact that the defendant has chosen to take responsibility for his actions, I'm gonna follow the negotiations. I sentence the defendant to 12 years. It's concurrent with his sentence that he's currently serving and he gets credit for 214 days and that's the sentence of the Court.

MS. SCOTT: Thank you, Your Honor.

THE COURT: All right.

MR. GODWIN: Thank you, judge.

(CONCLUSION OF HEARING HELD ON AUGUST 27, 2024)

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CERTIFICATE

I, the undersigned, Lisa S. Carter, do hereby certify that the foregoing is a true, accurate, and complete excerpt of transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Fifth Circuit for Marlboro County, South Carolina, on the 27th day of August, 2024.

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

s/ *Lisa Carter*

Lisa Carter

Circuit Court Reporter

February 27, 2025

FORM 5

STATE OF SOUTH CAROLINA)
County of Marlboro)
Zaquai R. Shuler #372567)
Full name and prison number (if any) of Applicant)
v.)
State of South Carolina)

IN THE COURT OF COMMON PLEAS
2025-CP-34-00021

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
JAN 29 AM 8:3

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Perry Correctional Institution

2. Name and location of Court which imposed sentence Court of General Sessions Marlboro County 105 Main Street Bennettsville, SC 29512

3. Name(s) of co-defendant(s) (if any) _____

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) 2024-GS-34-0234 A&B with a high and aggravated Nature

(b) _____

(c) _____

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

(a) August 27th, 2024

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ✓

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

No

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

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

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

(c) the date of each such result:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

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

(a) Because lawyer said that I couldn't appeal it.

(b) Because lawyer didn't file for reconsidary.

(c) _____

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

(a) Ineffective assistance of Counseling

(b) Involintary guilty plea

(c) Ineffective assistance of Counseling

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

(a) See Attachment

(b) See Attachment

(c) See Attachment

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

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

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

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

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

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

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

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

NO

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

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

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

(a) These are PCR issues

(b) _____

(c) _____

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

(a) your arraignment and plea? Yes

(b) your trial, if any? _____

(c) your sentencing? Yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO

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

NO

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

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

i. Jacob Z. Godwin, Assistant Public Defender
101 W. Main Street, Suite B Chesterfield, SC 29709

ii. _____

iii. _____

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

i. Plea arraignment

ii. _____

iii. _____

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

A time reconsideration.
See Attachment

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

Yes

STATE OF SOUTH CAROLINA)
) VERIFICATION
County of Marlboro)

I, Zaguai R. Shuler, 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.

Zaguai Shuler

SWORN to and subscribed before me this 6th day of December, 2024.

Alexis Danzy (L.S.)
Notary Public

ALEXIS DANZY
Notary Public, State of South Carolina
My Commission Expires 2/6/2033

My Commission Expires:

FILED
2025 JAN 29 A 10:

Revised 3/2003

2025-CP-34-00021

Certificate of Service

I Zaguai Shuler certify that on 12~9~24 that I have sent Clerk of Court, Anita M. Williams a letter and mailed it off after it was notarized. Also Copies was made of the original letter and Certificant. NOte that the letter is being sealed and placed in the possession of the court officer who is notarizing this certificant of service to be mailed out to Clerk of Court, Anita M. Williams.

Return Address
Zaguai Shuler #372507
430 Oaklawn Road
Pelzer, SC 29669

FILED
2025 JAN 29 A 10:3[illegible]

Witness
exp. 12-20-2027
date: 12-09-2024

Zaguai Shuler

(11.) State Concisely And In the same order the Facts Which support each Ground set out In (10)

(A) My lawyer Was appointed to me On the day of the hearing And he DId NoT have a copy of my Rule 5 and We Never Went over It.

(B) I Was mentally Incompatent and did NoT understand the proceeding I still Don't understand the proceeding. I am Currently on Mental health Medication and I have had a history of Mental health Issues ALL of my life. I Informed My attorney And he didn't request A mental health Compatancy hearing or present this to the courts Because of my Illness I have another Inmate helping Me file This PCR Application.

(C) My lawyer erroneously advised me to take the guilty plea Stating that If I did the time would be ran Concurrent With the time I Was Already Serving. But On my Sentencing Sheet I was only giving credit for 214 days of credit yet I had already Served 7 and A half year (7 years, 6 months) on the Sentence I Was currently Serving. My Sentencing Sheet states that the 12 years Would be ran Concurrent With the sentence I was serving Which Was 10 years that I had already Served 7 years and 6 months On already.

Zaquari Shuler
Applicant

(19.) 22 Or Run the 12 year Sentence Concurrent With the Current 10 year Sentence In Which Was previously agreed to prior to the plea agreement. And Give me my full credit that I have already served Which is 7 years and 6 month. Because that Was the agreement my lawyer Said I would be receiveing.

FILED
2025 JAN 29 A 10:40

Zaqueri Shuler
Applicant

STATE OF SOUTH CAROLINA COUNTY OF MARLBORO	)	IN THE COURT OF COMMON PLEAS FOR THE FOURTH JUDICIAL CIRCUIT
Zaquai R. Shuler, #372507, Applicant, v. State of South Carolina, Respondent.	)	CASE NO. 2025–CP–34–00021 **RETURN** (Counsel Appointed)

In response to Applicant Zaquia R. Shuler's (Applicant) application for post-conviction relief (PCR) commenced January 29, 2025, Respondent, the State of South Carolina, makes the following Return:

PROCEDURAL HISTORY

Applicant is presently confined with the South Carolina Department of Corrections (SCDC). During the June 2024 term, the Marlboro County Grand Jury indicted Applicant for Attempted Murder (2024–GS–34–0234). Applicant was represented by Jacob L. Godwin, Esquire (Plea Counsel). Fourth Circuit Assistant Solicitor Margaret B. Scott prosecuted the case.

On August 27, 2024, Applicant appeared before the Honorable R. Kirk Griffin and pleaded guilty to the lesser included charge of Assault and Battery of a High and Aggravated Nature. Judge Griffin sentenced Applicant to the negotiated twelve (12) years imprisonment.

Applicant did not appeal his convictions and sentences.

FACTUAL BASIS FOR GUILTY PLEA

The facts are taken from the guilty plea transcript as articulated by the State:

> On January 27th of this year Special Agent Jared Greenway with the Office of Inspector General with SCDC was notified that there was an inmate on an employee assault that took place in Evans Correctional Institution here in Marlboro County. When he arrived he spoke to numerous witnesses to include the victim in this case,

> Lieutenant Oscar Martinez. He was able to pull video surveillance, get reports from all the officers that were working that day. Essentially, about eight o'clock that morning Officer Martinez was tasked with the, um, going to get - remove one inmate from a cell on the I believe to KIOWA Dorm, the second floor. When he went up there to remove that inmate for safe keeping, the defendant Mr. Shuler stood in the doorway and wouldn't let him get through. They were exchanging words and it became violent when Mr. Shuler pushed Officer Martinez. He fell to the ground, hit his face. At that point, he began punching him numerous times I believe anywhere from roughly 30 punches, blows to the head. He also began kicking him. At one point, he attempted to do a choke hold, the defendant did, but was not successful, luckily. But while he was on the ground he took a few seconds break from the assault and then went back at it again. Luckily, the victim, Mr. Martinez, was able to break free from this. He did end up going to hospital that night. He had multiple contusions on his head. He did also have a brain bleed, one on the left frontal head area, and then one to the right. I did speak to the victim. He says he's physically doing well now. He did have – he was discharged that day but had to go back for follow ups to make sure that the bleeding didn't get worse. But he is doing well. He is suffering, he says, from PTSD from the assault. Your Honor, I do have a video of the assault if you would like to see it. It's pretty brutal. Just the amount of violence from this defendant.

(GP Tr. pp. 6–8).

CURRENT APPLICATION

On January 29, 2025, Applicant timely filed this application for post-conviction relief, in which Applicant alleges she is being held in custody unlawfully based on the following:

1. Ineffective Assistance of Plea Counsel
   a. Failed to file appeal.
   b. Failed to review discovery.
   c. Failed to explain the time he would serve.
2. Involuntary Guilty Plea
3. Mentally Incompetent

Applicant requests relief in the following:

"A time reconsideration."

Attached to this return and incorporated by reference are the Marlboro County Clerk of Court records regarding the subject's convictions and sentences, Applicant's records from the SCDC, the guilty plea transcript, and the records of the current PCR action. Respondent reserves

the right to amend this return upon receiving any relevant materials.

Response to Allegations of Ineffective Assistance of Plea Counsels

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

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland to determine whether counsel's conduct "was so [ineffective] as to require reversal" of the applicant's conviction or sentence. 466 U.S. at 687. First, the applicant must show that counsel's performance was deficient; and second, that the deficient performance prejudiced the applicant. Id. at 668; Butler, 286 S.C. at 442, 334 S.E.2d at 814.

The first prong—constitutional deficiency—is "necessarily linked to the practice and expectations of the legal community." Padilla v. Kentucky, 559 U.S. 356, 366 (2010). In order to prove deficient performance, the applicant must show counsel's representation fell below an

objective standard of "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814.

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

Accordingly, "[j]udicial scrutiny of counsel's performance must be highly deferential[, as] [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.

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

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

at 690) (emphasis added).

The second, or "prejudice" prong of Strickland is rooted in the very purpose of the Sixth Amendment guarantee of counsel—to ensure a defendant has the assistance necessary to justify reliance on the outcome of the proceeding. Id. at 691–92. In order to prove prejudice, an applicant must demonstrate counsel's deficient performance prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable probability is a probability "sufficient to undermine confidence in the outcome." Strickland, 466 U.S. at 694. Thus, it is not enough "to show 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, 358 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. Padilla, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—not whether counsel would have still advised him or her to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999).

Surmounting Strickland's high bar is never an easy task, and the strong societal interest in finality has "special force with respect to convictions based on guilty pleas." Lee, 582 U.S. at 368-69 (internal citations and quotation marks omitted); cf. Hill, 474 U.S. at 58 ("[R]equiring a 'prejudice' showing from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel 'will serve the fundamental interest in the finality of guilty pleas.'"). Reviewing "[c]ourts should not upset a plea solely because of post hoc assertions from a defendant about how he would have pleaded but for his attorney's deficiencies." Lee, 582

U.S. at 369. Rather, judges should "look to contemporaneous evidence to substantiate a defendant's expressed preferences. Id. In determining whether a guilty plea was taken in accordance with constitutional standards, the reviewing judge must analyze and consider the entire record, including the transcript of the plea and the evidence presented at the PCR hearing. Harres, 282 S.C. at 134, 318 S.E.2d at 361.

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

In the present case, Applicant has asserted that Plea Counsel's representation was constitutionally ineffective for various reasons. Because these allegations likely raise questions of fact not conclusively refuted by the record, the State requests an evidentiary hearing to fully resolve the issues. 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 lower court").

