

I N D E X

WITNESS/DESCRIPTION

PAGE NUMBER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Guilty Plea..... 4
Defendant's Rights..... 6
Facts..... 8
Findings/Acceptance of Plea..... 10
Victim Statements..... 10
Mitigation..... 14
Sentence..... 16
Court Reporter Certification..... 17

E X H I B I T S

NO. DESCRIPTION ID. EV.

(No Exhibits Presented)

COURT REPORTER LEGEND

dashes -- intentional or purposeful interruption
or change in thought

ellipses . . . trailing off

[ph] phonetically written

[sic] written as said

1 OCTOBER 27, 2023

2 (WHEREUPON, the proceedings began at 10:18 a.m.)

3 MR. RICHARDSON: May it please the Court, Your Honor.

4 THE COURT: Yes, sir.

5 GUILTY PLEA

6 MR. RICHARDSON: Before you is Christopher Eric Bennett.

7 This is a Marion County case. So he would have to -- this is
8 a guilty plea. He'd have to waive venue on the record here in
9 Florence.

10 He is before you pleading on Indictment 2022-GS-33-380
11 for criminal sexual conduct with a minor in the second degree
12 under the 20-year statute pursuant to *North Carolina v.*
13 *Alford*. He's represented by Jeffrey Lucas.

14 We've reached a negotiated plea of 20 years on this
15 charge. In exchange for the plea, there's an additional count
16 of CSC with a minor, second degree, that will be dismissed.

17 With the State is the family of the victim. I think
18 they'd like to speak at the appropriate time.

19 This case, had it -- would it -- had it not pled or
20 should this not go through, he's first up for trial in Marion
21 November 6.

22 THE COURT: All right. Mr. Lucas, you represent Mr.
23 Bennett?

24 MR. LUCAS: That is correct, Your Honor.

25 THE COURT: All right. And have you explained to him the

1 nature of this charge, the possible penalty, his
2 constitutional rights, the negotiated sentence, and also this
3 being an *Alford* plea?

4 MR. LUCAS: I have, Your Honor.

5 THE COURT: Do you believe he understands all of those
6 things?

7 MR. LUCAS: I believe that he does.

8 THE COURT: And do you agree with his decision to enter
9 this plea?

10 MR. LUCAS: I do, Your Honor.

11 THE COURT: All right. Mr. Bennett, will you raise your
12 right hand, please? Do you swear or affirm the testimony
13 you're about to give will be the truth, the whole truth, and
14 nothing but the truth?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right, sir. Are you under the influence
17 of any drugs or alcohol today?

18 THE DEFENDANT: No, sir.

19 THE COURT: And do you suffer from any physical or mental
20 condition that prevents you from knowing why you're here or
21 what you're doing?

22 THE DEFENDANT: No, sir.

23 THE COURT: And you understand this is a Marion County
24 case and in order to have this heard here today in Florence
25 County, you must waive that right to have it heard in Marion

1 County?

2 THE DEFENDANT: Yes, I understand.

3 THE COURT: Is that what you wish to do?

4 THE DEFENDANT: Yes, sir.

5 DEFENDANT'S RIGHTS

6 THE COURT: All right, sir. Do you understand when you
7 plead guilty you give up certain constitutional rights?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: You have the right to remain silent. You
10 don't have to tell us anything, but if you tell us you're
11 guilty, even if it's pursuant to *North Carolina v. Alford*, you
12 waive your right to remain silent. Do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Is that what you wish to do?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you also understand by way of guilty plea
17 you waive your right to a jury trial in this matter?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you understand what a jury trial is?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: That's your opportunity to confront and
22 contest the witnesses and the evidence the State has against
23 you, your opportunity to present defenses on your own behalf,
24 call any witnesses that you might choose to do. You could
25 testify if you chose to do so, but if you didn't testify, I'd

1 tell the jury they couldn't hold that against you in any way.

2 They couldn't even discuss it. Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And do you also understand that all 12 jurors
5 would have to agree beyond a reasonable doubt that you were
6 guilty in order to be convicted of this crime, but then again
7 if you plead guilty, whether it be pursuant to *North Carolina*
8 *v. Alford* or not, you waive your right to your jury trial? Do
9 you understand that?

10 THE DEFENDANT: Yes, sir. I understand.

11 THE COURT: Do you have any questions about those rights?

12 THE DEFENDANT: No, sir.

13 THE COURT: Has anybody threatened you, promised you, or
14 coerced you in any way to get you to come here to plead
15 guilty?

16 THE DEFENDANT: No, sir.

17 THE COURT: You're doing so freely and voluntarily?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: It's your decision?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Are you completely satisfied with Mr. Lucas?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Any complaints against him or anybody else?

24 THE DEFENDANT: No, sir.

25 THE COURT: All right, sir. And you understand if you

1 don't agree with what happens today, you could appeal this
2 decision within 10 days in writing to this Court? Do you
3 understand?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: All right. Please pay attention to Mr.
6 Richardson.

7 FACTS

8 MR. RICHARDSON: Thank you, Your Honor.

9 This occurred between June and July of 2021 in Marion
10 County at [REDACTED]. The defendant, who was
11 approximately 51 years of age, was involved in a relationship
12 with the mother of the child in this case. That's how he had
13 access to the child. The child at the time was 11 years of
14 age.

15 And during this time, he had engaged in sexual
16 intercourse with the child that resulted in pregnancy. The
17 report was made to law enforcement, and DNA samples were
18 obtained. The child was born actually of the victim.

19 The DNA results are as follows: it's approximately a 180
20 billion times more likely that Christopher Bennett is the true
21 biological father than if a random man is the father. So the
22 DNA affirmed what the minor child stated happened. This has
23 been very difficult on the mother and father of the 11-year-
24 old child, not only that this happened to her, but a child
25 resulted from this, and I believe they are -- the family is

1 taking care of that child.

2 And they wish to be heard I know on the issue. I
3 explained to them that this particular offense, unlike CSC
4 minor first and CSC minor third where it's mandatory GPS
5 monitoring, CSC minor second is discretionary for some reason.
6 So I believe they intend to ask the Court to impose that upon
7 release. Of course, that won't be an issue until he's
8 released from incarceration.

9 The defendant does not have any prior record of which I'm
10 aware. This was just a tragic case with difficult
11 consequences for everybody, and I would ask that you hear from
12 the child's family at this time.

13 THE COURT: All right. Let me first ask Mr. Bennett are
14 these -- well, first of all, Mr. Bennett, do you understand
15 this is a violent and a most serious offense?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Have you talked to your lawyer about those
18 ramifications within the -- the legal system here in South
19 Carolina?

20 THE DEFENDANT: As far as what he just explained?

21 THE COURT: As far as it being violent and most serious.

22 THE DEFENDANT: Oh, yes, sir.

23 THE COURT: All right, sir. Are these facts upon which
24 the solicitor stated in the court this morning the facts upon
25 which you're pleading guilty pursuant to *North Carolina v.*

1 Alford?

2 THE DEFENDANT: Yes, sir.

3 FINDINGS/ACCEPTANCE OF PLEA

4 THE COURT: All right. I find there is a substantial
5 factual basis for your plea. That you're entering your plea
6 freely, voluntarily, and intelligently, with the advice and
7 counsel from Mr. Lucas, with whom you say you're satisfied
8 with and don't have any complaints against, and I'll accept
9 your plea.

10 And before we hear from Mr. Lucas, we'll hear from the
11 family.

12 VICTIM STATEMENTS

13 MR. RICHARDSON: If any member of the family wishes to
14 speak, if you'll come to the microphone and state your full
15 name for the record. Just one or two will be fine.

16 MS. M██████████: My name is ██████████. I'm the
17 mother of the victim.

18 THE COURT: All right. Can we have your name one more
19 time, please?

20 MS. ██████████ My name is ██████████. I'm the
21 mother of the victim.

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

23 MS. ██████████: We're asking for more time. You don't
24 know what this did to our family as a whole, mentally,
25 physically, spiritually. She was 11. No child should have

1 never ever went through what she had went through. I trusted
2 him, and he betrayed me.

3 THE COURT: Thank you, ma'am.

4 THE VICTIM: [Inaudible] ██████████.

5 THE COURT: All right. We -- and we can't hear you. So
6 we have to know your name for the record.

7 MR. RICHARDSON: You've got to speak up.

8 THE VICTIM: [Inaudible.]

9 THE COURT: Ma'am, I'm sorry, but I can't --

10 THE COURT REPORTER: I can't hear her or see her.

11 THE COURT: We've got a court reporter. Maybe if --

12 MR. RICHARDSON: Judge, this is the victim in the case.
13 This is the child.

14 THE COURT: Okay. Well, you're more than welcome to
15 speak and we certainly want you to do so if that's what you
16 want to do, but we have to hear for the record. Everything
17 has to be taken down by our court reporter.

18 It may be troublesome. Maybe if the defendant can move
19 over this way, if the two of you could move over to your left?

20 THE VICTIM: Okay. I was 11 when this happened, and I
21 don't think, like, that should have happened to me because the
22 stuff that I had went through. Like, I was being bullied, a
23 lot of stuff. My mental was, like, down and stuff and, like,
24 I feel like bad about myself after the situation.

25 And I look at myself now, but I think after today, like,

1 I'm just going to move past that and be a bigger person and
2 not just take accountability because I did blame myself for
3 what happened because I was so young and I didn't say
4 anything, but I'm not -- I'm not going to, like, blame myself
5 for anything because it's not my fault and it's his fault and
6 it's because of what he did.

7 And I'm going to just -- I'm going to just push through
8 because this is not -- this is not -- it's not going to affect
9 my whole life. It's just a little bit of my life, and I'm
10 going to run through this and I'm going to take it and I'm
11 going to just move past it, and I'm not going to -- I'm going
12 to -- I'm going to forgive him for what he did because I think
13 that everyone deserves forgiveness, even -- even me. So I
14 don't -- I don't think -- no, but that's it.

15 THE COURT: All right. And thank you so much for coming
16 here, and we wish you the best of luck. Thank you so much.

17 Is there anybody else that would like to address the
18 Court?

19 MR. [REDACTED] I'm [REDACTED] I'm [REDACTED] father.
20 Like, 20 years ain't enough. Like, he deserve life. He a
21 coward. Like, he really don't. Like, he affected my family,
22 like my little girl. She has to fight because kids talking
23 about the baby and stuff like that. Him, like, man, you --
24 man, you're a coward. Look at me when I'm talking to you,
25 boy.

1 THE COURT: Sir, you've got to address the Court. All
2 right. Thank you.

3 MR. [REDACTED]: But, like, he wrong. He belong in jail.
4 Like, my little girl didn't deserve it. Like, it's affecting
5 our family. Like, we've got to deal with this from -- from a
6 decision he made from being careless, from being a coward.
7 You know what I'm saying? Like, I'll never understand him.
8 I'll never forgive him. Like, I wish he rot in jail. Like, I
9 got so much hatred for him.

