

**RECEIVED**

**Jun 15 2026**

**S.C. SUPREME COURT**

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Certiorari to Greenwood County

Honorable S. Bryan Doby, Circuit Court Judge

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ZY'TAWN KEINAS CHILDS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-002046

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APPENDIX

---

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ATTORNEYS FOR RESPONDENT

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:**

**APPLICANT’S EXHIBIT NO. 1 (PHOTOGRAPHS)**

State of South Carolina ) In the Court of General Sessions  
 ) Eighth Judicial Circuit  
 County of Greenwood )

Indictments 2017-GS-24-00933  
 2017-GS-24-02150  
 2018-GS-24-01166  
 2020-GS-24-01106

State of South Carolina, )  
 )  
 vs. ) Transcript of Record  
 )  
 Zy'Tawn Keinas Childs, )  
 )  
 Defendant. )  
 \_\_\_\_\_)

October 12, 2020  
 Greenwood County Courthouse  
 Greenwood, South Carolina

B E F O R E:

The Honorable Donald B. Hocker, Judge

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

Anna Wade Sumner, Assistant Solicitor  
 Attorney for State of South Carolina

Brian P. Johnson, Esquire  
 Attorney for Defendant

Maryann S. Nevers, CVR-M-CM, RVR, RVR-M  
 Circuit Court Reporter (Retired)  
 Certified Verbatim Reporter - Master  
 Certificate of Merit  
 Realtime Verbatim Reporter - Master

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVID.</u>
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No exhibits were marked during proceeding.

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## TRANSCRIPT OF RECORD

1  
2 (Whereupon, proceedings commenced in the  
3 matter of *State of South Carolina v. Zy'Tawn*  
4 *Childs*, Indictments 2017-GS-24-00933,  
5 2017-GS-24-02150, 2018-GS-24-01166, and  
6 2020-GS-24-01106, beginning at 11:04 a.m. on  
7 Monday, October 12, 2020. Defendant and all  
8 counsel were present.)

9 THE COURT: All right, Solicitor.

10 MS. SUMNER: Thank you, Your Honor. Standing before  
11 you is Zy'Tawn Childs, represented by Brian Johnson. Mr.  
12 Childs is here today, pleading guilty to true-bill  
13 Indictment 18-GS-24-1166. That is for distribution of  
14 fentanyl, first offense; 17-933, that is for possession  
15 with intent to distribute marijuana, first offense; 17-  
16 2150, for carrying a weapon on school property. And  
17 lastly, Waiver Indictment 20-1106, and that is for breach  
18 of peace, high and aggravated.

19 Your Honor, at this time, Mr. Childs has six pending  
20 cases with us. And he is pleading on four of those today,  
21 and all remaining charges will be nolle-prossed. He was on  
22 the trial docket that was before you this week, Your Honor.

23 There is a recommended cap of five years to resolve  
24 all of these charges. Also, it's my understanding that Mr.  
25 Childs is agreeing to forfeit the two guns related to these

1 charges. And that's what we have worked out in this case.

2 THE COURT: Okay. I believe this was the remaining  
3 trial-docket case?

4 MS. SUMNER: That's correct, Your Honor.

5 THE COURT: Okay.

6 All right, madam clerk.

7 ZY'TAWN CHILDS, having been first duly  
8 sworn, testified and stated as follows:

9 THE COURT: All right. Mr. Johnson, you represent --  
10 Is it Zy'Tan (phonetic)? Is that how you pronounce  
11 your name?

12 THE DEFENDANT: Zy'Twan.

13 THE COURT: Zy'Twan?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Okay. All right. Childs?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Okay. All right. Mr. Johnson, you  
18 represent Mr. Childs?

19 MR. JOHNSON: Yes, sir, Your Honor.

20 THE COURT: And you've had an opportunity to explain  
21 these charges to him, his rights he's giving up as a result  
22 of the plea, maximum punishment he could receive?

23 MR. JOHNSON: Yes, sir, Your Honor.

24 THE COURT: And do you believe your client has  
25 understood your explanation?

1 MR. JOHNSON: I do, Judge.

2 THE COURT: All right. Here's what I have before me:  
3 I have a distribution of fentanyl, first offense; and  
4 aggravated breach of peace; carrying a weapon on school  
5 property; and possession with intent to distribute  
6 marijuana. How does your client wish to plead to those  
7 charges?

8 MR. JOHNSON: Wishes to plead guilty, Judge.

9 THE COURT: Okay. As his attorney, do you agree with  
10 that decision?

11 MR. JOHNSON: Yes, sir, Your Honor.

12 THE COURT: Okay. All right, Mr. Childs. I'm going  
13 to ask you a few questions. You pay close attention.  
14 Speak up loud when you respond.

15 You're age 20?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: How far did you go in school?

18 THE COURT: I got my high school diploma. And I'm  
19 currently in college.

20 THE COURT: What college you going to?

21 THE DEFENDANT: Piedmont Tech.

22 THE COURT: Okay. What are you studying at Piedmont  
23 Tech?

24 THE DEFENDANT: Welding.

25 THE COURT: Okay. All right. I've got the following

1 four charges before me: a distribution of fentanyl, first  
2 offense; aggravated breach of peace; carrying a weapon on  
3 school property; possession with intent to distribute  
4 marijuana, first offense. How do you plead to those four  
5 charges?

6 THE DEFENDANT: Guilty.

7 THE COURT: Are you pleading guilty because, in fact,  
8 you are guilty?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Anyone force you to plead guilty against  
11 your will?

12 THE DEFENDANT: No, sir.

13 THE COURT: You pleading guilty today freely,  
14 voluntarily, and intelligently?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Have you -- have you consumed any  
17 substance -- alcohol, drugs, medication -- that would not  
18 only affect your ability to understand these proceedings  
19 but also affect your ability to make decisions?

20 THE DEFENDANT: No, sir.

21 THE COURT: You suffer from any problem or  
22 condition -- physical, mental, or emotional -- that would  
23 not only affect your ability to understand these  
24 proceedings but also affect your ability to make decisions?

25 THE DEFENDANT: No, sir.

1 THE COURT: All right. Solicitor?

2 MS. SUMNER: Thank you, Your Honor. Starting with the  
3 possession with intent to distribute marijuana, back on  
4 July 18th of 2017 at Windtree Court here in Greenwood  
5 County, the defendant was in possession of 11.34 grams of  
6 marijuana, \$250, and a digital scale. Law enforcement made  
7 contact with him because, at the time he's -- he was  
8 smoking a cigarette in the breezeway of these apartments  
9 and they knew him to be 17. And that was why the initial  
10 contact was made.

11 THE COURT: What was the date of that?

12 MS. SUMNER: I have July 18th, 2017.

13 THE COURT: Okay. I just misunderstood you. Okay.

14 MS. SUMNER: Your Honor, in regards to the  
15 distribution of fentanyl, first offense, back on September  
16 14th of 2017, a confidential informant here with the  
17 Greenwood County Drug Unit bought four blue pills marked as  
18 oxycodone from the defendant, again, at Windtree Court, the  
19 same location as the PWID of marijuana. He was initially  
20 charged with distribution of oxy. That came back from SLED  
21 as fentanyl. Your Honor, these are these blue pills that  
22 we're commonly seeing here in Greenwood and are quite  
23 dangerous.

24 In regards to the carrying a weapon on a school  
25 property, Your Honor, back on October the 10th of 2017 --

1 and this is on video -- Mr. Childs was attending Genesis  
2 here in Greenwood. That is the -- the district school for  
3 trouble teens. A teacher suspected he had something --  
4 contraband in his pocket. The SOLICITOR'S OFFICE makes  
5 contact with him, Officer Emory. It results in a chase  
6 down a hallway on video.

7 When they get Mr. Childs, they actually tackle him.  
8 You see it on the video. There's a -- a firearm that was  
9 removed from his waistband, which was the teacher had seen  
10 that was bulging in his pocket. Very concerning case to  
11 law enforcement that he had a handgun on the school  
12 property, and again, that one is on video.

13 Lastly, Your Honor, going to this recent armed robbery  
14 that happened right before COVID all got started -- well,  
15 the breach of peace, high and aggravated, Your Honor, it  
16 was charged as a -- an armed robbery. Mr. Childs is not  
17 agreeing that he was involved in an armed robbery.  
18 However, he was on scene where armed robbery took place  
19 here in Greenwood County.

20 Concerning to law enforcement was that he was there.  
21 Multiple witnesses put him there. But he was with several  
22 known gang members to law enforcement. Law enforcement  
23 does agree, however, that in that case where he's pleading  
24 to breach of peace, high and aggravated, that he is the  
25 least culpable. So we do have him here, though.

1           So, Your Honor, we have, you know, like I said, six  
2 cases; we're dismissing two. He's pleading to four. But  
3 he is someone -- he's 20 years of age. He only has  
4 possession of marijuana. But we are very concerned that he  
5 is starting not a good track record here.

6           THE COURT: Okay. All right. Thank you.

7           Mr. Childs , did the solicitor correctly state the  
8 facts behind these four charges?

9           THE DEFENDANT: Yes, sir.

10          THE COURT: Okay. Now, you understand, Mr. Childs,  
11 that when you plead guilty, you give up certain rights that  
12 you have?

13          THE DEFENDANT: Yes, sir.

14          THE COURT: You have the right to a jury trial. This  
15 case was on the jury-trial docket. The state was prepared  
16 to go forward. But y'all have been able to work out a  
17 resolution on these charges.

18          Are you giving up your right to a jury trial?

19          THE DEFENDANT: Yes, sir.

20          THE COURT: You understand, when you plead guilty, you  
21 give up your right to remain silent? You understand that?

22          THE DEFENDANT: Yes, sir.

23          THE COURT: Do you understand, when you plead guilty,  
24 you give up your right for Mr. Johnson, on your behalf, to  
25 file legal motions, put up legal defenses, legal challenges

1 concerning any of the evidence that the state may have, as  
2 well as to confront and cross-examine the state's  
3 witnesses, all of that being done on your behalf? But when  
4 you plead guilty, you're no longer entitled to that benefit  
5 from your attorney. You understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you understand, when you were  
8 originally arrested on all the charges, you were  
9 automatically by law presumed to be innocent and that  
10 presumption of innocence has been with you all the way up  
11 until today? However, when you plead guilty, you're no  
12 longer entitled to that presumption of innocence. You  
13 understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Mr. Childs, do you understand, when the  
16 state elected to charge you with a criminal offense -- or  
17 criminal offenses, as in this case -- they took on what's  
18 called a burden of proof to prove each and every element of  
19 the offense "beyond a reasonable doubt" standard? That's  
20 the highest standard of proof that we have in the law  
21 today. However, when you plead guilty, the state no longer  
22 has any burden of proof. All they have to do is present  
23 sufficient facts to base your guilty plea on. Do you  
24 understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Are you satisfied with Mr. Johnson's legal  
2 representation?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Has he done everything you've asked him to  
5 do or expected that he would do for you?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Have you had a full opportunity to review  
8 and/or discuss with Mr. Johnson the discovery file -- all  
9 the evidence/documents -- that the state has and has  
10 provided to your attorney?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: You understand, Mr. Childs, that if you  
13 have a legal basis to challenge this guilty plea that  
14 you're making today, you only have ten days to file a  
15 notice of intent to appeal with a higher court? You  
16 understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Have you understood all my questions?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Have you been truthful with all your  
21 answers?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. Let the record reflect that  
24 there is a factual basis for the plea; plea has been made  
25 freely, voluntarily, and intelligently by Mr. Childs, and

1 he's done so with competent with whose services he  
2 expressed satisfaction with.

3 Mr. Johnson, I'll be glad to hear from you, sir.

4 MR. JOHNSON: Thank you, Your Honor. May it please  
5 the Court. Your Honor, first of all, I want to apologize.  
6 Since COVID hit, I've been putting my notes on my phone  
7 instead.

8 THE COURT: That's fine.

9 MR. JOHNSON: And so ---

10 THE COURT: That's -- that's fine, not a problem.

11 MR. JOHNSON: Yeah. I want to apologize to the Court.  
12 Secondly, Judge -- and I think this is important  
13 clarification -- Mr. Childs was on the trial docket today  
14 for the gun-on-school-ground charge. And it was that  
15 charge only. And the only reason why he was on the docket  
16 is me and Anna were discussing a full resolution.

17 This wasn't a situation where he wanted a trial.  
18 We were just trying to get to a place where -- where I  
19 thought that -- well, what we all could agree that Mr.  
20 Childs could come before you today and accept  
21 responsibility, Your Honor. So this was always a situation  
22 where he was going to accept responsibility. And we're  
23 happy before you today in order to do that.

24 Your Honor, as he told you, he's 20 years old. If you  
25 look at these charges, if -- if you look at the -- the

1 dates that they have in 2017 and -- and 2018 and -- he's  
2 got some other ones -- but still kind of in that date  
3 range, until the -- the armed-robbery issue, but, Your  
4 Honor, if -- if you look at those types of the charges and  
5 you look at his age, you can see the issues of a young man  
6 who was simply going through some issues related to growing  
7 up in his life.

8         And, Your Honor, I would like to submit to you that  
9 he's doing better. When he was kicked out of school as it  
10 relates to the gun charge, Judge, however, he was required  
11 to do school on his own. And he still got his diploma. So  
12 he actually -- not a -- not a GED, but a high school  
13 diploma and, Your Honor, I think that's really impressive.  
14 A lot of my clients who go through those sort of things,  
15 they just take the test and -- and they move on with their  
16 lives. But he actually went through it and -- and got his  
17 diploma.

18         The other thing he's done in -- kind of, in that  
19 meantime, Judge, is he told you he's going to Piedmont  
20 Tech. And -- and what he meant was before he was arrested,  
21 obviously, Judge. But he was going to Piedmont Tech, and  
22 he was studying welding.

23         It's my understanding he had done four semesters and  
24 he has another two semesters to go. So whenever it -- it  
25 is that he's able to be released, he will be able to do

1 that and have a trade and be able to be gainfully employed  
2 in that trade, which I also think is important, rather than  
3 saying, like, he's going to go work at McDonald's or -- or,  
4 hopefully, get a good job so that he can avoid selling  
5 drugs or something like that. Those welders make good  
6 money. And if he's able to finish this, those two  
7 semesters -- he's -- he's almost there. And -- and he  
8 would actually be able to be a welder, Your Honor.

9 Your Honor, now, as it relates to the armed-robbery  
10 charge, I believe the solicitor did display those facts  
11 correct, as far as my -- my client. Your Honor, you got a  
12 situation where no one accused him of -- of robbing -- of  
13 robbing the actual person or having a gun. He had a  
14 situation, Judge, where he -- there was a discussion about  
15 the -- the guy who actually did the robbery and perhaps he  
16 could've did something to prevent that or -- or -- or -- or  
17 called the police or anything of that nature. He did not  
18 do that.

19 There is one distinction. My client -- and I believe  
20 Anna can confirm this -- I don't believe law enforcement  
21 believes my client's an actual gang member. My client  
22 is -- is not in a gang.

23 And so -- but -- but he was hanging around with,  
24 for lack of a better word, the wrong crowd. I hate that,  
25 but he was hanging around two -- two people who were gang

1 members. He is not one. And I want you to consider that  
2 as well, Judge.

3 Your Honor, his mother would've been here. We -- we  
4 put this together kind of quick. I confirmed with Anna on  
5 Friday what -- we were going to do everything, rather than  
6 just the gun charge. And so his mother would've been here.  
7 She was at his previous bond hearing, Your Honor. And she  
8 is supportive. She -- he does have some -- a place to --  
9 to go home to. He does have a -- a -- a child that he --  
10 that she has and -- and he is supportive of, Judge.

11 Your Honor, at this point in time, he's coming before  
12 you today; never been -- been before a general-sessions  
13 court. Your Honor, he does have the marijuana charge in  
14 the past. But he's never been before a -- a general-  
15 sessions judge. And this is the first time and only time  
16 you can ever do that.

17 And, Your Honor, he's been in jail now continuously  
18 since December 19 of 2019. So he's done almost a year.  
19 He's done a total of 310 days. And he's had a whole lot --  
20 whole lot of time to sit in jail and -- and put some  
21 distance between not only the incidents but also between  
22 him and the outside world and understand what -- what he  
23 needs to do to get out in society.

24 So, Your Honor, I know we're dealing with a  
25 recommendation from the state of -- of a cap. And I

1 understand what the -- what the Court must consider when  
2 they do the sentence. And they can obviously go over the  
3 cap or -- or -- or under it. My client would -- would like  
4 for me to ask you to consider a sentence that would allow  
5 him to be released in any capacity. He -- he would like to  
6 go and finish school. He would like the opportunity to be  
7 with his -- his child and his mother.

8 Your Honor, we ask for the mercy of the Court. And I  
9 understand we're asking for a lot. But we ask you to  
10 consider that at this time, Your Honor.

11 THE COURT: Okay. Thank you.

12 MS. SUMNER: Your Honor, I will just confirm that he  
13 is not in GangNet. I talked to law enforcement about that.  
14 This is a situation where they don't have enough to put him  
15 in GangNet, but they can put him with gang members numerous  
16 times.

17 THE COURT: All right. Well, you know, what I've got  
18 to decide, Mr. Childs, is I want -- I want to get your  
19 attention. You're -- you're at a point in your life that  
20 you got a lot of potentially good future ahead of you.  
21 And, you know, it's -- it's just your decision on which  
22 road you're going to take.

23 And how -- how best can I get your attention to make  
24 the right decision? Do I get your attention by sending you  
25 to prison, which might be the right way? Or do I get your

1 attention by having a lot of time held over your head and  
2 put you on probation? That's -- that's what I've got to  
3 make the decision.

4 Because I want to get your attention. I think you  
5 have a lot of potential. I really do. I don't know you.  
6 Haven't -- you know, 15 minutes ago, I had never seen you  
7 before.

8 But I -- I just have that, kind of, gut feeling that  
9 you have a lot of potential. But you're not going to be  
10 able to reach your potential until you make the right  
11 decision. And how best can I help you make that right  
12 decision: by sending you to prison or by letting you be  
13 put on -- or putting you on probation? That's what I've  
14 got to -- I've got to determine.

15 So I -- I need a few minutes to sort through this. So  
16 just -- I guess, we'll hold him over in the other room, if  
17 you just take him back over there.

18 Hang around, Mr. Johnson and Solicitor Sumner, for a  
19 few minutes and let me just ponder on this for -- for just  
20 a minute or two.

21 MR. JOHNSON: Okay.

22 THE COURT: Okay?

23 MS. SUMNER: Thank you, Judge.

24 (The Court went off the record at 11:20  
25 a.m. and reconvened at 11:27 a.m.)

1 Defendant and all counsel were present  
2 when the proceedings resumed.)

3 THE COURT: All right. Mr. Childs, come on back up  
4 here, please.

5 THE DEFENDANT: (Complied.)

6 THE COURT: All right. In light of the fact that, for  
7 all practical purposes, you don't have a prior record  
8 and -- and your age, I'm going to give you a chance. But  
9 I'm going to have -- you've got a lot of time hanging over  
10 your head. And I've got some conditions that you're going  
11 to have to comply with while on probation.

12 But I am going to take a chance on you. I -- I hope  
13 that you don't disappoint me.

14 (Off the record briefly.)

15 THE COURT: All right. Mr. Childs, on the breach of  
16 peace and the distribution of fentanyl, sentence of the  
17 Court is you be committed to the State Department of  
18 Correction for a period of ten years. Provided upon  
19 service of 310 days, which you're given credit for, payment  
20 of costs and assessments, I'll suspend the balance; put you  
21 on probation for three years.

22 Conditions of probation: substance abuse counseling,  
23 random drug and alcohol testing; I'm requiring you to  
24 complete your Piedmont Tech degree. I'm requiring you to  
25 refrain from associating with any known gang members. And

1 you also must maintain residence with your mother during  
2 the term of your probation.

3 And any probation-revocation hearing is to be brought  
4 back before me. And I'll tell you right now, Mr. Childs:  
5 I will revoke in full the ten years. So if -- if you want  
6 to spend ten years in prison, then you violate your  
7 probation and you come back before me. You understand  
8 that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. And on the remaining two  
11 charges: On the possession with intent to distribute  
12 marijuana and the carrying weapon on school property,  
13 that'll be a time-served sentence.

14 Choice is yours, Mr. Childs. What direction do you  
15 want to go with in your life? You want to make something  
16 of yourself?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Or you want to be a tough guy, hang around  
19 gang members, use drugs, do all that kind of craziness, and  
20 then just find yourself wearing that orange jumpsuit a  
21 whole lot more?

22 THE DEFENDANT: No, sir.

23 THE COURT: You make a decision. Good luck to you.

24 THE DEFENDANT: Thank you.

25 MS. SUMNER: Thank you, Judge.

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MR. JOHNSON: Thank you, Your Honor.

(Whereupon, the proceeding concluded at  
11:30 a.m. on Monday, October 12,  
2020.)

--- END OF TRANSCRIPT OF RECORD ---

**CERTIFICATE**

I, the undersigned Maryann S. Nevers, CVR-M-CM, RVR, RVR-M, Official Court Reporter (Retired) for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Circuit Court for Greenwood County, South Carolina, on the 12th day of October, 2020.

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



---

Maryann S. Nevers, CVR-M-CM, RVR, RVR-M  
Official Court Reporter (Retired)

Wilmington, North Carolina  
October 11, 2024

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF GREENWOOD	)	Case No.: 2021GS2401707,
	)	2023GS2400441,
	)	2023GS2400442
State of South Carolina,	)	
	)	
vs.	)	
	)	
Zy'Tawn Kenias Childs,	)	
	)	
Defendant.	)	February 27, 2023
_____		)

TRANSCRIPT OF GUILTY PLEA AND SENTENCING HEARING

BEFORE THE HONORABLE EUGENE C. GRIFFITH  
Circuit Court Judge, presiding

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

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Recorded by:	DCRP
Transcribed by:	Teresa B. Johnson CVR-M-CM, RVR, RVR-M P.O. Box 2812 Greenville, SC 29602

I N D E X

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## Guilty Plea

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P R O C E E D I N G S

(Proceedings begin on the 27th day of  
February 2023, at 10:25 a.m.)

**THE COURT:** Good morning, Mr. Brown.

**MR. BROWN:** May it please the Court?

**THE COURT:** Uh-huh.

**MR. BROWN:** Judge, stands before you is  
Zy'Tawn Childs on Indictment 2021GS241707 and  
2023-0441 and 0442. Mr. Childs is pleading guilty  
to homicide by child abuse, which is 20 years to  
life, also resisting arrest as 0 to 1, and a  
possession of methamphetamine, actually as a first  
offense, as 0 to 3, represented by Colie Stancil  
of the public defender's office.

Judge, this is a straight-up plea to those  
charges. In addition, there will be some other  
charges that are dismissed. Also during this  
plea, he was currently on probation when this  
occurred, and so Richie Williams will also be in  
handling --

**THE COURT:** Okay.

**MR. BROWN:** -- that issue as well.

**THE COURT:** All right.

I don't have the indictment for the  
resisting, but we can move forward without it.

1           You got the right number on there?

2           **MR. BROWN:** Yes, sir.

3           **THE COURT:** All right.

4           Your name is Zy'Tawn Kenias --

5           **THE DEFENDANT:** Kenias.

6           **THE COURT:** -- Kenias Childs?

7           **THE DEFENDANT:** Yes, sir.

8           **THE COURT:** Start with this first indictment,  
9           which is 23GS24 Indictment 442, possession of  
10           meth. It hadn't been presented. Waives, you  
11           signed there?

12           **THE DEFENDANT:** Yes, sir.

13           **THE COURT:** All right.

14           It alleges that you, while in Greenwood  
15           County the 22nd of June of '22, did possess a  
16           quantity of meth; in violation of Code 44-53-375.  
17           My understanding, you're gonna plead guilty on  
18           that?

19           **THE DEFENDANT:** Yes, sir.

20           **THE COURT:** And also Indictment -- I have the  
21           indictment my hand -- 441, same year, resisting  
22           arrest. That indictment not been presented. But  
23           you've signed a waiver.

24           **THE DEFENDANT:** Yes, sir.

25           **THE COURT:** It alleges on the 22nd of June of

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1 '22, you resisted arrest of Wesley McClinton of  
2 the Greenwood Police Department, that being in  
3 violation of 16-9-320, subpart A, the simple  
4 version of resisting.

5 And lastly, Indictment 21GS241707, which is  
6 homicide by child abuse, that indictment alleges  
7 that you, on April 28 of '21, did commit the crime  
8 of homicide by child abuse and neglect, child  
9 being under the age of 11, caused the death of  
10 child by neglectful conduct; in violation of 16-3  
11 subpart 85 and the subparts thereunder. It's my  
12 understanding you're going to plead as presented  
13 on that indictment; is that correct?

14 **THE DEFENDANT:** Yes, sir.

15 **THE COURT:** All right.

16 Mr. Stancil, you represent Mr. Childs on  
17 these three indictments?

18 **MR. STANCIL:** I do, Your Honor.

19 **THE COURT:** And you explained to him the  
20 elements of each and the potential -- what you  
21 got? 20 plus one plus three? Yeah. So 24 years  
22 potential if they're stacked on top of each other.

23 **MR. STANCIL:** Yes, Your Honor.

24 **THE COURT:** Do you have a belief, if he stood  
25 trial, it looks like two separate instances, that

1 he had two jury trials, that he could be convicted  
2 more likely than not?

3 **MR. STANCIL:** I believe so, Your Honor.

4 **THE COURT:** All right. And are you in  
5 agreement to your [sic] decision to enter this  
6 plea, considering negotiations of the charges and  
7 the dismissal of related charges in his probation  
8 matter?

9 **MR. STANCIL:** I am, and so is Mr. Charles,  
10 Your Honor.

11 **THE COURT:** All right. All right.

12 Mr. Childs, the clerk of court's gonna place  
13 you under oath.

14 **THE CLERK:** Raise your right hand, please.  
15 (The defendant is first duly sworn.)

16 **THE COURT:** All right, sir. In the last 24  
17 hours, have you taken any alcohol, drugs,  
18 medications of any type?

19 **THE DEFENDANT:** No, sir.

20 **THE COURT:** Are you clear headed?

21 **THE DEFENDANT:** Yes, sir.

22 **THE COURT:** Now, you got two events. You're  
23 entitled to two jury charges under our  
24 Constitution: One on the child abuse and one on  
25 the resisting and the meth. Okay? Your rights

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1 are same in both. There's two separate charges.

2 Trial works this way. Plead not guilty; get  
3 a jury trial. The state must go first. They call  
4 their witnesses, present their evidence for the  
5 jury to consider whether or not they've proven  
6 their case beyond a reasonable doubt.

7 You don't say a word. You can remain silent.  
8 You don't have to prove your innocence. You don't  
9 have to disprove your guilt. The state has to  
10 prove your guilt beyond a reasonable doubt. So  
11 they call witnesses and present evidence.  
12 Mr. Stancil, representing you, would be allowed to  
13 challenge that evidence by cross-examining the  
14 witnesses, objecting to evidence coming in, that  
15 sort of thing.

16 Now if you want to plead guilty, you give up  
17 all those rights and defenses to those trials, you  
18 understand?

19 **THE DEFENDANT:** Yes, sir.