RESPONSE TO ALLEGATION OF INVOLUNTARY GUILTY PLEA

Applicant further claims his plea was not entered knowingly or voluntarily. To find a guilty plea is voluntarily and knowingly entered into, the record must establish Applicant had a full

understanding of the consequences of his plea and the charges against him. See Boykin v. Alabama, 395 U.S. 238, 243 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as the evidence presented at the PCR hearing. See Harris v. Leeke, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

The transcript reflects that the guilty plea was knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. See Blackledge v. Allison, 431 U.S. 63, 73-74 (1977). Statements made during a guilty plea should be considered conclusively unless an Applicant presents valid reasons why he should be allowed to depart from the truth of his statements. See Crawford v. U.S., 519 F.2d 347, 350 (4th Cir. 1975) (overruled on other grounds by U.S. v. Whitley, 759 F.2d 327 (4th Cir.1985)). Applicant presented no reasons to show that he should be allowed to depart from the truth of the statements he made during his guilty plea hearing.

An applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for trial counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial instead. See Roscoe v. State, 345 S.C.16, 20, 546 S.E.2d 417, 419 (2001); see also Richardson v. State, 310 S.C. 360, 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.

Respondent submits Applicant cannot satisfy the requirements of Strickland or Hill. However, the record likely does not refute or disprove Applicant's allegations. Therefore, Respondent requests an evidentiary hearing to fully resolve the issues. See Sharper, 279 S.C. at 265, 305 S.E.2d at 248 (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court").

REQUESTED RELIEF UNAVAILABLE IN PCR ACTIONS

In her prayer for relief, Applicant requests are unavailable in a post-conviction relief action. If this Court finds a defect in the original proceedings, the appropriate relief would be a new trial on the original indictments. Gilstrap v. State, 252 S.C. 625, 168 S.E.2d 88 (1969); see also Smith v. State, 413 S.C. 194, 195, 775 S.E.2d 696, 696 (2015) ("We now clarify the proper remedy is a new trial."); Grant v. MacDougall, 244 S.C. 387, 391, 137 S.E.2d 270, 272 (1964) (relief of absolute release not available). Where an applicant seeks only relief to which he or she is not entitled, "it is not incumbent upon [the] court to pass upon what relief, if any, he [or she] might, perchance, be entitled to." Young v. State, 250 S.C. 476, 479, 158 S.E.2d 764, 765 (1968).

For these reasons, if the application is not otherwise amended before the evidentiary hearing to reflect a desire for appropriate relief, Respondent would respectfully request this Court engage in a *thorough* colloquy with Applicant to apprise him of the relief available in a PCR. If at the evidentiary hearing, Applicant indicates no desire for appropriate relief but a desire to proceed, Respondent will at that time move to dismiss the application.

ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY PROCESS

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has retain

an attorney, the attorney, not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. *Pro se* filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to Love v. State, 428 S.C. 231, 834 S.E.2d 196 (2019), or, alternatively, the State will request a continuance in the matter. Id., 428 S.C. at 245, 834 S.E.2d at 203 (Kittredge, J., dissenting) ("If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.").

Pursuant to S.C. Code Ann. § 17-27-150, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. As noted above, the State reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last-minute resulting in undue prejudice to the State. See Love, 428 S.C. 231, 834 S.E.2d 196.

|Conclusion Page Follows|

CONCLUSION

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

Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

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Senior Assistant Deputy Attorney General

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July 16, 2025

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF MARLBORO	)	2025-CP-34-00021
	)	
	)	
	)	
	)	
	)	
JAQUAI R. SHULER,	)	
APPLICANT,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
STATE OF SOUTH CAROLINA,	)	
DEFENDANT.	)	
_____	)	

September 3, 2025
Darlington, South Carolina

B E F O R E:

THE HONORABLE S. BRYAN DOBY, JUDGE.

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

STEVEN W. FOWLER, ESQ.
Attorney for the Applicant

MACKINNON WESTRAAD, ESQ.
Attorney for the Defendant

Brenda Jones, Court Reporter Broom
Transcribed by Penny M. Johnson

I N D E X

(AW) - Denotes Plaintiff's Witness
(RW) - Denotes Defense Witness

E X H I B I T S

(There were no exhibits submitted.)

P R O C E E D I N G S

THE COURT: This is Zaquai Shuler --

Did I pronounce your first name correctly, sir?

THE APPLICANT: Zaquai.

THE COURT: Zaquai Shuler, case number 2025-CP-34-00021 and represented by Mr. Fowler. The State is represented by Ms. Westraad.

Ms. Westraad, would you put on the record, please, the procedural history, what he was initially indicted for and what he, ultimately, pled to and the possible punishment for the offenses that he could be charged with if this petition is successful.

MS. WESTRAAD: Yes, Your Honor. May it please the Court. MacKinnon Westraad on behalf of the State of South Carolina.

During the June 2024 term, the Marlboro County Grand Jury indicted Applicant for attempted murder, 2024-GS-34-0234. Applicant was represented by Jacob L. Godwin, Esquire, Fourth Circuit Assistant Solicitor Margaret B. Scott prosecuted the case. On August 27th, 2024, Applicant appeared before the Honorable R. Kirk Griffin and pleaded guilty to the lesser included charge of assault and battery of a high and aggravated nature. Judge Griffin sentenced Applicant to the negotiated 12 years imprisonment. Applicant did not appeal his convictions and sentences.

He timely commenced this PCR action on January 29th of 2025 alleging his being held in custody unlawfully based on the following allegations, ineffective assistance of plea counsel, involuntary guilty plea and mentally incompetent. The State made its return filed on July 18th, 2025. Applicant request for leave in the form of a time reconsideration.

Mr. Shuler was charged with attempted murder initially, so he was facing up to 30 years and he pled to the lesser included, as I said, so he got a 12-year negotiated sentence. So if we were to be successful today, he would be facing 30 years and his current projected release is 2034, so just under ten years.

THE COURT: Thank you, Ms. Westraad.

Mr. Fowler, anything you want to add to that?

MR. FOWLER: I just want to make sure that my client -- Your Honor, one of the things about these PCRs is I want to make sure that the client understands what they're facing when they go through this PCR process. I think when he takes the stand, I'll ask him if he heard it, but I just want to make sure that he understands that he could be facing additional time if he goes back through this process.

THE COURT: Thank you, Mr. Fowler.

MR. FOWLER: So that's my two cents on it, Your Honor.

THE COURT: Mr. Shuler, would you stand, please?

(WHEREUPON, Applicant stands.)

THE COURT: Mr. Shuler, it's almost the afternoon now. Mr. Shuler, you understand this is a PCR application, post-conviction relief application. The only relief that I can grant to you if I find that your application is successful is a new trial. I can't cut your sentence as part of this process. I can't give you parole or probation. I can't change prisons for you. I can't put you back into custody of the county. I can't do any of those things. The only relief that is available on a post-conviction relief application is to grand you a new trial.

Do you understand that?

THE APPLICANT: Yes, sir.

THE COURT: And if you are successful in your application and I grant you a new trial, the State could certainly appeal that.

You understand that?

THE APPLICANT: Yes, sir.

THE COURT: So it would be tied up in the appellate courts for some period of time if I were to grant you relief.

Do you understand that?

THE APPLICANT: Yes, sir.

THE COURT: And in this case, if you are successful in your application, you would go back -- and this would be,

obviously, in Marlboro County. You would go back and you would be facing an attempted murder charge, not the charge that you, ultimately, pled to under the negotiated sentence.

Do you understand that?

THE APPLICANT: Yes, sir.

THE COURT: So you could receive additional time -- if you are successful in this application, it could result in additional time that you could receive as a result of a successful application.

Do you understand that?

THE APPLICANT: I understand.

THE COURT: Now, knowing that, you still want to go forward?

THE APPLICANT: Yes, sir.

THE COURT: Thank you, sir.

Mr. Fowler.

MR. FOWLER: May I have a moment with my client?

THE COURT: Yes, sir.

(Pause.)

MR. FOWLER: Your Honor, after consultation with my client, we're ready to proceed.

THE COURT: Yes, sir.

MR. FOWLER: Your Honor, I'd like to call Mr. Shuler to the stand.

THE COURT: Mr. Shuler, if you'll come around and be

sworn, please.

THE CLERK: Mr. Shuler, if you'll place your left hand on the Bible and raise your right, please.

JAQUAI SHULER,

after being duly sworn, testified as follows:

THE APPLICANT: Yes, ma'am.

THE CLERK: Thank you.

THE COURT: Mr. Shuler, if you'll get as close to that microphone as possible and if you'll speak loudly and clearly into that microphone so everybody can hear, okay?

THE APPLICANT: Yes, sir.

THE COURT: Thank you, sir.

DIRECT EXAMINATION

BY MR. FOWLER:

Q Mr. Shuler, please say and spell your name for the court reporter.

A Zaquai Shuler, Z-A-Q-U-A-I, S-H-U-L-E-R.

Q Now, Mr. Shuler, you understand this is a Marlboro County case, correct?

A Yes, sir.

Q And we're in Darlington County today, right?

A Yes, sir.

Q But you're okay with us going forward with this case in Darlington County; is that correct?

A Yes, sir.

Q So you filled out an application for post-conviction relief and it says it was signed on the 7th of December, 2024; is that correct?

A Yes, sir.

MR. FOWLER: Your Honor, I wish to approach the witness liberally today?

THE COURT: Yes, sir.

BY MR. FOWLER:

Q So Mr. Shuler, is this your application that you filled out?

A Yes, sir, it is.

Q And this is your verified signature at the back of this application; is that correct?

A Yes, sir.

Q And it says it's filed January 29th, 2025; is that right?

A Yes, sir.

Q Do you stand by this application?

A Yes, sir, I do.

Q And you and I have consulted that we're going forward with this application today, correct?

A Yes, sir.

Q Okay. Mr. Shuler, couple of things I'd like to show and bring to your attention. In question number 19, as it says, State clearly the relief you're seeking in filing this

application. And it says, A time reconsideration and then it says see attachments; is that correct?

A Yes, sir.

Q And in the attachments, it says, Or run the 12-year sentence concurrent -- it's on the last page, I think, or run the 12-year sentence concurrent with the concurrent 10-year sentence which was previously agreed to prior to the plea agreement and give me my full credit that I have already served, which is seven years and six months because that was the agreement my lawyer said I would be receiving.

So you understand as the Judge stated clearly earlier, this is not a time cut or time consideration process, right?

A Yes, sir.

Q And you understand that you'd be going back, basically, to day one, square one with your General Sessions case, right?

A Yes, sir.

Q You still want to go forward with it, right?

A Yes, sir.

Q But you understand that this is not a time of reconsideration process, correct?

A Yes, sir.

Q In your application, it states, If you answer no to seven, state your reasons for appealing. And the appeal is -- in number seven, it says, Did you appeal from the

judgment or conviction -- of conviction or the imposition of sentence? And you say no. And you say in number nine, Because lawyer said that I could not appeal it. Is that correct?