10 Like, I'm trying to stay cool, you know, but, like, he
11 messed up. He messed up my little girl, my firstborn, you
12 know, and him -- he don't deserve to see the light of day
13 again. And I just -- I just wish it would be a little more
14 time than -- than what is going on because, like, she's got to
15 deal with this the rest of her life. I've got to deal with
16 this the rest of my life. My son, my family, you know, like,
17 come on, man. Like, how do you -- how do you hurt a little
18 girl?

19 THE COURT: Thank you, Mr. -- thank you, sir. Thank you
20 for being here.

21 And, Mr. Richardson, have -- does the family understand
22 the negotiation?

23 MR. RICHARDSON: Yes, sir. I've been over with them that
24 this is 20 years, a no-parole offense. I've gone over the 85
25 percent, the age of the defendant now and approximate age upon

1 release.

2 The second charge -- she alleged that they -- that this
3 happened two times. Of course, the pregnancy came from one of
4 those, and the negotiations are geared towards helping the
5 child avoid going through a jury trial. This is the maximum
6 sentence on the charge.

7 THE COURT: All right. And you've explained to the
8 family that if the Court -- you know, in a negotiated
9 situation, I can't go below or above the negotiated sentence?

10 MR. RICHARDSON: Yes, sir.

11 THE COURT: Is that right?

12 MR. RICHARDSON: That's correct. Yes, sir.

13 THE COURT: All right. Mr. Lucas?

14 MITIGATION

15 MR. LUCAS: Thank you, Your Honor. May it please the
16 Court.

17 Obviously, Your Honor, this is Christopher Bennett. He
18 is currently 53 years of age. He's a high school graduate,
19 and he does, in fact, have a technical degree. He is
20 currently the owner of Pee Dee Landscaping, and he has been a
21 department manager for Walmart for 25 years now. He has three
22 children, ages 22, 17, and 16.

23 And prior to this, Your Honor, Mr. Bennett had zero
24 criminal history. There's nothing on his record at all beyond
25 these charges. And, Your Honor, I would respectfully request

1 that Mr. Bennett be given credit for the days he has served,
2 which is approximately six months at this point.

3 Your Honor, thank you.

4 THE COURT: All right.

5 MR. LUCAS: I submit that to you.

6 THE COURT: All right. Thank you.

7 MR. LUCAS: And, Your Honor, one final thing is what --
8 Mr. Bennett would like to speak if given the opportunity.

9 THE COURT: All right. Mr. Bennett, I think I have to
10 afford you the opportunity to speak in this situation, but I
11 will tell you that you will only speak to the Court. Do you
12 understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right, sir.

15 THE DEFENDANT: If it pleases the Court, Your Honor, I
16 would like to sincerely apologize to the victim and the family
17 for the horrible act that occurred. Your Honor, I'm 53 years
18 old and I've never committed a crime. My record has been
19 clean until now.

20 I'm asking the Court if they would consider giving me
21 some extensive therapy. I know I'm going to have to do time,
22 but if they will give me some extensive therapy in place of
23 some of the time. That's what I'm asking the Court to
24 consider, please. Thank you.

25 THE COURT: All right. All right, sir, and I'll tell you

1 as well when there is a negotiated sentence, the hands of the
2 Court are tied. Do you understand?
3 THE DEFENDANT: Yes, sir.
4 SENTENCE
5 THE COURT: All right, sir. On Indictment Number 22-GS-
6 33-380, you're committed to the State Department of
7 Corrections for a term of 20 years. You're given credit for
8 your time as state law requires, and you're also ordered to be
9 on the sex offender registry and to be electronically
10 monitored for the rest of your life. All right?
11 THE DEFENDANT: Yes, sir.
12 THE COURT: Good luck to you.
13 MR. RICHARDSON: Thank you, Judge.
14 MR. LUCAS: Thank you, Judge.
15 (WHEREUPON, the proceedings ended at 10_37 a.m.)
16
17 --- END REQUESTED TRANSCRIPT ---
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STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
COUNTY OF FLORENCE) 2024-CP-33-00189
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Christopher Bennett) TRANSCRIPT OF RECORD
vs.)
State of South Carolina)
) Florence, South Carolina
DEFENDANT) February 5, 2025

B E F O R E :

THE HONORABLE B. ALEX HYMAN.

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

CHARLES T. BROOKS, ESQUIRE
Attorney for the Applicant

KYLEE M. KANEALEY, ASSISTANT ATTORNEY GENERAL
Attorney for the Respondent

KESHIA REED
Official Court Reporter

	<u>I N D E X</u>			
<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RE CROSS</u>
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2				
3	Christopher Bennett			
4	Mr. Brooks	6		16
5	Ms. Kanealey		14	
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7	Jeffrey T. Lucas			
8	Ms. Kanealey	17		28
9	Mr. Brooks		21	
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11	David Richardson			
12	Ms. Kanealey	30		
13	Mr. Brooks		35	
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15	Christopher Bennett			
16	Mr. Brooks	39		
17	Ms. Kanealey		43	
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19	Certificate of Reporter	47		
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E X H I B I T S

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D-1	E-mails		32

1 THE COURT: All right. You may call your case.

2 MS. KANEALEY: Thank you, your Honor. May it
3 please the Court.

4 THE COURT: Yes.

5 MS. KANEALEY: Kylee Kanealey on behalf of the
6 State of South Carolina. This is a post-conviction relief
7 matter of Christopher E. Bennett vs. The State, case
8 number 2024-CP-33-00189 out of Marion County. During it's
9 August 2022 term, the Marion County grand jury indicted
10 applicant for two counts of criminal sexual conduct with a
11 minor second degree 2022-GS-33-380 and 2022-GS-33-520.

12 Applicant was represented by Jeffrey T. Lucas, Esquire,
13 Assistant Attorney General David Richardson of the South
14 Carolina Attorney General's Office represented the State.

15 On October 27th of 2023, applicant appeared
16 before The Honorable H. Steven Deberry to plead pursuant
17 to North Carolina v. Alford. In exchange for his plea,
18 one of the charges was dismissed, that was 2022-GS-33-520.
19 Judge Deberry sentenced applicant to 20 years imprisonment
20 for the remaining charge. Applicant did not appeal his
21 conviction or sentence. Applicant timely commenced this
22 PCR action on March 11th of 2024, alleging he's being held
23 in custody unlawfully alleging ineffective assistance of
24 counsel and involuntary guilty plea, more specifically
25 alleging his attorney did not explain the first deal to

1 him sufficiently enough that he would have accepted it.
2 Applicant is seeking and his guilty plea vacated and a new
3 trial. Before this court, the Marion County clerk of
4 court records, applicant's records from the South Carolina
5 Department of Corrections an applicant's plea transcript
6 and the records and PCR action. At this time we'd ask Mr.
7 Brooks to state on the record which allegations he intends
8 to move forward on.

9 THE COURT: Yes, sir.

10 MR. BROOKS: Just to be brief, Judge, as
11 assistant attorney general said, this was a guilty plea.
12 And obviously, Judge, that means the scope is kind of
13 narrow. My client's position is that he was not fully
14 informed of a first plea offer. And he says that if he
15 was fully informed of the first plea offer, that he would
16 have accepted it. And it was a much better plea offer
17 than what he ended up having to take which was much
18 harsher, that's basically the gist of the allegation. And
19 obviously would go towards the representation on behalf of
20 Mr. Lucas and that's why we're here, Judge.

21 THE COURT: All right. And I have been provided
22 the transcript as well as the application and return. I
23 did have a chance to view and read over that earlier in
24 the week and kind of finished looking over it this
25 morning, but if you like to call your first witness, you

1 may.

2 MR. BROOKS: We will, Judge, and we would call
3 Mr. Christopher Bennett to the stand.

4 THE CLERK: Place your left hand on the Bible
5 and raise your right hand as much as possible. Do you
6 swear or affirm that the testimony you give in this case
7 will be the truth, the whole truth, and nothing but the
8 truth so help you God?

9 THE DEFENDANT: Yes.

10 THE CLERK: Please be seated and state your name
11 for the record.

12 THE WITNESS: Name is Christopher Bennett.

13 MR. BROOKS: Ready, Judge.

14 THE COURT: Yes, counsel.

15 WHEREUPON,

16 Christopher Bennett,
17 after first having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. BROOKS:

20 Q Mr. Bennett, I know you don't come to court like
21 lawyers and the court reporter and judges and court
22 personnel. We do this all the time, so I know you might
23 be a little nervous. So I want you to go ahead and take
24 you a deep breath. And when I ask you questions and then
25 when you have some questions asked by madam attorney

1 general here, it's important for you to give a clear
2 distinct answer. You can't just nod your head like when
3 we were back here talking or that kind of thing because
4 the court reporter that's seated next to you can't take
5 that down?

6 A I understand.

7 Q Okay. Now, we're here in regards to your application
8 for post-conviction relief, is that correct?

9 A Yes, sir.

10 Q Okay. And you brought this application to ask the
11 Court to basically give you a reset, give you new trial to
12 set aside your guilty plea, is that right?

13 A Yes, sir.

14 Q Okay. Who represented you in this case?

15 A Mr. Lucas.

16 Q Okay. And Mr. Lucas -- this case was out of Marion
17 County, is that correct?

18 A Yes, sir.

19 Q You recall what you were charged with?

20 A Vaguely misconduct, sexual misconduct, yes, sir.

21 Q And you actually had two counts of that, is that
22 correct?

23 A Yes, sir.

24 Q Okay. And you remember what you were accused of
25 doing?

1 A Yes, sir.

2 Q Okay. Can you tell the Court some background
3 information, what were you accused of doing?

4 A Committed a sexual crime with a minor.

5 Q Okay. All right. And, obviously, anybody and
6 everybody that's charged with anything in this country has
7 a right to a jury trial. So, of course, you had your
8 initial posture was a jury trial, is that correct?

9 A Yes, sir.

10 Q Okay. Now, one of the things we put in our
11 application or we've told the Court and I've told madam
12 attorney general is that you had an understanding that
13 there was some type of plea offer early on. Can you
14 explain that to the Court?

15 A Well, Mr. Lucas and I when we first talked we had
16 only met one time, so we talk majority of the time over
17 the phone. And first he told me, you know, the maximum
18 was 20 years and that he would work on getting a better
19 deal. So from there, it was just all phone calls. We
20 never met, you know, face to face.

21 Q Let me ask you this, were you in jail the entire time
22 or were you out on bond?

23 A I was in jail.

24 Q Okay, go ahead.

25 A I was in jail. And so I would call him through my

1 relatives on the phone and we would speak about the case.

2 And he would tell me he's working with the Solicitor to

3 try and get me a better deal, you know, then the maximum.

4 And, of course, I said okay. And then he came back with a

5 deal with the 15 years and third degree and nonviolent.

6 Q Okay.

7 A So, you know, by me never being in jail before, I was

8 unaware of, you know, what that meant because, you know,

9 I'm just illiterate to the system, so I didn't know what

10 third degree was and violent and none of that.

11 Q So let me ask you this, now being incarcerated for

12 sometime and you got a bit wiser, what do you know that to

13 mean?

14 A Well, now I know it makes a difference in your time

15 when you go to prison. You know, at first I didn't know I

16 thought 15 years, was 15 years, but after going forward, I

17 learned that, you know.