20 **THE COURT:** Are you willing to waive all your  
21 rights and defenses to enter these three pleas  
22 before me today?

23 **THE DEFENDANT:** Yes, sir.

24 **THE COURT:** Are you waiving all your rights  
25 and defenses freely and voluntarily?

1           **THE DEFENDANT:** Yes, sir.

2           **THE COURT:** And I asked you earlier, on these  
3 newer two indictments, resisting and the drugs,  
4 did you sign the waiver, those two signature spots  
5 there?

6           **THE DEFENDANT:** Yes, sir.

7           **THE COURT:** Is that waiver freely and  
8 voluntarily given as well?

9           **THE DEFENDANT:** (No audible response.)

10          **THE COURT:** Okay.

11                 Now I'm gonna ask Mr. Brown to give me a  
12 summary of the facts. I'm gonna come back and ask  
13 you is that what happened. Okay?

14                 Mr. Brown.

15           **MR. BROWN:** Judge, before I get into the  
16 facts, when you were talking about potential  
17 sentences we [sic] could face, I think you capped  
18 off at 24. Potentially, this could be life plus  
19 four, if -- with the range. I just want to make  
20 sure he knew that, which I -- I do believe he  
21 understands that from Mr. Stancil.

22                 Judge, this happened back on April 28, 2021,  
23 with the child homicide. Mr. Childs was in the  
24 care of his daughter, Minor                 , who was  
25 approximately a year old. His child was with his

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1           grandma -- with the grandmother earlier in the  
2           day. And the child was dropped off with  
3           Mr. Childs.

4                    Law enforcement got the call when they  
5           received information from the hospital that an  
6           infant or one-year-old had been brought there  
7           unresponsive, and then ultimately died there, or  
8           was pronounced dead there at the hospital. The  
9           attending physician didn't notice any kind of  
10          trauma to the outside of the body. They ended up  
11          having to do tox -- an autopsy. And when the tox  
12          came back, it did show that Minor            overdosed  
13          from fentanyl.

14                   And after speaking with Mr. Childs there at  
15          the hospital, law enforcement went to the house,  
16          or the -- the home where Minor            and Zy'Tawn  
17          Childs were. They looked around. And they did  
18          see there was a bag of fentanyl by the bedside --  
19          that was on bedside table next to the bed. And it  
20          was opened.

21                   They then talked to Mr. Childs. And I think  
22          he admitted at that point that he got home from  
23          work. He had taken some pills. He didn't realize  
24          the bag was still open, but it was open. The  
25          child -- they laid down the bed to watch TV. And

1 the child got into the pills and ultimately  
2 consumed the pills and died as a result.

3 He then was out on bond from that. And --  
4 well, this actually happened while he was out on  
5 probation for a distribution of fentanyl. That  
6 was a 2020 conviction, along with the other  
7 convictions that are on the information sheet that  
8 I provided you. He was out on probation for that.  
9 I believe it was a BOPHAN, pistol charge,  
10 distribution of fentanyl, and then this happened,  
11 where he's got another bag of fentanyl, where his  
12 child dies.

13 Mr. Childs then got another bond after the  
14 child homicide. And while out on bond for that,  
15 he is stopped as a traffic violation. Officers  
16 pull him over. They smell marijuana in the  
17 vehicle; get him out. They understand or know  
18 that he's on probation and out on bond at that  
19 time. They do find that he's in possession of  
20 methamphetamine. While they have him detained on  
21 the roadside, he runs from them. He goes and  
22 hides in the woods. They have to get dogs out.  
23 They, ultimately, make the arrest. So that's  
24 where the resisting and the possession of meth  
25 come from.

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1           And Judge, he's not pleading to another  
2 charge. But he got out on bond for that. And  
3 then got rearrested for another driving offense  
4 and possession marijuana.

5           So probation for distribution of fentanyl,  
6 arrest for homicide by child abuse. Out on bond.  
7 Arrested, again, for -- for methamphetamine,  
8 resisting. Bond for that. And resisting or --  
9 for marijuana. So, Judge, I think that speaks for  
10 itself.

11           Law enforcement is here, and a lot of the  
12 city officers that participated and investigated  
13 this case. Coroner Cox was going to be here  
14 because he had a big part in this case as well.  
15 But those are the facts of the case that will  
16 support this plea.

17           **THE COURT:** All right.

18           All right. Mr. Childs, the summary of the  
19 facts regarding the incident with the child, he  
20 was able -- or the baby was able to ingest some  
21 quantity of fentanyl that caused the child's --  
22 male or female?

23           **MR. BROWN:** Little girl.

24           **THE COURT:** Little girl. Caused her death.  
25 Facts accurate?

1           **THE DEFENDANT:** (No audible response.)

2           **THE COURT:** Gotta say it out loud so --

3           **THE DEFENDANT:** Yes, sir.

4           **THE COURT:** -- the court reporter can get it.

5           **THE DEFENDANT:** Yes, sir.

6           **THE COURT:** Now the meth charge and you got  
7 stopped, and the resisting arrest, you ran off;  
8 did you do that as well?

9           **THE DEFENDANT:** Yes, sir.

10          **THE COURT:** Now if you've been over this case  
11 thoroughly with Mr. Stancil?

12          **THE DEFENDANT:** Yes, sir. Everything except  
13 for the motion. We didn't discover the motion,  
14 but.

15          **MR. STANCIL:** We've -- we've sat down and  
16 discussed the case. And his option is to move  
17 forward, Your Honor.

18          **THE COURT:** Okay. Now have you understood  
19 all your conversations with him regarding your  
20 rights to have a trial?

21          **THE DEFENDANT:** Yes, sir.

22          **THE COURT:** Are you satisfied you understood  
23 those conversations?

24          **THE DEFENDANT:** Yes, sir.

25          **THE COURT:** Are you satisfied, albeit

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1           difficult advice he's giving you to plead guilty  
2           as opposed to go to trial, are you satisfied with  
3           his advice and counsel?

4           **THE DEFENDANT:** Yes, sir.

5           **THE COURT:** And as a result of his advice and  
6           counsel, you're now entering this plea here today?

7           **THE DEFENDANT:** Yes, sir.

8           **THE COURT:** He's also told you that this  
9           homicide by child abuse is a -- classified as a  
10          violent offense, meaning, when you go to the  
11          Department of Corrections, you'll be classified as  
12          a violent offender. You're not entitled the same  
13          programs the non-violent offenders are entitled  
14          to. He discussed that with you as well?

15          **THE DEFENDANT:** Yes, sir.

16          **THE COURT:** And that -- what that means is  
17          whatever sentence the court gives you, you have to  
18          serve 85 percent before you're entitled to a  
19          community supervision release. Never get parole.  
20          It's just not given. But community supervision is  
21          a synonym for parole. You get released, and  
22          you're supervised. But the difference is you do  
23          85 percent first on a violent crime as opposed to  
24          a non-violent crime. You do something much less  
25          than that. But still when you get on parole,

1           you're supervised by Probation, Pardon, and  
2           Parole. Do you understand?

3           **THE DEFENDANT:** Yes, sir.

4           **THE COURT:** Also you're going to be  
5           classified -- I'm sorry. You have a conviction on  
6           your record of a most serious conviction. And  
7           what that means -- you don't have a most serious  
8           or serious on there. I don't see a strike.

9           There's two rules. There's three strikes  
10          you're out and two strikes you're out. Two most  
11          serious is two big strikes. Serious, serious,  
12          most serious; or serious, serious, serious; any  
13          combination of the three, three strikes you're  
14          out, meaning the state could seek a life without  
15          parole sentence, which this charge today carries  
16          20 to life. So they don't really have to say  
17          we're seeking life; the statute itself on this  
18          charge includes a potential life sentence. Okay?

19          But in the future, after the sentence is  
20          done, whenever that may be, if you get another  
21          accusation of a most serious charge, the state  
22          could at that time, say, "Judge, he's been in  
23          trouble repetitively. We're seeking a life  
24          without parole sentence." This can be used  
25          against you in that fashion. Do you understand

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1           that?

2           **THE DEFENDANT:** Yes, sir.

3           **THE COURT:** Likewise on the possession of  
4 meth, that's another drug conviction. You've got  
5 one, two -- two -- this will be a third. I mean,  
6 any future drug offense you get accused of will be  
7 a more than third, which is the most serious  
8 level -- most severe level of any of the drug --  
9 worse than second, worst than third. You're  
10 getting fourth or more charges this point forward.  
11 You understand?

12          **THE DEFENDANT:** Yes, sir.

13          **THE COURT:** Now also the driving -- resisting  
14 arrest. I'm sorry. I thought you were failure to  
15 stop. Resisting arrest doesn't take much  
16 implications. Other than this is, some judges, I  
17 being one of them, uses resisting arrest as a  
18 measuring stick, you know, when I set appropriate  
19 bonds for people. So resisting arrest, failure to  
20 stop for a blue light, no appearance in court,  
21 those kind of things, kind of a disrespect toward  
22 authority figures, I use that when I set bonds.  
23 Other judges may do the same thing. So it could  
24 be used against you in that fashion. If you get a  
25 future charge, it could impact your bond amount.

1           Okay?

2                   Now has Mr. Stancil been over those  
3 parameters, the most serious and the violent  
4 conviction and those 85 percent rules, has he been  
5 over that with you?

6           **THE DEFENDANT:** Yes, sir.

7           **THE COURT:** In light of those things, do you  
8 still wish to plead guilty?

9           **THE DEFENDANT:** Yes, sir.

10          **THE COURT:** Are you in fact guilty?

11          **THE DEFENDANT:** Yes, sir.

12          **THE COURT:** Anybody make you enter this plea  
13 here today?

14          **THE DEFENDANT:** (No audible response.)

15          **THE COURT:** Now do you understand if I accept  
16 your plea that this is going to be considered a  
17 willful violation of supervision you're on for  
18 that distribution of fentanyl charge? You  
19 understand that?

20          **THE DEFENDANT:** Yes, sir.

21          **THE COURT:** In light of that fact, you still  
22 willing to plead guilty?

23          **THE DEFENDANT:** Yes, sir.

24          **THE COURT:** Regarding Indictments 2021GS24  
25 Indictment 1707, I file that Zy'Tawn Childs made a

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1 free, knowing, intelligent plea of guilt to  
2 homicide by child abuse. He's entered this plea  
3 with advice and counsel of an attorney of whom he  
4 states while under oath he's satisfied and  
5 understood the state has provided more than ample  
6 facts to support that plea.

7 Regarding the two indictments, 23GS24441 and  
8 442, I file that Zy'Tawn Childs made a free,  
9 knowing, intelligent waiver of presentment and  
10 plea of guilt to resisting arrest and possession  
11 of meth first. He's entered both waiver and both  
12 pleas with advice and counsel of an attorney,  
13 while under oath, he stated he's satisfied and  
14 understood, and the state's provided ample facts  
15 to support those two pleas as well.

16 All right. Mr. Brown, you want to be heard  
17 last?

18 **MR. BROWN:** Yes, that will be fine.

19 **THE COURT:** Okay. Mr. Stancil, let me hear  
20 from you and anybody in mitigation you've got.

21 **MR. STANCIL:** Thank you, Your Honor. May it  
22 please the Court.

23 **THE COURT:** Uh-huh.

24 **MR. STANCIL:** Colie Stancil here for  
25 Mr. Childs. I've had many conversations with

1 Mr. Childs about this. I would like to point out  
2 that this case is a trial docket case. But  
3 Mr. Childs made it clear to me at no point did he  
4 want to trial on this. It was always going to be  
5 a plea. He -- he doesn't want to put himself  
6 through reliving this. He doesn't want to put his  
7 family and friends who are here in support of him  
8 through that again. I commend him for that. He's  
9 here taking responsibility and wants to get this  
10 put behind him.

11 Your Honor, he's a 23-year-old young man. I  
12 believe he turned 23 on January 27 while in  
13 custody. He has had addiction issues. He's been  
14 very honest and forthcoming with that.

15 And just for the record, Your Honor, his  
16 mother --

17 Ms. Child's raise your hand.

18 -- would like to speak. His aunt, Ms. McGraw  
19 and his significant other, Ms. Parks, would all  
20 like to address the Court at the appropriate time.  
21 Your Honor, Mr. Childs is a lifelong Greenwood  
22 resident. Graduated from Greenwood High School.  
23 Wrestled there. Been a member of Milway Baptist  
24 Church his entire life.

25 He does have two children who live here in

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1 Greenwood, South Carolina; I believe, a  
2 five-year-old son and a four-year-old son.  
3 Your Honor, he knows that he's going to be away  
4 for a long time. We would just, you know, ask the  
5 Court for as much leniency as possible so he can  
6 still be a father to them, still be a son, a  
7 significant other, and a nephew to the family who  
8 is here in support of him.

9 Mr. Childs, every time I've met with him, has  
10 made it very clear that this is the worst moment  
11 of his life. He said it was the worst thing  
12 that's ever happened to him. It absolutely broke  
13 his heart. But he still is here to take  
14 responsibility for his -- his actions and get this  
15 behind him.

16 Your Honor, a little bit more about  
17 Mr. Childs, he basically has been a working adult  
18 since he was 16. When he was in high school, he  
19 was working second shifts at -- I believe,  
20 starting at Wendy's and Captain D's, because he  
21 had his first child when he was 17. So he's  
22 always been a hard-working, good young man.

23 He fell into drugs. He was honest with me  
24 that as a young man with children, life started  
25 moving too fast for him. He switched to narcotics

1 to try to slow it down, get some semblance of  
2 control. And I believe that is the one thing he  
3 is here mostly accepting responsibility that his  
4 actions, his -- his turn to narcotics has put him  
5 here today. Your Honor, we would just ask that,  
6 if possible, he be screened for the ATU when down  
7 in SCDC.

8 After his family speaks for him, I believe  
9 Mr. Childs would like to address the court as  
10 well.

11 **THE COURT:** All right. Let me hear from your  
12 family members.

13 **MR. STANCIL:** Can they just stand up there,  
14 Your Honor?

15 **THE COURT:** That's be perfectly fine as long  
16 as the microphone pick her up. She'll give me a  
17 thumbs-up she's getting them.

18 **MR. STANCIL:** State your name for the record  
19 first.

20 **MS. CHILES:** Yashiqua Chiles.

21 **THE COURT:** All right. Ms. Childs.

22 **THE REPORTER:** Spell her name.

23 **THE COURT:** Spell your first name, please.

24 **MS. CHILES:** Y-a-s-h-i-q-u-a and C-h-i-l-e-s.

25 **THE COURT:** All right. Ms. Chiles, I'll be

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1 glad to hear from you.

2 **MS. CHILES:** Thank you. Excuse me because  
3 this is hard. I feel like I've lost twice. Oh,  
4 my God. Hold on.

5 I fed both Zy'Tawn as my son and Minor as my  
6 granddaughter. I've clothes both. And out of all  
7 his mistakes, I saw growth in him, because he  
8 loved her more than anything. He was trying. He  
9 was pushing. Trying to give her better.

10 And for this terrible -- oh, my God. Oh. I  
11 don't fault him at all. I don't. Because I know  
12 it wasn't his -- his intent for any of this to  
13 happen. I love my son, but I also know I don't  
14 want him to rush anywhere for trying to be the  
15 best that he could. But we all have faults.

16 Growing up as a parent, I had faults. I did  
17 things I didn't necessarily like, but I thought I  
18 was doing better, trying to give my kids better.  
19 And I know those were his intentions, even though  
20 it didn't turn out the way he thought they would.

21 Being a father at such a young age, I was  
22 determined not to help him cause I was going to  
23 make him learn on his own. If you know how many  
24 nights I cried for both. I've cried because I  
25 feel like I failed my son, like I should have

1           picked up the phone sooner; I should have called  
2           earlier. I hate that.

3           I relive that night every day I talk to him.  
4           And I can see the hurt on his face every time when  
5           he was out and I talked to him, the look on his  
6           face when he walks through the hall and he doesn't  
7           see Minor standing in that hallway with her arms  
8           up saying (inaudible). That's hurtful to me.

9           Counseling, yes, he needs. Because nobody  
10          can deal with that pain and be okay. Nobody can  
11          wake up every morning and not see the baby that  
12          they've always seen every morning and be okay. We  
13          were her family. You're looking at her family.  
14          We were.

15          I wear this shirt to represent her. And I'm  
16          standing here for him because that's my baby too.  
17          That was my baby, and that's my baby, and I don't  
18          want to lose both. I can't fathom seeing him in  
19          there, but -- I just -- I don't -- I don't get it.  
20          But he -- being young and trying to be a father to  
21          kids is rough. And he wore that.

22          He did it. Whether he was getting up at two,  
23          three o'clock in the morning trying to go to work,  
24          or two, three, four o'clock in the morning to drop  
25          Minor off or pick her up, he did that. He was

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1 father and mother to her both. A shoe that I had  
2 to feel that I felt sorry for him for, because I  
3 knew how hard that was. You make sure your baby  
4 has. And he did that.

5 It's a double hurt. It's a double hurt all  
6 over again. And I just don't want that hurt. I  
7 don't want that hurt. I don't want to  
8 continuously hurt.

9 But I know he doesn't deserve this. In my  
10 mind, he doesn't deserve this. That one mistake,  
11 that terrible night, he doesn't deserve this.  
12 This is too hard. It's too hard. And I can't  
13 really put it all in words, but he doesn't deserve  
14 this.

15 I don't know -- I don't know -- I know what  
16 the law says. And I know what they say the  
17 minimum is. But if there's anything that can be  
18 done to help spare his life, his growth, his  
19 continued growth, please grant me at least that,  
20 because I don't want to lose my son. I don't -- I  
21 don't want to lose him to that to something that  
22 was a genuine-hearted mistake that should've never  
23 happened. I don't want that. I don't think  
24 anybody wants that.

25 He's not heartless. Despite the mistakes he

1           made before, he's not heartless. He's one of the  
2           most genuine, kind people I've ever met. He's  
3           friendly. He loves to laugh. He doesn't like  
4           being sad. He doesn't want to be down. And since  
5           that night, that's all I see on him. That's it.  
6           That's -- that's all I have to say. Everything  
7           else -- I don't know if you'll take into  
8           consideration any of what I said. But he don't  
9           deserve this.

10           **THE COURT:** I admire you for your  
11           understanding of the horrible tragedy.

12           **MS. CHILES:** Thank you. He don't deserve --  
13           he don't deserve this.

14           **MR. STANCIL:** Your Honor, his aunt, Ms.  
15           would also like to address the court.

16           State your name and spell it for the court  
17           reporter.

18           **MS. MCGRAW:** Treasie McGraw. T-r-e-a-s-i-e  
19           M-c-G-r-a-w.

20           **THE COURT:** All right. Ms. McGraw, I'll be  
21           glad to hear from you.

22           **MS. MCGRAW:** I'm Zy'Tawn's aunt. We've been  
23           Frick and Frack since forever, first grade, when  
24           he came. We've been Frick and Frack. Can't get  
25           us apart. Nothing.

## Guilty Plea

1           He's a good person. He helps me with my  
2 children. When I need him to get them from school  
3 or off the bus, he was there to get them. And  
4 it's like a missing void from our family, because  
5 it's constantly every day my baby's asking me,  
6 "Where is he? When are we going to see him?"  
7 They haven't seen my nephew since August.

8           Like -- and I deal with it. And I hold it in  
9 so much. And I know I don't supposed to hold  
10 nothing in. But I just haven't accepted the fact  
11 to release anything, because I always been there  
12 with him; I always been there for him. We  
13 always -- we been here. Been there. That's my  
14 first-born nephew. That's just like a brother to  
15 me. And I -- like I said, I never been separated  
16 from him a day in my life.

17           And just overall, he was supposed to graduate  
18 college in December that just passed. And he  
19 didn't even get to graduate. And he worked so  
20 hard. So hard. It's like he worked so hard, not  
21 only for himself, but for his children.

22           Yes, he has three other -- two other  
23 children, but Minor was his pride of joy. If he  
24 needed a sitter, I would watch her for him until  
25 he got back. And if it was late that he got back,

1 I kept her and said, "Just come get her in the  
2 morning."

3 He hurt; I hurt. And just to see him  
4 standing here like this in that suit, that's not  
5 him. That's not his lifestyle. Yes, everybody  
6 makes mistakes, and everybody live and grow and  
7 understand their mistakes, but this -- this not  
8 him. But that's all I've got to say.

9 **THE COURT:** Okay. Thank you very much.

10 **MR. BROWN:** Your Honor, just one more,  
11 Ms. Charmaine Parks would like to address the  
12 court as well.

13 **THE COURT:** All right. Ms. Parks, will you  
14 spell your first name for my court reporter?

15 **MS. PARKS:** C-h-a-r-m-a-i-n-e.

16 **THE COURT:** Okay. Glad to hear from you.

17 **MS. PARKS:** Ever since I met Zy'Tawn -- I  
18 have a daughter of my own. And her father has  
19 like really never been in her life. Ever since I  
20 met Zy'Tawn, he's stepped up for my daughter and,  
21 you know, just being there for, you know,  
22 whatever. He was just a father figure in her  
23 life. He was her father.

24 And he just --

25 **THE COURT:** All right.

## Guilty Plea

1           **MR. STANCIL:** Thank you, Your Honor. I  
2 believe Mr. Childs would like to address the Court  
3 briefly.

4           **THE COURT:** Mr. Childs, glad to hear from  
5 you.

6           **THE DEFENDANT:** First off, I would like to  
7 apologize to everybody, to all my family. This  
8 was a tragedy for me. Some nights I can't sleep.  
9 She be on my mind. But yes, it happened.  
10 Hopefully, one day I'll be able to take care of my  
11 kids again. Thank you.

12           **THE COURT:** All right.

13           **MR. STANCIL:** Thank you, Your Honor.

14           **THE COURT:** All right. Mr. Stancil, thank  
15 you.

16           Mr. Brown?

17           **MR. BROWN:** Judge, this is one case where a  
18 dad has to do what's right, has to protect his  
19 child. Mr. Childs, as his record indicates, he  
20 had a lot of run-ins with the law. He was out for  
21 distribution of fentanyl, 10 years over his head.  
22 if that don't catch your attention, I don't know  
23 what does. He's out on probation, and he's still  
24 messing with it. And a child that's one year old,  
25 that can't defend herself, eats pills and dies.

1           He bonds out for that, and he gets right back  
2           into drugs again. He bonds out for that, and he  
3           gets right back into drugs again. That should  
4           tell you something. I think that's all I need to  
5           say.

6           **THE COURT:** All right.

7           Do y'all have a calculation of the number of  
8           days he's entitled to, Mr. Stancil?

9           **MR. STANCIL:** It was about 22 months, 660  
10          days, Your Honor.

11          **THE COURT:** Okay.

12          Mr. Williams, what's he got hanging over his  
13          head, that distribution?

14          **MR. WILLIAMS:** He had two sentences of 10  
15          years suspended to 310 days and three years'  
16          probation for a distribution and for a breach of  
17          peace of high and aggravated -- or an aggravated  
18          in nature. It was the same sentence on both.

19          **THE COURT:** All right. Okay.

20          On the -- I've accepted the plea. And I'll  
21          tell you this, Mr. Childs, you got a limited  
22          number of days during which time you can file a  
23          notice of intent to appeal if you believe any  
24          procedures have been misapplied or done  
25          inappropriately. But Mr. Stancil will tell you

## Sentencing of the Court

1           that. So if you want to file an appeal, you've  
2           got a limited window of time to do so.

3                     Indictment 23GS41, resisting arrest, that's  
4           time served. He's already done more time than the  
5           minimum.

6                     On 442, 22 months time served as well.

7                     On the homicide by child abuse, sentence of  
8           the Court is 23 years. He gets credit for 660  
9           days he's done. And all those are run concurrent.  
10          Revoke him. Give him credit for any days he's  
11          due. Case is over with.

12                    And I'm going to make a recommendation that  
13          he get referred to ATU while at the Department of  
14          Corrections. That was asked for.

15                    Mr. Childs, I wish you luck. It's a horrible  
16          tragedy. The General Assembly has written this  
17          law very harshly because they're making directives  
18          to everyone that children are to be protected.  
19          And you're in the best position to protect them,  
20          but in the worst position to harm them. Good luck  
21          to you.

22                    **MR. BROWN:** Thank you, Judge.

23                    **MR. STANCIL:** Thank you, Your Honor.

24                    (Proceedings conclude at 10:57 a.m.)

25

## CERTIFICATE

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I, the undersigned, Teresa B. Johnson, Official Court Reporter, who listened to the digital recording created by DCRP, do hereby certify that said hearing is a true, correct, and verbatim transcript of said recorded, discernible proceedings, except for the portions noted where no transcript was possible due to the lack of discernible wording, noted by (inaudible): 1 times.

I do further certify that I am not a relative, employee, attorney, or counsel of any of the parties connected with the action, nor am I financially or otherwise interested in the outcome of the action.

Dated: 11/08/2024

/s/Teresa B. Johnson

Teresa B. Johnson

Official Court Reporter

# The South Carolina Court of Appeals

The State, Respondent,

v.

Zy'Tawn Keinas Childs, Appellant.

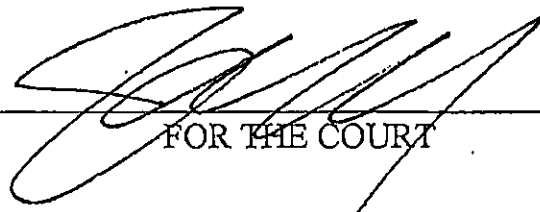
Appellate Case No. 2023-000386

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## ORDER

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This appeal arises out of a sentence imposed on February 27, 2023. The proof of service provided with the notice of appeal shows service on September 1, 2023. Because the notice of appeal was not timely served, the appeal is dismissed. *See State v. Devore*, 416 S.C. 115, 119, 784 S.E.2d 690, 692 (Ct. App. 2016) (noting timely service of the notice of appeal is a jurisdictional requirement); Rule 203(b)(2), SCACR ("After a plea or trial resulting in conviction or a proceeding resulting in revocation of probation, a notice of appeal shall be served on all respondents within ten (10) days after the sentence is imposed."). The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

  
 \_\_\_\_\_, J.  
 FOR THE COURT

Columbia, South Carolina

cc:

Zy'Twan Keinas Childs, 00390397  
 Cecil Yates Brown, Jr., Esquire  
 Melody Jane Brown, Esquire  
 Alan McCrory Wilson, Esquire

**FILED**  
**Sep 20 2023**

Colie J. Stancil, Esquire  
Robert Michael Dudek, Esquire

**PETITION FOR REHEARING**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY  
Court of General Sessions

Eugene C. Griffith, Jr., Circuit Court Judge

Case No. 2021-GS-24-01707

The State of South Carolina,

Respondent,


v.

Zy/Tawn Keinas Childs,

Appellant.

Zy'Tawn Kenias Childs petitions for a rehearing based on the improper date on Proof of Service of September 1, 2023.

The date of September 1, 2023 was the date I cured the deficiencies requested by the Court of Appeals. The appeal was appropriately served, but the date of September 1, 2023, was put on the corrected Proof of Service as it was within the deadline of the 10 days from August 24, 2023, which was the date of the letter asking for deficiencies to be cured. The August 24, 2023 letter directed Counsel to cure the deficiencies outlined in the March 9, 2023 letter.