A Yes, sir.

Q What do you mean by "because lawyer said I could not appeal it"?

A He told me that if I took this plea that I couldn't appeal it, so I filed the PCR. He told me that -- he, basically, told me that if you take the plea, there's nothing that you can do about it.

Q Well, the Judge explained -- did you understand the General Sessions Judge in the underlying case to say that you had ten days to appeal it?

A No, sir, I didn't understand what he meant by that. My lawyer didn't tell me what he meant by that.

Q Well, did you hear it from the Judge?

A Yes, I heard it.

Q But then you're saying that the lawyer said that I could not appeal it; is that correct?

A Yes, sir.

Q So how come the Judge, apparently, told you one thing, apparently, but then the lawyer told you that you could not appeal it. What's your understanding of that?

A To be honest, I still don't know.

Q But your lawyer said that you could not appeal what you did in front of the General Sessions Court, right?
A Yes, sir.
Q And he said that clearly to you?
A Yes, sir.
Q And it, also, says in number 9B, Because lawyer didn't file for, help me out with this word, I want to make sure I get it correctly? Is that --
A Reconsidering.
Q Okay. So tell me about that. Did you ask your lawyer to reconsider it?
A Yes, sir.
Q When did you ask him that?
A While I went into the plea.
Q Well, why did you ask for reconsideration if you were going to go in and take the plea?
A Because I was trying to get my lawyer to, at least, get me lesser time than what he was trying to offer me. He told me that the only thing he could really do is get me a 12-year plea. He said ten years is pushing it.
Q So how does that -- okay, these two things in number 9, because the lawyer said you couldn't appeal and, also, because, apparently, you asked for a reconsideration, how does that apply to his alleged ineffective assistance of counsel to you in this matter?

A He didn't assist me by helping me understand what he meant by taking the plea and I didn't have a chance to look at -- the only thing he shown me was the video.
Q When did he show you the video?
A The same day of court, August 17th.
Q How long was the video?
A I'd say about 30 seconds to a minute.
Q So before we get into number ten, you're saying -- let's go ahead with number 10. So it says, Ineffective assistance of counsel. What do you mean by that in number 10A? How do you feel that your attorney was ineffective in this matter?
A Like I said, he didn't assist by helping me understand what was going on. He didn't show me no statements or nothing like that, only a video. I just feel like he wasn't doing his job correctly.
Q How so?
A He wasn't trying to help me understand what was going on at the time.
Q We're going to go through number ten and then we're going to go to the attachments in the back that you listed on these. So some of it might be duplicative, but we don't mean to belabor the point here. So you, also, say in 10B that it was an involuntary guilty plea. What do you mean by that?

A He told me if I take the 12-year plea, that it would be run concurrent, with my current SCDC sentence of ten years. And I asked him how much time would I have left and he said two years, but on my sentencing sheet at my facility, they said my time said 12/26/34, which would be nine years left. He only gave me 214 days credit.

Q Didn't you explain to the Court that day that it was a voluntary plea?

A I believe so.

Q So what's the discrepancy between you telling the Court that day that it was voluntary and here today, you're saying that it was involuntary? Was your attorney involved in that or what's your position on that?

A My attorney told me if I took the plea, I would be doing two more years. From my standpoint, I'm not doing two more years. That's why I brought up the involuntary guilty plea because he -- basically, I feel like he lied to me telling me I'm going to have two more years, when the whole time, he didn't tell me I would be doing almost ten more years.

Q So are you saying it was a misunderstanding or that he lied to you, in your words?

A I feel like he lied to me in my words.

Q Why do you feel like he lied to you?

A Because he told me that I'd have two years left the

whole time and I'm doing ten more years.
Q Do you think it was intentional on his part?
A I don't know. He told me that he knew the Judge personally and he told me that the Judge would not show me no leniency.
Q All right. And, also, now 10A and 10C look somewhat alike to me. Is there a discrepancy in A and C or are they the same thing?
A My attorney did not mention to the Judge that I have mental health.
Q Okay. What kind of mental health issues did you have or do you have?
A Depression, anxiety, PTSD.
Q Okay. How does that -- how did that affect what you said to the Court in the General Sessions case?
A At the time, he told me that I had two more years, which I really didn't even want to do more time. I still feel like two years is still a lot of time. And I feel like that got me depressed and had me upset, my anxiety. I feel like this is the right thing to do.
Q So you feel like you were forced into pleadings or what's your description? Or was it a mental health issue, possibly?
A I guess it was a mental health issue.
Q All right. And you've been taking -- you're under

medication, correct?
A Yes, sir.
Q Were you under medication at the time?
A No, sir. I didn't take my medicine that day.
Q So that day you did not take your medicine?
A No, sir.
Q What medicine were you under at the time, roughly?
A I take Lexapro and Rexulti.
Q So what are those medicines for?
A Anxiety, depression and I'm hearing things.
Q Well, now, you told the Court that you were in your right mind that day; is that correct? That you were under no influence of medicine, right?
A Yes, sir.
Q So do you stand by that statement?
A Yes, sir.
Q But do you feel like you were able to enter into that plea correctly?
A I believe so.
Q But you felt like you were forced to do it; is that correct?
A Yes, sir.
Q So in the attachment, it says 10A, My lawyer was appointed to me on the day of the hearing. Tell me about that. What happened that he was appointed to you only on

the day of the hearing?
A When I came to court, a lady approached me and asked me had I been admonished, I said no. She said, I'm going to get somebody to talk to you.
Q Okay. That you had been admonished or appointed? What was the word?
A She said have you been admonished yet.
Q Okay. What does that mean?
A I don't know, that's the word she used.
Q Who was that lady?
A I guess the solicitor.
Q Do you know their name?
A No, sir.
Q So she came up to you -- so were you representing yourself, pro se, by yourself at that time?
A No, sir. After my bond hearing, they gave me some papers telling me to fill out preliminary hearing paper to send to the public defender's office. I sent them in, but never got a response back.
Q So just to be clear, on the day of the hearing, that's when your lawyer first approached you, correct?
A Yes, sir.
Q Did you have any legal representation before the day of the hearing?
A No, sir.

Q And, once again, why not?
A I wrote the public defender's office plenty of times, but never got a response back. And I wrote the clerk of court and never got a response back.
Q And you're saying the person who met with you that day or initially said have you been appointed or admonished, whatever word you used, they were from the solicitor's office?
A I believe so, yes, sir.
Q So the public defender, according to your testimony, never reached out to you before the day of the hearing, right?
A No, sir.
Q All right. So help me out here, so you're saying the solicitor, apparently, asked if you had an attorney. How did you get your attorney who represented you that day in court?
A She went and got an attorney for me.
Q Did you have any decision in the selection of the attorney?
A No, sir.
Q Why not?
A She didn't ask me who I wanted for my attorney.
Q So what were you doing in court that day? What were you scheduled to do in court that day?

A I guess take a plea.
Q But do you know that for sure, for a fact, or what?
A No, sir, they came to my door and let me know I had a court hearing.
Q Okay. And how long had you been incarcerated?
A Eight years.
Q So you're telling me during the eight years of your incarceration you did not have an attorney?
A No, sir.
Q Did you ever reach out -- well, you said you talked to the public defender's office, but you never got one in the eight years that you were incarcerated, did you?
A No, sir.
Q And who was your attorney that day during the plea?
A I think his name is Godwin, something like that.
Q Is he in the courtroom today?
A Yes, sir.
Q So how did you and Mr. Godwin meet that day?
A The solicitor told me she was going to get a lawyer for me and he came to me and said I'm going to represent you.
Q Okay. So what time of day was that?
A I'd say about one o'clock, 1:30.
Q In the afternoon?
A Yes, sir.
Q So how long was it between -- I'm going to say one

o'clock, okay? So how long was it between one o'clock or 1:30, I guess, and your plea? Was it hours or -- it was later that day, right?

A Yes, sir.

Q So how long was it between when you first met him and your plea?

A Before I took the plea?

Q Yes.

A I'd say about 15 to 30 minutes.

Q But you said you went over discovery, too, right?

A Yes, sir. Only thing we went over was the video.

Q Where was the video shown to you?

A On his cell phone.

Q Did you have any appointment papers where he was appointed as your attorney?

A No, sir.

Q So what -- when he came up to you as your newly appointed attorney, what was said? Did he tell you what to do or offer you advice or ask you any questions? What was your initial interaction with him?

A He told me that he had a video of what happened and he showed me the video. I asked him, like -- well, I told him that they not showing the beginning of the video of where he pushed me first. And he said, Well, this is all I have. And I said, Okay. He said, They're going to drop it down to

a lesser charge. I tried to ask him to see if I could get time served or can I get, like, five years or something, but he told me I can't.

Q Okay. Did he ask for a -- so you were scheduled for court that day, correct?

A Yes, sir.

Q Did he ask for a continuance to the Court?

A No, sir.

Q Did you talk to him about a continuance?

A No, sir. I have no knowledge of going to court except for this one time incarcerated.

Q But you're not a lawyer, are you?

A No, sir.

Q You're not legally trained, are you?

A No, sir.

Q So you had no idea if you were entitled to a continuance or not, did you?

A No, sir.

Q So did he indicate why he went forward with in when you were appointed, apparently, around one o'clock and pled that same day? Did he indicate why he did not ask for a continuance?

A No, sir.

Q All right. So it says here in 10A on the attachment, And he did not have a copy -- excuse me, 11A, And he did not

have a copy of my Rule 5 and we never went over it. So did you ever see your discovery in this case?
A No, sir.
Q Why not?
A I guess he never had it.
Q Did you tell him that you needed it?
A No, sir.
Q And why not?
A Like I said, I don't know how it really works.
Q So to this day, do you know how many pages of paper your discovery is?
A No, sir.
Q So you're telling me you pled with only seeing a video that was just a few seconds in length, correct?
A Yes, sir.
Q So in retrospect, do you feel like your attorney was ineffective?
A Yes, sir.
Q Why?
A He didn't assist me or help me understand what was going on or what I should do or what I should probably do. He didn't counsel me to give me advice.
Q Do you feel like you had enough time to talk to him?
A No, sir.
Q Did you tell the Court that day that you did?