18 Q Okay. And so you ultimately how did it arrive that

19 you ended up in a situation you in in terms of the plea

20 take me back to that?

21 A How did I arrive into the plea?

22 Q Yes.

23 A Well, we went to Court for the plea. Well, prior to

24 that, he told me that he was still working on getting a

25 better deal. And he told me that once we got to court he

1 would tell me the final plea. So in my mind I'm thinking
2 he's working on getting a better deal. So when we got
3 there, you know, prior to that, I'm thinking I would have
4 time to speak with him personally and my parents about
5 everything, but I never got a chance to do that because
6 I'm thinking it was going to be something different in
7 court when he told me he would give me the final plea. So
8 when we got there, that's when he stated to me that okay,
9 well, this is it. And I was just in shock like, you know
10 ---

11 Q When he said this is it, give us a frame of
12 reference? What was this is it ---

13 A This 15 years. And that's what he said this is it.
14 So I'm thinking, well, I thought you said you was gone try
15 to get a better deal and we be able to talk about it prior
16 to coming to court and what it entails and what's third
17 degree and what's valid. And, you know, the different
18 options I would have I never thought that it would go up
19 because we never discussed it going up.

20 Q Okay. And so ultimately you ended up taking the
21 plea, is that correct?

22 A Yes, it's like I had no other choice. It's like
23 going down a dark road with a bunch of holes and he's at
24 the other end. And he's trying to narrate me through with
25 unlikely and maybes and uncertainties stuff of that

1 nature.

2 Q All right. And ultimately you pled and received a
3 sentence of 20 years, is that correct?

4 A Yes.

5 Q Okay. And since you've gotten in the department of
6 corrections you now know that this 20 years is classified.
7 How is it classified?

8 A Well, it's classified as 85 percent, no chance of
9 parole and no, you know, none of the benefits that I would
10 have gotten.

11 Q Okay. And what do you know to be your max out date?

12 A I think 39 or 40.

13 Q Okay.

14 A 2039 or either 2040, I can't remember.

15 Q How old are you?

16 A Fifty-four.

17 Q How far did you go in school?

18 A I graduated with a diploma and went to college two
19 colleges. I just recently finished up at Horry Georgetown
20 Tech prior to coming to jail.

21 Q Prior coming to jail?

22 A Prior to coming to jail, yes.

23 Q So -- and what kind of work did you do before being
24 arrested?

25 A I was at Wal-Mart for roughly 25 years.

1 Q What did you do for Wal-Mart?

2 A I was a manager.

3 Q Okay.

4 A And prior to that I was at Food Lion for about 14
5 years. I've only worked two jobs my whole life.

6 Q What did you do at Food Lion?

7 A Manager.

8 Q All right. So you were in a position where you ended
9 up doing a lot of supervision while you're at Food Lion as
10 well as Wal-Mart?

11 A Yes, sir.

12 Q Okay. And you went as far as like you said you have
13 two degrees?

14 A No, no, I didn't finish up. I started out at Horry
15 Georgetown Tech and I went to Horry George Tech. I change
16 careers, so I got my certificate and a CDL license. I
17 went and got a CDL license at Horry Georgetown Tech. And
18 I had studied business marketing and business management.

19 Q Did you ever get a degree in anything?

20 A I didn't finish it up, no, sir. I started working in
21 entrepreneurship and it kind of led me that way.

22 Q I understand. Is your family from Marion?

23 A Yes, sir.

24 Q Now, you and I talked on this case and you understand
25 that if Judge Hyman grants you PCR and you ask me what

1 does that mean. I told you it's like a video game. You
2 press the reset button ---

3 A Yes, sir.

4 Q --- come back same game. The State doesn't have the
5 obligation to give you any deal that they may have given
6 you. You can go back through the system, the whole
7 system from when you first got arrested and that could be
8 good, that could be good, that could be bad?

9 A Yes, sir.

10 Q Okay. Meaning, you could potentially get a better
11 deal. You could go to trial and win the case or you can
12 go to trial and lose the case. I just explain it to you
13 sort of using the analogy of a video game. And as kids
14 with video games not doing good, you hit the reset button.
15 You start over play the game again?

16 A Yes, sir.

17 Q You understand?

18 A Yes, sir.

19 Q Knowing that, you do want to have your PCR granted,
20 is that correct?

21 A Yes, sir.

22 Q Okay. You feel that you have a better chance having
23 a little more knowledge that you have now as far as
24 dealing with the case at another time, is that correct?

25 A Yes, sir.

1 Q Okay. Is there anything else you want to tell the
2 Court that you think is helpful as to why you should have
3 your PCR granted today?

4 A Well, the only thing I really have to say is that,
5 you know, I ask the Court if they would consider the PCR,
6 you know, based on my record of never being in trouble and
7 learning of the system knowing what not to do.

8 Q Previously before you came in with Mr. Lucas, you
9 were totally not into the system, is that correct?

10 A Yes, sir.

11 Q Okay. And that's why you felt like you missed the
12 boat on a better plea and ultimately got this plea, is
13 that correct?

14 A Yes, sir.

15 Q Okay. Is there anything else you want to tell the
16 judge that we hadn't covered?

17 A No, sir.

18 MR. BROOKS: Okay. Answer any questions of the
19 attorney general.

20 THE COURT: Counsel your witness.

21 CROSS-EXAMINATION

22 BY MS. KANEALEY:

23 Q So you told the plea court that you understood you're
24 giving up certain constitutional rights including the
25 right to a jury trial?

1 A Yes, I did.

2 Q And you told the plea court that nobody threatened
3 you, promised you or coerced you in any way to get you to
4 plead guilty?

5 A Yes.

6 Q And you told the Court that you're pleading freely
7 and voluntarily?

8 A Yes.

9 Q And you told the Court that you were completely
10 satisfied with your attorney?

11 A Yes.

12 Q And you told the Court you had no complaints against
13 him?

14 A Yes.

15 Q Okay. And in exchange for your plea, there was an
16 additional CSC with a minor second degree charge that was
17 dismissed, correct?

18 A Yes.

19 Q Okay. At any point did you want to go to trial?

20 A No, ma'am.

21 Q Okay.

22 MS. KANEALEY: I beg the Court's indulgence.

23 (WHEREUPON, a pause in the proceedings.)

24 BY MS. KANEALEY:

25 Q And you said on direct that you were in a state of

1 shock at the time of the plea, correct?

2 A Yes.

3 Q Okay. And that affected your responses to the plea
4 court?

5 A Yes.

6 Q Okay. But you made a statement of guilt to the
7 Court, correct?

8 A Yes.

9 Q Okay. So you were able to address the Court despite
10 being in shock?

11 A I was in shock, but I addressed the Court, yes.

12 Q Okay.

13 MS. KANEALEY: No further questions, your Honor.

14 THE COURT: Any redirect?

15 REDIRECT EXAMINATION

16 BY MR. BROOKS:

17 Q Mr. Bennett, you do have some support here with your
18 mom and your cousin, is that correct?

19 A Yes.

20 Q Seated over the shoulder?

21 A Yes.

22 MR. BROOKS: I just wanted to let the Court know
23 that. There's no other questions.

24 THE COURT: All right. Thank you, Mr. Bennett.
25 You may step down.

1 MR. BROOKS: Judge, I'm through with my part of
2 the case. The attorney general is going to call
3 Mr. Lucas.

4 THE COURT: All right. Mr. Bennett, you can go
5 have a seat. Thank you.

6 (WHEREUPON, the witness leaves the witness
7 stand.)

8 THE COURT: Ms. Kanealey, it appears that the
9 applicant has rested. You may call your next witness.

10 MS. KANEALEY: The State calls Mr. Lucas.

11 THE COURT: All right. Thank you.

12 THE CLERK: Do you swear or affirm the testimony
13 you give in this case will be the truth, the whole truth,
14 and nothing but the truth so help you God?

15 THE WITNESS: I do.

16 THE CLERK: Please be seated and state your name
17 for the record?

18 THE WITNESS: Jeffrey Lucas.

19 THE COURT: Counsel.

20 WHEREUPON,

21 Jeffrey Lucas,
22 after first having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. KANEALEY:

25 Q How long have you been practicing law, Mr. Lucas?

1 A Since 2013.

2 Q Okay. And how much of that has been criminal law?

3 A The entire time since 2013.

4 Q And were you appointed or retained in this case?

5 A I was retained.

6 Q Okay. How many times would you say you met with the
7 applicant?

8 A I met with Mr. Bennett probably three to four times.

9 Q And other than that, did you communicate in any other
10 way?

11 A Yes, quite a few different phone calls.

12 Q Okay. And did you go over discovery with the
13 applicant when you met with him?

14 A I did.

15 Q Okay. And did you explain the charges and the
16 elements of the charges to him?

17 A I did.

18 Q Okay. Can you give a brief summary of the State's
19 evidence against applicant?

20 A There were tons of evidence against -- against
21 Mr. Bennett. There was evidence that involved essentially
22 all of the allegations against him. You know, involving
23 the child in the case. The allegations of what happened
24 against the girl in the case and everything else.
25 Specifically given the amount of time that has gone by

1 since, I don't have the evidence on that in front of me.
2 So I do not recollect exactly what those specifics were,
3 but I did go over that evidence with Mr. Bennett.

4 Q Okay. And can you briefly explain your discussions
5 with applicant about the plea?

6 A Yes, we talked about the time of the plea and, you
7 know, what my negotiations with the Solicitor and the back
8 and forth that I had with the -- with the Solicitor
9 because it was consistent over months talking about how
10 bad the case was and how much time was involved with it
11 and how long it was going to impact him for years and what
12 we were really going to have to deal with for an extended
13 period of time. And I was trying to limit that. And as
14 Mr. Bennett said previously, the case went -- the deal
15 bounced around. It was 15 years and then it was 20 years.
16 And it just kind of went up and down while we were
17 negotiating the case. And ultimately, you know, we talked
18 about the -- you know, we ended up settling on the North
19 Carolina v. Alford deal, which Mr. Bennett agreed on and
20 that's what we ended up agreeing to. And at the time
21 Mr. Bennett agreed on that because he knew what the effect
22 would be of the case going to trial based on the evidence
23 that may have been there and we didn't want to go through
24 that. And he specifically didn't want go through that.
25 So we agreed to that and he agreed to the deal.

1 Q Did he ever express to you at any point to you that
2 he wanted to go to trial?

3 A He did not.

4 Q Okay. And lastly do you stand by the representation
5 today of Mr. Bennett?

6 A I do because Mr. Bennett is. Mr. Bennett and myself
7 never had any problem at all because Mr. Bennett is a
8 great guy. We were always on good terms. He was a great
9 client and we never had problems. Mr. Bennett, like I
10 said, he was a great client. We never had any issues.
11 And as far as all like all other clients, that I have had
12 over all the years I've practiced, Mr. Bennett is probably
13 one of the best clients I've had. And as far as the
14 result of the case, the way it ended, I wish it could have
15 ended better, but this where it is. And as I've
16 previously stated and Mr. Bennett will agree, I told
17 Mr. Bennett in my last communication with Mr. Bennett that
18 filing the claim for PCR was something that he needed to
19 do and he did that. I respect him for doing that and
20 we're here.