  
Colie S. Stancil, Esq.  
600 Monument St., Suite 208  
Greenwood, SC 29649  
(864) 229-9505  
Attorney for Appellant

**PROOF OF SERVICE  
PETITION FOR REHEARING**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM GREENWOOD COUNTY  
Court of General Sessions

Eugene C. Griffith, Jr., Circuit Court Judge

---

Case No. 2021-GS-24-01707

---

The State of South Carolina,

Respondent,

v.

Zy'Tawn Keinas Childs,

Appellant.

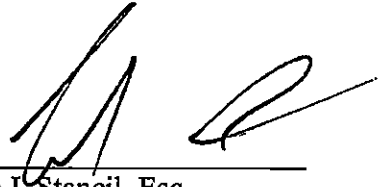
---

**PROOF OF SERVICE**

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I certify that I have served Petition for Hearing for Zy'Tawn Keinas Childs by electronically mailing a copy of it on October 5, 2023, to the South Carolina Court of Appeals at [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org). I have also served Cecil Yates Brown, Deputy Solicitor, Greenwood County Solicitor's Office, attorney for the Respondent, by depositing a copy in the United States Mail, postage prepaid, on October 5, 2023. A copy has also been deposited in the United States Mail, postage prepaid, to the Greenwood County Clerk of Court – General Sessions, on October 5, 2023. A final copy has been deposited in the United States Mail, postage prepaid, to Zy'Tawn Keinas Childs, c/o South Carolina Department of Corrections, on October 5, 2023.

**[SIGNATURE BLOCK ON FOLLOWING PAGE.]**



---

Colie J. Stancil, Esq.  
600 Monument St., Suite 208  
Greenwood, SC 29649  
(864) 229-9505  
Attorney for Appellant

# The South Carolina Court of Appeals

The State, Respondent,

v.

Zy'Tawn Keinas Childs, Appellant.

Appellate Case No. 2023-000386

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## ORDER

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After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

*Paul W. Brown*

J.

*J. Ke*  
*John Beathem*

J.

J.

Columbia, South Carolina

cc:

- Zy'Twan Keinas Childs, 00390397
- Cecil Yates Brown, Jr., Esquire
- Melody Jane Brown, Esquire
- Alan McCrory Wilson, Esquire
- Colie J. Stancil, Esquire
- Robert Michael Dudek, Esquire

**FILED**  
**Oct 26 2023**



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

December 05, 2023

The Honorable Chastity Copeland  
528 Monument Street Rm #114  
Greenwood SC 29646

### REMITTITUR

Re: The State v. Zy'Tawn K. Childs  
Lower Court Case No. 2021GS2401707  
Appellate Case No. 2023-000386

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

A handwritten signature in cursive script that reads "Jenny A. Kitchings".

CLERK

Enclosure

cc: Zy'Twan Keinas Childs, 00390397  
Cecil Yates Brown, Jr., Esquire  
Melody Jane Brown, Esquire

59  
Filed 03:08h Jud Cir Greenwood, SC  
23 DEC 26 PM 12:48

Alan McCrory Wilson, Esquire  
Colie J Stancil, Esquire  
Robert Michael Dudek, Esquire

Filed DP 8th Cir Ct for Greenwood, SC  
Case 24-06-01279

FORM 5

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENWOOD )  
 )  
 Zy'Tawn Keinas Childs )  
 Full name and prison number (if any) of Applicant. )  
 )  
 v. )  
 )  
 State of South Carolina )  
 )

IN THE COURT OF COMMON PLEAS  
**2024-CP-24-00907**

APPLICATION FOR  
 POST-CONVICTION RELIEF

**INSTRUCTIONS - READ CAREFULLY**

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

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

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

1. Place of detention Ridgeland Correctional Institution, 5 Correctional Road, Ridgeland, SC 29936
2. Name and location of Court which imposed sentence General Sessions Greenwood County
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2021GS2401707 Murder / Homicide by child abuse (20 to Life)
  - (b) 2023GS2400441 Resisting Officer
  - (c) 2023GS2400442 Possession Metho/Cocaine Base
  - (d) 2020GS241106 Breach of Peace-Aggravated (Probation Revocation)

- (e) 18GS241166 Drugs/MDP Narc 1<sup>st</sup> Offense (Probation Revocation)
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) 022723 23 Years
- (b) 022723 Concurrent 1 Year
- (c) 022723 Concurrent 22 Months
- (d) 022723 10 Years
- (e) 022723 10 Years
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty x
- (b) after a plea of not guilty \_\_\_\_\_
- (c) after a plea of nolo contendere \_\_\_\_\_
7. Did you appeal from the judgment of conviction or the imposition of sentence?  
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals 2023-000386
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (b) the result in each such Court to which you appealed:
- i. Dismissed
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (c) the date of each such result:
- i. September 20, 2023
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
9. If you answered "no" to (7), state your reasons for not so appealing:

(a) \_\_\_\_\_

(b) \_\_\_\_\_

(c) \_\_\_\_\_

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

(a) Ineffective assistance of counsel

(b) \_\_\_\_\_

(c) \_\_\_\_\_

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

(a) Trial counsel failed to properly investigate the case, interview witnesses, understand the medical evidence, prepare a defense, research prepare and move to suppress illegally obtained evidence, to properly hand off and ensure adequate representation when counsel changed within the office, failure to take appropriate measures to allow new counsel to be properly prepared before the case was placed on the docket, to prevent undue pressure on the Applicant to plead guilty and suffer probation revocations because newly appointed counsel appeared ill-prepared to proceed to trial, failure to properly advise the Applicant on the procedure and merits of his case and any plea offers so as to allow Applicant to make an informed decision as to whether or not to enter a guilty plea or proceed to trial.

(b) \_\_\_\_\_

(c) \_\_\_\_\_

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

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

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

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

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

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

(a) the specific nature thereof:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

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

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

(c) the disposition thereof:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

(d) the date of each such disposition:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

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

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

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

No

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

(a) which grounds have been presented:

i. \_\_\_\_\_

- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (b) the proceedings in which each ground was raised:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) This is the first opportunity to file for relief based on the grounds alleged.
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? Yes
- (b) your trial, if any? \_\_\_\_\_
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Tristan M. Shaffer, POB 1135, Irmo, SC 29063 [REDACTED]@shafferlawsc.com (803) 626-0188
- ii. Colie J. Stancil, Eighth Circuit Public Defender, 600 Monument St., Suite 208, Greenwood, SC 29649, [REDACTED]@8thcircuitpublicdefender.org (864) 229-9505
- iii. Robert Michael Dudek, S.C. Commission on Indigent Defense, POB 11589, Columbia, SC 29211 [REDACTED]@sccid.sc.gov (803) 734-1330
- (b) the proceedings at which each such attorney represented you:
- i. Plea and Direct Appeal
- ii. \_\_\_\_\_

iii. Direct Appeal

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

To have the conviction(s) and sentence(s) reversed, set aside, and new trials granted and probation revocations reversed or remanded and probation reinstated.

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

No

STATE OF SOUTH CAROLINA )  
 )  
County of Greenwood )

VERIFICATION

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

X *Zy'Tawn Childs*

SWORN to and subscribed before me this 31<sup>st</sup>  
day of July, 2024.

*Virginia Robinson* (L.S.)  
Notary Public

My Commission Expires: April 21, 2031

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

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

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

Zy'Tawn Childs  
Applicant

SWORN or affirmed to and subscribed before me this  
31<sup>st</sup> day of July, 2024.

Virginia Robinson  
Notary Public

My Commission Expires: April 21, 2031

Filed CP 8th Jud Cir Greenwood, SC  
MAR 7 '25 PM 4:53

STATE OF SOUTH CAROLINA  
COUNTY OF GREENWOOD

Zy'Tawn Keinas Childs, #390397,

Applicant,

v.

State of South Carolina,

Respondent.

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

) Cases No. 2024-CP-24-00907

)  
)  
) **RETURN**  
) (Counsel Appointed)

In response to Applicant Zy'Tawn Keinas Childs' application for post-conviction relief ("PCR") commenced on August 23, 2024, Respondent, the State of South Carolina, makes the following Return:

**PROCEDURAL HISTORY**

During the September 2021 term, the Greenwood County Grand Jury indicted Applicant for homicide by child abuse (2021-GS-24-1707). Applicant subsequently waived presentment of indictments for resisting arrest (2023-GS-24-0441) and possession of methamphetamine (2023-GS-24-0442). Applicant was represented by Colie J. Stancil, Esquire ("Counsel"). Deputy Solicitor C. Yates Brown, of the Eighth Circuit Solicitor's Office, prosecuted the case.

On February 27, 2023, Applicant appeared before the Honorable Eugene C. Griffith and pled guilty as indicted. Judge Griffith sentenced Applicant to twenty-three (23) years' imprisonment on the charge of homicide by child abuse and time served on the other two charges.

Applicant sent a *pro se* letter to the South Carolina Court of Appeals on March 8, 2023, which that court construed as a notice of appeal. On August 24, 2023, the court of appeals directed Counsel to cure the deficiencies present in Applicant's *pro se* notice of appeal. Counsel subsequently filed an amended notice of appeal and guilty plea explanation on September 1, 2023.

The court of appeals dismissed the appeal on September 20, 2023. Counsel filed a motion to reconsider the order of dismissal and reinstate the appeal on October 5, 2023, which was denied. The remittitur was sent on December 5, 2023.

#### FACTS PRESENTED AT THE GUILTY PLEA HEARING

The solicitor summarized the underlying facts at the guilty plea hearing as follows:

Judge, this happened back on April 28, 2021, with the child homicide. Mr. Childs was in the care of his daughter, Minor , who was approximately a year old. His child was with his grandma -- with the grandmother earlier in the day. And the child was dropped off with Mr. Childs.

Law enforcement got the call when they received information from the hospital that an infant or one-year-old had been brought there unresponsive, and then ultimately died there, or was pronounced dead there at the hospital. The attending physician didn't notice any kind of trauma to the outside of the body. They ended up having to do tox -- an autopsy. And when the tox came back, it did show that Minor overdosed from fentanyl.

And after speaking with Mr. Childs there at the hospital, law enforcement went to the house, or the -- the home where Minor and Zy'Tawn Childs were. They looked around. And they did see there was a bag of fentanyl by the bedside -- that was on bedside table next to the bed. And it was opened.

They then talked to Mr. Childs. And I think he admitted at that point that he got home from work. He had taken some pills. He didn't realize the bag was still open, but it was open. The child -- they laid down the bed to watch TV. And the child got into the pills and ultimately consumed the pills and died as a result.

He then was out on bond from that. And -- well, this actually happened while he was out on probation for a distribution of fentanyl. That was a 2020 conviction, along with the other convictions that are on the information sheet that I provided you. He was out on probation for that. I believe it was a BOPHAN, pistol charge, distribution of fentanyl, and then this happened, where he's got another bag of fentanyl, where his child dies.

Mr. Childs then got another bond after the child homicide. And while out on bond for that, he is stopped as a traffic violation. Officers pull him over. They smell marijuana in the vehicle; get him out. They understand or know that he's on probation and out on bond at that time. They do find that he's in possession of

methamphetamine. While they have him detained on the roadside, he runs from them. He goes and hides in the woods. They have to get dogs out. They, ultimately, make the arrest. So that's where the resisting and the possession of meth come from.

(Plea Tr. pp. 8–10).

#### CURRENT APPLICATION

On August 23, 2024, Applicant timely filed an application for PCR. Applicant raises the following claims as grounds for relief:

1. “Ineffective assistance of counsel”
  - a. Trial counsel failed to properly investigate the case, interview witnesses, understand the medical evidence, prepare a defense, research prepare and move to suppress illegally obtained evidence, to properly hand off and ensure adequate representation when counsel changed within the office, failure to take appropriate measures to allow new counsel to be properly prepared before the case was placed on the docket, to prevent undue pressure on the Applicant to plead guilty and suffer probation revocations because newly appointed counsel appeared ill-prepared to proceed to trial, failure to properly advise the Applicant on the procedure and merits of his case and any plea offers so as to allow Applicant to make an informed decision as to whether or not to enter a guilty plea or proceed to trial.

As requested relief, Applicant seeks “[t]o have the conviction(s) and sentence(s) reversed, set aside, and new trials granted and probation revocations reversed or remanded and probation reinstated.”

Attached to this return and incorporated by reference are the Greenwood County Clerk of Court records regarding the subject conviction and sentence, Applicant’s records from the South Carolina Department of Corrections, the transcript of Applicant’s guilty plea proceeding, Applicant’s appellate records, and the records of the current PCR action. Respondent reserves the right to amend this return upon receiving any relevant materials.

RESPONSE TO ALLEGATIONS OF INEFFECTIVE ASSISTANCE OF COUNSEL

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

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

The first prong—constitutional deficiency—is “necessarily linked to the practice and expectations of the legal community.” Padilla v. Kentucky, 559 U.S. 356, 366 (2010). In order to prove deficient performance, the applicant must show counsel’s representation fell below an objective standard of “reasonableness under prevailing professional norms.” Cherry v. State, 300

S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814.

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

Accordingly, “[j]udicial scrutiny of counsel’s performance must be highly deferential[, as] it is all too tempting for a defendant to second-guess counsel’s assistance after conviction or adverse sentence, and it is all too easy for a court, examining counsel’s defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable.” Strickland, 466 U.S. at 689; see also Yarborough v. Gentry, 540 U.S. 1, 8 (2003) (“The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.”). Unlike a later reviewing court, the attorney observed the relevant proceedings; knew of materials outside the record; and interacted with the client, opposing counsel, and the judge. Thus, the question is whether an attorney’s representation amounted to incompetence under “prevailing professional norms,” not whether it deviated from best practices or most common custom. Id. (quoting Strickland, 466 U.S. at 690).

Thus, a fair assessment of attorney performance requires every effort be made to eliminate

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

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

The *Strickland* standard must be applied with scrupulous care, lest "intrusive post-trial inquiry" threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689–90; see also *Harrington*, 562 U.S. at 105 (cautioning that an ineffective assistance of counsel claim could potentially function as a way to escape rules of waiver and forfeiture and raise issues not presented at trial).

The second, or "prejudice" prong of *Strickland* is rooted in the very purpose of the Sixth Amendment guarantee of counsel—to ensure a defendant has the assistance necessary to justify reliance on the outcome of the proceeding. *Id.* at 691–92. In order to prove prejudice, an applicant must demonstrate counsel's deficient performance prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625. A reasonable

probability is a probability “sufficient to undermine confidence in the outcome.” Strickland, 466 U.S. at 694. Thus, it is not enough “to show that the errors had some conceivable effect” on the outcome of the proceeding—counsel’s errors must be “so serious as to deprive the defendant of a fair trial.” Id. at 693 (emphasis added).

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

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

The second, or “prejudice” prong, however, “focuses on whether counsel’s constitutionally ineffective performance affected the outcome of the plea process.” Id. at 58–59. Specifically, when an applicant claims counsel’s deficient performance caused him to accept a plea, the applicant “must show that there is a reasonable probability that, but for [plea] counsel’s [alleged]

errors, he would not have pleaded guilty and would have insisted on going to trial.” Id. at 59. This inquiry “focuses on a defendant’s decision making” and does not turn on the outcome of a defendant’s actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. Lee v. United States, 582 U.S. 357, 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).

Surmounting Strickland’s high bar is never an easy task, and the strong societal interest in finality has “special force with respect to convictions based on guilty pleas.” Lee, 582 U.S. at 368–69 (internal citations and quotation marks omitted); cf. Hill, 474 U.S. at 58 (“[R]equiring a ‘prejudice’ showing from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel ‘will serve the fundamental interest in the finality of guilty pleas.’”). Reviewing “[c]ourts should not upset a plea solely because of post hoc assertions from a defendant about how he would have pleaded but for his attorney’s deficiencies.” Lee, 582 U.S. at 368. Rather, judges should “look to contemporaneous evidence to substantiate a defendant’s expressed preferences.” Id. In determining whether a guilty plea was taken in accordance with constitutional standards, the reviewing judge must analyze and consider the entire record, including the transcript of the plea and the evidence presented at the PCR hearing. Harres v. Leeke, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

The performance and prejudice standards, however, “do not establish mechanical rules[;] [t]he ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result

is being challenged.” Id. at 696. Moreover, “there is no reason for a court deciding an ineffective assistance claim to approach the inquiry in the same order or even to address both components of the inquiry if the defendant makes an insufficient showing on one.” Id. at 697. The court “need not determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. Id. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, the court may evaluate the prejudice prong only. Id.

Respondent submits Applicant can satisfy neither requirement of the Strickland or Hill tests as to any of the allegations of ineffective assistance raised in his application. However, to the extent Applicant’s allegations of ineffective assistance of counsel raise questions of fact that the record does not conclusively refute, Respondent requests an evidentiary hearing to fully resolve the issues. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application “alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court”).

#### **ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY PROCESS**

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to Love v. State, 428 S.C. 231, 834 S.E.2d 196 (2019), or, alternatively, the State will request a continuance in the matter. Id. at 245, 834 S.E.2d at 203 (Kittredge, J., dissenting) (“If, however, the proposed amendment . . .

would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.”).

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

CONCLUSION

WHEREFORE, the State respectfully requests this Court convene an evidentiary hearing on the allegations contained in Applicant’s application for post-conviction relief.

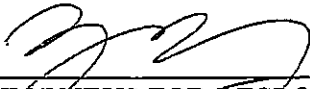
Respectfully submitted,

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\_\_\_\_\_  
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March 4, 2025

Filed CP 8th Judicial Circuit Greenwood, SC  
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STATE OF SOUTH CAROLINA )  
COUNTY OF GREENWOOD )  
ZY'TAWN K. CHILDS, #390397 )  
Applicant, )  
v. )  
STATE OF SOUTH CAROLINA )  
Respondent. )

IN THE COURT OF COMMON PLEAS  
FOR THE EIGHTH JUDICIAL CIRCUIT


2024-CP-24-00907

**CERTIFICATE OF SERVICE BY MAIL**

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

**J. Falkner Wilkes, Esquire  
248 Deerwood Park Drive  
Oakland, MS 38948**

DATED this 4<sup>th</sup> day of March, 2025

  
\_\_\_\_\_  
Zilcia Williams  
Legal Assistant for Respondent

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENWOOD

Zytawn Keinas Childs, )  
 Applicant, )  
 )  
 V )  
 )  
 State of South Carolina, )  
 Respondent. )  
 \_\_\_\_\_ )

2024-CP-24-00907

TRANSCRIPT OF RECORD

April 3, 2025  
Greenwood, South Carolina

B E F O R E:

The Honorable S. Bryan Doby, Judge

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

ATTORNEY FOR APPLICANT:  
 J. Faulkner Wilkes, Esquire  
 Robert C. Childs, III., Esquire

ATTORNEY FOR RESPONDENT:  
 Zachary W. Jones, Assistant Attorney General

Tara T. Scott, CVR  
Official Court Reporter

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1 THE COURT: Mr. Jones, I'll let you call our first  
2 case.

3 MR. JONES: Thank you, Your Honor. This is the case of  
4 Zytawn Childs v the State of South Carolina. Case number  
5 2024-CP-24-907. My name is Zachary Jones for the State.  
6 Mr. Childs is present, as is his attorney, Jeff Wilkes and  
7 his other counsel, Mr. Childs. The Applicant was indicted  
8 during the September 2021 term of the Greenwood County Grand  
9 Jury for homicide by child abuse. That indictment number is  
10 2021-GS-24-1707, and he subsequently waived presentment of  
11 indictments for resisting arrest and possession of  
12 methamphetamine. Those numbers being 2023-GS-24-441 and  
13 -442. He was represented by Colie Stancil, and on February  
14 27, 2023, he appeared before the Honorable Eugene C.  
15 Griffith and pled guilty as indicted. Judge Griffith  
16 sentenced him to 23 years imprisonment on the charge of  
17 homicide by child abuse and time served on the other two  
18 charges.

19 This application for post-conviction relief was  
20 commenced on August 23, 2024. And with that, I'll turn it  
21 over to the Applicant to make his case.

22 THE COURT: Good morning. How are you all this morning,  
23 gentlemen? Are y'all ready to go forward?

24 MR. WILKES: We are, Your Honor.

25 THE COURT: Do you need to put anything on the record

1 before we begin?

2 MR. WILKES: I don't believe so, Your Honor. Oh, other  
3 than sequestering any witnesses that we have.

4 THE COURT: All right.

5 MR. WILKES: And I believe -- who do you want to remain?

6 MR. CHILDS: The investigator may. She's our private  
7 investigator, and the other witness will have to stay  
8 outside so they don't hear each other's testimony.

9 MR. WILKES: I think we're good, Your Honor.

10 THE COURT: All right. So do y'all have any witnesses  
11 other than the Applicant?

12 MR. WILKES: Mr. Stancil, of course, and we have a few  
13 other witnesses under subpoena. I don't believe they've  
14 arrived yet. So we're just waiting on those, but we are  
15 prepared to proceed.

16 THE COURT: All right, and so you're asking that the  
17 witnesses for the State be sequestered as well. Is that  
18 correct?

19 MR. WILKES: No, Your Honor. Just ours, if we have some  
20 show up.

21 MR. JONES: Your Honor, the State was intending to call  
22 Tristan Shaffer and Colie Stancil as the State's witnesses,  
23 so we would ask that they not be included in the  
24 sequestration order. However, I would leave it to Your  
25 Honor's discretion.

Colie Stancil-Direct Examination by Mr. Wilkes

6

1           THE COURT: Y'all are not asking for the State's  
2 witnesses to be sequestered?

3           MR. WILKES: We are not. Just our witnesses. We have  
4 two witnesses under subpoena. They, I think may have both  
5 indicated they really don't want to be here. If they do  
6 show up, we just ask to have them sequestered and remain  
7 outside until they're called.

8           THE COURT: Absolutely.

9           (OFF THE RECORD BRIEFLY CONFERS WITH BAILIFFS)

10          THE COURT: I'll give you a brief moment if you want  
11 to tell me anything as an opening, or if you want to reserve  
12 to the end I'm glad to give you some time at the end of the  
13 testimony to tell me whatever you would like. But  
14 otherwise, I'll leave it up to you as to whether or not you  
15 want to give me an opening, and to Mr. Jones whether he  
16 wants to give me an opening as well.

17          MR. WILKES: We can do it at the end, since we never  
18 know what's going to happen during the case. So I don't  
19 want to be talking about things that don't come out the way  
20 we think they would.

21          THE COURT: That sounds like a reasonable approach.

22          MR. JONES: And I agree completely, Your Honor.

23          THE COURT: All right, thank you. All right, so I'll  
24 let you call your first witness.

25          MR. WILKES: Thank you, Your Honor. We'll call Mr.

1 Colie Stancil.

2 WHEREUPON, Colie Stancil, having first  
3 been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. WILKES:

6 Q Mr. Stancil, good morning.

7 A Good morning.

8 Q I'm Jeff Wilkes, and I represent Mr. Childs. I  
9 understand you represented Mr. Childs at his guilty plea?

10 A Correct. I took over the case from another attorney in  
11 office.

12 Q Do you recall when your office first took the case?

13 A First took which case? He had different sets.

14 Q On the homicide by child neglect.

15 A Whenever he applied. That would be -- the Clerk of  
16 Court would be able to tell you that.

17 Q Do you have your file with you?

18 A I do.

19 Q Are you able to refer to your file?

20 A Give me a second to pull it up.

21 Q Okay, thank you.

22 A Beg your indulgence. I have to change internet real  
23 quick. Pulling it up now.

24 Q Do you have any notes related to your conversations  
25 with Mr. Childs?

Colie Stancil-Direct Examination by Mr. Wilkes

8

1 A You say -- you mean written notes like when we met with  
2 him in general?

3 Q Yes.

4 A Of course.

5 Q Okay. We subpoenaed your file. We did not receive  
6 those.

7 A Everything I had in our Defender Data System y'all  
8 should have.

9 Q Okay. I don't believe we have any written notes, so  
10 I'll have to kind of go through them now. If that's okay.

11 A Understood.

12 Q Okay, so tell me your first contact with Mr. Childs.

13 A It would have been at the detention center after I  
14 inherited the case for Mr. Shaffer.

15 Q And do you know roughly when that would have been?

16 A Right when I took it over, which I believe was in  
17 October before the plea.

18 Q Okay. And the plea was when?

19 A Give me a second. February 27, 2023, so my first  
20 contact would have been around October 2022.

21 Q Okay, so that would be four months roughly?

22 A Roughly.

23 Q Okay. What other times did you meet with Mr. Childs?

24 A I've had about three or four jail visits, once with the  
25 investigator in the office as well.

1 Q And do you know when the last one was?

2 A Shortly before the pleas. We had to get make sure all  
3 the mitigation was in order.

4 Q Now, this ended up as a guilty plea on the homicide by  
5 child neglect. Is that right?

6 A Homicide by child abuse.

7 Q Abuse. I'm sorry. Tell me a little bit about the case  
8 and your appraisal of the facts of the case.

9 A Okay? Well, in my many meetings with Mr. Childs, when  
10 we're going over incident reports, the videos, the  
11 interviews, especially the autopsy report, manner of death,  
12 I was informed by my client, didn't want a trial. Wanted to  
13 plea. We had to work it out because there were also  
14 probation issues over his head -- I believe 10 years over  
15 his head on probation and new charges which could cause his  
16 bond to be revoked. But we were able to work it all out for  
17 a global deal.

18 Q Okay. And what was the sentences -- he received 23  
19 years on the homicide.

20 A Uh-huh.

21 Q And time served on all other charges

22 A Right. And maybe the probation got revoked and  
23 concurrent. I can't remember on that.

24 Q Okay, so the homicide being the bulk of the case?

25 A Yeah, it was the lead charge, yes.

1 Q Okay. And do you recall the facts of the case?

2 A I mean, yeah. The child died of what was deemed a  
3 fentanyl overdose. When law enforcement spoke with Mr.  
4 Childs, he admitted to having the fentanyl pills on the  
5 night side -- or the bedside night table where the bag was  
6 open and the pills were located.

7 Q Okay. And now -- and so, how did you analyze that case,  
8 as far as it being appropriate for a guilty plea? How did  
9 that -- did you come to a conclusion, as far as the evidence  
10 in the case being weak or strong? How ---

11 A Well -- I mean, my investigator and I looked over  
12 everything, especially discuss it with a client, but at the  
13 end of the day, I can't make that call. Mr. Childs is the  
14 one who decided to guilty plea. But we had an idea for a  
15 defense if we went to trial, but we never got to that point.

16 Q What was the idea of defense?

17 A That possibly it got into it's system before it got  
18 into Mr. Childs' care. And sorry. When I say "it", I mean  
19 the fentanyl. I apologize.

20 Q All right. And that was the potential defense in the  
21 case?

22 A Correct, Your Honor. Oh -- correct.

23 Q And so based -- do you -- did you estimate the case, as  
24 far as the State's case, to be a strong case?

25 A I mean more strong than weak. I mean, I can't put a

1 percentage on everything like that.

2 Q And you had the case for four months before the plea?

3 A Correct. And in my meetings with Mr. Childs he was the  
4 one who told me he wanted it to be a plea instead of a  
5 trial. I think his words -- I believe he also said this at  
6 the plea, he didn't want to put the families through it  
7 again.