A Yes, sir.
Q But in retrospect, did you have enough time to talk to him?
A I feel like that was enough time because, like I said, he didn't have no paperwork or nothing like that.
Q So you pled without going over your paper discovery; is that correct?
A Yes, sir.
Q Do you feel like that relates to your lawyer's ineffectiveness of counsel?
A Yes, sir.
Q Why is that?
A I feel like he should have -- if somebody's going to be admonished to me or represent me, I apologize, that they should have all the paperwork and stuff already at hand.
Q And he didn't other than just the video, right?
A Yes, sir.
Q So 11B, in the attachment, it says, I was mentally incompetent and did not understand the proceeding. Now, you touched on that earlier, but tell me a little bit about it what you mean by that?
A Can you repeat the question?
Q Sure. It's in your application. I don't know if you have a copy with you. It says, I was mentally incompetent and did not understand the proceeding. What do you mean by

that?
A I wasn't on my medicine at the time. My medicine help me with my anxiety and depression and help me stay focused. I feel like at that time, I said, I am mess. I didn't really comprehend what was really going on.
Q Well, did you tell the Judge that you understood everything?
A I think I did.
Q Okay. Well, then, why did you tell the Judge that?
A Anxiety.
Q So did you go over with your attorney that day what meds you were on?
A I told him I was mental health, but he didn't ask me what kind of medicine I was on and I didn't tell him what kind of medicine I was on.
Q Just repeat that. Did he ask what kind of meds you were on?
A No, sir.
Q Did you tell him what kind of meds you were on?
A No, sir.
Q Why didn't you take your medicine that day?
A They came and got me before pill line came.
Q All right. It says I still don't understand the proceeding. What do you mean by that?
A Like I said, I'm not trained in the practice of this

legal stuff. So I didn't really understand what all was happening.

Q All right. Like I said, some of this might repeat, but I don't mean to belabor the point, but it says in 11B in the attachment, I am currently on mental health medication and I have had a history of mental health issues all my life. What do you mean by that?

A Growing up, I was taking medicine, like, Adderall, Vyvanse and Ritalin. Since I've grown up, I tried to get my records of that, but I haven't gotten a response back.

Q So were you still on those meds the day that you pled?

A No, sir.

Q Once again, what meds were you on the day that you pled even though you weren't there at the pill line that day?

A In the morning time, I take Lexapro. At nighttime, I take Rexulti.

Q And what are those for?

A Anxiety, depression, PTSD, various things.

Q It says here that I informed my attorney and he didn't request a mental health competency hearing or present this to the Court. So what was the basis of your conversation with your attorney that day about your mental health?

A I just told him that I had mental health and that's the reason I was informing of the mental health was because I had been stabbed. So I told him that and he told the Court

that I had been stabbed. I was under influence at the time of the incident I committed and that -- he said -- I can't remember. There was something else he said, but I can't remember.

Q Did you ever have a mental health competency evaluation in your eight years of being incarcerated?

A No, sir.

Q So how did you -- how was it determined that you would get those pills?

A Well, I did talk -- they had a psychology doctor I talked. I started in 2018, no, 2019, that's when I started on medicines.

Q So that's how you got medicine?

A Yes, sir.

Q So did you talk to -- did you have any kind of mental health evaluation since that initial, what, 2019 evaluation?

A I talked to the psychology there every three months.

Q Okay. What do you talk to -- without revealing any doctor/medical protected issues -- I mean, we certainly understand there's certain protected things here, so I don't want you to get too into it, but I, also, understand you need to present your case based on what you've already presented here. You speak with a psychiatrist every three months; is that what you're saying?

A Yes, sir.

Q So what type of things, generally, do you talk about?
A Do I hear things, do I see things that other people don't. Do I have suicidal thoughts, am I wanting to hurt somebody at the time, and I wanting to hurt, like, anybody else. How is the medicine working for me. Do I feel like it's helping me.
Q So that's every three months during the full eight years, right?
A Yes, sir.
Q So did you and your attorney ever have a discussion about that?
A No, sir.
Q Did he ask you about your mental health?
A No, sir.
Q Do you feel like it was ineffective assistance of counsel him not going into your mental health history?
A Yes, sir.
Q Why is that?
A Because I felt like that played a part. When the incident happened with me and the officer, I wasn't on my medicine at the time.
Q Do you think that him not bringing up your mental health issues related to his ineffectiveness of counsel as you're alleging today?
A Yes, sir.

Q It says, Because of my illness, I have another inmate helping me with this PCR application. So why did you need another inmate's help because of your illness?
A Like I said, I don't know the ins and outs of law, so I came back, I got my 12 years and the inmate was telling me that he was going to help me file a PCR so he can help me try to get my case overturned.
Q Anything else about your mental health and your professional relationship with your attorney that you wish to bring to the Court's attention?
A No, sir.
Q Is there anything about your discovery that you wish to bring to this Court's attention today?
A No, sir.
Q It says in 11C, My lawyer -- and this is your words, My lawyer erroneously advised me to take the guilty plea stating that if I did, the time would be run concurrent -- ran concurrent with the time I was already serving. Explain that to me.
A Like I said, my attorney told me that if I took the 12-year plea, my time would be run concurrent. My current SCDC sentence was ten years and that was -- that's not what's going on right now.
Q But now is that because of any other charges or is that because of what happened that day?

A He gave me 214 days credit from the day of the incident.
Q So you got 14 days -- you'd been in there for eight years, right?
A Yes, sir.
Q And you say you only got time served for 14 days?
A 214 days from the incident.
Q So that's less than eight years, right?
A Yes, sir.
Q So why did you not get your full eight years -- so you were incarcerated on these charges for eight years; is that correct?
A Yes, sir.
Q So what was the other?
A I was incarcerated for robbery. January 27th is when the incident happened and he gave me time credit from that day of the incident.
Q But you're saying today, and I want to be clear, that your attorney said that the time you were serving on the other charge would be credited to you for this; is that what you're saying?
A No, sir, he only gave me credit for the time the incident happened. He told me that if I took the 12-year plea, it would be ran concurrent. My current SCDC sentence is ten years, which would leave me two years.

Q And that did not happen, did it?
A No, sir.
Q Are you familiar with what a negotiated plea is?
A No, not really.
Q Have you heard about it?
A I heard people talk about it.
Q But it was not a negotiated plea that you pled to, was it?
A The first thing, he dropped it down to assault and battery of a high and aggravated nature. My attorney told me it carried zero to 20 years. He told me if I took the 12-year plea, it would be run concurrent. He said ten years is pushing it.
Q Okay. But on your sentencing sheet -- and you may have explained this, but just to make sure that there's no other issues going on with this, it says, But on my sentencing sheet that I was only getting credit for 214 days even though I had already served seven and half years, seven years, six months on the sentencing I was currently serving. It says sentencing sheets states that the 12 years would be run concurrent with the sentence I was serving, which was ten years that I had already served seven years and six months on.

So it's a little repetitive there, but I want to make sure that we're on the same page here. So what are you

saying about your sentencing sheet? That the sentencing sheet was not accurate or that it was something that -- your lawyer told you something different than what was finally reflected on the sentencing sheet? What's your point about your sentencing sheet in this application?

A I feel like it's going against what my attorney told me, that it would be ran concurrent to my current SCDC sentence, which is not going on right now. It seems like my sentence is being run consecutive instead of concurrent.

Q Would you say that you were confused about what you were pleading to?

A I think so, yes, sir.

Q Why was that?

A Because if I took this plea, like I said, I would have two years left to do. If I get 214 days credit, I would have a year and some change left to do.

Q All right. So you understand this is about -- this hearing is about your ineffective assistance of counsel allegations, right?

A Yes, sir.

Q Why do you feel like your lawyer was ineffective?

A I feel like he didn't exercise his duty to help me out understand what is going on with my case.

Q And he was your attorney for less than 24 hours, correct?

A Yes, sir.
Q And he didn't ask for a continuance, did he?
A No, sir.
Q Is there anything else in this application or otherwise that you would like to bring to the Court's attention about your PCR case today?
A No, sir.
MR. FOWLER: Your Honor, no further questions.
THE COURT: Ms. Westraad.

CROSS-EXAMINATION

BY MS. WESTRAAD:
Q Good afternoon, Mr. Shuler.
A Good afternoon.
Q Just a couple quick questions. Do you recall the Judge at your plea hearing stating have you ever had any treatment for any mental health problems?
A No, ma'am.
Q You don't recall that?
A No, ma'am.
Q Do you recall replying no, sir?
A No, ma'am.
MS. WESTRAAD: No further questions.
THE COURT: Mr. Fowler, anything on redirect?
MR. FOWLER: Just a moment, Your Honor, please.
(Pause.)

MR. FOWLER: No, sir.

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

MR. FOWLER: Your Honor, may I have a moment to speak with Mr. Shuler, please?

THE COURT: Yes, sir.

(Pause.)

MR. FOWLER: Your Honor, after speaking with my client, we rest.

THE COURT: Applicant rest.

State ready to go forward?

MS. WESTRAAD: Yes, Your Honor. The State would call Jacob Godwin.

THE COURT: Mr. Godwin, if you will come forward and be sworn, please, sir.

JACOB GODWIN,

after being duly sworn, testified as follows:

THE WITNESS: I do.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. WESTRAAD:

Q Good afternoon, Mr. Godwin.

A Good afternoon.

Q So I'm just going to start with a few general questions. How long have you been practicing law?

A Eight years, since 2016.

Q And how much of your practice has been in criminal law?
A Oh, gosh, it depends on how you classify it. Five years, at least.
Q Were you appointed or retained in Mr. Shuler's case?
A Appointed. I was working as a public defender.
Q How long before his plea were you appointed, do you remember?
A It was that day.
Q Did you review discovery with Mr. Shuler?
A We reviewed the video. When I say I was retained that day, the prosecutor was a special SCDC prosecutor that came to prosecute the case. She needed him to get assigned a lawyer. And she really just came to court that day to get him assigned a lawyer. And I talked to her, talked to her about the case.

And I went to Mr. Shuler and I said hey, I'm going to be assigned your lawyer. At the time, we did not have a designated person in Marlboro County. I was the designated person. So barring some conflict, which we did not show, I was going to be his lawyer as the sole public defender working that day and working in Marlboro County.

As far as discovery is concerned, there's been reference to a video. I want you to understand what that video was. That video was a video on the cell phone of Mr. Shuler, excuse my French, Judge, I'm not sure how else to

phrase it, beating the crap out of an SCDC guard. I mean, he beat him good. And when he got done, he walked away and then came back for more. He kept beating on him and beating on him --

MR. FOWLER: Your Honor, I object to this response, Your Honor. I think she asked him a question and he answered it. I don't think the elaboration is necessary at this point, Your Honor.

THE COURT: Well, I think the question was did he go over the discovery with Mr. Shuler and I think Mr. Godwin is explaining in his opinion what that discovery was and what he did in explaining that to Mr. Shuler. So I'm going to overrule your objection.

THE WITNESS: So the video, I showed it to Mr. Shuler after it was shown to me. And the prosecutor, actually -- I think she texted me the video. We looked at it. I showed it to Mr. Shuler on my phone. Like he said, we looked at it.

At that point, I'm not sure how much paper discovery you need because it was pretty clear. And notice, this was an attempted murder charge. So we had the testimony of the guard who was willing to testify that was Mr. Shuler that was beating the crap out of him. And I think that that testimony would have been damning to Mr. Shuler's case.