21 MS. KANEALEY: I have no further questions, your
22 Honor. You can answer any questions that Mr. Brooks has
23 for you.

24 THE COURT: Mr. Brooks, your witness.

25 MR. BROOKS: Yes, sir.

CROSS-EXAMINATION

1

2 BY MR. BROOKS:

3 Q Mr. Lucas, you said you been practicing since 2013,
4 is that correct?

5 A That is correct.

6 Q And Mr. Bennett was one of the better clients that
7 you had, is that correct?

8 A Yes, that's correct.

9 Q Okay. Did you -- you said it was a pretty bad case.
10 How -- once you got in the case, did you get discovery
11 pretty promptly or did it take you a while?

12 A It took a little while, but I did get discovery.

13 Q Could you as far as the discovery is concerned had
14 you had it for a while while the -- I heard you say plea
15 count bounced around 15 to 20, 15 to 20. Did you have the
16 discovery while it was bouncing around?17 A Yeah, I had the discovery for a significant amount of
18 time while I was discussing the case with the Solicitor,
19 yeah.20 Q And to use your vernacular, it bounced around and
21 since you had had the discovery and you had already had
22 the assessment that it was a bad case, bad case from the
23 defendant's posture, that's what you meant, right?24 A Yeah, a bad case as far as a defense attorney. You
25 know, as far as, you know, defending the case it was not

1 an easy case to defend.

2 Q Okay. So that meant you had all the discovery
3 because you were able to make that assessment?

4 A I was, yes.

5 Q Once you made that assessment and the plea was still
6 bouncing around, couldn't you have jumped on that bounce
7 of 15 years when it was bouncing around?

8 A Well, at that point I was talk withing the Solicitor.
9 And as far as I remember, you know, as far as I recall,
10 the Solicitor was not moving much on coming -- based off
11 of what some of the facts were, you know, with the child
12 in the case. The Solicitor was not willing to come off of
13 the deal that he had extended in the case. So the case --
14 the offer was not really going to come down really
15 anywhere or any further down than it already was. So
16 there wasn't much more of an offer to get at that point.

17 Q And that's fair enough. I'm just asking you in
18 regards to your testimony you said that it bounced around
19 15 to 20?

20 A Yes.

21 Q So with you being the lawyer for Mr. Bennett
22 primarily practicing in the criminal area and having
23 gotten the discovery to be able to assess that it was a
24 bad case from the defendant's perspective, a criminal
25 defendant attorney's perspective could you not have gotten

1 -- did you ever express to your client that, hey, when the
2 offer was 15 or had bounced around here is our chance,
3 here is our shot, you need to go ahead and take it?

4 A I'm not saying that I didn't. I mean, I may have
5 expressed that to him earlier. I can't say that I didn't
6 do that.

7 Q All right. Is it fair to say maybe you just don't
8 necessarily remember?

9 A That is fair to say, but that is also fair to say
10 that that could have just been an scheduling issue as far
11 as getting him into court.

12 Q Okay. Do you recall if there were scheduling issues?

13 A I do not recall.

14 Q Okay. Marion being a smaller county is that usually
15 have court once a week like every six weeks or so?

16 A I do not recall.

17 Q Okay. Do you still practice criminal defense out of
18 Marion County?

19 A I do occasionally, yes.

20 Q Okay. And do you -- did you ever make trips to the
21 jail to see Mr. Bennett?

22 A I did.

23 Q Okay. Was it just one trip to the jail and then
24 phone calls between him and his family?

25 A I went to the jail in Marion to see Mr. Bennett

1 numerous times.

2 Q Okay. All right. Was the plea offer ever put in
3 writing or e-mail from the Solicitor?

4 A I'm sure it was, but, again, I do not recall if I had
5 that.

6 Q Okay. Did you keep records of it? Was that filed in
7 that binder that's seated on the counter in front of you?
8 Is that the file that you had from representing Mr.
9 Bennett?

10 A That is not the entire file, that is more less just
11 the file for the post-conviction relief.

12 Q Okay. Can you surmise what the evidence was that was
13 against him briefly just tell us what made it such a bad
14 case in your opinion?

15 A Well, the primary thing that made the case bad if I
16 can recall was the DNA evidence that tied Mr. Bennett
17 directly to the child in the case. That was -- when I
18 received that evidence in Mr. Bennett's case, that was
19 more or less the moment that I knew that the case had gone
20 not horribly -- I mean, obviously, it was a horrible case,
21 but the case was going to be much more difficult to
22 negotiate or get worked out because when I went to my P.O.
23 box and I got the evidence and it showed the DNA results
24 that show that Mr. Bennett was the father of the child in
25 the case. I knew we were going to have a problem and that

1 was going to be hard to negotiate out of that.

2 Q Let me ask you this, the plea offer bouncing around
3 to 15 was that before you got the DNA results or after the
4 DNA results?

5 A That was after I got the DNA result.

6 Q So it was still bouncing around at 15?

7 A What exactly do you mean?

8 Q You said that case had one particular posture and
9 then the case by using what you described, it really got
10 tough once you got the DNA results, is that correct?

11 A That is correct, yeah.

12 Q My question is when you said earlier that the
13 Solicitor was bouncing around between 15 and 20?

14 A Yes.

15 Q Was 15 years still available bouncing around even
16 after you got the DNA results?

17 A Not as much. Once I got the DNA results, then at
18 that point the Solicitor was more or less just -- more or
19 less the Solicitor just kind of went hands off with it and
20 he didn't want to negotiate much any more on what we were
21 going to do or what I was going to be able to do with the
22 case because the DNA results were just bad, you know.

23 Q So I hear your testimony, does that pre-suppose that
24 prior to the DNA results coming back, the Solicitor was
25 negotiable?

1 A Yes, that is correct.

2 Q So 15 years were on the table prior to the DNA
3 results coming back?

4 A That is correct.

5 Q Did you communicate to your client and what the
6 ramifications of that would be and what it could be or
7 could turn out to be once the DNA results come back?

8 A I didn't communicate that because I had no idea that
9 the DNA results were going to come back like that.

10 Q I'm saying prior to the DNA results coming back --
11 how long did you represent Mr. Bennett from the beginning
12 of the plea, how long did you -- could you say you
13 represented him six months, a year? How long were you
14 actually his lawyer prior to the plea?

15 A Prior to plea?

16 Q Yeah, how long had you been representing him from the
17 time he got arrested, hired you up until the end of the
18 case, the end being when he pled?

19 A I would say six months to a year. I wouldn't be
20 able to give you a specific amount right now.

21 Q That's fine. But now so there was a time where you,
22 obviously, had the accusations. You had some discovery,
23 but you didn't necessarily have the DNA results, is that
24 fair to say?

25 A That is fair to say.

1 Q Okay. And you also said that around this time that
2 the plea was bouncing around for 15 to 20, right?

3 A That is correct.

4 Q Did you have -- but you knew that the DNA results
5 were out there, but they just ain't got back yet. But you
6 knew the prospect of DNA being taken could come about in
7 the future, is that right?

8 A That was possible, yes.

9 Q Did you explain the 15 years to Mr. Bennett in
10 relationship to, hey, these DNA results are not back yet.
11 This is a plea of 15 years. Let me ask you this, was it
12 15 years that would have been at like 65 percent? Do you
13 recall that in terms of how it would have been
14 characterized?

15 A Well, I do not recall.

16 Q If you don't, that's fine. But you knew that was 15
17 years out there?

18 A I knew that it was bouncing around, yes, 15 years.

19 Q Okay. Did you ever explain to Mr. Bennett that, hey,
20 if you had sex with this girl, this DNA's out there. This
21 DNA come back our leverage goes down, so right now I got
22 this plea at 15 years if you know you done it, you might
23 want to go ahead and take it now and this is why A, B, C.
24 Did you ever have that conversation with him?

25 A I did not have that conversation with him.

1 Q Okay. Do you think that that would have been better
2 for Mr. Bennett than the situation he has now?

3 A At this point I do think that would have been better,
4 yeah.

5 Q Okay. All right. And do you -- is it fair to say
6 that he relied on your advice to him, is that correct?

7 A I do think so, yes.

8 MR. BROOKS: No other questions, Judge.

9 THE COURT: Any redirect?

10 MS. KANEALEY: Just briefly, Your Honor.

11 REDIRECT EXAMINATION

12 BY MS. KANEALEY:

13 Q Was this the only plea offer in the case the one he
14 accepted?

15 A That was my understanding, yes.

16 Q So there was never another plea offer made that was
17 not communicated?

18 A There was not.

19 Q Just the 20-year plea?

20 A Yes.

21 MS. KANEALEY: No further questions, your Honor.

22 THE COURT: Mr. Lucas, you can step down.

23 Actually, Mr. Lucas, before you do that, I noticed in the
24 transcript the venue was waived and the Marion County case
25 was brought over to Florence. Do you remember why that

1 was?

2 MR. LUCAS: I do not remember, your Honor.

3 THE COURT: Okay. You can step down.

4 (WHEREUPON, the witness leaves the witness
5 stand.)

6 THE COURT: Any reason that Mr. Lucas can't be
7 excused?

8 MR. BROOKS: No, sir.

9 THE COURT: All right.

10 MS. KANEALEY: No.

11 THE COURT: All right. Mr. Kanealey, you can
12 call your next witness.

13 MS. KANEALEY: Your Honor, we would ask for a 15
14 minute recess. The Solicitor is on the way.

15 THE COURT: Okay. I also noticed in the -- one
16 of the documents I think it was a bond form or preliminary
17 hearing request Thurmond Brooker was listed as his
18 attorney. Was Mr. Brooker ever your attorney?

19 MR. BROOKS: My client told me that Mr. Brooker
20 start out in the case and then got out of it. He don't
21 know why.

22 THE COURT: Okay. I didn't see in the record
23 where he was the attorney. He was only on a preliminary
24 hearing request that's why.

25 MR. BROOKS: That's what my client said.

1 THE COURT: You say 15 minutes, is that right?

2 MS. KANEALEY: Yes, please.

3 THE COURT: We'll take a 15 minute break then.

4 And if you'll just let the bailiff know when y'all are
5 ready.

6 MS. KANEALEY: Thank you, your Honor.

7 (WHEREUPON, a break was taken.)

8 THE COURT: All right, counsel.

9 MS. KANEALEY: The State would call David
10 Richardson to the stand.

11 THE CLERK: Do you swear or affirm the testimony
12 you give in this case will be the truth, the whole truth,
13 and nothing but the truth so help you God?

14 THE WITNESS: I do.

15 THE CLERK: Please be seated and state your name
16 for the record.

17 THE WITNESS: My name is David Richardson.

18 THE COURT: Yes, ma'am.

19 WHEREUPON,

20 David Richardson,

21 after first having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. KANEALEY:

24 Q How long have you been practicing law,

25 Mr. Richardson?

1 A A little over 18 years.

2 Q How much of that has been criminal?

3 A Sixteen years.

4 Q Okay. And how did you end up on this case?

5 A I handle all the sexual assault cases for the Twelfth
6 Judicial Circuit. I supervise the ones that I don't
7 handle. And I have been in that capacity for over ten
8 years, so that's how I got this one.