8 Q All right. Now, you advised him of your appraisal of  
9 the case?

10 A Of course.

11 Q The possible defense of, it got into the system somehow  
12 else?

13 A Of course.

14 Q Okay, and you, I believe, had police discovery at some  
15 point. Do you know ---

16 A The majority of it was already in our system when Mr.  
17 Shaffer represented it. We use Defender Data. It was all  
18 uploaded. The Deputy Solicitor -- I made sure that he went  
19 over his file and I had everything that we needed.

20 Q Okay, and you had the photographs from the crime scene,  
21 I assume?

22 A I believe they're in here. Give me one second.

23 Q Or from the scene of the death.

24 A Correct. And the videos as well.

25 Q Okay, if I can show you what I would mark as

Colie Stancil-Direct Examination by Mr. Wilkes

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1 Applicant's Exhibit 1 for identification.

2 (WHEREUPON, photographs, marked as Applicant's Exhibit  
3 Number 1 for identification.)

4 Q Do those appear to be photographs that you had in your  
5 discovery material?

6 A They appear to be. I obviously have many more photos  
7 of this, but these do look familiar.

8 Q Okay, you're aware, I believe -- I'm not sure if you  
9 said the bag was open. If you look at those photographs,  
10 those photographs show a bag that is sealed, and the police  
11 are taking pictures of it?

12 A Correct.

13 Q Okay, so the bag was not -- the bag of fentanyl was not  
14 open?

15 A Right. I believe Mr. Childs was the one who told law  
16 enforcement it was.

17 Q If you -- would you have the supplemental report of  
18 Officer Shockley in your discovery?

19 A It's going to take me a second to find my notes on the  
20 reports on this one.

21 Q Let me just show you. If I can show you my copy. I've  
22 underlined at the bottom of it. If you'd read that  
23 underlying portion.

24 A Okay. (READING) I then advised Childs the bag was open  
25 when we conducted the search warrant.

1 Q So that indicates that an officer at the hospital  
2 questioning Mr. Childs told Mr. Childs the bag was open.

3 A I mean, that's what Shockley wrote, yeah.

4 Q Okay, and the photos of when the bag was found, the bag  
5 is sealed.

6 A In the photos you given me, yes.

7 Q Okay, well, we don't think the police sealed it back up  
8 to take evidentiary photos?

9 A Oh, I have no idea what the police did.

10 Q Okay, if you look at all of those photos, they all show  
11 the bag sealed, correct?

12 A I mean, some of them don't have the seal on it, but the  
13 ones that do.

14 Q They're sealed. And can you describe where -- I think  
15 one of those photos indicates where that bag was found  
16 before the police pulled it out of the little cubby on the  
17 night stand.

18 A Yeah, it looks like it's in a little cubby sitting on  
19 the night stand.

20 Q In a little cubby on a night stand, sealed right?

21 A Well, in this picture, you can't tell. You can just  
22 see the top of the bag.

23 Q But if you look at the other pictures, when they pulled  
24 it out, took photos of it for evidence purposes ---

25 A Oh, yeah. In ---

Colie Stancil-Direct Examination by Mr. Wilkes

14

1 Q --- it's sealed?

2 A --- those pictures it's sealed. It's just in this first  
3 pictures you can't tell.

4 Q All right. So on that cubby by the bedside the theory  
5 of the State's case is the child got in the bag of drugs by  
6 the bed?

7 A I'm assuming that that's what Deputy Solicitor Brown  
8 would have brought up.

9 Q Okay, and the child was how old? Do you remember?

10 A At the time of death? I have to look at the incident  
11 report.

12 Q Does 18 months sound about right?

13 A Sure.

14 Q Okay, so an 18-month-old would be a toddler, correct?

15 A I guess.

16 Q You don't have kids?

17 A No.

18 Q Okay. So the 18-month-old child, a toddler, would have  
19 had to have gone to the night stand, pull the bag out, open  
20 the bag, touch or take a drug, close it back up, put it back  
21 in the night stand. That would essentially be, I assume,  
22 the incriminating manner in which this child got to those  
23 drugs?

24 A I don't know what Solicitor Brown would have said. That  
25 -- maybe.

1 Q Okay, but that would seem -- when you look at the photo  
2 and you talk about an 18-month-old child, that would look  
3 kind of unusual when you look at that photo in that cubby  
4 with the sealed bag.

5 A I know nothing about children, so I have no idea.

6 Q Very good. Okay. All right. But the potential theory  
7 of the case for defense that you considered would be the  
8 child who got drugs, or was contaminated with drugs, before  
9 being dropped off?

10 A Absolutely, that was going to be the theory of the  
11 defense.

12 Q Okay. So, did you -- as far as it -- were the drugs  
13 found at the house were a critical part of the State's case.  
14 Would you agree?

15 A Absolutely.

16 Q If they didn't have the drugs found it at the  
17 defendant's residence, there wouldn't be much of a case?

18 A I assume not.

19 Q Okay, so did you file a suppression motion?

20 A If we had gone to trial we would have had a suppression  
21 hearing.

22 Q Did you file a suppression motion beforehand?

23 A No, because Mr. Childs made it clear he didn't want a  
24 trial.

25 Q Did you give him advice on the search?

Colie Stancil-Direct Examination by Mr. Wilkes

16

1 A I told him there were issues, and that's when he said,  
2 I don't want a trial.

3 Q What would be the issues?

4 A I mean, possibly the sweep. I mean, we didn't dig into  
5 it too much because I was told flat out, I don't want a  
6 trial.

7 Q Okay. That doesn't relieve you of being -- assessing  
8 the evidence and advising your client accurately, does it?

9 A Correct.

10 Q Okay. So if the client, for whatever reason, feels  
11 that he's given up, let's say, and just doesn't feel  
12 comfortable going to trial. You would still advise him of  
13 the potential defenses?

14 A Correct. And I did. I said we could file a  
15 suppression motion, but again, I was told work out a plea to  
16 resolve everything.

17 Q All right. So you did not dig into it too deeply you  
18 said?

19 A I didn't file it. That's what you said. I mean, that's  
20 what you asked.

21 Q You just said you didn't dig into that search issue too  
22 deeply.

23 A I mean, as deep as I could before I was told, you know,  
24 let's just get this all resolved.

25 Q All right. But let me ask you this. If the drugs were

1 clearly suppressible without a doubt, would you not have  
2 filed that early and resolved that issue before going to  
3 trial? You had two years.

4 A Most likely.

5 Q Okay. So if you -- do you have a copy of the search  
6 warrant in your file?

7 A I'm sure I do somewhere. If you have a copy. It will  
8 take me forever to try to find it.

9 Q I do.

10 A That would be easier.

11 MR. WILKES: If we can mark this as Applicant's Exhibit  
12 2 for identification.

13 (WHEREUPON, search warrant marked Applicant's Exhibit 2  
14 for identification.)

15 Q Does that look like the search warrant in the case?

16 A It does. I think -- I believe it was done by Shockley  
17 and signed by Lee Miller. Yes, it does.

18 Q All right. If you will go to the affidavit supporting  
19 the search warrant, and if you'll just read the reason for  
20 affiant's belief the property sought is on the subject  
21 premises.

22 A Sure. (READING) "On 4/28/2021, city units responded to  
23 Self Regional Hospital in reference to a child being brought  
24 into the ER. Upon arrival, Officers spoke with Lieutenant  
25 Dexter with Self Regional security who advised that the

1 infant had possibly overdosed. City officers then made  
2 contact with Zytawn Childs, who was identified to be the  
3 father of the infant. Childs advised he went to sleep with  
4 his infant at approximately 1600 hours and his girlfriend,  
5 Charmaine Parks, woke him up, at which time he found his  
6 infant unresponsive. Childs advised the incident occurred  
7 at [REDACTED] Trakas Avenue. The infant was later determined to  
8 be Minor , and she was pronounced dead at Self  
9 Regional Hospital. City units there responded to [REDACTED]  
10 Trakas Avenue and found the residence to be unattended. A  
11 protective sweep of the residence was conducted, and a clear  
12 plastic bag with a set of scales was found in the bathroom.  
13 A 2003 Ford Mustang was parked in front of the residence  
14 bearing SC [REDACTED], [REDACTED] Trakas Avenue, registered to  
15 Charmaine Parks. It is in this officer's belief that  
16 further evidence could be found in the residence and inside  
17 the vehicle that could lead to the cause of the death of  
18 Minor ."

19 Q Do you see probable cause for entry into the residence  
20 in that search warrant affidavit?

21 A I think it's weak. But again, we didn't file it  
22 because I was told that he wanted to plea.

23 Q Tell me why it would be weak.

24 A I just believe Shockley didn't have enough at that  
25 point.

- 1 Q Okay. The ---
- 2 Q Is there ---
- 3 A --- protective sweep ---
- 4 Q Is -- exactly. Is ---
- 5 A Right.
- 6 Q Is there probable cause in that affidavit to enter the
- 7 residence?
- 8 A I mean, I'm not a judge. Judge Miller said there was,
- 9 so I'm going to defer to Judge Miller.
- 10 Q You're talking about the judge that signed the warrant?
- 11 A Yeah. Judge Lee Miller. He found probable cause.
- 12 Q Okay, but that's your job to challenge it, if it does
- 13 not exist?
- 14 A Oh, yeah. It is challengeable, but we never got to that
- 15 point, because I was told, work this out for a plea.
- 16 Q So you would work out a plea on a case that could not
- 17 be prosecuted?
- 18 A Oh, I have no idea what a judge would rule on that. I
- 19 don't know if it's prosecutable or not.
- 20 Q Okay, so the police must have probable cause to enter a
- 21 residence, correct?
- 22 A Yes, sir. Well, besides exigent circumstances?
- 23 Q Are there exigent circumstances stated in the
- 24 affidavit?
- 25 A I don't think so.

1 Q All right. Again, is there any probable cause to enter  
2 the residence without a warrant?

3 A I can't answer that, because I'm not a judge, but it is  
4 challengeable, so I don't know what a judge would rule. I  
5 can't -- I can't answer for a judge.

6 Q Okay. So you did not attempt -- if you knew that you  
7 could have those drugs suppressed -- if you -- if you were  
8 supremely confident that you could have those drugs  
9 suppressed, would you have pled him guilty to the homicide  
10 case?

11 A Possibly not, but I had -- I never had any idea of  
12 something supremely suppressible.

13 Q Okay, well, if there's not probable cause in the four  
14 corners of a search warrant, the search warrant would be  
15 invalid, correct?

16 A Right. But again, I'm not a judge. I don't know what  
17 a judge would rule on probable cause.

18 Q I'm just asking you. Do you see probable cause?

19 A A judge can find it. I don't know how else to answer  
20 that.

21 Q Answer it as whether or not you see probable cause.

22 A Could be.

23 Q Where?

24 A Possibly the protective sweep. I don't fully agree  
25 with that, but possibly a judge to see that.

1 Q Okay. A protective sweep is to do what?

2 A To make sure there's no danger. I agree it's weak, but  
3 you're asking like, could it be. And I said, maybe.

4 Q Okay, so to do a protective sweep, you understand that  
5 you have to first be inside the residence lawfully, correct?

6 A I agree. Again, I don't know if a judge would have  
7 suppressed it or not. I can't answer that.

8 MR. WILKES: Your Honor, we'd moved to introduce  
9 Applicant's Exhibit 1 and 2 as evidence.

10 THE COURT: Mr. Jones.

11 MR. JONES: Your Honor, I didn't see them when they  
12 were handed up initially, but...

13 MR. WILKES: I'm sorry.

14 MR. JONES: That's all right. If I just have a moment  
15 to look at them.

16 THE COURT: Yes, sir.

17 MR. JONES: Thank you. No objection, Your Honor.

18 THE COURT: Plaintiff's 1 and 2 without objection.

19 MR. WILKES: If I can have just a moment, Your Honor.

20 THE COURT: Yes, sir.

21 DIRECT EXAMINATION (RESUMED)

22 BY MR. WILKES:

23 Q Were you aware of statements made by either April Barr,  
24 or other people, that the child was already drowsy at the  
25 time the child was dropped off at Mr. Childs' residence.

Colie Stancil-Direct Examination by Mr. Wilkes

22

1 A I know April Barr and Charmaine Parks were interviewed,  
2 and I have copies of those, but yes, I was aware of this.

3 Q And who interviewed them?

4 A I'd have to watch the whole video to see which officer  
5 did it.

6 Q But you did not. You did not -- your office did not?

7 A I did not, no.

8 MR. WILKES: Your Honor, I have a -- I think I'm done.  
9 I'm going to sit down. Before I do, I've got a memo I'd like  
10 to pass up on the search warrant.

11 THE COURT: Yes, sir. Has Mr. Jones seen that as well?  
12 Have you got a copy for him?

13 MR. JONES: This is the first time I'm seeing it, Your  
14 Honor.

15 MR. WILKES: And let me just have a few questions,  
16 because I have supplemental reports in it. So let me ask  
17 counsel about that.

18 THE COURT: Yes, sir.

19 DIRECT EXAMINATION (RESUMED)

20 BY MR. WILKES:

21 Q In your discovery material, you would have had and been  
22 aware of the supplemental reports from the police  
23 department?

24 A Yes, sir.

25 Q Including Officer Harrellson, Officer Madden, and

1 Officer Shockley?

2 A Yes, sir. I have all the supplementals.

3 Q And if I can just -- I'm going to go over the  
4 highlighted portions of the reports. If you will, there are  
5 three reports. Officers Harrellson, Shockley, and Madden,  
6 and I have highlighted portions of each. If you would just  
7 take a look.

8 MR. WILKES: May I approach?

9 THE COURT: Yes, sir.

10 Q If you would take a look at those three reports and  
11 identify the officer at the bottom, and read the highlighted  
12 portions of each please.

13 A Sure. I'll start with Harrellson, since that's the  
14 first one, and I'm just going to jump between the  
15 highlighted part. (READING) On 4/28/2021 -- then it skips  
16 and just says passed away shortly after arriving. Both  
17 Zytawn and Charmaine were inside the ER. After speaking  
18 with Nazia, and I might mispronounce that, I apologize.  
19 Spoke with Zytawn while Major McAllister with Charmaine,  
20 Zytawn did agree to meet detectives at the incident location  
21 to walk through what happened. This was video recorded. I  
22 believe that's all that's highlighted on Harrellson. On  
23 Madden's supplemental. 4/28/2021, at this time, I responded  
24 to the residence, secured the scene to preserve any  
25 potential evidence. Unlocked, entered the residence,

Colie Stancil-Direct Examination by Mr. Wilkes

24

1 conducted a protective sweep. That's all of Madden's.  
2 Shockley. On 4/28/20 -- I believe he put the wrong year --  
3 at approximately 2045 hours I was notified by Lovett of the  
4 incident. I then responded to [REDACTED] Trakas Avenue where I  
5 was briefed by NP Madden who advised during a protective  
6 sweep he found a clear plastic bag in with a set of digital  
7 scales in the bathroom. Then determined a search of the  
8 apartment was needed. Therefore, a search warrant was signed  
9 and executed. The total count of the pills were 50, one of  
10 which was later field tested for fentanyl, yielded a  
11 positive test result that said pills were located at the end  
12 of the table, next to the bed and were within reaching  
13 distance of the victim. That's all that's highlighted on  
14 Shockley's.

15 MR. WILKES: Thank you. I would like to mark as  
16 Exhibit 3, Applicant's Exhibit 3, the portions or the  
17 affidavits. This is the affidavit from the search warrant,  
18 the return, photos. That's not what I want at all. What  
19 happened to my...

20 THE COURT: Mr. Jones, you've had an opportunity to see  
21 that as well?

22 MR. JONES: I believe it's attached to the memorandum.  
23 And with that understanding, yes. I have seen it.

24 THE COURT: So you've got the memorandum, plus you've  
25 got some exhibits that you want to make as Plaintiff's

1 Number 3. Is that right?

2 MR. WILKES: That's correct, Your Honor.

3 THE COURT: Mr. Jones, is there any objection?

4 MR. JONES: None from the State, Your honor.

5 THE COURT: That will be Plaintiff's Exhibit number 3.

6 (WHEREUPON, supplemental reports and memorandum marked  
7 Plaintiff's Exhibit Number 3 for identification.)

8 MR. WILKES: That's all I have, Your Honor.

9 THE COURT: Mr. Jones.

10 CROSS-EXAMINATION

11 BY MR. JONES:

12 Q Good morning, Mr. Stancil.

13 A Good morning, Mr. Jones.

14 Q I believe you said you took over this case from Tristan  
15 Shaffer?

16 A Correct. According to our system, in early October of  
17 2022.

18 Q What sort of information did you receive from Mr.  
19 Shaffer when you got started on this case?

20 A Right. Had all the documents in there. I had spoken  
21 with Mr. Shaffer about it. I believe Mr. Shaffer handled  
22 the bond revocation. That was the last thing he did before I  
23 inherited it, so I kind of knew what the bond revocation was  
24 about, where we were, what the Solicitor hadn't offered at  
25 that time. Just kind of where we were, what the State had,

1 and what I needed to do to move forward.

2 Q All right. Did you feel like you were adequately  
3 prepared at that stage of the proceedings to represent Mr.  
4 Childs?

5 A I feel like I was prepared at that point, and then  
6 obviously me and my investigator continued on from that  
7 point until up to the plea.

8 Q All right. And just to clarify a few things from your  
9 testimony earlier, I believe you stated that Mr. Childs  
10 didn't want to go to trial. He wanted to pursue a guilty  
11 plea?

12 A Correct.

13 Q All right. And ultimately, whose decision is it to  
14 proceed to trial or to plead guilty? Yours or your  
15 client's?

16 A The client's. I advise them on my feelings of what I  
17 thought could happen, but it was his decision.

18 Q All right. Regarding the suppression motion, I believe  
19 you testified that you thought there was a potential issue  
20 there, but if -- but weren't confident that you could ---

21 A Right. It was -- my investigator and I, he's former law  
22 enforcement, so we both looked it over. We were working on  
23 this case. We thought it could be suppressed. Never a  
24 guarantee in anything like that. Brought that up to the  
25 client. Again, was informed, you know, do not want to take

1 this to trial.

2 Q All right.

3 A And I think that's when we were able to work out  
4 everything with the probation and the other charges as well.

5 Q So there were additional matters that were resolved as  
6 part of this global plea?

7 A Yes. I believe attorney Brian Johnson had pled him on  
8 some other stuff to probation, where he had 10 years over  
9 his head, then he picked up the homicide by child abuse.  
10 After getting bond on that, he picked up a resisting arrest  
11 and maybe another drug charge, and that's what led to his  
12 bond being revoked. So there were multiple issues.

13 Q I see. Regarding the photographs you just saw, the  
14 pills are contained in a plastic baggie?

15 A Correct.

16 Q Ordinary plastic baggie?

17 A Looks like a ziplock.

18 Q All right. How difficult is it to close a baggie like  
19 that?

20 A Not at all.

21 Q All right, and the baggie itself is located in an open  
22 topped cubby. Is that correct?

23 A That's the best word for it, yes. Sort of like a desk  
24 organizer that's open on the top.

25 Q All right. I believe you stated that Mr. Childs

## Colie Stancil-Redirect Examination

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1 informed law enforcement that the bag was open.

2 A I believe he said he informed law enforcement about the  
3 bag with the pills being there. I'd have to read the whole  
4 incident report to see if he said it was open. But I know  
5 he was the one who informed law enforcement about the bag of  
6 the drugs by the bag.

7 Q All right. The cubby the drugs were in was open on the  
8 top I believe you testified?

9 A Correct.

10 Q And that's reflected in the photos?

11 A That is reflected in the photos. Yes.

12 Q All right.

13 A I'm sorry. To go back to your earlier question.

14 Q Yes, sir.

15 A He stated that he had brought the daughter to the bed  
16 and he had taken some of the pills because -- and then he  
17 kind of dozed off.

18 Q I see.

19 A That's what he told law enforcement.

20 MR. JONES: All right. Mr. Stancil, I don't think I  
21 have any further questions for you. Thank you.

22 THE COURT: Mr. Wilkes, anything in redirect?

23 MR. WILKES: Yes, sir, please.

24 REDIRECT EXAMINATION

25 BY MR. WILKES:

1 Q Would having the drugs suppressed have changed your  
2 approach on this case?

3 A Sure, but hindsight is 20-20.

4 Q Okay. And you had -- your office had the case for two  
5 years. You could file a suppression motion early on if you  
6 read the affidavit, saw no probable cause, could you not?

7 A You can file a motion any time.

8 Q And have we changed our system now where the courts  
9 have more control over the call of motions in cases? It's  
10 not just up to the Solicitor anymore, is it?

11 A That's aspirational, but Greenwood doesn't really work  
12 that way.

13 Q So if you filed a motion early on, seeing that there  
14 was no probable cause to get the drug suppressed, you're  
15 saying that you would not have had success having that  
16 motion heard for two years.

17 A Oh no, I'm not saying that. I'm just saying that I  
18 would have to ask the Solicitor to put it on the schedule.

19 Q Would the Solicitor normally do that?

20 A Depends, I guess.

21 Q Okay, and would there be any reason not to?

22 A I have no idea. You'd have to ask Deputy Solicitor  
23 Brown.

24 Q Have you ever done that before?

25 A Asked him if he would schedule a hearing?

## Colie Stancil-Redirect Examination

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1 Q Yes.

2 A On many cases.

3 Q And have they?

4 A Some of them.

5 Q Okay. And would it be prudent to leave the suppression  
6 issue until the beginning of the trial and put your client  
7 in a position where he has to go to trial to find out if the  
8 drugs are going to be suppressed? Is that prudent?

9 A I don't know how to answer that. He didn't want a  
10 trial, so we didn't need to file and it wasn't filed before  
11 I took over, so...

12 Q The question is, is it prudent to do that? Would you -  
13 - would you -- is that something that you would normally do,  
14 leave a suppression issue on an obvious something -- let's  
15 just, for argument's sake, say that there is absolutely no  
16 probable cause to support that affidavit and that they would  
17 be suppressed. So would it be reasonable to let that just  
18 ride two years until the morning of a trial?

19 A Well, it wasn't morning of the trial and I think every  
20 case is different. I mean, I have to decide if we're going  
21 to file do I want to tip my hand to the Solicitor earlier or  
22 not. So, I mean, every case is different.

23 Q Well, let's talk about this case.

24 A Okay.

25 Q You did not file a suppression motion?

- 1 A No, sir.
- 2 Q Okay. And you could have filed a suppression motion?
- 3 A I can file suppression motion on any case. Yes, sir.
- 4 Q And you would file a suppression motion if you believed
- 5 there was no probable cause?
- 6 A Sure.
- 7 Q Okay, and that would have resolved the whole issue of
- 8 the client -- or maybe changed how he viewed going to trial
- 9 or pleading guilty, correct?
- 10 A Sure.
- 11 Q Okay.
- 12 A Sure. But in discussions, again, I was told work out a
- 13 global plea, so I did what my client wished.
- 14 Q And the global plea, of course, resulted in 23 years on
- 15 the homicide charge, right?
- 16 A It was a straight up plea, but Judge Griffith gave him
- 17 23.
- 18 Q Okay, and so that was the bulk of the charge. The risk
- 19 he faced was that homicide?
- 20 A Right. It was the lead charge, yes.
- 21 MR. WILKES: Nothing further, Your Honor.
- 22 THE COURT: Thank you.
- 23 MR. JONES: No recross, Your Honor.
- 24 THE COURT: All right. Thank you, Mr. Stancil. Is
- 25 Mr. Stancil here under subpoena?

Zytawn Childs-Direct Examination by Mr. Wilkes

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1 MR. JONES: Yes, he is, Your Honor.

2 THE COURT: Do y'all want him to stay?

3 MR. STANCIL: I can stay.

4 MR. JONES: He says he wouldn't mind. So I think I  
5 might have one or two questions for him on direct in the  
6 State's case.

7 THE COURT: It sounds like you're here with us for a  
8 little while longer, Mr. Stancil.

9 MR. STANCIL: Sounds good, Your Honor. I blocked off  
10 today anyway.

11 THE COURT: Thank you. Mr. Wilkes.

12 MR. WILKES: If I can have just one second, Your Honor.

13 THE COURT: Yes, sir.

14 MR. WILKES: Your honor, we'll call Zytawn Childs.

15 WHEREUPON, Zytawn Childs, having first been  
16 duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. WILKES:

19 Q Mr. Childs, tell me how you came to meet Mr. Stancil.  
20 Mr. Stancil did your guilty plea, correct?

21 A Correct.

22 Q And he talked to you before the guilty plea, I assume,  
23 a couple of times.

24 A Yes, sir.

25 Q Okay. And did he go over the evidence in the case with

- 1     you?
- 2     A     No, sir.
- 3     Q     Well, tell me what he talked about.
- 4     A     What I was facing. He lost my file, and it was best to
- 5     just take a plea.
- 6     Q     Okay. Tell me, did Mr. Stancil talk to you about the
- 7     search warrant? Did he tell you that the drugs could be
- 8     suppressed?
- 9     A     No, sir.
- 10    Q     What did he tell you about the charge? You've heard
- 11    Mr. Stancil's testimony.
- 12    A     Uh-huh.
- 13    Q     Were you just telling Mr. Stancil that you wanted to
- 14    take a guilty plea no matter what?
- 15    A     No, sir.
- 16    Q     Okay. If you would have known that the search warrant
- 17    was invalid and the drugs could have been suppressed, a
- 18    defense in your case, would that have changed your mind
- 19    about pleading guilty?
- 20    A     Yes, sir.
- 21    Q     Was the child -- was the homicide by child abuse the
- 22    major risk you had in your case?
- 23    A     Yes, sir.
- 24    Q     Is that what you feared the most?
- 25    A     Yes, sir.

Zytawn Childs-Direct Examination by Mr. Wilkes

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1 Q And did you believe that Mr. Stancil was presenting, on  
2 your behalf, an aggressive and effective defense?

3 A Yes, sir.

4 Q You believed he was doing a good job?

5 A Uh-huh. Until he told me he lost my file. That's when  
6 I felt like it was pointless.

7 Q Okay, but did he come back and talk to you again after  
8 that?

9 A No, sir.

10 Q When was the last time you remember talking to Mr.  
11 Stancil?

12 A Before I had went in front of Griffith.

13 Q The judge?

14 A Yes, sir.

15 Q For the guilty plea?

16 A Yes, sir.

17 Q At any time before that, the guilty plea, did he  
18 discuss your defenses? In other words, how you might fight  
19 the case?

20 A I don't think so. If I'm not mistaken.

21 Q Did he give you recommendations, as far as going to  
22 trial or pleading guilty?

23 A No, sir.

24 Q Did he talk to you about what could be done at trial to  
25 fight the case?

- 1 A No, sir.
- 2 Q Explain why you decided to plead guilty to the charge.
- 3 A He lost my file.
- 4 Q What did that do to you?
- 5 A I lost hope.
- 6 Q Who was the Public Defender before Mr. Stancil? Do you  
7 remember?
- 8 A Mr. Shaffer.
- 9 Q Did he talk about your defenses in the case?
- 10 A Yes, sir.
- 11 Q What did he tell you?
- 12 A It's been quite a while. I do not remember verbatim.
- 13 Q How did you feel about his representation?
- 14 A He did a pretty good job.
- 15 Q And was he involved in the case after the bond hearing?
- 16 A No, sir.
- 17 Q When did you find out that people were saying April  
18 Barr had apparently said the child was sleepy or  
19 unresponsive before being dropped off at your house? Where  
20 did you hear that first?
- 21 A I think I had to be in R & E. I had just got my  
22 sentence.
- 23 Q Okay. So that would be something that -- would be  
24 something that Mr. Stancil would not have known about?
- 25 A No, sir.