BY MS. WESTRAAD:

Q What were your discussions after you showed him that video?
A We had several discussions. I talked with him for a long time. I took over an hour to talk with him. This was while court was going on. I stopped everything and I took over an hour to talk with him. I discussed with him the fact that he did have a plea offer and that he did not have to take it today. And he said if I have a plea offer, I want to take it today. And I remember saying, Are you sure? Nobody is making you do anything today. He said, I'm sure. I want to get it over with. So I proceeded to negotiate accordingly.
Q Did he discuss mental illness problems with you?
A No.
Q Did you have any competency concerns?
A No. And if I have any, I always get the evaluation, always. Even as a prosecutor, if there are any concerns, we get one just to be sure.
Q Did Mr. Shuler seem to understand everything you discussed with him?
A Yes.
Q Did you explain the time -- well, let me first ask, were you present here in courtroom for the testimony Mr. Shuler just gave?
A Yes.

Q There seemed to be some confusion about his sentence running concurrent, did you explain how that would work?
A I'm sure I did, concurrent versus consecutive.
Q Did he seem confused about what that meant?
A No. No. I'm not sure I understand his complaint about the time, to be honest.
Q Did he ask you for an appeal?
A He did not.
Q Did he ask you for -- to do a motion to reconsider?
A He did not. I have a pretty strict policy when clients ask for an appeal or motion to reconsider, I get it done that day. I don't leave the courthouse until I get it done.
Q Did you agree with his choice to plead guilty?
A I did.
Q Do you stand by your representation of him?
A I do. He had a recommended 15 and I got him the negotiated 12. I was pretty proud of that three-year reduction. I think it's a good sentence. I think it's a sentence that reflects well on him.

MS. WESTRAAD: Thank you, Mr. Godwin. Please answer any questions Mr. Fowler has.

THE COURT: Mr. Fowler.

CROSS-EXAMINATION

BY MR. FOWLER:

Q So you said it was a special prosecutor that came down

to prosecute the case?
A From SCDC, yes.
Q So it was the Department of Corrections' prosecutor as opposed to the Attorney General's Office?
A Yes. I can't remember her name, but she's married to Dale Scott.
Q Okay. Well, I guess my question is, the SCDC guard that allegedly was beaten, SCDC was the one prosecuting the case?
A Yes.
Q So why was not the local solicitor involved?
A I do not know. I'm assuming there was some type of conflict.
Q And the Attorney General's Office didn't prosecute it?
A No.
Q And this was a General Sessions case, right?
A Unless she was with the Attorney General's Office and I had a misunderstanding of what her role was.
Q So you don't know if it was the Department of Corrections prosecuting it or the Attorney's General's Office prosecuting it?
A She put her bar number down on the sentencing sheet.
Q Okay. So in terms of you were appointed that day, right?
A Yes.

Q Were you ever in touch with him before that day?
A No.
Q You were in here for the testimony of Mr. Shuler, correct?
A Yes.
Q So he says that you first spoke with him about one o'clock in the afternoon or three o'clock -- or 1:30 in the afternoon, correct?
A That sounds -- I don't want to be specific. It could have been 11:00 or something like that, but that sounds correct.
Q So the same day that you were appointed, the same afternoon, he pled to this case, correct?
A Because he wanted to.
Q Okay. Do you have anything showing that he wanted to? I mean, was there any sheet or anything --
A Other than the sentencing sheet, which he signed.
Q You talked about discovery, okay. Did you know if there was any paper discovery in this case?
A In my hour-long conversation with him about whether he had to do this or now, which I told him he did not, and he told me that he wanted to proceed.
Q So you said you talked with him for about an hour, right?
A Yes.

Q What did you talk with him about?
A We talked about the video. We talked about his potential sentence. We talked about the charge against him and what the trial might look like if we went forward with that route.
Q Did you talk about his mental health history?
A We did not.
Q Why not?
A Did not come up.
Q Did you ask him about it?
A I did not.
Q Why not?
A There was no cause to ask him. I did not see any mental health concerns that would have caused me to ask about his condition.
Q You said you didn't see any, what do you mean by that?
A I guess I mean the manifestation of medical conditions. I did not witness any that would give me concern.
Q But you don't have any medical training, do you?
A I do not.
Q Did you know that he was taking pills at his incarceration location?
A I did not.
Q Did you ask him?
A I did not.

Q In terms of --
A Again, there was no reason to ask him.
Q So you were, basically, named his lawyer at one o'clock. Do you remember what time he pled?
A I do not.
Q But it was that afternoon, right?
A It was, at least, an hour after I was appointed to his case.
Q Did you ask the Court for a continuance?
A I did not because he did not want one.
Q But you're his attorney, right?
A I am.
Q And it's your job to direct him legally, right?
A I believe I made a record of our discussions and his desire to move forward.
Q So in less than an afternoon, he pled and you did not ask -- and you were appointed and you still did not ask for a continuance, did you?
A I did not. No one was trying his case, this was to his guilty plea, which he wanted to take.
Q Did you ever see any paper discovery in this case?
A I'm sure I did. And I may have gone over it with him, I just don't remember.
Q So you never reviewed any paper discovery --
A That's not what I said.

Q Could you repeat what you said, please?
A I said I'm sure I did and I'm sure I would have gone over it with him, I just don't specifically remember.
MR. FOWLER: Your Honor, may I have just a moment, please?
THE COURT: Yes, sir.
BY MR. FOWLER:
Q So, once again, what kind of case was this? This was a case where a security guard at the SCDC facility was beaten?
A It was attempted murder.
Q Well, was there any kind of written statements from the victim?
A I believe there was, actually, but other than a written statement, it would have just been their representation of what he was going to say at trial.
Q Well, you said --
A Which is not improper or unusual.
Q Right. Well, you said earlier on direct, I believe I'm quoting here, Not sure how much paper discovery was needed. But your testimony here indicates that there was some paper in terms of the guard's statement and witnesses and things like that, right?
A Yeah.
Q So did you feel like this was a very serious case?
A I did.

Q And yet, he did not review his discovery, did he?
A I did not say that.
Q But did he review his paper discovery with you?
A I don't know.
Q And, also, there was no continuance asked for in pleading to these serious charges, was there?
A No.
MR. FOWLER: Just one moment, Your Honor.
THE COURT: Yes, sir.
(Pause.)
MR. FOWLER: Your Honor, after consulting with Mr. Shuler, we have no further questions.
THE COURT: Anything on redirect?
MS. WESTRAAD: No, Your Honor.
THE COURT: Thank you, Mr. Godwin. You may step down.
THE WITNESS: May I be excused?
THE COURT: I think you've got one other case.
Does he need to stay for the next case as well?
MS. WESTRAAD: Your Honor, we do not need him for the next case. He may be excused if that's okay with Your Honor.
THE COURT: Sounds like, Mr. Godwin, they may be excusing you.
MR. GODWIN: Thank you, Judge.
THE COURT: Thank you, sir.

Do you have any objection to Mr. Godwin being excused?

MR. FOWLER: No objection, Your Honor, after consultation with Mr. Shuler.

THE COURT: Any further witnesses from the State?

MS. WESTRAAD: No, Your Honor, the State rest.

THE COURT: Anything else, Mr. Fowler?

MR. FOWLER: No, Your Honor.

THE COURT: Mr. Fowler, do you want to make a closing statement?

MR. FOWLER: Your Honor, just a brief one. You know, this was a very serious case. Apparently, there was paper discovery. Apparently, it was never gone over with with Mr. Shuler. You know, I think Mr. Godwin indicated that he didn't even know who was prosecuting the case, was it SCDC or was it the Attorney General's Office? You know, there was a video that, apparently, was gone over, but there was no statements from witnesses. There was no statements from the victim.

I mean, it's amazing, in my opinion, that somebody could be appointed to a Defendant at one o'clock in the afternoon and before five o'clock, the Defendant pleads for years of his life.

In my opinion, there should have been a continuance requested. There should have been a looking into Mr. Shuler's mental health. I know he said he talked to him for

an hour, but, you know, with these serious charges, he should have talked to him several hours, possibly.

Also, there was no -- you know, there was just a very short window of time to review everything in this case. And even if he did say I want to plead today, quote, unquote, as the lawyer, it's my understanding that the client is not the one who directs the legal process. It's the lawyer's decision. They can have input, but he's not legally trained. He was sitting in jail for eight years on this and then all of a sudden, within an afternoon, he's pleading for his life, basically.

So, Your Honor, my contention is a continuance should have been granted. His mental health should have been looked into, at least. There was no paper discovery. There was not witnesses, what have you. And if he just stood on the table and said, I want to plead today. I want to plead today. I want to plead today. That's still not enough for him to have pled that day because the lawyer is the one who makes the final legal decisions and he pled quickly.

THE COURT: Isn't it Mr. Shuler's right to plead guilty or not guilty?

MR. FOWLER: Well, he has a right to that, Your Honor, but he, also, was sitting in jail for eight years. He felt like there was -- according to his testimony, there was some confusion on what he was pleading to, if he would get time

served or how many years he would get.

So my understanding, Your Honor, is a lawyer should take the proper steps to not only defend his client, but to make sure that he's protected in terms of what he says and what he does in representing the client.

So to answer your question, Your Honor, Mr. Shuler has the final decision, but, also, in this case, with what was going on, being appointed at one o'clock and by five o'clock, a plea, there needed to be some time in my opinion, Your Honor.

THE COURT: Didn't Mr. Shuler indicate that he was satisfied with Mr. Godwin's services as part of the plea?

MR. FOWLER: Well, as part of the plea, but then, also, he got on the stand today, and I can't recall his testimony verbatim, but he, also, said he had a long history of mental health issues where he was taking pills for eight years at his detention facility. He can tell the Court one thing, but it was the responsibility of the attorney to make sure there were no mental health issues, that whatever he said in front of the Judge, you know -- I mean, that one hour of conversation -- and I appreciate the witness's testimony, but that's not -- in my opinion, that's not long enough to get into his mental health issues because he talked almost for an hour on the witness stand about it.

So my understanding, Your Honor, is it was a quick

plea, no discovery. I mean, there's several things here, Your Honor. No discovery, quick plea, no continuance. And whatever Mr. Shuler said to the Judge that day, and I'm no medical expert, but maybe he should have taken his medicine that day, I don't know. Maybe that would have helped alleviate some of the apparent confusion.

So there's several issues here, Your Honor, that points to ineffective assistance of counsel in my opinion. I think we've gone over them fairly succinctly or, at least, we've attempted to.

THE COURT: Thank you, Mr. Fowler.

MR. FOWLER: Thank you, sir.

THE COURT: Ms. Westraad, anything you want to add?

MS. WESTRAAD: Your Honor, I'd just like to add -- first of all, there is -- you know, people keep saying he was sitting in jail for eight years. He was serving a different sentence. He was serving an armed robbery sentence, so that is why he was in jail -- or in SCDC. He was only there for a few months before this plea on this charge.