9 MS. KANEALEY: May I approach the witness, your
10 Honor?

11 THE COURT: You may.

12 BY MS. KANEALEY:

13 Q So here I have a copy of some e-mails. Who were
14 these e-mails from?

15 A These e-mails are between me and Jeffrey Lucas who
16 was defense counsel on the case. They are from August of
17 2023 and have details about plea offers, rejection of
18 plea offers and then subsequent plea offers.

19 Q Are they an accurate depiction of your
20 communications?

21 A One hundred percent.

22 Q Okay.

23 MS. KANEALEY: And at this time we would ask
24 that this be moved into evidence as Defendant's Exhibit 1.

25 THE COURT: Any objection?

1 MR. BROOKS: No objection.

2 THE COURT: All right, be moved in as Defense
3 Exhibit Number 1.

4 (WHEREUPON, Defendant's Exhibit No. 1 was
5 admitted into evidence.)

6 BY MS. KANEALEY:

7 Q Okay. Can you explain your plea negotiations
8 briefly?

9 A Sure. Jeffrey Lucas contacted me. He was hired on
10 this case at some point and reached out to me. We got the
11 discovery sent out. This was a DNA case. The DNA
12 evidence in this case was overwhelming, that's why the
13 plea offers were so high. This was a CSC with a minor
14 case. I initially made an offer to Mr. Lucas for a
15 15-year sentence on a CSC with a minor third degree. I
16 always try to do something to try to prevent children from
17 having to testify in these kinds of cases because it's
18 difficult. Mr. Lucas got back to me indicated that the
19 defendant would accept that plea, so he scheduled it for I
20 believe it was August of '23 in Marion. We had a regular
21 term of court going on there. We brought him over from
22 the jail and he and Mr. Lucas met in the jury room, which
23 is where lawyers meet with their clients in Marion County.
24 And I was anticipating that he would come right back out
25 with a signed sentence sheet, but they talked and they

1 talked and they talked. And after time passed and after a
2 while, I started thinking something is amiss. So
3 Mr. Lucas came out with a foreign look on his face and
4 said he's not going to do it, so I said that's fine. So
5 the standard protocol at that point is to do a status
6 conference on the record. I think the victim's family was
7 there. The defendant was obviously there. So I put on
8 the record before Judge Nettles in August of '23 what the
9 plea negotiation was. Judge Nettles did his colloquy with
10 the defense. The defendant rejected the plea offer of 15
11 years on the record. At that point I revoked it. And
12 subsequently I sent an e-mail, which is here in exhibit
13 one -- well, first I received an e-mail on August 14th of
14 2023 at 9:28 a.m. from Jeffrey Lucas the defense counsel
15 that says, David, I just left you a voice mail regarding
16 Christopher Bennett following his rejection of the 15-year
17 deal. I had some pretty extensive conversations with him
18 since that time. And while he wants to take a deal and
19 put this behind not only himself, but the victim in this
20 case. He was kind of hesitant to do the 15 years. Please
21 do me a favor and give me a call back to discuss this.
22 I'm pretty sure we can get this case plead out to
23 something, but, again, Christopher is just a little
24 hesitant to do the 15 years. Well, considering he
25 rejected that and the strength of the case, I wasn't going

1 to go below that. The victim's family didn't want to go
2 below that. They didn't even want the 15 to start with,
3 that was the call I made, so I responded I believe by
4 telephone which is the events in the next e-mail. On
5 August 14th at 11:40, I sent an e-mail to Judge Deberry
6 who I believe was our chief judge at the time for
7 administrative purposes and I indicated to him what the
8 case was about, that the defendant had rejected a plea
9 offer and negotiated 15 years on CSC with a minor third,
10 that I indicated my intention to call the case for trial
11 during the November term of court in Marion which would
12 have been our next term there. Mr. Lucas was copied on
13 this e-mail and he replied back to it with reference to
14 the updated plea offer which was what he ultimately took.
15 If Chris agrees to plea, he would only be pleading to one
16 count of CSC second with a 20-year sentence correct.
17 Ultimately, that was correct. And I believe we brought
18 Mr. Bennett over to Florence to handle that plea and it
19 went off without a hitch. There was no hesitation to sign
20 the sheet. And the victim family was present as well and
21 that was the conclusion of the case.

22 Q And so the initial 15-year plea offer was that made
23 before or after the DNA evidence was out?

24 A Well, before. By the time that offer was rejected, I
25 was ready to try that case two months later or three

1 months later in our next term of court.

2 Q So the DNA evidence was out well before the first
3 plea offer you're saying?

4 A Oh, yes, a long time.

5 MS. KANEALEY: Beg the Court's indulgence. No
6 further questions, your Honor.

7 THE COURT: All right. Mr. Brooks.

8 CROSS-EXAMINATION

9 BY MR. BROOKS:

10 Q Mr. Richardson, how you doing today?

11 A Doing all right.

12 Q I know usually you don't come in and testify at
13 PCR's, but you are here today?

14 A Yes, sir.

15 Q And you been prosecuting a long time in these parts,
16 is that right?

17 A I have.

18 Q Okay. And you usually handle the criminal sexual
19 conduct stuff?

20 A I do.

21 Q Okay. And that's why this case is -- you recall it
22 pretty well?

23 A I do, yes, sir.

24 Q And you said that the DNA evidence had come back
25 ample time before that August 2023 -- coming out --

1 turning to be a status conference in front of a judge, but
2 what you thought was going to be plea. The evidence
3 didn't come back long before then, is that right?

4 A That's correct.

5 Q Okay. And you do acknowledge that there was a
6 15-year deal on the table criminal sexual conduct third
7 degree?

8 A With a minor, yes, sir.

9 Q And you been practicing as long as you have, you do
10 acknowledge that that is huge a difference in the way
11 those crimes are classified time wise 85 percent versus
12 65 percent?

13 A Yes, sir.

14 Q Okay. So 15 years would have really been a
15 significantly better deal than 20 years?

16 A Oh, it would have been extremely beneficial, yes,
17 sir.

18 Q Okay. Now, being a Solicitor, you were not privy to
19 the conversations between Mr. Lucas and Mr. Bennett,
20 right?

21 A No, sir, I was not.

22 Q Okay. You just know that on that particular day in
23 Marion County Mr. Bennett was brought over from the jail.
24 You saw him. When I say you saw him, eyes on him like
25 eyes on him today?

1 A Yes, sir.

2 Q And you had eyes on Mr. Lucas and you said they went
3 off into conference, is that correct?

4 A That's right.

5 Q Okay. You don't have any -- do you recall how long
6 they were in conference?

7 A I remember it being long enough for me to realize
8 that this probably wasn't going to happen. They were back
9 there for a while discussing the case.

10 Q Okay. And you said you had the victim's family there
11 all that. This was over in Marion County?

12 A That's right.

13 Q Okay. All right. So as you being the Solicitor
14 indicated, you're not privy to conversations between
15 defense lawyer and his client, so you don't know whether
16 or not Mr. Bennett truly understood the deal that was
17 offered versus the alternative. You don't have any
18 knowledge other than what Mr. Lucas would have relayed to
19 you?

20 A Well, I put on the record what he was charged with,
21 which is two counts of CSC with a minor second. He was
22 looking at total exposure of 40 years maximum and I put on
23 the record what the plea offer was, which was a 15 year
24 and I can't remember. There would be a transcript of it
25 if I put on the record about, you know, particulars about

1 whether it was a strike, parole eligible and all that sort
2 of thing. I cannot recall those details, but the plea
3 offer was he would plea to one count. We would drop one
4 count, but we would reduce it from a second to a third.
5 And he would get the maximum on that third, which will be
6 15. And I was not privy to their private discussions, but
7 there was enough on the record to make me feel perfectly
8 comfortable that everybody understood the parameters of
9 what we were doing. I mean, Judge Nettles was satisfied
10 any way, you know, with what he did with his colloquy.

11 Q I got you. All right.

12 MR. BROOKS: No other questions.

13 THE COURT: Any redirect?

14 MS. KANEALEY: No further questions.

15 THE COURT: Thank you, Mr. Richardson. You can
16 step down.

17 (WHEREUPON, the witness leaves the witness
18 stand.)

19 THE COURT: May Mr. Richardson be excused?

20 MR. BROOKS: Yes, he can be. Can I recall my
21 client to talk about conversations with Mr. Lucas?

22 THE COURT: All right. Does the State have any
23 further witnesses prior to that?

24 MS. KANEALEY: No, your Honor.

25 THE COURT: I'll allow you to recall your

1 client. Mr. Bennett, just as a reminder, you are still
2 under oath, okay.

3 MR. BENNETT: Yes, sir.

4 WHEREUPON,

5 Christopher Bennett,
6 after first having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. BROOKS:

9 Q Mr. Bennett.

10 A Yes, sir.

11 Q You heard Mr. Lucas testify and you also heard
12 Solicitor Richardson testify?

13 A Yes, sir.

14 Q You recall being in Marion County in August of '23?

15 A Yes, sir.

16 Q And do you recall having discussions with Mr. Lucas
17 about this?

18 A Yes, sir.

19 Q Did he explain to you what Solicitor Richardson just
20 told the Court about the 15 years?

21 A He didn't go into any detail. He just -- there was a
22 paper that he gave to me to sign. He said, hey, sign
23 this. He show it in front of me. I glanced at it, you
24 know. And he was saying that it's 15 years blah, blah.
25 I'm like I still got all these questions about it and

1 stuff of that nature. Well, you know, we here now we need
2 to go ahead and do this and that was kind of how the
3 conversation went. I mean, they probably went back and
4 forth ten or 15 minutes give or take.

5 Q How many times had you met with Mr. Lucas prior to
6 that day?

7 A In person only once -- in person only one time we
8 talked about the case. The second time I called him up
9 there for a personal matter didn't have anything to do
10 with the case.

11 Q Okay. So you met with Mr. Lucas twice before?

12 A Twice. But one time was about -- the case was kind
13 of over with, but not over with and he came there for a
14 personal matter twice.

15 Q How long did you meet with him before August of '23?

16 A Before August of '23?

17 Q Before you sat down and he tells you take the 15
18 years? How long had you met with him?

19 A From the first time, we hired him until the end I met
20 with him twice.

21 Q Okay. How long did meet with him before you went
22 into court in August of '23?

23 A It probably was -- my good estimate was probably 15
24 to 20 minutes.

25 Q One time?

1 A One time.

2 Q Okay. And that would have been at the jail?

3 A No, no, that was -- yes, jailhouse.

4 Q I'm talking about met with you prior?

5 A Yes.

6 Q Then he met with you August of '23 at the courthouse?

7 A Yes.

8 Q In Marion?

9 A Yes.

10 Q And how long was that?

11 A We probably stayed back there I'm just guessing ten
12 or 15 minutes because everything was going so fast. We
13 had to get back there because just like the Solicitor said
14 everything was anticipated, so everything was rushed. So
15 that's kind of how it went.