1 Q Okay, very good. And if you believe that you had a  
2 chance at winning the case, the homicide case, would you  
3 have plea guilty to it?

4 A No, sir.

5 Q Would you have plea guilty if you knew that the drugs  
6 were not going to be admitted?

7 A No, sir.

8 MR. WILKES: Just one second, Your Honor.

9 THE COURT: Yes, sir.

10 MR. WILKES: Nothing further from Mr. Childs.

11 THE COURT: Mr. Jones.

12 MR. JONES: Beg the Court's indulgence.

13 CROSS-EXAMINATION

14 BY MR. JONES:

15 Q Mr. Childs, do you recall informing Judge Griffith at  
16 the plea proceeding that you were waiving the right to trial  
17 and entering a guilty plea freely and voluntarily?

18 A Yes, sir.

19 Q All right. And do you recall stating that the  
20 presentment of the indictments was also free and voluntary?

21 A Yes, sir.

22 Q Do you recall informing the Court that you had been  
23 over the case with Mr. Stancil?

24 A Yes, sir.

25 Q Do you recall informing the Court that you'd understood

1 all your conversations with him regarding your rights to a  
2 trial?

3 A Yes, sir.

4 Q Do you recall telling the Court that you were satisfied  
5 with the advice he'd given to you?

6 A I think I did. I'm not sure.

7 MR. JONES: Thank you, Mr. Childs. I think that's all  
8 the questions I have for you.

9 THE COURT: Mr. Wilkes.

10 MR. WILKES: Nothing further, Your Honor.

11 THE COURT: Thank you. You may step down, Mr. Childs.  
12 Mr. Wilkes, are you ready to call the next witness?

13 MR. WILKES: We have two witnesses under subpoena.  
14 They have not appeared. I understand we can send the  
15 Sheriff for them, but I don't think their testimony is  
16 critical to our case. And I'm going to ask my client right  
17 now about that, if I can.

18 THE COURT: Yes, sir.

19 MR. WILKES: The Applicant's case, Your Honor.

20 THE COURT: Mr. Wilkes, do you want me to question your  
21 client in regards to not having those subpoenaed witnesses  
22 called as part of his case?

23 MR. WILKES: It would not be necessary, Your Honor.  
24 I've just spoken with him, and I will represent to the Court  
25 that, after speaking with him, I am releasing those

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1 witnesses. We do not need them.

2 THE COURT: Thank you, Mr. Wilkes. Is the State ready  
3 to go forward?

4 MR. JONES: Yes, Your Honor.

5 THE COURT: You may call your first witness.

6 MR. JONES: Thank you, Your Honor. The State would  
7 call Tristan Shaffer.

8 THE COURT: Mr. Shaffer, if you'd come around to be  
9 sworn, please.

10 WHEREUPON, Tristan Shaffer, having  
11 first been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. JONES:

14 Q Thank you, Mr. Shaffer. Mr. Shaffer, how did you  
15 become involved in Mr. Childs' case?

16 A I think at the time that this happened I was working  
17 less than full time, like, three quarter time, or something  
18 like that at the Public Defender's Office. I got appointed  
19 through the Public Defender's Office.

20 Q All right. And do you -- can you give the Court a big  
21 picture view of the case as it developed during your  
22 representation of Mr. Childs?

23 A So law enforcement shows up to the hospital. They find  
24 out that there's a suspected drug overdose of the child.  
25 They -- my understanding is they had to deal with a lot of

1     stuff from the child's mother's family outside, that there  
2     was a big uproar. I seem to recall that. And they also got  
3     statements saying basically that he went to sleep by the  
4     child, holding the child, in his bed, and the child -- he  
5     woke up to the child being -- having overdosed.

6             He was out for quite a while after the initial thing.  
7     I know -- I remember he was, like -- he was actually -- this  
8     is really sad. He was working, like, extra shifts at his  
9     job so that he could pay for the headstone. He was very,  
10    very remorseful this entire time. I remember that. I think  
11    he was working for -- actually, at the time, I had a co-  
12    worker there whose parents were his boss, so we had gotten  
13    some information through them about him being a good father.  
14    I think that there was a whole lot of support for him being  
15    a good father.

16            Initially, we did a bond hearing for him. We were able  
17    to get him out on bond. And at that point -- I think that  
18    after the bond hearing it, kind of, sat around until the  
19    State moved to revoke his bond based off some new charges.  
20    I know that I had gone over some stuff with him. Like,  
21    yeah, we did have discovery before -- while I represented  
22    him. We had gotten some discovery. I think that perhaps it  
23    didn't make it into Defender Data, but it was probably the  
24    same stuff that Colie had later on. But yeah, that's kind  
25    of how it how it developed.

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1           And they had a statement from him. I think they had a  
2           custodial and a non-custodial statement from him. They had  
3           one while he was working at the -- I think it was the --  
4           like, some sort of metal company. They had some sort of  
5           factory where they talked to him initially and got some  
6           information from him, and then they had another short  
7           statement from him whenever they actually took him in. And  
8           at that point they Mirandized him the second time, and had a  
9           statement from him.

10           He basically said something along the lines of he  
11           personally used fentanyl. He had taken one before picking  
12           up the child. He picked up the child. I think he did say  
13           that the child was drowsy whenever he picked him up at some  
14           sort of barbecue or something for the child's mother's  
15           family. He went to sleep whenever he got home. Woke up.  
16           The child was unresponsive. He may have woken up once and  
17           then woken up a second time. I can't one hundred percent  
18           say that for sure, but he did give a statement, basically  
19           that the fentanyl was his. He said it was his personal use.  
20           He would buy -- he would buy, not one deal at a time, but  
21           was like a large quantity at a time. It would be now  
22           considered trafficking weight under the current law  
23           probably, as to what he was buying at a time, but he said it  
24           was for personal use.

25           My recollection is, is that it was actually in the

1 drawer, like a desk organizer beside the bed. It was  
2 actually in the drawer, closed up. That was my  
3 recollection, but I can't say that for sure, because I  
4 haven't looked at all pictures. But, yeah, there could have  
5 been pills missing. There are some other theories the State  
6 had related to it as well.

7 The State tried to argue, or I remember Yates saying  
8 something to me about it being strict liability because he  
9 was there, and we know that's not really the case. But  
10 yeah, that's basically my recollection of the facts  
11 surrounding it.

12 Q All right. In the course of your representation of Mr.  
13 Childs, what was his attitude toward pleading guilty versus  
14 going to trial?

15 A My recollection is that he was so distraught that he  
16 didn't really have a good opinion one way or another, but  
17 granted, that was before him getting out of jail the initial  
18 time. I don't -- I did represent him at the bond revocation  
19 hearing. I don't have a whole lot of recollection about  
20 talking to him about the facts of the case at that hearing,  
21 but he had been out on bond for a little while before that.  
22 I couldn't tell you exactly how long, but I want to say that  
23 it was -- he had been out of bond for at least several  
24 months there before the end. But beforehand, he was just a  
25 wreck. I mean, honestly, like, he was not -- when he

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1 initially got locked up, he was a complete wreck over the  
2 child. I mean, he felt bad about the child dying.

3 Q All right. Did you investigate any possible defenses  
4 regarding the timing of the ingestion of the fentanyl?

5 A Yeah. So that was going to be the defense if we went  
6 to trial. Here's the problem with it. Is that it's -- and  
7 I never got an expert, so -- and I'm no expert. So, maybe  
8 I'm wrong about this. I would highly doubt that you would  
9 have -- I mean, we're talking about a couple hours that he  
10 had the child, at least, like, an hour or two that he had  
11 the child before the child was found unresponsive. If I  
12 took -- for example, when I had been prescribed oxycodone,  
13 for example, for a surgery. When I took that, it wasn't  
14 like a couple hours later. And you know, if you take, like,  
15 Tylenol or something like that, it's not a couple hours  
16 later that you start feeling the effects.

17 MR. ROBERT CHILDS: Objection, Your Honor. That's a  
18 little bit outside the scope of his expertise.

19 MR. JONES: Your Honor, I believe the purpose of the  
20 testimony is just to show trial counsel's strategy for why  
21 he chose a certain investigation.

22 THE COURT: I don't think he's trying to be a  
23 pharmaceutical expert under the circumstances. I take it  
24 this is his personal experience which, you're right, may not  
25 be relevant, but we are in non-jury, and I can listen to it

1 and discern what is admissible or not admissible.

2 MR. JONES: Thank you, Your Honor. If you'd continue,  
3 unless you finished your point.

4 A So, I had -- basically, I didn't have a whole lot of  
5 hope that we were going to find some experts that would say  
6 that it would take a couple hours to -- for the drugs to  
7 take effect. Essentially because of the fact that I didn't  
8 have a whole lot of hope in that. And I think that it kind  
9 of went against my common sense that it would. I think the  
10 argument was going to be essentially that the State can't  
11 prove that it wouldn't have been. We would have presented  
12 the fact that it would have been, hey, the kid -- there was  
13 all this drug usage going on in this cookout, pool party, or  
14 whatever it was that they were at. The kid was drowsy. The  
15 kid could have ingested something there, and the State can't  
16 prove that it was his fentanyl that would have come from  
17 that. So that basically would have been the defense if we  
18 would have went to trial. I did talk to him about that. I  
19 mean, that was going to be the defense. I may have even  
20 brought it up at the bond hearing. I may have held that  
21 back at the bond hearing. I can't really recall. But no,  
22 that was going to be the defense if we were to go to trial.  
23 Is that the State can't disprove it. I doubt I probably  
24 would have actually gone through the process of getting an  
25 expert, because I didn't have a whole lot of hope the expert

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1 would have been favorable. But I do think that that's like,  
2 maybe I could be like, well, they got the burden of proof  
3 and they didn't prove it.

4 Q But that's all stuff that would have happened at a  
5 trial that never took place?

6 A That's right.

7 Q And it sounds like your testimony today is that Mr.  
8 Childs was not -- had not made a decision as to whether to  
9 go to trial by the end of your representation?

10 A I don't recall him making that decision one way or  
11 another. I was posturing to the State that it was going to  
12 trial because Yates, the Deputy Solicitor, was taking the  
13 position that he wasn't making an offer, so I was posturing  
14 that it was going to trial.

15 Q I see. And then your representation of him ended  
16 shortly after the bond revocation hearing?

17 A Yeah. It would have been October of 2022. I cut off  
18 ties with the Public Defender's office for a little while  
19 there and went to work for a private firm.

20 Q And do you -- were you aware of any sort of  
21 difficulties in how the office transferred your case to Mr.  
22 Stancil?

23 A I vaguely recall getting a call saying that some of the  
24 discovery wasn't there, and I don't know who that was from.  
25 It could have been from Ms. Hurley. It could have been from

1 -- it could have been from Colie. It could have been from  
2 somebody else at the office. I vaguely recall someone  
3 asking me about where some of the discussion was.

4 Q All right. Did you discuss the case with Mr. Stancil?

5 A I mean, yeah, I think I probably did. I imagine I did.  
6 I don't have any independent revelation of doing that, but I  
7 would imagine I did discuss it with him.

8 Q All right.

9 MR. JONES: Thank you. Mr. Shaffer, I think that's all  
10 the questions I have for you.

11 THE COURT: Mr. Wilkes or Mr. Childs.

12 MR. WILKES: Your Honor, if you would allow me to  
13 continue. I know Mr. Childs bogarted my objection, but he  
14 did so because I couldn't hear what was being said.

15 THE COURT: I'd be glad for you to continue.

16 MR. WILKES: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. WILKES:

19 Q Would it be reasonable to assume that Mr. Childs may  
20 have indeed become a bit disheartened if he learned that the  
21 PD's office had, at one point, lost his file or some of his  
22 file?

23 A Yeah. I mean, I think that that's a reasonable thing  
24 for somebody to feel upset about.

25 Q And that was, of course, not on your watch?

1 A I mean, it could have been on my watch, to be honest  
2 with you. I'll be honest with you, I'm, like, the most  
3 disorganized person that was there. So, I mean, I'm not  
4 going to sit there and say oh, it was somebody else's fault  
5 when it very well could have been mine.

6 Q Now, you had used the term strict liability. That was  
7 something that the Solicitor was throwing around?

8 A Yeah. He tried to say that it was strict liability and  
9 that...

10 Q Okay.

11 A It's kind of garbage. I do recall actually, like --  
12 and I recall it because I went back and briefly looked over  
13 the notes in Defender Data. Apparently I, like, pulled up  
14 the strict liability thing and actually made a note about  
15 what the level of intent is.

16 Q And you indicated that the timing of the ingestion of  
17 the drugs was a key part of the defense at that time?  
18 Theory of the defense?

19 A Yeah, I think that it would have been a key theory of  
20 the defense is the timing of ingestion.

21 Q And there was some indication that people other than  
22 Mr. Childs had said the child may have been sleepy or  
23 unresponsive before being dropped off?

24 A Yeah, and I'm going to briefly comment because, like,  
25 apparently that witness didn't come here. We had somebody

1     who was going to say that. Like, when I represented him, I  
2     remember there was somebody who was, other than Mr. Childs,  
3     who was going to say that the child was sleeping. I do  
4     recall that. I mean that absolutely did.

5     Q     Now, as far as not being able to prove whether or not  
6     they could prove that it was his fentanyl or whether it came  
7     from somewhere else. What if they couldn't prove there were  
8     -- that there was any fentanyl at his residence? Wouldn't  
9     that have been monumental in the defense?

10    A     That would have been very, very good if that could  
11    happen. If they had suppressed the drugs. Yes. That would  
12    have been very good for him. I don't think it necessarily  
13    would have made it untriable for the State. I think it  
14    would have made it very hard for the State.

15    Q     If they could not produce any evidence that he had any  
16    drugs at his house. That would make it very difficult?

17    A     It would make it very difficult for the State.

18    Q     Okay, and you left after the bond hearing, so you  
19    weren't, I assume, really deep into trial prep?

20    A     I probably was more deep into it than -- like I said,  
21    it was a trial posture case. At the time, I was kind of, on  
22    -- I had probably gotten a little bit more deep into it  
23    than, you know, you would anticipate from someone who was  
24    just sitting back, kind of, waiting for this State to call  
25    it. But for the fact we got him out on bond, we would have

1    been trying to move for a speedy trial during that time,  
2    because I was moving for a speedy trial on everything that  
3    they weren't making offers on.

4    Q    Talk about the search warrant for a second.  You had  
5    the search warrant in your file?

6    A    Yeah.

7    Q    You would have read the search warrant I presume?

8    A    I would have, yes.

9    Q    And do you recall finding probable cause in the  
10   affidavit of that search warrant, within the four corners of  
11   that search warrant?

12   A    Within the four -- I don't have any recollection of  
13   what I thought at that time.  I have reread it though today.  
14   I recall there being an issue with the search, so ---

15   Q    Well, if you don't recall that's fine.  You've read it  
16   today.  So do you see probable cause in the affidavit, or  
17   anywhere within the four corners of that search warrant?

18   A    Not for the -- not for the initial search, because  
19   you're talking about two searches.

20   Q    Exactly.

21   A    The initial search was completely not there.

22   Q    Let me ask you this, if the police enter a residence,  
23   warrantless entry, and it is unlawful, violates the Fourth  
24   Amendment, can they then say we entered illegally, but we  
25   did a protective sweep, so now we're good?

1 A No.

2 Q Does that justify anything that follows that?

3 A No. The evidence from the -- from the initial search  
4 would have had to been in the search warrant.

5 Q Which were the drugs in the bedside table?

6 A That's correct. From the -- that part of it, or I think  
7 it was scales, right?

8 Q So you're saying that they can unlawfully enter a  
9 residence, and then justify anything else by saying we did a  
10 protective sweep and now we have probable cause?

11 A No, and I don't want it to come across that way. The  
12 initial protective sweep where they found the clear plastic  
13 bag and set of scales in the bathroom, that was absolutely  
14 unjustified, from what I can recall. And I mean, that was  
15 an illegal search. So, that is an illegal search. I think  
16 then you're going to look at what, in essence, is a Frank's  
17 inquiry. I mean, it's the same test. It's basically you  
18 excise that from the drop from the search warrant affidavit,  
19 and you're looking at the rest of it and whether or not a  
20 judge would find probable cause in the rest of it. That's a  
21 question for the judge, or a question for your honor, not  
22 necessarily ---

23 Q But in giving legal advice, you would advise your  
24 client on the likelihood of suppression, the exclusionary  
25 rule under Wong Sun, and the fact that you can't later

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1     justify an illegal search. You can't bootstrap into that.  
2     A     Okay, yeah. So what's left in the search warrant is  
3     what should have been left for the judge to determine, or  
4     what would be left had I moved for a suppression hearing.  
5     Okay? I think that what would have been left would be  
6     everything except the fact that the clear plastic bag and  
7     the scales were found in there. So you would have that they  
8     went to the hospital for a potential overdose. They --  
9     Childs advised that he was sleeping with the infant at  
10    approximately 1600 hours, and his girlfriend, Charmaine  
11    Parks woke him up. At which time he found the infant  
12    unresponsive. Childs advised that the incident occurred at  
13    that location. And the child was pronounced dead. So  
14    whether or not a -- whether or not whoever would hear it --  
15    and really, this is a question that obviously is kind of  
16    crucial, whether or not that part of it is enough for  
17    probable cause for the search warrant to stand is a question  
18    of law. I think that what passes as probable cause in a lot  
19    of courts in this area, I think that that would be probable  
20    cause, to be honest with you. Do I think that -- I mean, I  
21    think that the overdose, the fact that the child came from  
22    that location, I think that, sadly, that passes as probable  
23    cause. If I was a magistrate and I've learned a little bit  
24    more. Do I think that, as a matter of law, the courts of  
25    the state will say that that's sufficient probable cause

1 outside of the illegal search? I don't know.

2 Q Let me ask you this. The child was deceased at the time  
3 that the first officer arrived on the scene. Do you recall  
4 that?

5 A Yeah, I don't recall if the child -- if there's any --  
6 I don't recall any medical records saying that the child had  
7 been deceased for any amount, specific amount of time. I  
8 really don't recall that.

9 Q It may be in the affidavit that the child was deceased.

10 A Oh, yeah. When law enforcement showed up at the  
11 hospital, the child was deceased.

12 Q Okay, so ---

13 A Whether or not the child was deceased at the time he  
14 arrived at the hospital, I don't recall.

15 Q Okay, assume for a moment that the child is deceased  
16 and it's in the police records, okay, that are in evidence.  
17 There's nobody at home at the residence. Mr. Childs and his  
18 girlfriend are at the hospital being questioned by the  
19 police. And the first officer arrives, which would be  
20 Madden, and puts in his police report that he secured the  
21 residence to essentially search for evidence of a crime.  
22 Okay? If the police have secured the residence, in the words  
23 of Justice Kittredge, that would sound like there's no  
24 objective evidence that the police believe there's exigent  
25 circumstances to enter the home at that time, right?

1 A I think it is essentially undisputed that that  
2 protected sweep was bad.

3 Q So -- okay. So ---

4 A I think that you absolutely have to cut that out of the  
5 probable cause for the warrant.

6 Q So, once the protective sweep is out, then you're left  
7 with nothing but an unlawful entry?

8 A I think you're left with the fact that the child came  
9 from the house, and the child died of a potential overdose  
10 while sleeping at the house. I think that that, in and of  
11 itself, sadly, I think that, at least with magistrate judges  
12 in this area, that passes as probable cause.

13 Q Okay. And probable cause for what?

14 A For a search of the house.

15 Q With a what?

16 A Warrant.

17 Q With a search warrant. So if all of those other things  
18 had existed, the question would be, is there enough to get a  
19 search warrant?

20 A Yeah, so initial search, bad. Second search, question  
21 whether or not you can -- may be good. May be bad. I think,  
22 sadly, it is sufficient, because the second search is  
23 pursuant to the warrant. So if you're using -- there's some  
24 terminology for it, but essentially, it's a Frank's  
25 analysis. You take out that piece of evidence that's used.

1 Whether or not the remainder of the warrant is probable  
2 cause, has probable cause, it's whether or not you -- they  
3 have probable cause to search.

4 Q And you're saying you believe there's probable cause.

5 A I believe it's probably enough that they would -- that  
6 a magistrate judge would issue it. I would have moved for  
7 suppression if it went to a trial, absolutely. Do I think I  
8 would have won? I'm not betting the farm on it.

9 Q When would be the appropriate time to move to suppress  
10 evidence? Would you -- would it be reasonable to wait  
11 until the morning of the trial and put your client in a  
12 position of you lose, you go to trial? Or would it be more  
13 reasonable to file that in the two years prior to resolve  
14 that issue, so that then the decision to go to trial is  
15 based on a better understanding of the case in front of you?

16 A You know, pie in the sky, perfect world? In all cases,  
17 you would absolutely be correct that it would be more  
18 prudent to file it in advance. Okay? In -- and I have to  
19 say it's case by case in this circuit dealing with  
20 practical, real world. You see, the Solicitor's Office will  
21 almost always punish people and not deal with them if they  
22 go and move for a suppression in this circuit, sadly.

23 Q Is that constitutional?

24 A I think that they have the right not to offer any deals  
25 and to withdraw the deals if they move for suppression

1    hearings.

2    Q    So, you're saying that in this case, it would not have  
3    been reasonable under the circumstances to make that motion  
4    way in advance.

5    A    I -- if he was sitting in jail, I probably would have  
6    made that motion in advance.

7    Q    How does that make a difference in the analysis of him  
8    getting to the point where he's got to decide to go to trial  
9    or not?

10   A    Because, if I -- because, at the time, and to a large  
11   extent up until very recently in this circuit that the  
12   Solicitor had almost complete control of the docket.  If I  
13   moved for a suppression hearing, what's going to happen is  
14   one, I'm not going to get any offer on the case after the  
15   suppression hearing.  Second thing that's going to happen is  
16   they're going to try to put it on the trial docket.

17   Q    So your belief that you're going to -- the client is  
18   going to get punished for making the suppression motion is  
19   the justification for not making the suppression motion?

20   A    Not making it at the time, way in advance, while the  
21   guy's out on bond.  Am I going to move for a suppression  
22   while the guy's out on bond and try to get them to bring him  
23   back in and try his case immediately?  No.  I'm not going to  
24   do that if he's out on bond.  If he's sitting in jail for a  
25   year, just sitting there doing nothing, probably I'm going

1 to look at it a little bit differently.

2 Q But you're saying you could file one and ---

3 A Yeah.

4 Q Okay.

5 A If I wanted to get it heard. What's going to happen,  
6 though, especially dealing with Yates Brown, the Solicitor  
7 on this case. One, if we win the suppression, great. If we  
8 don't win the suppression, he's not going to have an offer,  
9 and we're going to be on a trial docket the next term of  
10 court.

11 Q Well, let me ask you this. Didn't Mr. Childs plead  
12 straight up, open plea.

13 A I wasn't around, but I think that's correct. I don't  
14 know if he pled straight up or not. I mean, honestly I  
15 haven't read the transcript. I will trust you if you say  
16 that.

17 Q Okay.

18 A Did they demand a -- because there's different straight  
19 ups? There's straight up where you're not ---

20 Q What's the max on -- what's the max on the homicide by  
21 child abuse? Twenty-five?

22 A I think it's life.

23 Q Is it life?

24 A I think it's twenty to life?

25 Q Twenty to life?

1 A I think it's twenty to life. Maybe it's twenty to  
2 forty. I haven't looked at it recently. I want to say it's  
3 twenty to life. There's two homicide by child abuses, and  
4 this is the higher one. So this was, like, twenty to  
5 whatever. The other one was, is ten to twenty, I believe, or  
6 maybe not more than twenty.

7 Q Okay. But he didn't get -- it doesn't sound like he got  
8 any big deal. They didn't reduce the charge. It just -- he  
9 ended up having to make that decision to plead guilty.  
10 Suppression, never addressed, and he's got no choice but to,  
11 I guess, just plead guilty.

12 A Well, there's a practical difference between silent on  
13 sentencing straight up and the State asking for a whole  
14 bunch of time straight up. And I don't know -- I don't know  
15 what transpired.

16 Q And are you saying that in this circuit, that the  
17 method of keeping defense attorneys from filing suppression  
18 motions is to punish them after the fact?

19 A Yeah.

20 Q That happens?

21 A Yeah. I'm not talking about judges.

22 Q No, no. I understand.

23 A I'm saying the Solicitor, absolutely. They will punish  
24 you. You will get no offer afterwards. They had a  
25 suppression hearing on one of my clients fairly recently.

1     Suppression hearing, we don't have an offer now.

2     Q     Okay.

3     A     I went 10 years ago, or eight years ago. I went on a  
4     case that I did a suppression hearing on and I had a six  
5     year offer beforehand, and afterwards I had to beg and plead  
6     for, I think it was 15. And they were -- I happened to have  
7     a nice Solicitor who was nice enough to put something on the  
8     table afterwards, but generally that is if you do a  
9     suppression hearing generally you're not going to have an  
10    offer afterwards.

11    Q     So if you look at a case and you say this is most  
12    likely going to be suppressed. You would still not make  
13    that motion?

14    A     If I said that it most likely was going to be  
15    suppressed and it being a drug case, I absolutely would.  
16    Because on the drug case, if the drugs get suppressed, the  
17    case is gone.

18    Q     Right.

19    A     In this case, the drugs get suppressed, I think that  
20    was a really good case for the defense, or lot better case  
21    for the defense.

22    Q     Especially in the fact that you've got somebody saying  
23    that the child was already kind of sleepy or unresponsive  
24    before it was dropped off, so that would factor into that,  
25    right?

1 A That's correct. But do I think Yates would have -- if  
2 we would have -- I don't think he would have dismissed it  
3 just because we got it suppressed either. I think that he  
4 would have tried the case and we would have tried it and  
5 probably had a lot better shot of winning than if the drugs  
6 hadn't been suppressed. But it's no guarantee either.

7 Q No guarantee. But let me focus you on the big  
8 question, not whether or not it would work. But the advice  
9 to the client. So if there's a good likelihood that it  
10 could be suppressed -- no guarantee -- is that something  
11 that the client should know when he makes the decision to  
12 plead guilty or go to trial?

13 A Yes.

14 MR. WILKES: Nothing further.

15 THE COURT: Mr. Jones.

16 MR. JONES: Mr. Shaffer, I don't think I have any  
17 further questions for you. Thank you so much.

18 THE COURT: You may step down, Mr. Shaffer. We've been  
19 in here about an hour and a half. Let's take about ten  
20 minutes. Just for scheduling purposes, Mr. Jones, do you  
21 think you would have any further witnesses?