First of all, as to the meeting issue, case law clearly establishes that there's not a minimum amount of time that you have to meet with your attorney or a number of times you have to meet with your attorney to satisfy competency. It's Campbell vs. Holt (ph).

Additionally, Mr. Fowler just stated that Mr. Godwin testified that there were allegedly witness statements and all these other statements. He just said that there was a statement from the officer who was attacked and there was a video. That's what he stated. That was his testimony. And that is what the discovery showed, according to his testimony.

And as Your Honor stated, he has an obligation to follow his client's wishes if his client insist on pleading. And as he testified, he thoroughly discussed that with him. He said, You don't have to plead today, and Mr. Shuler wanted to plead anyway.

The last thing I would, also, say as to the mental health issue is that Mr. Shuler has a duty to advise the Court. When the Court asked about mental health issues, he, also, had a duty to be honest about that.

We have nothing further.

THE COURT: Mr. Shuler, I'm going to consider the testimony today. I'll consider all of the material that's been provided to me and I will get a decision on your case as quickly as I can. Okay, sir?

THE APPLICANT: Yes, sir.

THE COURT: Thank you, sir.

THE APPLICANT: Thank you.

CERTIFICATE OF TRANSCRIBER

I, PENNY M. JOHNSON, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; **that said proceedings were transcribed to the best of my ability from the audio recording and supporting information**; and that I am neither counsel for, related to, nor employed by any of the parties to this case, and I have no interest, financial or otherwise, in its outcome.

November 15, 2025

Penny M. Johnson

Penny M. Johnson
Transcriber

STATE OF SOUTH CAROLINA COUNTY OF MARLBORO	)	IN THE COURT OF COMMON PLEAS FOR THE FOURTH JUDICIAL CIRCUIT
Zaquai R. Shuler, #372507, Applicant, v. State of South Carolina, Respondent.	)	CASE NO. 2025-CP-34-00021 **ORDER OF DISMISSAL WITH PREJUDICE**

Presiding Judge:	Hon. S. Bryan Doby
Applicant's Attorney:	Steven W. Fowler, Esq.
Respondent's Attorney:	MacKinnon Westraad, Esq.
Plea Counsel:	Jacob L. Godwin, Esq.
Date of Hearing:	September 3, 2025
Court Reporter:	Brenda L. Jones

This matter comes before the Court pursuant to an application for post-conviction relief ("PCR") filed by Zaquai R. Shuler ("Applicant") on January 29, 2025. Respondent filed its Return, requesting that an evidentiary hearing be held on the allegations. On September 3, 2025, an evidentiary hearing was held at the Darlington County Courthouse before the Honorable S. Bryan Doby. Applicant was present and represented by Steven W. Fowler, Esquire. Assistant Attorney General MacKinnon Westraad represented Respondent. Applicant proceeded on the allegations within his original PCR application. In support of these claims, Applicant testified on his own behalf. Respondent called Jacob L. Godwin, Esquire (Plea Counsel) to testify.

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

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections (SCDC) pursuant to orders of commitment of the Darlington County Clerk of Court. During its June 2024 term, the Marlboro County Grand Jury indicted Applicant for Attempted Murder (2024-GS-34-0234). Applicant was represented by Jacob L. Godwin, Esquire. Fourth Circuit Assistant Solicitor Margaret B. Scott prosecuted the case. On August 27, 2024, Applicant appeared before the Honorable R. Kirk Griffin and pleaded guilty to the lesser included charge of Assault and Battery of a High and Aggravated Nature. Judge Griffin sentenced Applicant to the negotiated twelve (12) years imprisonment.

Applicant did not appeal his conviction or sentence.

FACTS GIVING RISE TO THE CONVICTION

At Applicant's plea hearing, Assistant Solicitor Margaret B. Scott articulated the facts giving rise to the plea as follows:

> Thank you, Your Honor. On January 27th of this year Special Agent Jared Greenway with the Office of Inspector General with SCDC was notified that there was an inmate on an employee assault that took place in Evans Correctional Institution here in Marlboro County. When he arrived he spoke to numerous witnesses to include the victim in this case, Lieutenant Oscar Martinez. He was able to pull video surveillance, get reports from all the officers that were working that day. Essentially, about eight o'clock that morning Officer Martinez was tasked with the, um, going to get - remove one inmate from a cell on the I believe to KIOWA Dorm, the second floor. When he went up there to remove that inmate for safe keeping, the defendant Mr. Shuler stood in the doorway and wouldn't let him get through. They were exchanging words and it became violent when Mr. Shuler pushed Officer Martinez. He fell to the ground, hit his face. At that point, he began punching him numerous times I believe anywhere from roughly 30 punches, blows to the head. He also began kicking him. At one point, he attempted to do a choke hold, the defendant did, but was not successful, luckily. But while he was on the ground he took a few seconds break from the assault and then went back at it again. Luckily, the victim, Mr. Martinez, was able to break free from this. He did end up going to hospital that night. He had multiple contusions on his head. He did also have a brain bleed, one on the left frontal head area, and then one to the right. I did speak to the victim. He says he's physically doing well now. He did have – he was

> discharged that day but had to go back for follow ups to make sure that the bleeding didn't get worse. But he is doing well. He is suffering, he says, from PTSD from the assault. Your Honor, I do have a video of the assault if you would like to see it. It's pretty brutal. Just the amount of violence from this defendant.

(Plea Tr. pp. 6-8).

CURRENT APPLICATION

In his application for post-conviction relief, Applicant alleges he is being detained unlawfully for the following reasons:

1. Ineffective Assistance of Plea Counsel
   a. Failed to file appeal.
   b. Failed to review discovery.
   c. Failed to explain the time he would serve.
2. Involuntary Guilty Plea
3. Mentally Incompetent

Applicant requested relief in the form of a "time reconsideration."[1]

Before this Court are the Marlboro County Clerk of Court records regarding the subject's convictions and sentences, Applicant's records from the SCDC, the guilty plea transcript, and the records of the current PCR action.

STANDARD OF REVIEW

The Uniform Post-Conviction Procedure Act[2] (the Act) provides that any person who has been convicted of a crime may seek post-conviction relief based on the following types of allegations:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;

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[1] At his hearing, Applicant testified he understood this would not be an option for relief. (PCR Tr. p. 9).
[2] S.C. Code Ann. §§ 17-27-10 to -160.

5. That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy[.]

S.C. Code Ann. § 17-27-20(A).

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

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland v. Washington to determine whether counsel's conduct "was so [ineffective] as to require reversal" of the applicant's conviction. 466 U.S. 668, 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. Id. at 687–88; accord. Cherry v. State, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. Strickland, 466 U.S. at 700; see also Bell v. Cone, 535 U.S. 685, 695 (2002) (explaining that

"[w]ithout proof of both deficient performance and prejudice to the defense, . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable." (citation and internal quotation marks omitted)).

Regarding the deficiency prong of the Strickland analysis, the proper measure of performance is whether counsel provided representation within the reasonable range of competence required in criminal cases. Butler, 286 S.C. at 442. When analyzing counsel's performance, the reviewing court will strongly presume counsel provided adequate assistance, and the applicant is responsible for rebutting that presumption "by proving that his attorney's representation was unreasonable under prevailing professional norms and that the challenged action was not sound strategy." Kimmelman v. Morrison, 477 U.S. 365, 384 (1986); cf. Cullen v. Pinholster, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation).

Furthermore, the reviewing court will scrutinize counsel's performance in a highly deferential manner, make every effort "to eliminate the distorting effects of hindsight," and "evaluate the conduct from counsel's perspective at the time" in light of then-existing circumstances. Strickland, 466 U.S. at 689. In order to establish counsel's performance was deficient, the applicant must demonstrate that "counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." Id. at 687. Accordingly, counsel's performance will be considered deficient only when it was objectively incompetent under prevailing professional norms and *not* when it simply "deviated from best practices or most common custom." Harrington v. Richter, 562 U.S. 86, 105 (2011).

Beyond satisfying the burden required by the deficiency prong, an applicant also bears the

burden of establishing prejudice in order to be entitled to relief as "[a]n error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment." Strickland, 466 U.S. at 691. To meet this burden, counsel's deficient performance must have prejudiced the applicant to such an extent, there is a reasonable probability the result of the proceeding would have been different but for counsel's unprofessional errors. Cherry, 300 S.C. at 117–18; see Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) ("To establish a claim of ineffective assistance of trial counsel, a PCR applicant has the burden of proving counsel's representation fell below an objective standard of reasonableness and, but for counsel's errors, there is a reasonable probability the result at trial would have been different.").

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 is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—not whether counsel would have still advised him to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999).

Surmounting Strickland's high bar is never an easy task, and the strong societal interest in finality has "special force with respect to convictions based on guilty pleas." Lee, 582 U.S. at 368–69 (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. at 369. Rather, judges should "look to contemporaneous evidence to substantiate a defendant's

expressed preferences." Id. In determining whether a guilty plea was taken in accordance with constitutional standards, the reviewing judge must analyze and consider the entire record, including the transcript of the plea and the evidence presented at the Evidentiary hearing. Harres v. State, 282 S.C. at 134, 318 S.E.2d at 361 (1984).

Finally, the Strickland standard must be applied with scrupulous care, lest "intrusive post-trial inquiry" threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689–90. Courts must be wary of second-guessing counsel's tactics, and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 529 (1992). The applicant's burden of proving both Strickland components is heavy in light of the strong presumption that counsel's conduct fell within the range of reasonable professional legal assistance. 466 U.S. at 690.

FINDINGS OF FACTS 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), SCRCP (stating that in a post-conviction relief action, "[t]he applicant has the burden of establishing his entitlement to relief by a

preponderance of the evidence."); Lucero v. State, 414 S.C. 238, 244, 777 S.E.2d 409, 412 (Ct. App. 2015) ("In a PCR proceeding, the applicant bears the burden of establishing that he or she is entitled to relief."); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) ("The burden of proof is on the Applicant in post-conviction proceedings to prove the allegations in his application.").

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

INITIAL FINDINGS

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

ALLEGATIONS OF INEFFECTIVE ASSISTANCE OF PLEA COUNSEL

Allegation 1: Failed to file appeal

Applicant alleges Plea Counsel's representation was constitutionally ineffective for failing to appeal his conviction. This Court finds this allegation is without merit.

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

> Absent extraordinary circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in

> appealing, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea.

Turner v. State, 380 S.C. 223, 224-25, 670 S.E.2d 373, 374 (2008) (citations omitted); see also Roe v. Flores-Ortega, 528 U.S. 470, 480 (2000) (imposing the duty to consult when there is 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, 598, 677 S.E.2d 20, 23-24 (2009) (quoting Weathers v. State, 319 S.C. 59, 61, 459 S.E.2d 838, 839 (1995)).