16 Q All right. And so did he not explain to you --
17 you're saying Mr. Lucas didn't explain to you the 15
18 years?

19 A No, sir.

20 Q He didn't explain to you and explain to you in the
21 alternative?

22 A No, sir.

23 Q Alternative being what you got now?

24 A Yes, sir, none of that never came up until after all
25 of this.

1 Q Okay. What did he say to you in August of '23 when
2 you all was sitting in the courthouse?

3 A Back in the courtroom?

4 Q Yes, sir.

5 A He just gave me the paper. He showed me where it
6 says the 15, 15 years third degree, yeah. And that this
7 was a good deal sign it, so go ahead because we don't have
8 much time, you know, and that is when I kept trying to ask
9 him all these questions. And he was just coming back and
10 saying the same thing, you know, we don't have time.

11 Q What did you ask him? What question did you had that
12 you wanted him ---

13 A I was asking him detail questions about 15 years
14 because, I mean, I'm saying 15 years that's a lot of time.
15 He couldn't explain to me in detail what 65 because he
16 said 65 percent. So I'm thinking in my mind 65 percent is
17 about 13 or 14 years. Wherein after the fact going
18 forward by being in prison now, I found out that that's
19 not 65 percent. It's not 13. It boils down by time you
20 get all your credits and go to school and different stuff
21 like that, it go down to about seven years. I wasn't
22 explain any of that or anything, you know, of the nature
23 of 20 years. Twenty years never came out his mouth during
24 our time of speaking other than when we first started he
25 said that's the maximum.

1 Q Okay. And when you sat down in August, you didn't
2 realize that if you didn't take the 15 it could go worse?

3 A I didn't realize that, no, sir. He never explain
4 that to me because just like everyone said it was
5 anticipated that I was taking that deal, so why would you
6 even bring up 20.

7 MR. BROOKS: Okay. All right. No other
8 questions.

9 THE COURT: All right.

10 MS. KANEALEY: Thank you, your Honor.

11 CROSS-EXAMINATION

12 BY MS. KANEALEY:

13 Q So you just testified that your attorney told you
14 that 15 years was a good deal?

15 A In the courtroom, yes.

16 Q Okay. And you still chose to reject it?

17 A Yes.

18 MS. KANEALEY: No further questions, your Honor.

19 MR. BROOKS: That's it, Judge.

20 THE COURT: All right. Mr. Bennett, you may
21 step down.

22 (WHEREUPON, the witness leaves the witness
23 stand.)

24 MR. BROOKS: That's our case, Judge.

25 THE COURT: Anything else from the State?

1 MS. KANEALEY: Nothing further, Judge.

2 THE COURT: Any closing arguments, Mr. Brooks?

3 MR. BROOKS: Judge, basically in this situation
4 and you can ascertain, there's a significant problem in
5 the attorney-client relationship ineffective communicating
6 to my client about the plea offer and what it meant versus
7 what the alternative was, what the evidence there. And
8 clearly my client has explain that on two occasions will
9 take the stand at the very beginning and at the very end.
10 It is not understood what was going on and what was
11 presented before him versus what the alternative was. And
12 therefore we feel that he had ineffective assistance of
13 counsel and we would respectfully ask the Court to grant
14 his post-conviction relief matter.

15 THE COURT: All right, counsel.

16 MS. KANEALEY: Your Honor, establishes the
17 applicant's guilty plea was knowing and voluntary.
18 Further, pursuant to Hill v. Lockhart not only does
19 applicant have to satisfy the sufficiency prong, but also
20 that counsel sufficient performance prejudice applicant
21 causing him to plead guilty rather than to go to trial.
22 In addition to the overwhelming evidence, applicant
23 testified he did not want to go to trial. We would ask
24 that you review the record and today's testimony and deny
25 applicant's PCR application.

1 THE COURT: Thank you. I have just a couple of
2 questions and I'm going to do something I don't normally
3 do. I am going to take it under advisement, but I'm going
4 to request that one of the parties whoever it maybe. It
5 maybe easier for the State to get. I like to know and see
6 a transcript of the August 2023 status conference that was
7 done if that was done in front of Judge Nettles, it was
8 probably done in what we commonly call an arraignment.
9 It's not really an arraignment, but we call it an
10 arraignment. I would like to see the posture and
11 questioning that took place on that date, so I am going to
12 hold this under advisement. The questions that I have,
13 Mr. Brooks, is I noticed that the bond was set and then I
14 noticed that there was a bench warrant issued. Did your
15 client ever get out on bond?

16 MR. BENNETT: Yes, I got out on bond. What had
17 happened was is they originally they had pick me up on a
18 bench warrant ---

19 THE COURT: And you don't have to tell me that.
20 I don't want you in any way to prejudice yourself with
21 that. I was wondering if you had gotten out on bond. You
22 know, you had said you met with Mr. Lucas once maybe
23 something like that. I just didn't know if you were out
24 on bond during that time.

25 MR. BROOKS: I think Mr. Brooker was his

1 attorney then. It kind of goes back your other question,
2 Judge. He says he doesn't know why Mr. Brooker got out of
3 the case.

4 MR. BENNETT: He never gave me a reason why he
5 got off the case.

6 THE COURT: How long did Mr. Brooker represent
7 you?

8 MR. BENNETT: He represented from day one up
9 until -- when I went to jail that first hearing that came
10 up, I can't recall the exact date, but he represented all
11 the way up to that point in time. It was like before the
12 first court came up when I got arrested because I got
13 arrested on May the 10th 2023. And within that two-weeks
14 span, that's when he stop representing me.

15 THE COURT: Okay. All right. Well, like I
16 said, I'll wait until I view that transcript.

17 MS. BALAJ: Your Honor, if we can hold the
18 record open and I can order the transcript and provide it
19 to you once it's available.

20 THE COURT: I was about to say that very thing.
21 Thank you. And once I get that, I'll take a look at it
22 and read over that and get you an answer shortly after
23 that, okay. Thank you.

24 END OF REQUESTED TRANSCRIPT

25

STATE OF SOUTH CAROLINA
COUNTY MARION

Christopher E. Bennett, #392357,

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS
) FOR THE TWELFTH JUDICIAL CIRCUIT

) CASE NO. 2024-CP-33-00189

ORDER OF DISMISSAL

Presiding Judge:	Hon. B. Alex Hyman
Applicant's Attorney:	Charles T. Brooks, III, Esq.
Respondent's Attorney:	Kylee Kanealey, Esq.
Plea Counsel:	Jeffrey T. Lucas, II, Esq.
Assistant Solicitor:	David A. Richardson, Jr., Esq.
Date of Hearing:	February 5, 2025
Court Reporter:	Keshia Reed

This matter comes before the Court by way of Christopher E. Bennett's (Applicant) Application for post-conviction relief (PCR), filed on March 11, 2024. On September 13, 2024, Respondent filed a Return and Motion for More Definite Statement. On February 5, 2025, an evidentiary hearing was convened at the Florence County Courthouse before the Honorable B. Alex Hyman. Assistant Attorney General Kylee Kanealey represented Respondent. Applicant was present and represented by Charles Thomas Brooks, III, Esquire. At the hearing, Applicant proceeded forward on the claims in his PCR application. In support of these claims, Applicant testified on his own behalf. Respondent presented testimony from Jeffrey T. Lucas, II, Esquire, and Twelfth Circuit Assistant Solicitor David A. Richardson, Jr.

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

constitutional violations or deprivations entitling him to relief and, accordingly, denies and dismisses this action with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections (SCDC). During the August 2022 term of the Marion County Grand Jury, Applicant was indicted for two counts of Criminal Sexual Conduct with a Minor, Second Degree (2022-GS-33-00380; -00520). Applicant was represented by Jeffrey T. Lucas, II, Esquire (Plea Counsel). Twelfth Circuit Assistant Solicitor David A. Richardson, Jr. (A.S. Richardson) prosecuted the case.

On August 7, 2023, Applicant appeared before the Honorable Michael G. Nettles to plead guilty to Criminal Sexual Conduct with a Minor, Third Degree, in exchange for a negotiated sentence of fifteen (15) years. (Marion Tr. pp. 3-4). However, the morning of the hearing, Applicant elected to reject the offer. The State revoked the offer on the record. (Marion Tr. p. 3).

On October 27, 2023, Applicant appeared before the Honorable H. Steven DeBerry, IV, and pleaded guilty pursuant to North Carolina v. Alford¹ to Criminal Sexual Conduct with a Minor, Second Degree (-380), with a negotiated sentence of twenty (20) years. In exchange for his plea, one count of Criminal Sexual Conduct with a Minor, Second Degree (-520), was dismissed. Judge DeBerry accepted the negotiated plea and sentenced Applicant to twenty (20) years imprisonment.

Applicant did not appeal his sentence or conviction.

FACTS PRESENTED AT PLEA HEARING

The facts giving rise to Applicant's conviction were articulated by the State at Applicant's plea hearing as follows:

This occurred between June and July of 2021 in Marion County at 116 Pee Dee Circle. The defendant, who was approximately 51 years of age, was involved in a

² 400 U.S. 25 (1970).

relationship with the mother of the child in this case. That's how he had access to the child. The child at the time was 11 years of age. And during this time, he had engaged in sexual intercourse with the child that resulted in pregnancy. The report was made to law enforcement, and DNA samples were obtained. The child was born actually of the victim. The DNA results are as follows: it's approximately a 180 billion times more likely that Christopher Bennett is the true biological father than if a random man is the father. So the DNA affirmed what the minor child stated happened.

(Plea Tr. p. 8).

CURRENT ACTION BEFORE THIS COURT

In his application for post-conviction relief, filed March 11, 2024, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Plea Counsel.
 - a. Plea Counsel failed to adequately explain the initial plea offer to Applicant, and had Plea Counsel explained the offer sufficiently, Applicant would have accepted it.
2. Involuntary Guilty Plea.
 - a. Applicant coerced into pleading guilty based on Plea Counsel's failure to explain initial offer.

Applicant is seeking relief in the form of "hav[ing] the Guilty Plea vacated and granted a new trial in this matter."

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

STANDARD OF REVIEW

The Uniform Post-Conviction Procedure Act² (the Act) provides that any person who has been convicted of a crime may seek post-conviction relief based upon the following types of allegations:

² S.C. Code Ann. §§ 17-27-10 to -160.

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;
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).

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), SCRPC; 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. Strickland v. Washington, 466 U.S. 668 at 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; 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 "[without 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)).

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, Hill v. Lockhart, 474 U.S. 52 (1985) extended the two-part Strickland test to challenge guilty pleas based on ineffective assistance of counsel. See Padilla v. Kentucky, 559 U.S. 356, 373 (2010) (recognizing that the guilty plea process is a "critical phase of litigation" for purposes of the Sixth Amendment right to effective assistance of counsel). The analysis of counsel's performance under the first prong of Strickland remains unchanged, the applicant must show that counsel's representation fell below an objective standard of reasonableness demanded of attorneys in criminal cases. Hill, 474 U.S. at 58–59; accord Thompson v. State, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000).