22 MR. JONES: I would just like to recall Mr. Stancil.  
23 But other than that, no, Your Honor.

24 THE COURT: Very good. All right, we'll be at recess  
25 for about 10 minutes.

1 MR. SHAFFER: Am I released, Your Honor?

2 THE COURT: Do y'all want Mr. Shaffer to stay?

3 MR. JONES: I don't mind releasing him, Your Honor.

4 MR. WILKES: It will only be a few more minutes, I guess,  
5 after we get back, and it might be good to have him to be on  
6 the safe side. If it's not inconvenient.

7 MR. JONES: Well, Your Honor, if I may say, I only  
8 intend to ask one or two questions of Mr. Stancil. So I  
9 think if we could just have his testimony now. I don't see  
10 it taking more than five minutes.

11 THE COURT: All right.

12 MR. JONES: But it's completely up to you, of course.

13 THE COURT: Well, it still doesn't answer our question.  
14 Mr. Wilkes indicates Mr. Shaffer needs to stay. He may want  
15 to recall for some reason. And if you want him to not be  
16 released under subpoena on there, why don't we take our ten  
17 minutes?

18 MR. JONES: All right. Thank you, Your Honor.

19 (WHEREUPON, short recess.)

20 THE COURT: Mr. Jones, I believe that we're still in  
21 your case. Is that right?

22 MR. JONES: That's correct, Your Honor.

23 THE COURT: I'd be glad for you to call your next  
24 witness.

25 MR. JONES: Thank you, Your Honor. The State would

Colie Stancil-Direct Examination by Mr. Wilkes

60

1 call Colie Stancil.

2 THE COURT: Mr. Stancil, you've already been sworn.

3 DIRECT EXAMINATION

4 BY MR. JONES:

5 Q Mr. Stancil, you heard the testimony of Mr. Childs  
6 earlier; correct?

7 A I did.

8 Q All right. How many times do you recall meeting with  
9 him or speaking to him in preparation for the case?

10 A I don't recall exactly, but had to be somewhere around  
11 four times.

12 Q All right.

13 A I know at least one with my investigator as well.

14 Q All right. And is it true that you didn't go over the  
15 evidence?

16 A I went over the discovery with him, including the  
17 statements made, and the video recordings, and as to the  
18 lost file -- I can't lose files. It's all uploaded digitally  
19 to our computer.

20 Q All right. So, you didn't tell him that he had to take  
21 a plea because you had lost the file?

22 A No, of course not. I can't make that decision.

23 Q All right. Regarding the potential defense of the  
24 timing of the ingestion of the fentanyl. What was your  
25 appraisal of that defense?

1 A Honestly, when I heard Mr. Shaffer testify, he kind of  
2 took the words out of my mouth. Same thing. Just that the  
3 length of time would have made it difficult. Not saying it's  
4 impossible, because you never know what the jury is going to  
5 think. But I think it would have been a difficult defense  
6 to use, but it would have been more leaning on the State  
7 can't prove it.

8 MR. JONES: I see. Mr. Stancil, I think that's the  
9 only questions I wanted to elicit from you. Thank you.

10 THE COURT: Mr. Wilkes or Mr. Childs.

11 MR. WILKES: No further questions.

12 THE COURT: All right, thank you. All right. Now, may  
13 Mr. Stancil be released?

14 MR. WILKES: Yes, Your Honor.

15 MR. JONES: No objection from the State, Your Honor.

16 THE COURT: Thank you, Mr. Stancil.

17 MR. STANCIL: Thank you, Your Honor.

18 THE COURT: Mr. Jones, I'll be glad for you to call  
19 your next witness.

20 MR. JONES: No further witnesses from the State, Your  
21 Honor.

22 THE COURT: The State rests. Mr. Wilkes or Mr. Childs,  
23 do you have anything in reply?

24 MR. WILKES: Nothing in reply, Your honor.

25 THE COURT: Thank you. Hearing all the testimony, I'll

1 be glad to hear from counsel by way of argument. Mr.  
2 Wilkes, I would ask you to do this. If you'll address  
3 please, assuming that I do find that the search warrant  
4 lacks probable cause in this case, is that the end of my  
5 inquiry into this matter? Does that automatically entitle  
6 the Applicant to be granted and afforded some relief under  
7 his application?

8 MR. WILKES: It does, Your Honor, and for this reason.  
9 The search warrant is so terribly lacking in probable cause  
10 that no reasonable attorney could believe that it would not  
11 be -- evidence would not be suppressed. That should have  
12 been communicated to Mr. Childs to inform him adequately as  
13 to his options. If he does not understand the major points  
14 of the defense and have faith in his defense counsel and  
15 their advice, he can't make an informed and intelligent  
16 decision as to whether to plead guilty or go to trial.

17 In this case, the drugs would have been suppressed.  
18 Suppression of the drugs would have been monumental to the  
19 defense. The State may have attempted to prosecute the  
20 case, but there's no evidence showing anything that would  
21 have given them any reasonable chance of prevailing. This  
22 is a case that is based on the drugs found at his residence.  
23 Those drugs, which, incidentally, as shown by the pictures,  
24 were sealed up in a bag in a cubby by the bed. Now, yes,  
25 that's not a good scenario, but one, drugs aren't going to

1 be admitted. But from the just standpoint of even looking  
2 at it like is there a huge doubt, beyond a reasonable doubt,  
3 that a 18-month-old child, a toddler, could remove those  
4 from that bed stand, open the bag, have access to a pill,  
5 close it back up, and fold it, put it right back in. That  
6 just can't happen.

7         And so, if my client was distraught. Because, as the  
8 police report says, the officer is, while he's at the  
9 hospital and they've secured the home, telling him, well,  
10 that bag of drugs is open. He thinks they were his drugs  
11 that the child has ingested. They didn't say the bag was  
12 closed. If he'd known that, that might have changed how he  
13 felt, just as far as emotionally what has happened. But the  
14 key to the case is those drugs were suppressible, and once  
15 those drugs are suppressed, that is a monumental, monumental  
16 step for the defense. And at that point, the client needs  
17 to know that to appraise the decision, to appraise the  
18 evidence, the job the attorney is doing, the advice he's  
19 been given. If he's not adequately informed of his potential  
20 defenses, there's no intelligent decision. It has to be  
21 informed and intelligent, and he can't do that if he's  
22 lacking knowledge of just such a major part of the defense.  
23 And as he said, if he'd known he'd had a defense, he would  
24 not have pled guilty. And so yes, Your Honor, once the  
25 drugs are suppressible, counsel's advice on that fact, the

1 potential for that, was clearly lacking. Just clearly  
2 lacking. Counsel didn't give me a straight answer on, yes,  
3 there's just no problem cause.

4 The other part of this is most disturbing is that  
5 counsel would make a decision not to move to suppress drugs  
6 that were so clearly suppressible for fear of repercussions  
7 for defendant. In other words, they're not going to fully  
8 defend their client because they're afraid they're going to  
9 be punished by the Solicitor. I think that any reasonable  
10 attorney, seeing something so clear, would have made a  
11 suppression motion way in advance, and if a plea situation  
12 came up later, I think the defense could simply say, Judge,  
13 we had a plea offer. We tried to defend our client, and  
14 they withdrew a plea offer, and they're punishing us. And I  
15 think that that would be the reasonable course of action for  
16 any attorney to take, rather than not to defend his client  
17 aggressively. Because I like to believe, I firmly believe,  
18 that any judge in this state would not punish a client, a  
19 defendant, when simply because the attorney attempted to  
20 defend him aggressively and properly. So I think that once  
21 the search warrant issue is determined, the drugs are  
22 clearly suppressible, the advice that our client got was  
23 what was stated on the stand, and it was clearly not a clear  
24 understanding of the suppression issue, the exclusionary  
25 rule, all the way through Wong Sun and fruit of the

1     poisonous tree.

2             So I think that, in response to the Court's question, I  
3     believe that, and submit, that it does -- it is instrumental  
4     in relief.

5             THE COURT: Does the fact that your client, during the  
6     plea colloquy with Judge Griffith, indicated he was guilty?  
7     Does that make a difference under this scenario?

8             MR. WILKES: It does not. There's no way to get around  
9     a guilty plea without answering the questions properly. You  
10    just can't do it. If my client has lost confidence in his  
11    attorney to start with, feeling that they're not  
12    aggressively representing him, and does not want to go to  
13    trial, there is no opportunity for anything else. No client  
14    ever stands up and says, Judge, he's got me here for a  
15    guilty plea. But, you know, I don't want to do that. Because  
16    that's going to result in, most likely, in their minds, a  
17    trial. So in saying he's guilty, I think the Court also has  
18    to take a look at that police report. Because the sequence  
19    of events was he woke up, child was unresponsive. They  
20    rushed the child to the hospital. They're at the hospital  
21    for the duration. Police secure the scene. They do the  
22    illegal search, find the drugs. The police officer -- and I  
23    believe it was Shockley, which is in evidence -- went and  
24    told him the drugs you had, that bag was open. That was a  
25    lie. They weren't open. And the police officer made a big

1 deal about and put that in his report to say he didn't say  
2 anything to that. Well, you just told him that bag was  
3 open, the child got those drugs, and you're responsible for  
4 your child's death. So unless somebody tells him  
5 differently, all he knows is he woke up and the child was  
6 unresponsive. They rushed to the hospital. He didn't get  
7 to go back, you know, where the drugs were, and see the  
8 drugs there.

9 THE COURT: If I just look at the plea colloquy that  
10 occurred, your client, under oath, told Judge Griffith that  
11 he was in fact guilty of the charge.

12 MR. WILKES: Yes, sir.

13 THE COURT: He's telling us today that he's not guilty  
14 of the charge, and that he wants another trial in this  
15 matter. One of those, he's telling us different than the  
16 other time. And so, how do I balance his telling Judge  
17 Griffith one thing and telling me something different today.

18 MR. WILKES: The question is not whether he is guilty  
19 not guilty. Whether he says he's guilty or not guilty. The  
20 question is, when he pled guilty, did he have adequate  
21 advice of counsel. If he had, at that time, ineffective  
22 assistance of counsel. That's the question. Because he was  
23 entitled to make that decision to plead or not plead with  
24 competent advice of counsel. So we can't say that. He did  
25 not have competent counsel. He did not get adequate advice

1 on a major defense. He did not have the defense actually  
2 aggressively attempt to advance that defense. And then he  
3 pled guilty. But he said he was guilty, so that stands. That  
4 would undo every single case under the Sixth Amendment where  
5 there was a guilty plea. So for the sake of argument --  
6 I'll say he's not guilty. But for the sake of our argument,  
7 if he's guilty, is he not still entitled to adequate  
8 representation, adequate advice? Is he not entitled to know  
9 his defenses fairly before he makes that decision? He is,  
10 and because of that, whatever was said at the guilty plea  
11 isn't the determinative factor of relief in the PCR.  
12 Because the Sixth Amendment failure to advise the client  
13 adequately is the failure. And then that's what took him to  
14 be before the judge and plead guilty. So we can't say if  
15 you go to court and you plead guilty, it doesn't matter if  
16 you had a lawyer, didn't have a lawyer. Lawyer is drunk,  
17 whatever. Doesn't matter, because you told the judge at the  
18 plea you're guilty. Well, there's a reason he did, but that  
19 doesn't matter, because the failure was before that. And the  
20 failure is what put him in that situation. So the fact that  
21 he did plead guilty, the fact that he did answer those  
22 questions, is not determinant in this case, because it's a  
23 sixth amendment issue that got it there.

24 THE COURT: Thank you. And I interrupted you to start  
25 with. I'd be glad to -- you can tell me whatever you would

1 like.

2 MR. WILKES: I will say that my limited capacity, I  
3 tried to bolster by writing things down. And I did the memo  
4 for the Court, and I believe that that is with the Court. I  
5 have the exhibits that support all of my argument on the  
6 probable cause and all of that. Rather than me sit and try  
7 to misstate the law to the Court off the top of my head, I  
8 would like to stand on that memorandum. I think it covers  
9 the basics. And I'll sit down unless the Court has a  
10 question.

11 THE COURT: Thank you. Thank you, Mr. Wilkes. Mr.  
12 Jones.

13 MR. JONES: Thank you, Your Honor.

14 THE COURT: I'll ask you sort of the same question. If  
15 I find that there is no probable cause in the search  
16 warrant, is at the end of the Court's inquiry as to whether  
17 or not Mr. Childs is entitled to relief under his  
18 application?

19 MR. JONES: No, Your Honor, because the question is not  
20 whether, now, years later, with the benefit of an actual  
21 court ruling on the issue, we can look back in hindsight and  
22 say that their decision was incorrect. The question is  
23 whether it was so obviously incorrect that it would have  
24 been unreasonable for any lawyer to have advised Mr. Childs  
25 otherwise, or to have advised him not to risk the -- not to,

1 in other words, gamble away this potential, this plea offer  
2 on what was a -- what was a seriously -- I would say, I  
3 don't want to fight the hypothetical here. But of course, I  
4 don't believe that this is an improper search warrant. I  
5 certainly don't believe it's such an obviously improper  
6 search warrant that both Mr. Shaffer and Mr. Stancil fell  
7 below the level of reasonably competent attorneys in saying  
8 that we don't want to risk your entire case on fighting this  
9 search warrant, because if we lose that, we then have  
10 nothing. And that is the inquiry that guides whether they  
11 were reasonable under the circumstances.

12 In addition, Mr. Stancil testified consistently and  
13 vehemently that when he got the case, it was clear that Mr.  
14 Childs wanted to resolve it with a guilty plea. Resolve not  
15 only this case, but his other pending cases and the  
16 outstanding probation matters in order to just be done with  
17 it and not have to put the families through that trial and  
18 the difficulty that would entail. That's a perfectly valid  
19 reason for clients to want to plead guilty, and it's not the  
20 sort of thing that would change just because, well, there's  
21 an argument we can make on this defense, or there's an  
22 argument we can make on suppression. It's ultimately the  
23 client's decision, as Mr. Stancil testified, and he also  
24 testified that the client's decision was to plead guilty.  
25 So even if there was a strong argument on the search warrant

1 issue, then that would still be a valid reason for honoring  
2 his client's stated wishes.

3 Now I said I don't want to fight the hypothetical.  
4 Having addressed that issue, I will go back and say that I  
5 don't believe the search warrant was improper in this case,  
6 for the reasons Mr. Shaffer pointed out that the standard  
7 for evaluating the validity of a search warrant, even if  
8 there's a problem with an initial search or with one part of  
9 the evidence that was presented in the search warrant  
10 affidavit, the correct procedure is then for the court  
11 reviewing it is then to excise the improper information and  
12 go just based on what was properly known by law enforcement  
13 when they searched, when they obtained the search warrant.

14 And what was properly known by law enforcement,  
15 unquestionably, is the fact that this child had passed away  
16 from a suspected drug overdose while in the custody of Mr.  
17 Childs at his residence. And that, by itself, is grounds  
18 for, again, probable cause, which is just the probable cause  
19 to suspect that evidence of a crime will be found in that  
20 residence. And of course, if someone passes away of a  
21 fentanyl overdose at a residence that, in and of itself, is  
22 probable cause that there could be evidence of fentanyl at  
23 that residence. That by itself would sustain the search  
24 warrant.

25 But again, whether or not you ultimately decide the

1 search warrants, whether it was valid or not, the question  
2 is whether it was even reasonable for counsel to -- whether  
3 it was reasonable for counsel to say we're not going to risk  
4 the entire defense on making this motion for suppression,  
5 which we could lose. Maybe we're not guaranteed to lose it.  
6 I think they would have had a hard time for the reasons Mr.  
7 Shaffer outlined, but even if we're not guaranteed to lose  
8 it, even if there's a possibility we could win, possibly,  
9 maybe even if there's a strong possibility we could win,  
10 that it would be a risk. And these are the sort of  
11 calculated risks that attorneys have to take into account,  
12 and especially where the applicant is telling his attorney  
13 that he wants to plead guilty.

14 Now you also brought up the guilty plea colloquy, in  
15 which Mr. Childs states, under oath, that he is guilty of  
16 these things, that he's making his decision freely and  
17 voluntarily, and that he's satisfied with counsel. To the  
18 extent that his testimony today differs from that, I think  
19 one thing Your Honor should consider is how that weighs upon  
20 Mr. Child's credibility. If he's saying, counsel told me  
21 this. Counsel told me that he lost my file and there was no  
22 hope for me at trial, or all these other things. Your  
23 Honor, I think you should discount his self-serving  
24 testimony today, because if he wasn't lying during the  
25 guilty plea colloquy, he's lying today, and vice versa. So

1 under those circumstances, Your Honor, I think that does  
2 weigh on his credibility and should be considered for that  
3 reason.

4 I think I've about covered everything. I haven't had a  
5 chance to go through Mr. Wilkes' memorandum. I'd be happy to  
6 prepare a reply memorandum for the Court. In fact, that  
7 would be my preference, unless directed otherwise.

8 THE COURT: How long would you need to do that, Mr.  
9 Jones?

10 MR. JONES: Your Honor, I believe I could have that  
11 done in two weeks. Thank you, Your Honor.

12 THE COURT: Mr. Wilkes.

13 MR. WILKES: Thank you, Your Honor.

14 THE COURT: Your client bears the burden of proof. I'll  
15 give you the last word.

16 MR. WILKES: Thank you, Your Honor. I don't believe my  
17 client came in and said, I'm not guilty. He came in and  
18 said, I didn't get good advice, and if I had, I would have  
19 chose differently. That's what he's saying.

20 THE COURT: He didn't say today that he was not guilty  
21 of the charge.

22 MR. WILKES: He didn't -- didn't say that. Didn't need  
23 to say that. The claim is he did not get adequate  
24 representation to make a decision to plead guilty or not.  
25 That is...

1           THE COURT: But he did tell Judge Griffith that he was  
2 guilty.

3           MR. WILKES: He did say that in response to the plea.  
4 Yes, sir, he did. And I believe that -- there was one other  
5 thing. I don't think -- I think he said what the impact was  
6 on him of finding out that the defense had lost the file, or  
7 some of the file. And I think that was testified to by  
8 counsel. So, I don't think that -- if I remember correctly.  
9 I don't think that's a contested fact. I think he testified  
10 to the impact it had on him. That's all I have, Your Honor.

11           THE COURT: Thank you. All right. I will say that  
12 both sides have done an excellent job in presenting the  
13 issues today. I congratulate both sides on well reasoned,  
14 well argued matter this morning.

15           Mr. Childs, I will tell you that it will take me a  
16 little while to go through the material that has been  
17 presented in this case. I will get a decision as quickly as  
18 I possibly can. I can't tell you the date that that might  
19 occur, but I promise you I will get it as quickly as I  
20 possibly can. Okay, sir?

21           THE APPLICANT: Yes, sir.

22           THE COURT: Thank you all. I appreciate it.

23           MR. WILKES: Thank you, Your Honor, thank you.

24           MR. JONES: Just for the record, were you amenable to me  
25 having two weeks to prepare a reply?

1 THE COURT: Yes.

2 MR. JONES: Thank you.

3 THE COURT: And I'm glad to give you two weeks.

4 \*\*\*END OF REQUESTED TRANSCRIPT OF RECORD)\*\*\*

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## Certificate of Reporter

I, the undersigned, Tara T. Scott, CVR, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Court of Common Pleas for Greenwood County, South Carolina, on the 3rd day of April, 2025.

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

---

Tara T. Scott, CVR  
Official Court Reporter  
January 10, 2026

STATE OF SOUTH CAROLINA

County of Greenwood

Greenwood

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SEARCH WARRANT

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Date 04/28/2021

Officer Shockley

4/28/2021 10:12:00 PM

PLAINTIFF'S 4/27/2021  
EXHIBIT  
Application  
#2  
#2208

COUNTY OF Greenwood

SEARCH WARRANT

Section 17-13-140  
March 15, 1978

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY  
OF Greenwood :

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)  
TO BE SEARCHED

Trakas Ave. Greenwood SC is white vinyl siding duplex with a concrete front porch. The front porch has wooden hand rails and two wooden beams. The front of the residence has two windows with white frames and the front door is marked "11" on the front door. The right wooden beam is marked "11" with black numbers. A pink in color Ford Explore is parked in front of the residence and its registered to [redacted] Trakas Ave. The said vehicle is bearing SC Plate# [redacted] and its registered to Charmaine Parks. The residence is currently being secured by Officers of the Greenwood City Police Department.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

Any type of substance believed to be in violation of Sections 44-53-370 and 44-53-375 of the SC Code of Laws. Any Ledgers, Records, Scales, Electronic Storage Medium and Paraphernalia used in the use, manufacture, delivery or sale of any controlled Substance and any other evidence that could determine the cause of death of [redacted] Minor.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

B. Lee Miller

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Greenwood , S.C.

April 28 , 20 21

B. Lee Miller

Signature of Judge

(L.S.)

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF Greenwood

Personally appeared before me, one \_\_\_\_\_ who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Any type of substance believed to be in violation of Sections 44-53-370 and 44-53-375 of the SC Code of Laws. Any Ledgers, Records, Scales, Electronic Storage Medium and Paraphernalia used in the use, manufacture, delivery or sale of any controlled Substance and any other evidence that could determine the cause of death of Indya Childs.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

\_\_\_\_\_ Trakas Ave. Greenwood SC is white vinyl siding duplex with a concrete front porch. The front porch has wooden hand rails and two wooden beams. The front of the residence has two windows with white frames and the front door is marked "1" on the front door. The right wooden beam is marked "1" with black numbers. A pink in color Ford Explore is parked in front of the residence and its registered to \_\_\_\_\_ Trakas Ave. The said vehicle is bearing SC Plate# \_\_\_\_\_ and its registered to Charmaine Parks. The residence is currently being secured by Officers of the Greenwood City Police Department.

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

On 04/28/2021 City Units responded to Self Regional Hospital in reference to a child being brought into the ER. Upon arrival Officers spoke with LT Dexter with Self Regional Security who advised an infant had possibly overdosed. City Officers then made contact with ZyTawn Childs who was identified to be the father of the infant. Childs advised he went to sleep with his infant at approximately 1600 hours and his girlfriend, Charmaine Parks, woke him up at which time he found his infant unresponsive. Childs advised the incident occurred at \_\_\_\_\_ Trakas Ave. The infant was later identified to be <sup>Minor</sup> \_\_\_\_\_ and she was pronounced dead at Self Regional Hospital. City Units then responded to \_\_\_\_\_ Trakas Ave and found the residence to be unattended. A protective sweep of the residence was conducted and a clear plastic bag with a set of scales was found in the bathroom. A 2003 Ford Mustang was parked in front of the residence bearing SC Reg. \_\_\_\_\_ (\_\_\_\_\_ Trakas Ave) registered to Charmaine Parks. It is in this Officer's belief that further evidence could be found at the residence and inside the vehicle that could lead to the cause of death of <sup>Minor</sup> \_\_\_\_\_

Sworn to and Subscribed before me

This 28 day of April, 2021

B. Will  
Signature of Judge

(L.S.)

[Signature]  
AFFIANT

ADDRESS: PO box 40  
Greenwood SC 29046  
PHONE: 804-942-8407

RETURN

I received the attached Search Warrant April 28, 20 21, and have executed it as follows:

On April 28, 20 21 at 2300 o'clock P M, I searched

(the person) described in the warrant and (the premises)

I left a copy of the warrant with Charmane Parks

Name of person searched or "at the place of search" with.  
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

- 1. purse containing Marijuana (Rm left corner room)
- 2. bed sheet (green) (fitted) - bed
- 3. white pillow - bed
- 4. red pillow - bed
- 5. red comforter - bed
- 6. light colored towel - foot of bed
- 7. green flat sheet - foot of bed
- 8. plastic baggie (front room closet shoe hanger) x2
- 9. plastic bag containing blue circular pills - end table front bedroom
- 10. shoe box containing mason jar, plastic baggies, Glock 42 SN: ACXK112  
Glock 26 SN: BBM# 916, Sunspert rounds .380 in magazine, 11 unspert .380 in  
clear magazine, 15 unspert 9mm rounds in magazine (left side bed)
- 11. purple container containing marijuana in middle drawer nightstand
- 12. marijuana blunt - ash-tray bedside table right side
- 13. clear baggie and digital scales (bathroom)

This inventory was made in the presence of Ben Baker, Courtney Clemmons,

AND Blake Shockley

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this \_\_\_\_\_

day of \_\_\_\_\_, 20 \_\_\_\_\_

(L.S)

Signature of Judge



\_\_\_\_\_  
(Signature of Officer Executing Warrant)

AGENCY I.D.  
SC0240100

SUPPLEMENTARY REPORT

CASE NUMBER  
21008865

NCIC  
INC. ENTD.

ORIGINAL REPORT     SUPPLEMENTAL REPORT     ADDITIONAL VICTIMS     ADDITIONAL STOLEN PROPERTY

MODIFIED ORIGINAL     CASE STATUS CHANGE     ADDITIONAL OFFENDERS     ADDITIONAL RECOVERED PROPERTY

PAGE 1 OF 2 PAGES

**NARRATIVE**

On ~~4/28/2021~~ while off duty I received a phone call from Capitan Lovett who was the shift commander at the time of this incident. Capt. Lovett advised that an 18 month old child Minor was brought to Self Regional Health Care Emergency Room where the child was treated by doctor but ~~passed away shortly after arriving.~~

Upon my arrival I spoke with Capt. Lovett and Major Mitchell who briefed me further on the incident. I was told that Minor was brought to the ER by her father (Zy'tawn Childs) and his girlfriend (Charmaine Parks). Indya's mother (Naszeiah Barr) was outside the hospital but had not been with Minor since earlier in the day. ~~Both Zy'tawn and Charmaine were inside the ER at this time.~~

I spoke with Doctor Graham who is the ER doctor that treated Minor. Dr. Graham advised that Minor arrived at the hospital and she was given CPR but there was nothing else he could do and she passed away. Dr. Graham advised he did not see any suspicious. He did not see any signs of trauma but could not rule out any foul play.

I then met with Deputy Corners Byrd and Rash in the ER treatment room with Minor. I noticed Minor was dressed in a night gown she appeared to be clean and no signs of trauma could be observed at this time. Deputy Corners advised at this time the cause of death a an autopsy would be performed.

After speaking with the corners, I contacted Major Mitchell who was standing outside of the ER and advised him to contact Dusty's Towing and have the vehicle that Minor was brought to the hospital in towed to the city impound lot so that we could search said vehicle. Major Mitchell did standby with said vehicle until the wrecker arrived.

I then located Naszeiah Barr who was in the parking lot of the ER and I had her step into the hospital into a room away from the public so that way I could speak with her. Naszeiah advised that earlier on this day she had to Anderson she Minor with Zy'tawn's mother to babysit. Naszeiah she was almost back in town when she received a phone to get to the hospital. Once at the hospital she learned that Minor was deceased. I asked her if she felt like Zy'tawn would have done anything to Minor to harm her and Naszeiah stated Zy'tawn loved Minor and would have done anything to cause her harm. Naszeiah did say that her and Charmaine do not like each other and she feels that Charmaine did something to Minor to cause her death. Naszeiah said that she does not know of Charmaine doing anything she just feels that way cause. they don't like one another. The only other information Naszeiah had to offer was that Minor sleeps in the bed her and normally sleep facing her real close to the point their bodies touch.