Where an Applicant reasonably demonstrates an interest in appealing, or where there is a reason to think a rational defendant would want to appeal, and where Counsel fails to either initiate that appeal or comply with Anders procedure, "White permits consideration of the full trial record on [an] issue in conjunction with appellate review of the PCR proceeding under an exception to the prohibition against appellate courts considering appeals in the absence of notice of direct appeal given and timely served." Smith v. State, 309 S.C. 413, 415, 424 S.E.2d 480, 481 (1992) (citing Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986)).

PCR Evidentiary Hearing

On direct examination, Applicant testified that Plea Counsel told him if he took the plea, he couldn't appeal it, and that there was nothing that could be done, so Applicant filed the PCR. (PCR Tr. p. 10). Applicant testified he did not understand what the judge at his plea hearing meant when he said Applicant had ten days to appeal. (PCR Tr. p. 10).

On direct examination, Plea Counsel testified Applicant did not ask him for an appeal or for a motion to reconsider. (PCR Tr. p. 36). Plea Counsel testified he had a pretty strict policy when clients asked for an appeal or motion to reconsider, which was to get it done that day, and he would not leave the courthouse until he got it done. (PCR Tr. p. 36).

Findings

This Court finds from the record that the plea court did advise Applicant of his right to appeal his guilty plea. (Plea Tr. p. 6). Further, the plea court questioned Applicant's understanding of the proceeding and considered the circumstances of Applicant's crime. This Court further finds no extraordinary circumstances objectively warranted counsel to inform Applicant about appealing his conviction. See Roe v. Flores–Ortega, 528 U.S. 470 (2000) (holding that counsel has a constitutional duty to inform a defendant of his right to appeal a guilty plea if there is reason to think that a rational defendant would want to appeal or that the defendant demonstrated an interest in appealing). Furthermore, this Court finds Plea Counsel's testimony *credible* that he would have filed a notice of appeal or motion to reconsider that same day if Applicant had asked him to file one. (PCR Tr. p. 36).

As such, Applicant has failed in his burden of presenting any *credible* evidence to this Court that he was not advised of the right to appeal his guilty plea, nor did Applicant present any *credible* evidence that he requested Plea Counsel file an appeal. Moreover, to whatever extent Applicant was not entirely satisfied with the plea, he was presented an opportunity to express his dissatisfaction with the plea court, knowingly opted not to do so, and instead chose to proceed with his guilty plea so that he would not face a charge of attempted murder on an SCDC officer.

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

Allegation 1(b): Failed to review discovery
Allegation 1(c): Failed to explain the time he would serve
Allegation 2: Involuntary Guilty Plea

Applicant alleged Plea Counsel's representation was constitutionally ineffective for failing to review discovery and failing to explain the time Applicant would serve. This Court finds these allegations to be without merit.

In order to prevail upon a claim that counsel did not adequately prepare, investigate, or review discovery in a case, an applicant must present evidence to show how additional time spent in consultation regarding discovery would have resulted in a different outcome or what other defenses applicant could have requested counsel develop and present had counsel been more prepared. Harris v. State, 377 S.C. 66, 75–76, 659 S.E.2d 140, 145–46 (2008) (citing Jackson v. State, 329 S.C. 345, 353–54, 495 S.E.2d 768, 772 (1998), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018). The applicant must further present evidence demonstrating how the discoverable matters or defenses would have resulted in a different outcome. Id. Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. Id. at 75, 659 S.E.2d at 145 (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish Applicant had a complete 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, 244 (1969) (Courts must make sure defendants have "a full understanding

of what the plea connotes and of its consequences. 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 the evidence presented at the PCR hearing. See Harres v. Leeke, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984) (finding the voluntariness of a guilty plea "is not determined by an examination of the specific inquiry made by the sentencing judge alone but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing.").

An applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the applicant would not have pled guilty, but would have insisted on going to trial 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.

PCR Evidentiary Hearing

On direct examination, Applicant testified that Plea Counsel did not help him understand the plea, and the only thing Plea Counsel showed him was the video. (PCR Tr. p. 12). Applicant testified that Plea Counsel showed him the video on August 17, the same day of court. (PCR Tr. p. 12). Applicant testified he felt Plea Counsel was not doing his job correctly because he was not trying to help Applicant understand what was going on at the time. (PCR Tr. pp. 12, 21). Applicant testified that Plea Counsel told him that if he took the twelve-year plea, it would run concurrent to

his active sentence of ten years, and Plea Counsel told him that meant he would have two years left. (PCR Tr. p. 13). Applicant testified he believed he testified to the court that the plea was voluntary, but Applicant feels it was involuntary because his attorney lied by saying he would have two more years, when in reality he would be doing "almost ten more years." (PCR Tr. p. 13). Applicant testified Plea Counsel told him he knew the judge personally and that the judge would not show Applicant leniency. (PCR Tr. p. 14).

Applicant testified that when he came to court for his plea, a lady approached him and asked if he had "been admonished," and he said no, so she said she would get someone to talk to him. (PCR Tr. p. 16). Applicant testified that before, he was not represented by anyone because the public defender's office would not respond to him despite his reaching out. (PCR Tr. pp. 16-17). Applicant testified he guessed he was scheduled that day to take a plea, but he did not know for sure; they just came to his door and let him know he had a court hearing. (PCR Tr. pp. 17-18). Applicant testified that for the eight years he had been incarcerated, he did not have an attorney. (PCR Tr. p. 18). Applicant testified he thought his attorney's name was Godwin, and agreed the attorney was in the courtroom for this PCR hearing. (PCR Tr. p. 18).

Applicant testified Plea Counsel approached him the day of his plea at around 1:30 PM and said he was going to represent Applicant. (PCR Tr. pp. 18-19). Applicant testified he pleaded guilty fifteen to thirty minutes later, after Plea Counsel showed Applicant the video on Plea Counsel's cell phone. (PCR Tr. p. 19). Applicant testified that he told Plea Counsel they were not showing the beginning of the video in which the victim pushed him first, and Plea Counsel told him, "Well, this is all I have," but stated they would drop Applicant's charge to a lesser charge. (PCR Tr. pp. 19-20). Applicant testified he asked Plea Counsel if he could get time served or five years or something, but Plea Counsel told him he could not. (PCR Tr. p. 20).

Applicant testified he guessed Plea Counsel never had his discovery, and Applicant never told Plea Counsel he needed it because he did not know how it really works. (PCR Tr. p. 21). Applicant testified Plea Counsel did not give him advice, and Applicant did not feel he had enough time to talk to him, despite telling the plea court he did. (PCR Tr. pp. 21-22). However, Applicant then testified he did feel like it was enough time because Plea Counsel did not have paperwork or anything. (PCR Tr. p. 22). Applicant testified Plea Counsel was ineffective for that because he felt Plea Counsel should have had the paperwork on hand. (PCR Tr. p. 22).

Applicant testified he heard people talk about a negotiated plea, but was not familiar with it. (PCR Tr. p. 29). Applicant testified they dropped his charge to assault and battery of a high and aggravated nature, which Plea Counsel told him carried zero to twenty years, but if he took the twelve-year plea, it would be run concurrently. (PCR Tr. p. 29). Applicant testified his sentences were not running concurrently right now. (PCR Tr. p. 30).

On direct examination, Plea Counsel testified he was in fact appointed to represent Applicant the day of his plea after the special SCDC prosecutor talked to him. (PCR Tr. p. 33). Plea Counsel testified that the court appearance that day was just to get Applicant assigned a lawyer. (PCR Tr. p. 33). Plea Counsel testified they reviewed the video together, which showed Applicant "beating the crap out of an SCDC guard." (PCR Tr. pp. 33-34). Plea Counsel testified the video showed Applicant walking away and then coming back for more and continuing to beat on the guard. (PCR Tr. p. 34). Plea Counsel testified at that point, he was not sure how much paper discovery was needed because it was "pretty clear," and the guard was going to testify against Applicant. (PCR Tr. p. 34).

Plea Counsel testified he stopped everything and talked with Applicant for a long time–over an hour–about how Applicant had a plea offer but did not have to take it that day. (PCR Tr.

p. 35). Plea Counsel testified that Applicant told him if there was a plea offer, he wanted to take it that day. (PCR Tr. p. 35). Plea Counsel testified he remembered saying, "Are you sure? Nobody is making you do anything today," and Applicant said he was sure and he wanted to get it over with, so Plea Counsel proceeded to negotiate accordingly. (PCR Tr. p. 35). Plea Counsel testified that Applicant seemed to understand everything Plea Counsel discussed with him. (PCR Tr. p. 35). Plea Counsel testified he explained to Applicant the difference between concurrent and consecutive and how his sentence would work, and Applicant did not seem confused. (PCR Tr. p. 36). Plea Counsel testified he was not sure he understood Applicant's complaint in this PCR about the time he was serving. (PCR Tr. p. 36). Plea Counsel testified he stood by his representation of Applicant, as Applicant had a recommended fifteen-year sentence and Plea Counsel got him a negotiated twelve-year sentence, which he was proud of. (PCR Tr. p. 36).

On cross-examination, Plea Counsel testified the sentencing sheet, which Applicant signed, showed that Applicant wanted to plead guilty that day. (PCR Tr. p. 38). Plea Counsel testified that during their hour conversation, he and Applicant talked about the video, the potential sentence, the charge against him, and what a trial might look like. (PCR Tr. pp. 38-39). Plea Counsel testified he did not ask the court for a continuance because Applicant did not want one, even after Plea Counsel told him he did not have to move forward that day. (PCR Tr. p. 40). Plea Counsel testified he was sure he did see paper discovery, and he may have gone over it with Applicant, but he did not remember. (PCR Tr. p. 40). Plea Counsel testified he felt the case was very serious. (PCR Tr. p. 41).

Findings

As an initial matter, this Court finds Applicant has failed to meet his burden to present evidence that the plea was involuntary. Additionally, this Court concludes that Applicant did not

provide any *credible* evidence that additional time reviewing discovery would have led him not to plead guilty, but instead to proceed to trial. Plea Counsel *credibly* testified that he was sure he saw paper discovery, but the video and testimony were "pretty clear" and would have been "damning" to Applicant at trial. (PCR Tr. p. 34). Applicant did not present any discovery at the hearing that would have led him to go to trial instead of pleading guilty.

Although Plea Counsel was appointed the same day Applicant decided to plead guilty, this Court finds sufficient that Plea Counsel met with Applicant for an hour, thoroughly explained the evidence, charge, risks, and plea offer, and insisted that Applicant did not need to plead guilty that day, but ultimately honored Applicant's desire to plead. See 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). Further, to whatever extent Applicant was not entirely satisfied with the amount of time or extent he and Plea Counsel reviewed discovery, he was presented an opportunity to express his dissatisfaction to the plea court and chose to proceed with his guilty plea.