An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice to plead guilty was not "within the 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 decisionmaking" 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, 367 (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) (emphasis added).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

Upon conducting and completing its analysis, this Court finds that Applicant has failed to establish any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. See Rule 71.1(e), SCRPC (stating that in a post-conviction relief action, "[t]he applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."); 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

As an initial matter, this Court further 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).

This Court makes the following findings from the record of the October 27, 2023, guilty plea hearing: 1. Applicant indicated that he was not under the influence of drugs or alcohol and did not suffer from any physical or mental condition that prevented him from knowing why he was there or what he was doing (Plea Tr. p. 5); 2. Applicant understood that his case was a Marion County case and that he had to waive the right to have it heard in Marion County in order to have it heard in Florence County, which Applicant indicated that he wished to do (Plea Tr. pp. 5–6); 3. Applicant understood that when he pleaded guilty, he would be waiving certain constitutional rights, such as the right to remain silent and the right to a jury trial (Plea Tr. pp. 6–7). 5. Applicant understood the rights that he would have in a jury trial and the difference between a jury trial and pleading guilty (Plea Tr. pp. 6–7); 6. Applicant indicated that no one threatened him, promised him, or coerced him in any way to get him to plead guilty (Plea Tr. p. 7); 7. Applicant indicated that pleading guilty was his decision and that he was doing so freely and voluntarily (Plea Tr. p. 7); 8. Applicant indicated that he was completely satisfied with Plea Counsel and had no

complaints against him or anybody else (Plea Tr. p. 7); 9. Applicant understood that if he did not agree with what happened at the proceedings, then he could appeal the decision within ten days in writing to the plea court (Plea Tr. pp. 7–8); 10. Applicant understood that the offense he was pleading guilty to was a violent and a most serious offense and indicated that he had talked with Plea Counsel about the ramifications of that kind of offense within the legal system in South Carolina (Plea Tr. p. 9); 11. Applicant indicated that the facts A.S. Richardson articulated to the plea court were the facts upon which Applicant was pleading guilty to pursuant to Alford (Plea Tr. pp. 9–10); 12. A substantial factual basis existed for Applicant's guilty plea (Plea Tr. p. 10); 13. Applicant's plea was qualified as freely, voluntarily, and intelligently entered into (Plea Tr. p. 10); 14. Applicant entered his plea with the advice of Plea Counsel, with whom Applicant indicated he was satisfied with and against whom he had no complaints (Plea Tr. p. 10).

INEFFECTIVE ASSISTANCE OF PLEA COUNSEL ALLEGATIONS

- Allegation 1:** Plea Counsel failed to adequately explain the initial plea offer to Applicant, and had Plea Counsel explained the offer sufficiently, Applicant would have accepted it.
- Allegation 2:** Applicant coerced into pleading guilty based on Plea Counsel's failure to explain initial offer.

Applicant alleges Plea Counsel rendered ineffective assistance of counsel. Specifically, the Applicant avers that he was not fully informed of the first plea offer and that, had Plea Counsel thoroughly explained to him what "sixty-five percent" meant, he would have accepted the offer. Additionally, Applicant alleges his plea was entered into involuntarily, as his plea was coerced based on Plea Counsel's inadequate advice concerning his initial offer.

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. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001); 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. This Court finds this allegation is without merit.

A defendant has the right to effective assistance of counsel during the plea-bargaining process. Davie v. State, 381 S.C. 601, 675 S.E.2d 416 (2009) (abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018)). "The United States Supreme Court has held that 'defense counsel has the duty to communicate formal offers from the prosecution to accept a plea on terms and conditions that may be favorable to the accused.'" Collins v. State, 422 S.C. 250, 261, 810 S.E.2d 871, 876 (2018) (quoting Missouri v. Frye, 566 U.S. 134, 145 (2012)); see also Lafler v. Cooper, 566 U.S. 156, 169–70 (2012) (rejecting proposition that a fair trial wipes clean any deficient performance by defense counsel during plea bargaining). Generally, defense counsel provides deficient performance when he or she does not communicate such an offer to the defendant. Frye, 566 U.S. at 145.

"This Court has repeatedly acknowledged that normally, parole eligibility is a collateral consequence of sentencing of which a defendant need not be specifically advised before entering a guilty plea." Randall v. State, 356 S.C. 639, 641, 591 S.E.2d 608, 610 (2004). However, where counsel actively and grossly misinforms an applicant of a collateral consequence, and the applicant relies on that misinformation, they are deprived of their right to constitutional counsel and their plea is rendered involuntary and unintelligent. Griffin v. Martin, 278 S.C. 620, 621-22, 300 S.E.2d 482, 483 (1983) (citing Strader v. Garrison, 611 F.2d 61 (4th Cir. 1979)).

Marion County Hearing

At the Marion County hearing, A.S. Richardson informed the plea court of the plea offer he made to Applicant:

Based on the nature of the circumstances and trying to protect this child somewhat, I made an offer of a 15-year sentence on a CSC minor third degree. And that was going to be a negotiated 15, which would have involved sex offender registry and GPS monitor upon release, that would have been a violent serious offense

(Marion Tr. p. 4).

The following colloquy occurred among the plea court, A.S. Richardson, and Applicant for the benefit of Applicant being fully informed of the plea offer and the consequences of refusing it:

THE COURT: All right. In order for [Applicant] to be fully aware of what the plea offer was and ramifications of his refusal to accept that, how much time is he expose to?

A.S. RICHARDSON: The two charges that he has pending are both up to 20 years, no parole. So he's got a total exposure of 40 years, no parole in the department of corrections. And those would also carry sex offender registry, which would essentially be a lifetime because even under that new law he wouldn't be able to apply to get removed from the registry for another 25 years.

THE COURT: Right. Yes, sir, your full name?

APPLICANT: Christopher Eric Bennett.

THE COURT: [Applicant], do you understand the amount of time that you're exposed to and what the plea offer was? Do you understand that?

APPLICANT: Yes, sir, if I may speak?

THE COURT: Well, let me ask you some questions first.

APPLICANT: Yes, sir.

THE COURT: And you understand that the offer has been made that you -- it's a negotiated 15 years if you'd enter the plea, you get 15 years. You wouldn't get a day more or a day less. You understand that?

APPLICANT: Yes, sir.

THE COURT: There also collateral consequences with GPS or the sex offender registry and a monitor. You understand that?

APPLICANT: Well, that part I don't understand the monitor, the GPS. Could you go into a little bit more detail with that?

THE COURT: As I understand it, it's -- it would be what a lifetime.

A.S. RICHARDSON: It goes right with sex offender registry. It's a component of that offense where upon release the defendant has a GPS monitor placed on them to where ---
THE COURT: They monitor his whereabouts?
A.S. RICHARDSON: Right.
THE COURT: All right. Do you understand ---
A.S. RICHARDSON: That's for the plea and for the ---
THE COURT: Yes.
APPLICANT: You saying the plea would be up to 15 years on it?
THE COURT: Right. Is it a negotiated 15 years or is it up to 15 years?
A.S. RICHARDSON: It's a negotiated 15 years on the plea. And I think he was asking about the monitor. The monitor doesn't come into play until after release from incarceration, and then that's just on there until a court sometime in the future would take him off, but that you have would be about 25 years after that.
THE COURT: Right. Do you understand all of that?
APPLICANT: Yes, sir.

(Marion Tr. pp. 4–7).

Guilty Plea Hearing

At the guilty plea hearing, A.S. Richardson informed the plea court that Applicant did not have a prior record and that Applicant's case "was just a tragic case with difficult consequences for everybody[.]" (Plea Tr. p. 9).

PCR Evidentiary Hearing

On direct examination, Applicant testified that his initial posture was a jury trial. (PCR Tr. p. 8). Applicant testified that when he and Plea Counsel first talked, they had only met once and that the majority of their communication occurred over the phone. (PCR Tr. p. 8). Applicant testified that Plea Counsel initially told him that the maximum sentence was twenty years and that he was working with A.S. Richardson to get Applicant a better deal than the maximum sentence. (PCR Tr. pp. 8–9). Applicant testified that Plea Counsel returned with a plea deal that involved

fifteen years on a third-degree nonviolent charge.³ (PCR Tr. p. 9). Applicant testified that his sentence was classified as eighty-five percent, with no chance of parole, and without any of the benefits that he would have otherwise received. (PCR Tr. p. 11). Applicant testified that because he had never been in jail before, he did not understand the classification or degree, but that he now knew that the characterization of a crime determines the amount of time served. (PCR Tr. p. 9).

Applicant testified that Plea Counsel advised him that he would give him specifics on the initial plea offer at the courthouse. (PCR Tr. pp. 9–10). Applicant testified that he believed he would have a chance to discuss particulars of the initial plea with Plea Counsel and his family, but he did not get the chance. (PCR Tr. p. 10). Applicant testified that Plea Counsel told him the offer was for fifteen years, that he was in shock, and that he reminded Plea Counsel that he had said he would try to get him a better deal. (PCR Tr. p. 10). Applicant testified he also reminded Plea Counsel that Plea Counsel told him they would talk about the offer, what it entails, and what the third degree is. (PCR Tr. p. 10). Applicant testified that he never thought that the plea offer would increase because he and Plea Counsel never discussed that possibility. (PCR Tr. p. 10).

Applicant testified that he accepted the second plea deal and received a twenty-year sentence because he felt like he had no choice. (PCR Tr. pp. 10, 11). Applicant testified that he had not been in the system before, which he felt was the reason why he missed out on a better plea deal and received the twenty-year plea deal instead. (PCR Tr. p. 14).

On cross-examination, Applicant testified that at no point did he desire to proceed to trial. (PCR Tr. p. 15). Applicant testified that he was in a state of shock at the time of the plea, which affected his responses to the plea court. (PCR Tr. pp. 15–16). Applicant testified that he was able

³ A.S. Richardson informed the plea court at the Marion hearing that the third-degree charge was a "violent serious offense." (Marion Tr. p. 4).

to address the plea court despite being in shock and that he made a statement of guilt to the plea court. (PCR Tr. p. 16).

On direct examination, Plea Counsel testified that he had met with Applicant three to four times and had also had various phone calls. (PCR Tr. p. 18). Plea Counsel testified that he reviewed discovery with Applicant and explained the charges and their elements to Applicant. (PCR Tr. p. 18). Plea Counsel testified that he discussed with Applicant his extensive plea negotiations with A.S. Richardson. (PCR Tr. p. 19). Plea Counsel testified that he was trying to limit the negative consequences that Applicant could face. (PCR Tr. p. 19). Plea Counsel testified that the State's plea offer bounced around between fifteen years and twenty years. (PCR Tr. p. 19). Plea Counsel testified that he and A.S. Richardson ultimately settled on the Alford plea, and Applicant accepted it. (PCR Tr. p. 19). Plea Counsel testified that Applicant agreed to the Alford plea because he knew what the effect of going to trial would be based on the evidence, and Applicant did not want to go through with that. (PCR Tr. p. 19). Plea Counsel testified that Applicant never expressed to him that he wanted to go to trial. (PCR Tr. p. 20).