~~After speaking with Naszeiah, I spoke with Zy'tawn while Major Mcallister with Charmaine. The two subjects were separated to get statements form each. Zy'tawn stated that he was tired due to working night shift so he decided to take a nap. He stated him and Minor went to his bedroom where he turned on the television for Minor to watch and sat her in the bed next to him. He stated there were several pillows in the bed so he placed her in front them to help prop her up so she could watch television. Zy'tawn stated at one point he heard foot steps and woke up and found Zy'tawn was walking around in front of the television, so he placed her back in the bed with a granola bar to eat. Zy'tawn stated he got back in bed and went back to sleep.~~

Zy'tawn stated when he woke up he was lying on his right side. He stated Minor was lying in the bed next to him on her left side facing him. He stated they were close together. Zy'tawn stated he figured Minor would need her diaper changed so he picked her up and at this time he noticed she was limp. Zy'tawn stated he laid back down in the bed and began trying to feel for a pulse. He stated that he could not feel a pulsed she he put his eam down by her mouth and nose in an attempt to hear her breath. Zy'tawn stated he could not hear her breath and he began to panic and screaming for Charmaine who was down stairs. He stated they left rushing Minor to the hospital.

~~Zy'tawn did agree to meet detectives at the incident location to walk through what happened (this was video recorded).~~

**ADMINISTRATIVE**

SUBJECT IDENTIFIED:  YES  NO    SUBJECT LOCATED:  YES  NO    ACTIVE:  UNFOLDED    ADM CLOSED:     ARRESTED UNDER 18:     EX-CLEAR UNDER 18:     ARRESTED 18 AND OVER:     EX-CLEAR 18 AND OVER:

REASON FOR EXCEPTIONAL CLEARANCE: 1.  OFFENDER DEATH 2.  NO PROSECUTION 3.  EXTRADITION DENIED 4.  VICTIM DECLINES COOPERATION 5.  JUVENILE - NO CUSTODY

REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
HARALSON, T	05/06/2021	1323			

FOLLOW UP OFFICER SHOCKLEY, INVESTIGATION:  YES  NO

EX-PLAINTIFF'S EXHIBIT  
Applicant  
NO. 3  
228

AGENCY I.D.  
SC0240100

SUPPLEMENTARY REPORT

CASE NUMBER

21008865

NCIC

INC. ENTD.

ORIGINAL REPORT  
 MODIFIES ORIGINAL

SUPPLEMENTAL REPORT  
 CASE STATUS CHANGE

ADDITIONAL VICTIMS  
 ADDITIONAL OFFENDERS

ADDITIONAL STOLEN PROPERTY  
 ADDITIONAL RECOVERED PROPERTY

PAGE 2 OF 2 PAGES

Zy'tawn was asked about if there was any covers on the bed and he stated the bed was made up so there were covers on the bed, however stated they were lying on the covers. He stated there were pillows on the bed as well, Zy'tawn when he woke up Minor did have any covers or pillows over her face. Zy'tawn gave the statment several times that he woke up and called for Charmaine to come up stairs.

Charmine walked through the residence with us well (video recorded). She advised that Zy'tawn and Minor went up stairs to sleep in the bed while she was down stairs on her computer. Charmine advised after it started getting late she went upstairs to woke Zy'tawn up from sleeping. She stated they needed to go grocery shopping and that is why she woke him up. Charmine stated once they began trying to wake Minor up they noticed her breathing was shallow and they could not wake her. She stated at lime they drove her to the hospital.

NARRATIVE

ADMINISTRATIVE

SUBJECT IDENTIFIED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		SUBJECT LOCATED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		ACTIVE <input type="checkbox"/> UNFOUNDED		ADM. CLOSED <input type="checkbox"/>		ARRESTED UNDER 18 <input type="checkbox"/> ARRESTED 18 AND OVER		EX-CLEAR UNDER 18 <input type="checkbox"/> EX-CLEAR 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY											
REPORTING OFFICER HARRISON			DATE 05/06/2021		UNIT NUMBER 1323		APPROVING OFFICER			DATE	
							FOLLOW UP OFFICER SHOCKLEY				
							INVESTIGATION <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO				

AGENCY I.D.  
SC0240100

SUPPLEMENTARY REPORT

CASE NUMBER

21008865

NCIC

INQ. ENTD.

<input type="checkbox"/> ORIGINAL REPORT	<input checked="" type="checkbox"/> SUPPLEMENTAL REPORT	<input type="checkbox"/> ADDITIONAL VICTIMS	<input type="checkbox"/> ADDITIONAL STOLEN PROPERTY	PAGE 1 OF 1 PAGES
<input type="checkbox"/> MODIFIES ORIGINAL	<input type="checkbox"/> CASE STATUS CHANGE	<input type="checkbox"/> ADDITIONAL OFFENDERS	<input type="checkbox"/> ADDITIONAL RECOVERED PROPERTY	

NARRATIVE

On 4-28-2021, I (MP Madden) was advised by Sgt Hemy that the victim's residence was located at [redacted] Trakas Ave Apt [redacted]

At this time, I responded to the residence to secure the scene and preserve any potential evidence. Upon arrival, I knocked on the front door but received no answer. I did observe the back door of the residence to be unlocked, but I did not enter at this time.

I then stood by until Detective Baker arrived, at which time myself and Detective Baker entered the residence and conducted a protective sweep, locating no subjects inside. While conducting the protective sweep, I did observe a black digital scale and a small plastic corner bag on the upstairs bathroom counter within plain view.

Myself and Detective Baker then exited the residence, at which time I secured the residence by erecting crime scene tape around the outside. The scene was turned over to Detectives at this time.

ADMINISTRATIVE	SUBJECT IDENTIFIED		SUBJECT LOCATED		ACTIVE		ADM. CLOSED		ARRESTED UNDER 18		EX-CLEAR UNDER 18		
	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		<input type="checkbox"/> UNFOUNDED				<input type="checkbox"/> ARRESTED 18 AND OVER		<input type="checkbox"/> EX-CLEAR 18 AND OVER		
	REASON FOR EXCEPTIONAL CLEARANCE: 1 <input type="checkbox"/> OFFENDER DEATH 2 <input type="checkbox"/> NO PROSECUTION 3 <input type="checkbox"/> EXTRADITION DENIED 4 <input type="checkbox"/> VICTIM DECLINES COOPERATION 5 <input type="checkbox"/> JUVENILE - NO CUSTODY												
	REPORTING OFFICER			DATE		UNIT NUMBER		APPROVING OFFICER			DATE		UNIT NUMBER
MADDEN, M			04/29/2021		1594								
FOLLOW-UP OFFICER SHOCKLEY, INVESTIGATION?													
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO													

AGENCY I.D.  
SC0240100

SUPPLEMENTARY REPORT

CASE NUMBER

21008865

NCIC

INC.

ENTO.

<input type="checkbox"/> ORIGINAL REPORT	<input checked="" type="checkbox"/> SUPPLEMENTAL REPORT	<input type="checkbox"/> ADDITIONAL VICTIMS	<input type="checkbox"/> ADDITIONAL STOLEN PROPERTY	PAGE <u>1</u> OF <u>2</u> PAGES
<input type="checkbox"/> MODIFIED ORIGINAL	<input type="checkbox"/> CASE STATUS CHANGE	<input type="checkbox"/> ADDITIONAL OFFENDERS	<input type="checkbox"/> ADDITIONAL RECOVERED PROPERTY	

On 04/28/20 at approximately 2045 hours, I was notified by CPT Lovett of the incident. I then responded to [REDACTED] Trakas Ave where I was briefed by MP Madden, who advised during the protective sweep he found a clear plastic bag in with a set of digital scales in the bathroom. I then determined a search of the apartment was needed, therefore a search warrant was signed and executed.

During the search, the following items were located and collected in order:

1. purse containing marijuana (front left corner room)
2. green fitted bed sheet (bed)
3. white pillow case (bed)
4. red pillow case (bed)
5. red comforter (bed)
6. light colored towel (front of bed)
7. green flat sheet (front of bed)
8. plastic bag (front room closet shoe hanger) x2
9. Plastic bag containing blue circular pills (end table front bedroom)
10. shoe box containing mason jar, plastic baggies, Glock 42 SN#ACXK112, Glock 26 SN#BBM4916, 5 unspent rounds .380 in magazine, 11 unspent .380 in clear magazine, 15 unspent 9mm rounds in magazine (left side of bed)
11. purple container containing marijuana in middle drawer of nightstand
12. marijuana blunt ashtray bedside table nightstand
13. clear plastic bag and digital scales (located in bathroom)

NARRATIVE

The plastic bag that contained the blue circular pills (listed above as #9) was opened and the pills were believed to be pressed fentanyl pills. The total count for the pills were 50, one of which was later field tested for fentanyl, which yielded a positive test result. The said pills were located at the end table next to the bed and were within reaching distance for the victim. All the evidence was placed in evidence at City Hall per policy.

On 4/30/21 an autopsy was conducted on the victim and the report is attached to the case file. During the autopsy, no signs of physical abuse was observed and the victim did not appear to be malnourished. This case will remain active pending the SLED toxicology results.

On 6/1/21 I received the victim's toxicology report from SLED, which showed the victim tested positive for Fentanyl. CPT Haralson then spoke with Coroner Sonny Cox, who advised the victim's cause of death was determined to be an overdose of Fentanyl. Based on the statements given by Childs, Parks and the results of the toxicology report, a warrant was obtained on Childs for Homicide By Child Abuse.

On 6/2/21 I responded to [REDACTED] Trakas Ave for a follow up. Upon arrival, I spoke with Charmane Parks who advised Childs was at work in Burnstain in Abbeville County. Prior to questioning Parks, I explained to her that she was not under arrest, she was free to walk away at any point in time and she did not have to answer any questions. Parks stated she understood, at which time I asked her about the narcotics found inside the residence. Parks admitted the marijuana belonged to her, but she did not claim the pressed fentanyl pills.

I then responded to Burnstain in attempt to locate Childs. Upon arrival, I did confirm with security that Childs was at work. I then located Childs on a Forklift, at which time I advised him I needed to speak with him. Child cooperated and we were escorted into a managers office. I then advised Childs of the toxicology results on <sup>Minor</sup> and explained to him that her cause of death was in fact an overdose. Childs then stated there was no way she could have gotten his pills because they were in a bag. I then advised Childs the bag was open when we conducted the search warrant on the residence, which

*to R Δ ↑ Bag open*

ADMINISTRATIVE	SUBJECT IDENTIFIED		SUBJECT LOCATED		ACTIVE	ADM. CLOSED	ARRESTED UNDER 18	EX-CLEAR UNDER 18
	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	UNFOUNDED		ARRESTED 18 AND OVER	EX-CLEAR 18 AND OVER
	REASON FOR EXCEPTIONAL CLEARANCE: 1. OFFENDER DEATH, 2. NO PROSECUTION, 3. EXTRADITION DENIED, 4. VICTIM DECLINES COOPERATION, 5. JUVENILE - NO CUSTODY							
	REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER		
	SHOCKLEY	06/03/2021	1470				FOLLOW-UP OFFICER SHOCKLEY, INVESTIGATION <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	

AGENCY I.D.  
SC0240100

SUPPLEMENTARY REPORT

CASE NUMBER

21008865

NCIC

INC. ENTD.

ORIGINAL REPORT

SUPPLEMENTAL REPORT

ADDITIONAL VICTIMS

ADDITIONAL STOLEN PROPERTY

PAGE 2 OF 2 PAGES

MODIFIES ORIGINAL

CASE STATUS CHANGE

ADDITIONAL OFFENDERS

ADDITIONAL RECOVERED PROPERTY

NARRATIVE

Childs did not have a response. I then advised Childs I needed to speak with him about this incident at the City Detective's Office, at which time he cooperated and he was escorted to Greenwood in a City Detective vehicle.

Upon arrival, I read Childs his Miranda Rights, which he waived his rights and signed the Departmental Waiver of Rights Form. Childs then explained that he takes blues "pressed fentanyl pills" and he took two pills before Minor was dropped off at his apartment. Again, Childs admitted the bag of fentanyl pills belonged to him, and he fell asleep with Minor in the bed with him. I then explained to Childs based on the evidence gathered, he was going to be charged with Homicide By Child Abuse. He was handcuffed per policy and searched incident to arrest. SMP Maynard then escorted Childs to the GCDC, where he was processed and served the warrant.

ADMINISTRATIVE

SUBJECT IDENTIFIED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		SUBJECT LOCATED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		ACTIVE <input type="checkbox"/> ADM. CLOSED <input type="checkbox"/>		ARRESTED UNDER 18 <input type="checkbox"/>		EX-CLEAR UNDER 18 <input type="checkbox"/>	
		UNFOUNDED <input type="checkbox"/>				ARRESTED 18 AND OVER <input type="checkbox"/>		EX-CLEAR 18 AND OVER <input type="checkbox"/>	
REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY									
REPORTING OFFICER			DATE		UNIT NUMBER		APPROVING OFFICER		
SHOCKLEY			06/03/2021		1470				
FOLLOW-UP INVESTIGATION					OFFICER SHOCKLEY, <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO				

Filed CP 8th Jud Cir Greenwood, SC  
JUL 11 12 25 PM 2024

STATE OF SOUTH CAROLINA  
COUNTY OF GREENWOOD

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

Zy'Tawn Keinas Childs, #390397,

) Cases No. 2024-CP-24-00907  
)

Applicant,

)

v.

)

**ORDER OF DISMISSAL**

State of South Carolina,

)

Respondent.

)  
)  
)  
)

This matter comes before the Court by way of an application for post-conviction relief ("PCR") filed by Zy'Tawn Keinas Childs ("Applicant") on August 23, 2024. An evidentiary hearing was held on April 3, 2025, at the Greenwood County Courthouse. Applicant was present at the hearing and represented by J. Falkner Wilkes and Robert C. Childs, III. Zachary W. Jones, of the South Carolina Attorney General's Office, represented Respondent. At the hearing, Applicant submitted a memorandum in support of his PCR claims entitled "Applicant's Memorandum on the Suppression of Drug Evidence." Respondent subsequently submitted a memorandum in response.

After reviewing all records and evidence before the Court, as well as the legal arguments made by the attorneys on both sides, this Court finds Applicant has not met his requisite burden of proof to warrant granting post-conviction relief. The Court finds as follows:

**PROCEDURAL HISTORY**

During the September 2021 term, the Greenwood County Grand Jury indicted Applicant for homicide by child abuse (2021-GS-24-1707). Applicant subsequently waived presentment of indictments for resisting arrest (2023-GS-24-0441) and possession of methamphetamine (2023-GS-24-0442). Applicant was represented, first by Tristan M. Shaffer, Esquire, and then by Colie

J. Stancil, Esquire (collectively, "Counsel"). Deputy Solicitor C. Yates Brown, of the Eighth Circuit Solicitor's Office, prosecuted the case.

On February 27, 2023, Applicant appeared before the Honorable Eugene C. Griffith and pled guilty as indicted. Judge Griffith sentenced Applicant to twenty-three (23) years' imprisonment on the charge of homicide by child abuse and time served on the other two charges. Pursuant to a global plea agreement, the State dismissed multiple additional charges.

Applicant sent a *pro se* letter to the South Carolina Court of Appeals on March 8, 2023, which that court construed as a notice of appeal. On August 24, 2023, the court of appeals directed Counsel to cure the deficiencies present in Applicant's *pro se* notice of appeal. Counsel subsequently filed an amended notice of appeal and guilty plea explanation on September 1, 2023. The court of appeals dismissed the appeal on September 20, 2023. Counsel filed a motion to reconsider the order of dismissal and reinstate the appeal on October 5, 2023, which was denied. The remittitur was sent on December 5, 2023.

#### FACTS PRESENTED AT THE GUILTY PLEA HEARING

The solicitor summarized the underlying facts at the guilty plea hearing as follows:

Judge, this happened back on April 28, 2021, with the child homicide. Mr. Childs was in the care of his daughter, Minor, who was approximately a year old. His child was with his grandma -- with the grandmother earlier in the day. And the child was dropped off with Mr. Childs.

Law enforcement got the call when they received information from the hospital that an infant or one-year-old had been brought there unresponsive, and then ultimately died there, or was pronounced dead there at the hospital. The attending physician didn't notice any kind of trauma to the outside of the body. They ended up having to do tox -- an autopsy. And when the tox came back, it did show that Minor overdosed from fentanyl.

And after speaking with Mr. Childs there at the hospital, law enforcement went to the house, or the -- the home where Minor and Zy'Tawn Childs were. They looked around. And they

did see there was a bag of fentanyl by the bedside -- that was on bedside table next to the bed. And it was opened.

They then talked to Mr. Childs. And I think he admitted at that point that he got home from work. He had taken some pills. He didn't realize the bag was still open, but it was open. The child -- they laid down the bed to watch TV. And the child got into the pills and ultimately consumed the pills and died as a result.

He then was out on bond from that. And -- well, this actually happened while he was out on probation for a distribution of fentanyl. That was a 2020 conviction, along with the other convictions that are on the information sheet that I provided you. He was out on probation for that. I believe it was a BOPHAN, pistol charge, distribution of fentanyl, and then this happened, where he's got another bag of fentanyl, where his child dies.

Mr. Childs then got another bond after the child homicide. And while out on bond for that, he is stopped as a traffic violation. Officers pull him over. They smell marijuana in the vehicle; get him out. They understand or know that he's on probation and out on bond at that time. They do find that he's in possession of methamphetamine. While they have him detained on the roadside, he runs from them. He goes and hides in the woods. They have to get dogs out. They, ultimately, make the arrest. So that's where the resisting and the possession of meth come from.

(Plea Tr. pp. 8-10).

#### CURRENT APPLICATION

On August 23, 2024, Applicant timely filed an application for PCR. Applicant raises the following claims as grounds for relief:

1. "Ineffective assistance of counsel"
  - a. Trial counsel failed to properly investigate the case, interview witnesses, understand the medical evidence, prepare a defense, research prepare and move to suppress illegally obtained evidence, to properly hand off and ensure adequate representation when counsel changed within the office, failure to take appropriate measures to allow new counsel to be properly prepared before the case was placed on the docket, to prevent undue pressure on the Applicant to plead guilty and suffer probation revocations because newly appointed counsel appeared ill-prepared to proceed to trial, failure to properly advise the Applicant on the procedure and merits of his case and any plea offers so as to allow

Applicant to make an informed decision as to whether or not to enter a guilty plea or proceed to trial.

As requested relief, Applicant seeks “[t]o have the conviction(s) and sentence(s) reversed, set aside, and new trials granted and probation revocations reversed or remanded and probation reinstated.”

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, and weighed the testimony accordingly. Before the Court are Applicant’s records from the South Carolina Department of Corrections, the transcript of Applicant’s plea proceeding, the records of the Greenwood County Clerk of Court regarding the subject convictions and sentences, Applicant’s appellate records, the application for post-conviction relief, and the memoranda submitted by Applicant and Respondent. This Court has reviewed the records submitted to it by the parties, the legal arguments made by the attorneys, and the pleadings. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings based upon all of the probative evidence presented:

*INEFFECTIVE ASSISTANCE OF COUNSEL*

Applicant alleges Counsel was ineffective for failing to file a motion to suppress the drug evidence found at his residence as “fruit of the poisonous tree,” since the search warrant whose execution led to the discovery of the drugs was itself partly based on evidence obtained during a prior, warrantless “sweep” of the residence. Applicant claims that, if counsel had moved to suppress the drugs, the motion would likely have succeeded, and Applicant would not have pleaded guilty but would have insisted on going to trial.

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



*Washington*, 466 U.S. 668 (1984). The reviewing court applies the two-part test outlined in *Strickland* to determine whether counsel's conduct "was so [ineffective] as to require reversal" of the applicant's conviction or sentence. *Id.* at 687. First, the applicant must show that counsel's performance was deficient; and second, that the deficient performance prejudiced the applicant. *Id.* at 668.

In order to prove deficient performance, the applicant must show counsel's representation fell below an objective standard of "reasonableness under prevailing professional norms." *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). *Strickland*, however, "does not guarantee perfect representation[—]only a 'reasonably competent attorney.'" *Harrington v. Richter*, 562 U.S. 86, 110 (2011) (quoting *Strickland*, 466 U.S. at 687). Just as there is "no expectation that competent counsel will be a flawless strategist or tactician, an attorney may not be faulted for a reasonable miscalculation or lack of foresight or for failing to prepare for what appear to be remote possibilities." *Id.*, see also *Yarborough v. Gentry*, 540 U.S. 1, 8 (2003) ("The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight."). Rather, Counsel's performance, even if "far from exemplary," will only be found deficient if "no competent lawyer" would have acted the same way. *Dunn v. Reeves*, 594 U.S. 731, 739 (2021).

To satisfy the second, or "prejudice," prong of *Strickland*, an applicant must demonstrate counsel's deficient performance prejudiced him such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625. A reasonable probability is a probability "sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. In the context of a guilty plea, the applicant must show that there is a reasonable probability that, but for counsel's

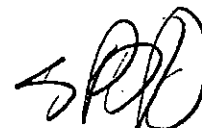


alleged errors, he would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

Surmounting *Strickland*'s high bar is never an easy task, and the strong societal interest in finality has "special force with respect to convictions based on guilty pleas." *Lee v. United States*, 582 U.S. 357, 368–69 (2017) (internal citations and quotation marks omitted); *cf. Hill*, 474 U.S. at 58 ("[R]equiring a 'prejudice' showing from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel 'will serve the fundamental interest in the finality of guilty pleas.'").

This Court finds Applicant has not met his burden of proving that Counsel was deficient for failing to file a motion to suppress. Counsel credibly testified at the PCR hearing that they considered the possibility of filing a suppression motion on the grounds that the initial warrantless "sweep" of Applicant's residence tainted the subsequent search warrant; however, they were not confident of success because a trial judge might have decided that the other evidence in the search warrant affidavit was not tainted and was independently sufficient to establish probable cause. Reasonable lawyers may well have reached a different conclusion; however, that is not the relevant inquiry. To prove deficiency, Applicant must show that "no competent lawyer" would have acted as Counsel did. *Dunn*, 594 U.S. at 739.

It is also important to note that Counsel's conduct occurred in the context of plea bargaining. "[S]trict adherence to the *Strickland* standard [is] all the more essential when reviewing the choices an attorney made at the plea bargain stage." *Premo v. Moore*, 562 U.S. 115, 125 (2011). "Plea bargains are the result of complex negotiations suffused with uncertainty, and defense attorneys must make careful strategic choices in balancing opportunities and risks." *Id.* at 124.



[T]he decision to plead guilty before the evidence is in frequently involves the making of difficult judgments. All the pertinent facts normally cannot be known unless witnesses are examined and cross-examined in court. Even then the truth will often be in dispute. In the face of unavoidable uncertainty, the defendant and his counsel must make their best judgment as to the weight of the State's case. Counsel must predict how the facts, as he understands them, would be viewed by a court. If proved, would those facts convince a judge or jury of the defendant's guilt? On those facts would evidence seized without a warrant be admissible? Would the trier of fact on those facts find a confession voluntary and admissible? Questions like these cannot be answered with certitude; yet a decision to plead guilty must necessarily rest upon counsel's answers, uncertain as they may be. *Waiving trial entails the inherent risk that the good-faith evaluations of a reasonably competent attorney will turn out to be mistaken either as to the facts or as to what a court's judgment might be on given facts.*

...  
 Courts continue to have serious differences among themselves on the admissibility of evidence, both with respect to the proper standard by which the facts are to be judged and with respect to the application of that standard to particular facts. That this Court might hold a defendant's confession inadmissible in evidence, possibly by a divided vote, hardly justifies a conclusion that the defendant's attorney was incompetent or ineffective when he thought the admissibility of the confession sufficiently probable to advise a plea of guilty.

*McMann v. Richardson*, 397 U.S. 759, 769–70 (1970) (emphasis added).

The mere possibility that Counsel's appraisal of the likelihood of successfully suppressing the drug evidence might have been unduly pessimistic "hardly justifies a conclusion that [Counsel] was incompetent or ineffective." *Id.*; see also *Parker v. North Carolina*, 397 U.S. 790, 797–98 (1970) ("[E]ven if Parker's counsel was wrong in his assessment of Parker's confession, . . . we think the advice he received was well within the range of competence required of attorneys representing defendants in criminal cases. Parker's plea of guilty was an intelligent plea not open to attack on the grounds that counsel misjudged the admissibility of Parker's confession.").

Moreover, even if the fentanyl had been suppressed, Counsel testified the State's case

would not have been unwinnable: there was no denying that Victim had been left in Applicant's care for hours before she was found unresponsive and rushed to the hospital, where she ultimately died of a fentanyl overdose. The circumstances of Victim's death arguably supported the State's theory that Applicant had caused Victim's death through child abuse or neglect, even without the corroborating evidence that fentanyl was later found in the house. In addition, Applicant had given incriminating statements admitting that he kept fentanyl pills in a bag next to the bed where Victim was sleeping on the day of her death. While Counsel had discussed a possible defense on the theory that Victim had ingested a fatal dose of fentanyl sometime before she had been left with Applicant, both attorneys testified they did not think that theory was plausible given the typically rapid action of fentanyl and the fact that multiple hours passed before Victim was taken to the hospital.

Applicant faced a sentence of twenty years to life on the homicide by child abuse charge alone. He also had unrelated charges for resisting arrest and possession of methamphetamine arising from a separate incident occurring while he was out on bond. In addition, at the time of the homicide, he was on probation for distribution of fentanyl, possession with intent to distribute marijuana, carrying a weapon on school property, and breach of peace of a high and aggravated nature; he was facing substantial sentences on those charges due to the revocation of his probation. The State offered a global plea that would resolve all those matters and result in the dismissal of additional charges arising out of yet another incident; however, Counsel credibly testified that the solicitor intended to withdraw that plea offer if Applicant were to file a motion to suppress.

Therefore, even if the evidence obtained from the search warrant were patently inadmissible, it would not have been unreasonable for Counsel to advise Applicant that the risk of conviction at trial outweighed the benefits of rejecting the plea offer to make a suppression motion.



The suppression motion was not guaranteed to succeed; like many other trial strategies, it would have been a gamble. And even if the suppression motion had succeeded, Counsel could not be confident of an acquittal; the State still had substantial evidence to establish Applicant's guilt. Under such circumstances, in "the face of unavoidable uncertainty," it cannot be said that Counsel's decision was incompetent or ineffective. *McMann*, 397 U.S. at 769.

Weighing the risks and benefits of pleading guilty, compared with going to trial and gambling on the success of a suppression motion, "is precisely the sort of calculated risk that lies at the heart of an advocate's discretion." *Yarborough*, 540 U.S. at 9. Though it may be tempting to second-guess Counsel's performance with the benefit of hindsight, *Strickland* requires a more deferential review. The mere fact that different lawyers might have reached a different decision in those same circumstances does not, by itself, render Counsel's decision deficient.

Furthermore, the Court finds Applicant has not met his burden of proving prejudice. At the evidentiary hearing, Applicant testified that he would not have pled guilty had he known the fentanyl evidence was likely to be suppressed but would have insisted on a trial. Counsel, on the other hand, testified Applicant had no interest in going to trial but directed Counsel to work out a plea deal. Counsel testified that Applicant was motivated by his remorse and by his desire not to make his family relive the tragedy by going through trial.