Applicant also alleged that his sentences were not running concurrently; however, based on the record before this Court, his twelve-year sentence is running concurrently with his ten-year sentence. Additionally, Applicant did not present any evidence to this Court that his sentences were not running concurrently. Applicant further argued that Plea Counsel misinformed him by telling him he would get credit for time served for the eight years he already served on his ten-year

sentence, and that he would thus only serve two additional years. However, Applicant clearly understood he would be serving more time than that, as he testified he specifically asked Plea Counsel if he could get time served or five years. Plea Counsel told him he could not get that amount, and that even ten years would be pushing it. (PCR Tr. pp. 20, 29). Applicant also testified that his sentencing sheet reflected only 214 days of credit, with a twelve-year negotiated sentence to run concurrently with his active sentence, and he signed the sentencing sheet. (PCR Tr. pp. 13, 38). Combined with Plea Counsel's testimony that Applicant seemed to understand the sentence he would receive and the meaning of a concurrent sentence, this Court finds Plea Counsel was not deficient in advising Applicant of the time he would serve.

Applicant also failed to prove he suffered any prejudice on this allegation. He was facing a charge of attempted murder of an SCDC officer, with powerful video evidence and testimony from the victim. After seeing the video evidence and speaking with Plea Counsel, he wanted to take a plea offer that day if he could. Thus, instead of facing thirty years in addition to his active sentence, Applicant could be released in the next ten years. This Court finds Applicant made the rational decision to take the offer, with an understanding of the length of the sentence and the consequences of the plea, and he received the benefit of the bargain.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, these allegations must be **DENIED** and **DISMISSED with PREJUDICE**.

Allegation 3: Mentally Incompetent

Applicant alleged Plea Counsel's representation was constitutionally ineffective for failing to further investigate his mental health. This Court finds this allegation to be without merit.

Due process prohibits the conviction of a person who is mentally incompetent, and that

right cannot be waived by a guilty plea. Jeter v. State, 308 S.C. 230, 232, 417 S.E.2d 594, 595 (1992) (citing Bishop v. U.S., 350 U.S. 961 (1956); Pate v. Robinson, 383 U.S. 375 (1966)). The test of competency to enter a plea is the same as required to stand trial: the accused must have sufficient capability to consult with his lawyer with a reasonable degree of rational understanding and have a rational as well as factual understanding of the proceedings against him. Id., 417 S.E.2d at 596 (citing State v. Lambert, 266 S.C. 574, 225 S.E.2d 340 (1976); Carnes v. State, 275 S.C. 353, 271 S.E.2d 121 (1980)). An applicant alleging incompetence in fact must show by a preponderance of the evidence that he was incompetent at the time of his plea. Id.

An applicant alleging ineffective assistance of counsel for failure to seek a mental health evaluation, however, must still satisfy the two prongs of Strickland, though considered in reverse as a practical necessity: applicant must demonstrate (1) a 'reasonable probability' that he was not competent at the time of the crime or at the time of the plea, and (2) that counsel's failure to seek an evaluation was unreasonable. Id. at 233, 417 S.E.2d at 596. Counsel may reasonably rely on his own perceptions in deciding if a client is competent to stand trial. Id.

PCR Evidentiary Hearing

On direct examination, Applicant testified that Plea Counsel did not mention to the judge that he "[had] mental health." (PCR Tr. p. 14). Applicant testified he had depression, anxiety, and PTSD. (PCR Tr. p. 14). Applicant testified his mental illnesses impacted his choice to plead guilty because he did not want to do more time, which got him depressed and had him upset because of his anxiety, so he felt like it was the right thing to do. (PCR Tr. p. 14). Applicant testified he is currently on medication, but that day he did not take his medicine the day of the plea. (PCR Tr. pp. 14-15). Applicant testified he took Lexapro and Rexulti, which were for anxiety, depression, and hearing things. (PCR Tr. p. 15). Applicant testified he stood by his statement to the plea court

that he was in his right mind and not under the influence of medicine. (PCR Tr. p. 15). Applicant testified he believed he was able to enter into the plea "correctly," but also felt he was forced to do it. (PCR Tr. p. 15).

Applicant testified that his allegation of mental incompetence was because he was not on his medication at the time of the plea, and his medicine helped him with anxiety, depression, and staying focused, and he felt like, at that time, he was not comprehending what was really going on. (PCR Tr. pp. 22-23, 24). Applicant testified he thought he told the judge he understood everything, but he told the judge that because of anxiety. (PCR Tr. p. 23). Applicant testified he told Plea Counsel he "was mental health," but Plea Counsel did not ask about medicine, so Applicant did not tell him. (PCR Tr. p. 23). Applicant testified he did not take his medicine that day because they got him before the pill line came. (PCR Tr. p. 23). Applicant testified that the only medicine he takes in the morning is Lexapro. (PCR Tr. p. 24). Applicant testified he told Plea Counsel he was telling him about mental health because he had "been stabbed," and Plea Counsel told the plea court he was stabbed and he was under the influence during the incident. (PCR Tr. pp. 24-25). Applicant testified Plea Counsel told the court something else, but he could not remember. (PCR Tr. p. 25).

Applicant testified he has never had a competency evaluation, but he talked to the psychologist every three months, which was how he started the medicines. (PCR Tr. p. 25). Applicant testified that he would talk about hearing things, having suicidal thoughts, and how the medicine was working for him. (PCR Tr. pp. 25-26). Applicant testified he felt Plea Counsel not going into his mental health history was ineffective because it played a part since Applicant was not on his medicine at the time of the incident with the officer. (PCR Tr. p. 26).

On cross-examination, Applicant testified he did not recall the judge at his plea hearing asking about treatment for mental health problems, and he did not recall telling the judge he never had any treatment for mental health problems. (PCR Tr. p. 31).

On direct examination, Plea Counsel testified Applicant never discussed mental illness problems with him, and he did not have any competency concerns. (PCR Tr. p. 35). Plea Counsel testified that if he has competency concerns, he always gets an evaluation, even as a prosecutor, just to be sure. (PCR Tr. p. 35).

On cross-examination, Plea Counsel testified they did not talk about Applicant's mental health history because it did not come up, and Plea Counsel did not ask because there was no cause to ask him. (PCR Tr. p. 39). Plea Counsel testified he did not see any mental health concerns that would cause him to ask about Applicant's condition. (PCR Tr. p. 39).

Findings

As an initial matter, this Court finds Plea Counsel's testimony *credible* and Applicant's testimony on this topic *not credible*. Applicant testified he did not recall his discussions with the plea court about mental health problems, despite seemingly being able to recall all his discussions with Plea Counsel and recalling how his anxiety and depression influenced those discussions. Applicant specifically informed the plea court that he had no treatment for any mental health problems.[3] Additionally, Applicant has failed to meet his burden to present evidence that he was incompetent at the time he entered his guilty plea. This Court finds from the record that Applicant understood the charges, the weight of the evidence, and the proceedings against him. There was no indication or evidence presented at the PCR evidentiary hearing to dispute Applicant was competent at the time of plea.

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[3] Plea Tr. p. 4.

While the record reflects that Applicant has some mental health concerns, they do not rise to the level of incompetence. No evidence was presented that would have prompted counsel to seek a competency evaluation. Plea Counsel, newly appointed, *credibly* testified that he saw no cause for concern in terms of competency during his discussions with Applicant.

As such, this Court finds Applicant has failed in his burden of proving any deficiency or prejudice flowing from the deficiency. Notably, the record before this Court wholly refutes Applicant's allegation. Accordingly, this allegation is **DENIED** and **DISMISSED with PREJUDICE**.

|CONCLUSION & SIGNATURE PAGE FOLLOWS|

CONCLUSION

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

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

IT IS THEREFORE ORDERED:

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

FILED
2025 DEC 29 A 11:49
MARQUITA MCLAW
CLERK OF COURT
MARLBORO COUNTY, S.C.

S. BRYAN DOBY
Presiding Judge
Fourth Judicial Circuit

Bishopville, South Carolina
Dec. 22, 2025

106

WITNESSES

Jarrett Lanier Greenway

SC DOC Division Of Police Serv

Law Enforcement Case #:
284

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

_____
Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to:

_____

_____
Defendant

ARREST WARRANT NUMBER
2024A3410100073

ARRESTED ON: 2024-03-19

ACTION OF GRAND JURY

True Bill

Grand Jury Foreperson

6-4-2024
Date

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:
2024-GS-34-0234

The State of South Carolina

County of Marlboro

COURT OF GENERAL SESSIONS

Term:
June 2024

THE STATE

vs.

Zaquai Russhantre Shuler

INDICTMENT FOR

Assault / Attempted Murder

§16-03-0029

CDR Code: 3410

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)
)
COUNTY OF MARLBORO)

INDICTMENT FOR

Assault / Attempted Murder

§16-03-0029

At a Court of General Sessions, convened on June 4, 2024, the Grand Jurors of Marlboro County present upon their oath:

ATTEMPTED MURDER

CDR: 3410, 16-3-29

That Zaquai Russhantre Shuler did in Marlboro County, on or about 2024-02-22, with specific intent to kill, attempt to kill LT. Oscar Martinez with malice aforethought, either expressed or implied, in violation of Section 16-3-29 of S.C. Code of Laws, 1976, as amended.

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

William B. Rogers, Jr.

WILLIAM B. ROGERS, JR.
SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF Marlboro)
STATE)
VS.)
Zaquai Russhantre Shuler)
AKA:)
Race: Black Sex: M Age: 25)
DOB: [redacted] SS#:)
Address: Perry Correctional Institution)
City, State, Zip:)
DL#: [redacted] SID#:)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2024-GS-34-0234

A/W#: 2024A3410100073
Date of Offense: 2/22/2024
S.C. Code § : 16-03-0029
CDR Code #: 3410

SENTENCE SHEET

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

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

TO: Assault / Attempted Murder Assault + Battery of a High and Aggravated Nature

in violation of § ~~16-03-0029~~ 16-3-600 (B)(1) of the S.C. Code of Laws, bearing CDR Code # ~~3410~~ 3411

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

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

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State. 12 years

ATTEST:

~~Munnerlyn, Elizabeth R.~~ Margaret Scott	~~66284~~ 101017 SC Bar #	Defendant	Attorney for Defendant	102720 SC Bar#

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

for a determinate term of 12 days/months/years/Time Served ☐ **Youthful Offender Act** not to exceed ____ years

and/or to pay a fine of $ _____ ; provided that upon the service of ____ days/months/years/Time Served and or payment of $ ____ ; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run
☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: Current SCDC sentence

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

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

STATE VS. Zaquai Russhantre Shuler INDICTMENT/CASE#: 2024-GS-34-0234

SPECIAL CONDITIONS:

☐ **PTUP** after _____ months/years

And Other Terms Listed Below:

☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing

☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program

☐ Mental Health Counseling ☐ May serve W/E beginning: _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

☐ Other: _____

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

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

Fine: $ _____

Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ Beginning _____

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

Clerk of Court/ Deputy Clerk: April Driggers
Court Reporter: Lisa Carter

Presiding Judge: [signature]
Judge Code: 268
Sentence Date: 8-22-2024

SCCA/217 (07/2021)