On cross-examination, Plea Counsel testified that he represented Applicant for approximately six months to a year and that he went to the jail in Marion County to see Applicant numerous times. (PCR Tr. pp. 23–24, 26). Plea Counsel testified that he had the discovery for a "significant amount of time" while he was discussing the case with A.S. Richardson. (PCR Tr. p. 21). Plea Counsel testified that Applicant's case was not an easy case to defend, especially based on the DNA evidence that Applicant was the father of the minor victim's child. (PCR Tr. pp. 21–22, 24). Plea Counsel testified that A.S. Richardson was not willing to lower the offer because of the facts of the case. (PCR Tr. p. 22). Plea Counsel testified that he did not recall if he advised Applicant to take the fifteen-year offer. (PCR Tr. p. 23). Plea Counsel testified that the offer

ranged from fifteen to twenty years before the DNA results were received and that after the DNA results were available, A.S. Richardson no longer wanted to negotiate. (PCR Tr. pp. 25-26, 27). Plea Counsel testified that he did not communicate to Applicant what the ramifications of the DNA results would be for the Applicant's case because he did not know the results of the DNA test. (PCR Tr. p. 26). Plea Counsel testified that he did not recall what the fifteen-year offer would have been characterized as. (PCR Tr. p. 27). Plea Counsel testified that Applicant's situation would have been better if he had accepted the initial offer, and Applicant relied on his advice. (PCR Tr. p. 28).

On redirect examination, Plea Counsel testified that the only plea offer was the one Applicant accepted. (PCR Tr. p. 28). Plea Counsel testified that no other plea offer was made that was not communicated; only the twenty-year plea offer was made. (PCR Tr. p. 28).

On direct examination, A.S. Richardson testified that the copies of e-mails between him and Plea Counsel from August 2023 concerning plea offers accurately reflected their communications. (PCR Tr. p. 31; Def. Exh. 1). A.S. Richardson testified that Applicant's case was a DNA case and that the DNA evidence was overwhelming, which is why the plea offers were so high. (PCR Tr. p. 32). A.S. Richardson testified that the DNA evidence was out for a long time before the first plea offer was made. (PCR Tr. pp. 34, 35). A.S. Richardson testified that Applicant's case was CSC with a minor and that he always tries to do something to prevent children from having to testify in such cases. (PCR Tr. p. 32). A.S. Richardson testified that he initially made a plea offer of a fifteen-year sentence on a charge of CSC with a minor, third degree, to Plea Counsel. (PCR Tr. p. 32).

A.S. Richardson testified that Applicant and Plea Counsel met in the jury room on the day of the Marion County hearing and that Plea Counsel exited the jury room with a look on his face

and said that Applicant was not accepting the plea offer. (PCR Tr. pp. 32–33). A.S. Richardson testified that Applicant rejected the plea offer of fifteen years on the record, at which point, A.S. Richardson revoked the plea offer. (PCR Tr. p. 33). A.S. Richardson testified that he received an email on August 14, 2023, from Plea Counsel that said that Applicant wanted to take a deal and that A.S. Richardson should call Plea Counsel back to discuss a plea deal. (PCR Tr. p. 33).

A.S. Richardson testified that, considering the strength of the case and that Applicant rejected the plea offer, he was not going to make an offer below fifteen years. A.S. Richardson also testified that Victim's family did not want to go below fifteen years and did not want the fifteen-year plea offer from the start. (PCR Tr. p. 34). A.S. Richardson testified that he sent an email to Judge DeBerry on August 14, 2023, indicating to him what Applicant's case was about, that Applicant had rejected the plea offer, and that he intended to call the case for trial during the November term of court in Marion County. (PCR Tr. p. 34). A.S. Richardson testified that he copied Plea Counsel on the email and that Plea Counsel replied, referencing the updated offer. (PCR Tr. p. 34). Specifically, A.S. Richardson testified that Plea Counsel responded, "If Chris agrees to plea, he would only be pleading to one count of CSC second with a 20-year sentence, correct?" (PCR Tr. p. 34).

On cross-examination, A.S. Richardson testified that the fifteen-year deal would have been extremely beneficial compared with the twenty-year deal. (PCR Tr. p. 36). A.S. Richardson testified that he recalled that, prior to the Marion hearing, Plea Counsel and Applicant were discussing for long enough for him to realize that Applicant was likely not going to accept the offer. (PCR Tr. p. 37). A.S. Richardson testified that he did not know the contents of Plea Counsel's and Applicant's private discussions, but there was enough on the record to make him comfortable that everybody understood. (PCR Tr. p. 38).

On recall examination, Applicant testified that he recalled discussing with Plea Counsel prior to the Marion hearing, but Plea Counsel did not go into the detail that A.S. Richardson did. (PCR Tr. p. 39). Applicant testified that Plea Counsel did not explain the fifteen-year plea deal and did not explain the alternative deal he pled to. (PCR Tr. p. 41). Applicant testified that Plea Counsel gave him a paper that stated the fifteen-year plea deal and told him that it was a good deal and to sign it; Applicant testified that he glanced at it. (PCR Tr. pp. 39, 42). Applicant testified that Plea Counsel told him it was a fifteen-year offer "blah blah," and that Applicant told Plea Counsel that he still had questions about it. (PCR Tr. pp. 39–40). Applicant testified that Plea Counsel stated, "We here now we need to go ahead and do this," and the conversation went back and forth like this for fifteen minutes. (PCR Tr. pp. 40, 42).

Applicant testified that Plea Counsel did not explain in detail what sixty-five percent meant, and he believed it meant he would serve thirteen to fourteen years. (PCR Tr. p. 42). Applicant testified that he later learned that sixty-five percent meant he would have to serve approximately seven years, considering credits, school, and other factors. (PCR Tr. p. 42). Applicant testified that when he spoke with Plea Counsel at the Marion County hearing, he never realized that if he did not take the fifteen-year plea deal, then he could get a worse plea deal. (PCR Tr. p. 43). Applicant testified that Plea Counsel never explained that he could get a worse plea offer because it was anticipated that Applicant would take the fifteen-year deal, "so why would you even bring up 20?" (PCR Tr. p. 43).

On cross-examination on recall, Applicant testified that Plea Counsel told him that fifteen years was a good deal, but Applicant still chose to reject it. (PCR Tr. p. 43).

Findings

As an initial matter, Applicant concedes that Plea Counsel communicated the initial fifteen-year offer with him and merely asserts that he was not adequately advised of (1) what serving sixty-five percent of the sentence meant, and (2) that if he rejected the offer, he would receive a harsher sentence. Based on the record and Applicant's testimony, this Court finds that Plea Counsel correctly advised Applicant of the pertinent terms of the initial plea offer, specifically, the negotiated fifteen-year sentence, the fact that it required Applicant to serve sixty-five percent of the sentence, and that he was pleading to Criminal Sexual Conduct of a Minor, Third Degree. Additionally, this Court finds that Applicant was aware of the strength of the evidence against him (*i.e.*, the damning DNA evidence that he was the father of the minor victim's child) and of the collateral consequences (*i.e.*, the GPS monitoring). Therefore, Applicant has failed in his burden to show that Plea Counsel actively and grossly misinformed him of the direct or collateral consequences of his plea; he cannot establish he was deprived of effective counsel and that his plea was involuntary or unintelligent. See Griffin, supra.

Further, this Court finds Applicant's testimony that he did not understand what "sixty-five percent" meant, and that Plea Counsel's inadequate advice induced him to plead is **not credible**. Applicant testified that, prior to the Marion hearing, he and Plea Counsel spoke for fifteen minutes regarding the offer, and Plea Counsel explained that the offer was for fifteen years, was sixty-five percent, and advised him to accept it. Applicant stated that his lack of a criminal record did not allow him to understand what sixty-five percent of the sentence meant. It is beyond this Court how a high school graduate, with a technical degree, who owned a business, cannot comprehend what sixty-five percent of fifteen years means. Moreover, Applicant testified that he had asked Plea Counsel multiple times about the sixty-five percent, but Plea Counsel did not answer

adequately, and he still had questions. However, the transcript from the Marion hearing indicates that the only question Applicant had regarding the initial plea offer concerned GPS monitoring; at no point did he ask the plea court about the sixty-five percent when he had the opportunity to do so.

Second, Applicant testified that had he known that the State would not offer him a lesser sentence, he would have accepted the fifteen-year offer, and that Plea Counsel failed to advise him that he could receive a harsher sentence if he rejected the plea offer. However, Plea Counsel credibly testified that he discussed Applicant's plea negotiations with Applicant, including that the offer ranged from fifteen to twenty years. A.S. Richardson credibly testified that the DNA results were available before the fifteen-year offer, referencing the emails between him and Plea Counsel (Def. Exh. 1). Further, Applicant testified that Plea Counsel strongly advised him to take the fifteen-year offer. Applicant also testified that he told Plea Counsel that fifteen years was a long time, indicating that was his reason for rejecting the fifteen-year offer. Moreover, it is axiomatic that where the State makes a favorable plea offer, and there is overwhelming evidence of guilt, rejection of that offer will not result in more favorable offers in the future.

Plea Counsel's lack of memory concerning the fifteen-year offer Applicant rejected is not in itself indicative that he failed to discuss this issue with Applicant, especially where the record and Applicant's own testimony indicate there were discussions and Applicant understood. See Hinson v. State, 297 S.C. 456, 377 S.E.2d 338 (1989) (Defense counsel's testimony that he could not recall advice to Applicant is not dispositive plea was induced by erroneous advice). It appears that Applicant rejected the fifteen-year offer, against the advice of Plea Counsel, based on the fifteen-year sentence being too long and on his apprehension of GPS monitoring, and now regrets his decision, as he ultimately pled to a longer sentence.

This Court finds that Plea Counsel correctly and adequately explained the initial offer to Applicant, advised Applicant to take the favorable plea offer, and Applicant elected to reject the offer based on his displeasure with the terms of the offer and not based on Plea Counsel's erroneous advice. Additionally, this Court finds that Applicant's plea was entered freely, voluntarily, and knowingly, and that he was not coerced into pleading guilty by Plea Counsel's allegedly erroneous advice. Notably, Plea Counsel negotiated a twenty-year offer to an Alford plea on Applicant's behalf, despite overwhelming evidence of Applicant's guilt. This Court firmly believes that, had Applicant chosen to proceed to trial, the outcome would undoubtedly have resulted in the maximum penalty based on the compelling facts of his case.

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

Accordingly, this Court finds that Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Additionally, this Court finds that Applicant's plea was entered into voluntarily, intelligently, and knowingly. Thus, Applicant's request for relief by way of this allegation is **DENIED** and **DISMISSED**.

[CONCLUSION 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.**

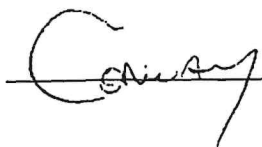
This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), 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.

AND IT IS SO ORDERED this 6 day of Jan., 2026


B. ALEX HYMAN
Presiding Judge
Twelfth Judicial Circuit


_____, South Carolina