A reviewing court "should not upset a plea solely because of post hoc assertions from a defendant about how he would have pleaded but for his attorney's deficiencies." *Lee*, 582 U.S. at 368. Rather, judges should "look to contemporaneous evidence to substantiate a defendant's expressed preferences." *Id.*

The Court finds Counsel's account is more consistent with "contemporaneous evidence"; namely, the transcript of the guilty plea proceeding. During mitigation, Counsel stated:

Mr. Childs made it clear to me at no point did he want to [go to] trial on this. It was always going to be a plea. He—he doesn't want to put himself through reliving this. He doesn't want to put his family and friends who are here in support of him through that again. I commend him for that. He's here taking responsibility and wants to get this put behind him. . . . Mr. Childs, every time I've met with him, has made it very clear that this is the worst moment of his life. He said it was the worst thing that's ever happened to him. It absolutely broke his heart. But he still is here to take responsibility for his—his actions and get this behind him.

(Plea Tr. pp.18–19). Similarly, Applicant's own statements during the guilty plea proceeding indicate that his decision to plead guilty was motivated by his remorse and concern for his family: "First off, I would like to apologize to everybody, to all my family. This was a tragedy for me. Some nights I can't sleep. She be on my mind. But yes, it happened. Hopefully, one day I'll be able to take care of my kids again. Thank you." (Plea Tr. p.27). For these reasons, the Court finds Counsel's testimony at the PCR hearing credible, and Applicant's contrary testimony not credible, as to this issue. Accordingly, the Court finds Applicant was not prejudiced.

*[conclusion and signature on following page]*



CONCLUSION

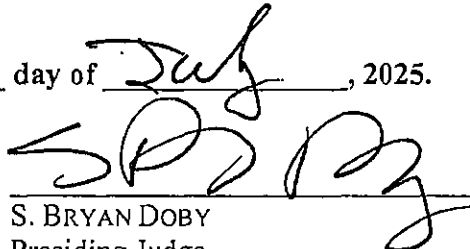
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Therefore, this application for post-conviction relief must be denied and dismissed 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), 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 if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant’s behalf. Applicant’s attention is directed to Rule 243, SCACR, for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED:**

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

AND IT IS SO ORDERED this 3 day of July, 2025.

  
 S. BRYAN DOBY  
 Presiding Judge  
 Eighth Judicial Circuit

Bishopville, South Carolina

FILED CP 8th JUDGE GREENWOOD, SC  
04/21/25 PM 12:40

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENWOOD	)	
	)	APPLICANT'S MOTION
Zy'Tawn Kenias Childs, 00390397	)	TO ALTER OR AMEND
Applicant,	)	JUDGMENT (RULE 59)
	)	
vs.	)	
	)	
State of South Carolina,	)	
Respondent.	)	

Now comes the Applicant who, through counsel, respectfully moves this Court to alter or amend the Order of Dismissal entered July 11, 2025, which counsel received notice of on July 21, 2025, based on the following:

The Court's order misconstrues the Applicant's issue as counsel's failure to file a suppression motion. As set forth clearly in the Applicant's written trial memorandum the issue presented was whether counsel informed the Applicant that the search of his home was unlawful and the drug evidence suppressible: "Applicant alleges that he was not adequately informed of this [unlawful search and seizure] by plea counsel prior to entering a guilty plea on the charges and had he been informed, that he would not have pled guilty to the charges." The court's order therefore fails to address the Applicant's issue in its order.

The longstanding test for determining the validity of a guilty plea is "whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant." North Carolina v. Alford, 400 U.S. 25, 31, 91 S.Ct. 160, 164, 27 L.Ed.2d 162 (1970); see Boykin v. Alabama, 395 U.S. 238, 242, 89 S.Ct. 1709, 1711, 23 L.Ed.2d 274 (1969); Machibroda v. United States, 368 U.S. 487, 493, 82 S.Ct. 510, 513, 7 L.Ed.2d 473 (1962).

Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985), 56. In the present case Applicant's trial counsel failed to adequately advise him that the search warrant in his case was patently invalid and therefore that the drug evidence in his case was inadmissible. As the drug evidence was essential to the 's case, the Applicant's knowledge of its inadmissability was critical to his ability to make an intelligent and informed decision between entering a guilty plea or going to trial.

The Court's Order states that "it would not have been unreasonable for Counsel to advise Applicant that the risk of conviction at trial outweighed the benefits of rejecting the plea offer to make a suppression motion." Although the record fails to show where counsel actually gave such advice absent a discussion on the illegality of the search and seizure it would have unduly influenced the Applicant and further prevented him making an informed decision. This is especially true given that the suppression of the drug related evidence would have significantly reduced, if not remove entirely, the risk of conviction.

The record shows that police entered the Applicant's residence without consent, a valid search warrant, or exigent circumstances. As a result of the initial warrantless search of the Appellant's home police claimed to have found scales which they then used as the basis for obtaining a search warrant. The fruits of the initial illegal search can not support a subsequent search warrant. "In order to make effective the fundamental constitutional guarantees of sanctity of the home and inviolability of the person, Boyd v. United States, 116 U.S. 616, 6 S.Ct. 524, 29 L.Ed. 746, this Court held nearly half a century ago that evidence seized during an unlawful search could not constitute proof against the victim of the search. Weeks v. United States, 232 U.S. 383, 34 S.Ct. 341, 58 L.Ed. 652. The exclusionary prohibition extends as well to the indirect

as the direct products of such invasions. Silverthorne Lumber Co. v. United States, 251 U.S. 385, 40 S.Ct. 182, 64 L.Ed. 319.” Wong Sun v. United States, 371 U.S. 471, 83 S.Ct. 407, 9 L.Ed.2d 441 (1963), 487. As the search warrant failed to establish any legal basis for a search of the Applicant’s residence the resulting search and seizure of any drugs or drug related evidence violated the Fourth Amendment and the evidence inadmissible. The Applicant was never informed of this and entered a guilty plea without knowing or understanding the applicable law and the evidence against him. He therefore could not make an informed and intelligent choice between going to trial and entering a guilty plea.

“Defendants have a Sixth Amendment right to counsel, a right that extends to the plea-bargaining process. Frye, ante, at 1386 – 1387, 132 S.Ct. 1399; *see also* Padilla v. Kentucky, 559 U.S. —, —, 130 S.Ct. 1473, 1486, 176 L.Ed.2d 284 (2010); Hill, supra, at 57, 106 S.Ct. 366. During plea negotiations defendants are “entitled to the effective assistance of competent counsel.” McMann v. Richardson, 397 U.S. 759, 771, 90 S.Ct. 1441, 25 L.Ed.2d 763 (1970). In Hill, the Court held “the two-part Strickland v. Washington test applies to challenges to guilty pleas based on ineffective assistance of counsel.” 474 U.S., at 58, 106 S.Ct. 366. The performance prong of Strickland requires a defendant to show “ ‘that counsel’s representation fell below an objective standard of reasonableness.’ ” 474 U.S., at 57, 106 S.Ct. 366 (*quoting* Strickland, 466 U.S., at 688, 104 S.Ct. 2052). The court’s order finds that counsel “considered” the possibility of filing a suppression motion but “they were not confident of success because a trial judge might have decided that the other evidence in the search warrant affidavit was not tainted and was independently sufficient to establish probable cause.” While the record fails to show that counsel actually discussed their opinions with the Applicant, even if they had it would

have been so contrary to the law that counsel advice would have fallen below the level of competency required of criminal attorney. The validity of the search warrant is not a matter on which competent lawyers might disagree. "It is only when the lawyer's errors were "so serious that counsel was not functioning as the 'counsel' guaranteed ... by the Sixth Amendment" that Strickland 's first prong is satisfied. *Id.*, at 687, 104 S.Ct. 2052." Buck v. Davis, 137 S. Ct. 759, 197 L.Ed.2d 1 (2017)

A review of the search warrant shows that it is patently invalid. No reasonable lawyer could reach a different conclusion. The Applicant was charged with murder/homicide by child abuse based on drugs police found at his residence during an unlawful search. Subsequent to the child's death and while the Applicant and his girlfriend were both still at the hospital with other officers<sup>1</sup>, Master Patrolman Madden arrived at the Applicant's residence to secure the residence and preserve any potential evidence.<sup>2</sup> Finding no one at home Madden secured but did not enter the residence. The facts therefore show that the police did not believe exigent circumstances existed to enter the residence immediately and conduct a warrantless search:

Upon the arrival of the police at Herring's residence approximately two hours after the crime, exigent circumstances for Fourth Amendment purposes did not exist. More to the point, nothing occurred at the residence to create an exigency to justify a warrantless search. There was neither hot pursuit, nor an imminent threat of danger to police or others, nor other conditions that reasonably fit exigent circumstances jurisprudence. *See State v. Abdullah*, 357 S.C. 344, 351, 592 S.E.2d 344, 348 (Ct.App.2004) (*discussing law of exigent circumstances*).

State v. Herring, 387 S.C. 201 , 692 S.E.2d 490 (2009) *Justice Kittredge concurring*.

Madden's Supplemental Report indicates that he secured the scene to "preserve any

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<sup>1</sup>Supplemental Report of Haralson, T.

<sup>2</sup>Supplemental Report of Madden, M.

potential evidence" inside the Applicant's residence. Private residences are places in which an individual normally expects privacy free of governmental intrusion not authorized by a warrant, and that expectation is one society recognizes as justifiable. Accordingly, searches and seizures inside a home without a warrant are presumptively unreasonable absent exigent circumstances. United States v. Karo, 468 U.S. 705, 104 S.Ct. 3296, 82 L.Ed.2d 530 (1984). The Fourth Amendment extends that same protection to outbuildings in the curtilage of the home. United States v. Dunn, 480 U.S. 294, 107 S.Ct. 1134, 94 L.Ed.2d 326 (1987); Rogers v. Pendleton, 249 F.3d 279, 287 (4th Cir.2001).

Detective Baker<sup>3</sup> arrived at the Applicant's residence and without a search warrant or exigent circumstances Baker and Madden entered the Applicant's residence to search for evidence of a crime. The people's right under the Fourth Amendment to "be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures," *U.S. CONST. amend.IV*, "extends ... to ... the curtilage of the home," State v. Herring, 387 S.C. 201, 209, 692 S.E.2d 490, 494 (2009) (*citing United States v. Dunn*, 480 U.S. 294, 107 S.Ct.1134, 94 L.Ed.2d 326 (1987) and Rogers v. Pendleton, 249 F.3d 279, 287 (4th Cir.2001) ). "Warrantless searches and seizures are unreasonable absent a recognized exception to the warrant requirement." State v. Wright, 391 S.C. 436, 442, 706 S.E.2d324, 327 (2011) (*citing Mincey v. Arizona*, 437 U.S. 385, 390, 98 S.Ct. 2408, 2412, 57L.Ed.2d 290, 298-99 (1978) ).

A law enforcement officer must have a warrant to enter a home for the purpose of conducting a search, *see State v. Counts*, 413 S.C. 153, 163, 776 S.E.2d 59, 65 (2015)(*stating "the Fourth Amendment requires the police to have a warrant in order to conduct a search"*),

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<sup>3</sup>There appears to be no report filed by Detective Baker.

unless an exception applies, *see State v. Brown*, 401 S.C. 82, 89,736 S.E.2d 263, 266 (2012) (listing exceptions to the warrant requirement). *See generally v. Robinson*, 410 S.C. 519, 526, 765 S.E.2d 564, 568 (2014) (stating "warrantless searches and seizures inside a man's home are presumptively unreasonable absent a recognized exception to the warrant requirement"). The officers' warrantless entry into the Applicant's violated the Fourth Amendment as well as the State constitution.

Subsequent to their entry in violation of the Fourth Amendment officers claimed that they conducted a "protective sweep" of the unoccupied residence.<sup>4</sup> "A 'protective sweep' is a quick and limited search of premises, incident to an arrest and conducted to protect the safety of police officers or others." *Maryland v. Buie*, 494 U.S. 325, 327, 110 S.Ct. 1093, 108 L.Ed.2d 276 (1990). The Fourth Amendment permits a properly limited protective sweep in conjunction with an in-home arrest when the searching officer possesses a reasonable belief based on specific and articulable facts that the area to be swept harbors an individual posing a danger to those on the arrest scene. *Michigan v. Long*, 463 U.S. 1032, 1049-1050, 103 S.Ct. 3469, 3480-3481, 77 L.Ed.2d 1201; *Terry v. Ohio*, 392 U.S. 1, 21, 88 S.Ct. 1868, 1879, 20 L.Ed.2d 889. Pp. 330-337. A warrantless search is justified under the exigent circumstances doctrine where there is a risk of danger to police. *Id. (citing Minnesota v. Olson*, 495 U.S. 91, 100, 110 S.Ct. 1684, 109 L.Ed.2d 85 (1990) ). The search warrant and all of the police reports show that there were no exigent circumstances nor risk of danger to the police to justify the entry and subsequent search that revealed the scales which were then used as probable cause for search warrant.

"The 'fruit of the poisonous tree' doctrine provides that evidence must be excluded if it

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<sup>4</sup>Supplemental Report Shockley

would not have come to light but for the illegal actions of the police, and the evidence has been obtained by the exploitation of that illegality." Hutto v. State, 376 S.C. 77, 81, 654 S.E.2d 846, 848 (2007) (quoting State v. Copeland, 321 S.C. 318, 323, 468 S.E.2d 620, 624 (1996); Wong Sun v. United States, 371 U.S. 471, 83 S.Ct. 407, 9 L.Ed.2d 441 (1963)). If the Applicant had gone to trial, the drugs discovered pursuant to the search warrant issued based on the discovery of scales during an unlawful search would therefore have been excluded as fruit of the poisonous tree.

The evidence fails to show that prior to the plea the Applicant was advised that the drug related evidence was the product of an illegal search and thus suppressible at trial. Even if counsel had advised the Applicant on the illegality of the search, counsel's opinion that "a trial judge might have decided that the other evidence in the search warrant affidavit was not tainted and was independently sufficient to establish probable cause" would have been so wrong as to have been potentially worse than no advice at all.

Nothing during the plea colloquy mitigated counsel's failure to inform the Appellant of the facts and law pertaining to the search. During the plea the solicitor's recitation of facts clearly failed to reveal that the police had entered the Appellant's home without consent, a search warrant, or an exigent circumstances. As a result, the plea court never specifically addressed the issue. Not having been informed that the drug evidence was suppressible and therefore could not support a conviction the Appellant could not have made an informed choice between going to trial or pleading guilty.

This Court's reliance on McMann in its decision is misplaced. The issue in McMann was whether counsel was ineffective for advising McMann to pled guilty based on counsel's analysis

of the admissibility of McMann's confession. First, it appears that counsel actually advised McMann on the issue of the confession's admissibility. In the present case counsel failed to advise the Applicant on the admissibility of the drug evidence. Secondly, in McMann the Court refused to second guess counsel's analysis of an issue where it rested on the uncertainty of witness testimony. In the present case the warrant is, on its face, patently invalid. Because there is no indication that the warrant is based on additional verbal information not contained in the affidavit, probable cause must appear within the four corners of the affidavit. Unlike in McMann, there is no uncertainty involved in the analysis. There is no vehicle by which state could supplement the warrant at trial, add to the facts in the affidavit, or otherwise make the warrant valid. Counsel's belief that a trial judge could hold the warrant valid and the evidence admissible is a conclusion that no reasonable attorney could come to, especially when any such ruling could never stand on appellate review.

This Court's reliance on Parker is also misplaced. Parker addressed the issue of whether any illicit pressures had been brought to bear on Parker to induce his guilty plea. The court in Parker determined that there was an abundance of evidence showing that Parker's plea was voluntary. Parker did not address the issue of whether Parker had been afforded sufficient information to allow him to make an informed choice between going to trial or pleading guilty. Parker is therefore inapplicable to present case.

The court's reliance on Yarborough is also misplaced. First, Yarborough addresses counsel's advice based on an evaluation of the potential for success in a suppression motion. In Yarborough the Court found that reasonable lawyers could differ in their opinions on the potential for success given the particular facts of that case. In the present case the warrant is

invalid on its face. The law and facts are so clear that reasonable lawyers could not differ on the issue of admissibility of the illegally obtained drug evidence. Yarborough is further distinguishable as the record in the present case fails to show where counsel gave any advice to the Applicant on the issue of the search warrant. But even if counsel did, it remained patently wrong. Yarborough is therefore inapplicable to the Applicant's case.

The Due Process Clause requires that guilty pleas are entered into voluntarily, knowingly, and intelligently by defendants. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969). A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of a plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty but would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985); Jackson v. State, 342 S.C. 95, 535 S.E.2d 926 (2000); Thompson v. State, 340 S.C. 112, 531 S.E.2d 294 (2000); Rayford v. State, 314 S.C. 46, 443 S.E.2d 805 (1994). Here, the record shows that counsel failed to sufficiently advise the Appellant on the state's case against him which prevented the Applicant from making an informed choice between entering a guilty plea or going to trial.

The longstanding test for determining the validity of a guilty plea is "whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant." North Carolina v. Alford, 400 U.S. 25, 31, 91 S.Ct. 160, 164, 27 L.Ed.2d 162 (1970); *see* Boykin v. Alabama, 395 U.S. 238, 242, 89 S.Ct. 1709, 1711, 23 L.Ed.2d 274 (1969); Machibroda v. United States, 368 U.S. 487, 493, 82 S.Ct. 510, 513, 7 L.Ed.2d 473 (1962). Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985), 56. Counsel's failure to

adequately advise Applicant that the search warrant was invalid and the drug related evidence suppressible prevented the Applicant from understanding the state's case and evidence against him. Applicant was therefore prevented from making a voluntary and intelligent choice among the alternative courses of action open to the defendant.

Based on the foregoing the Applicant moves this Court to alter and amend its decision reverse the Applicant's conviction and grant the Applicant a new trial.

Respectfully submitted,

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Counsel for Applicant

July 25, 2025.

Filed CP 8th Jud Cir Greenwood, SC  
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STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENWOOD )  
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 Zy-Tawn Keinas Childs, #390397, )  
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 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

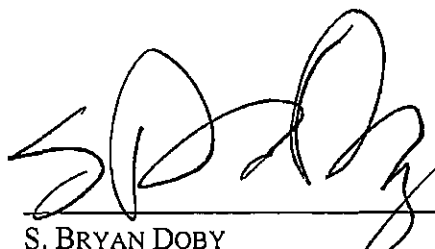
COURT OF COMMON PLEAS  
 FOR THE 8<sup>th</sup> JUDICIAL CIRCUIT  
 Case No.: 2024-CP-24-00907

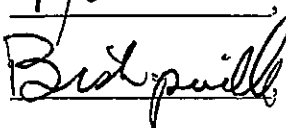
**ORDER DENYING  
 MOTION TO ALTER OR  
 AMEND JUDGMENT**

This matter comes before the Court by way of an application for post-conviction relief (“PCR”) filed by Zy’Tawn Keinas Childs (“Applicant”) on August 23, 2024. On July 11, 2025, this Court issued an order denying and dismissing Applicant’s PCR application with prejudice.

On July 31, 2025, Applicant filed a motion to alter or amend the Court’s order pursuant to SCRCP 59(e). After careful consideration of the record and evidence presented before the Court, this motion is denied.

**AND IT IS SO ORDERED.**

  
 \_\_\_\_\_  
 S. BRYAN DOBY  
 PRESIDING JUDGE, 8<sup>TH</sup> JUDICIAL CIRCUIT

9/22, 2025  
 South Carolina

WITNESSES

Jordan Maynard  
Greenwood Police Department

WARRANT NUMBER

**TRUE BILL**

Preddia Spivey  
Foreman of the Grand Jury

Date: 09/17/2021

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

September Term, 2021  
Indictment # 2021GS24-1707

THE STATE

vs.

ZYTAWN KEINAS CHILDS

INDICTMENT FOR

HOMICIDE BY CHILD ABUSE  
SC Code: § 16-03-0085(A)(1)(B)(1)

CDR- 2356

I hereby waive presentment to the Grand Jury.

Defendant

Witness:

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

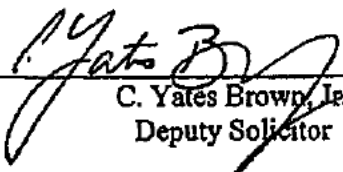
INDICTMENT FOR

HOMICIDE BY CHILD ABUSE  
§16-03-0085(A)(1)(B)(1)

At a Court of General Sessions, convened on the 17th day of September, 2021, the Grand Jurors of Greenwood County present upon their oath:

The defendant, Zy'tawn Keinas Childs, did on or about April 28, 2021, in Greenwood County, South Carolina, commit the crime of Homicide by Child Abuse or Neglect in that the Defendant did cause the death of Minor \_\_\_\_\_, a child who was under the age of eleven (11) at the time of her death. The Defendant caused the death of the child while committing child abuse or neglect, and the death occurred under circumstances manifesting an extreme indifference to human life. All in violation of 16-03-0085(A)(1)(B)(1), South Carolina Code of Laws (1976, as amended).

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

  
C. Yates Brown, Jr.  
Deputy Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF GREENWOOD

STATE

INDICTMENT/CASE#: 2021GS24-1707

VS.

ZYTAWN KEINAS CHILDS

A/W#: DIRECT INDICTMENT

AKA: ZYTAWN KEINAS CHILDS

Date of Offense: 04/28/2021

Race: Black Sex: M Age: 23

S.C. Code §: 16-03-0085(A)(1)(B)(1)

DOB: /2000 SS#:

CDR Code #: 2356

Address: Popular Drive A

City, State, Zip: Greenwood, SC 29649

SENTENCE SHEET

DL# SID#

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

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

CONVICTED OF or  PLEADS

TO: Homicide By Child Abuse 20 years to Life

In violation of § 16-03-0085(A)(1)(B)(1) of the S.C. Code of Laws, bearing CDR Code # 2356

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

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

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

ATTEST:

C. Yates Brown, Jr., Deputy Solicitor 78607 SC Bar # Defendant Attorney for Defendant 103026 SC Bar #

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

for a determinate term of 23 days/months/years Time Served.  Youthful Offender Act not to exceed \_\_\_ years

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

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

The sentence shall run

CONCURRENT or  CONSECUTIVE to sentence on: 2023 GS-24 - 441 & 442

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

660 days/months

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

The Defendant Shall be Released from County Detention Center.

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

STATE VS. ZYTAWN KEINAS CHILDS INDICTMENT/CASE#: 2021GS24-1707

**SPECIAL CONDITIONS:**

FTUP after \_\_\_\_\_ months/years

And Other Terms Listed Below:

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

Other: ATU

RESTITUTION  Deferred  Def. Waives Hearing  Ordered

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

Payment Terms: \_\_\_\_\_  Set by SCDPPPS

Recipient: \_\_\_\_\_

*Fine:	\$	Beginning	\$
Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	_____	_____
§14-1-206 (Assessments 107.5%)			\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)			\$100 \$ <u>100</u>
§14-1-211 (A)(2)(DUI Surcharge)			\$100 \$ _____
§56-5-2995 (DUI Assessment)			\$12 \$ _____
§56-1-286 (DUI Breath Test)			\$25 \$ _____
§14-1-212 (Law Enforce. Funding)			\$25 \$ <u>25</u>
§14-1-213 (Drug Court Surcharge)			\$150 \$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)			\$41 \$ _____
§50-21-114 (BUI Breath Test Fee)			\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)			\$40/ea \$ _____
3% to County (if paid in installments)			TBD \$ <u>3.75</u>
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees			\$500 \$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund			TBD \$ _____
<b>TOTAL</b>			\$ <u>128.75</u>

Clerk of Court/Deputy Clerk:  
Court Reporter:

Christa Gabriel  
S. J. [Signature]

Presiding Judge:  
Judge Code:  
Sentence Date:

[Signature]  
2154  
2-21-2023

**WITNESSES**

Greenwood Police Department

**WARRANT NUMBER**

2022A2420100735

Foreman of the Grand Jury

Date: \_\_\_\_\_

**VERDICT**

Foreman

**THE STATE OF SOUTH CAROLINA**

COUNTY OF GREENWOOD

**COURT OF GENERAL SESSIONS**

February Term, 2023

Indictment # 2023GS24-0441

**THE STATE**

vs.

ZYTAWN KEINAS CHILDS

**INDICTMENT FOR**

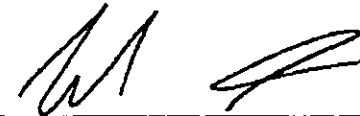
Resisting Arrest

SC Code: § 16-09-0320(A)

CDR: 0326

I hereby waive presentment to the Grand Jury.

  
Defendant

  
Witness:

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

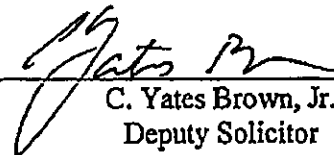
INDICTMENT FOR

Resisting Arrest  
§16-09-0320(A)

At a Court of General Sessions, the Grand Jurors of Greenwood County present upon their oath:

The defendant, Zy'tawn Keinas Childs, did in Greenwood County, on or about June 22, 2022, knowingly, willfully and unlawfully oppose Wesley McClinton while serving, executing, or attempting to serve or execute a legal writ or process or did resist an arrest being made by Wesley McClinton with the Greenwood Police Department whom he knew or reasonably should have known was a law enforcement officer, all in violation of Section 16-9-320(A), Code of Laws of South Carolina (1976, as amended).

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

  
C. Yates Brown, Jr.  
Deputy Solicitor

111-1324

STATE OF SOUTH CAROLINA )

IN THE COURT OF GENERAL SESSIONS

COUNTY OF GREENWOOD )

STATE )

INDICTMENT/CASE#: 2023GS24-0441

VS. )

ZYTAWN KEINAS CHILDS )

AKA: ZYTAWN KEINAS CHILDS )

A/W#: 2022A2420100735

Race: Black Sex: M Age: 23 )

Date of Offense: 06/22/2022

DOB: [REDACTED]/2000 SS#: [REDACTED] )

S.C. Code §: 16-09-0320(A)

Address: [REDACTED] Popular Drive A )

CDR Code #: 0326

City, State, Zip: Greenwood, SC 29649 )

SENTENCE SHEET

DL# [REDACTED] SID# [REDACTED] )

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

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

CONVICTED OF or  PLEADS

TO: Resisting Arrest NMT 1 year &/or \$500-1,000

In violation of § 16-09-0320(A) of the S.C. Code of Laws, bearing CDR Code # 0326

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

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. JKC (def.'s initials)

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

ATTEST:

[Signature] 78607 [Signature] [Signature]  
C. Yates Brown, Jr., SC Bar # Defendant Attorney for Defendant SC Bar # 6451 103026  
Deputy Solicitor

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

for a determinate term of 1 days/months/~~years~~ Time Served,  Youthful Offender Act not to exceed 7 years

and/or to pay a fine of \$      ; provided that upon the service of        days/months/years/Time Served and or payment

of \$      ; plus costs and assessments as applicable\*; the balance is suspended with probation for       

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

The sentence shall run

CONCURRENT or  CONSECUTIVE to sentence on:

2021 GS 24 1704  
2023 GS 24 442

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

365 days/months

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

The Defendant Shall be Released from County Detention Center.

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

STATE VS. ZY'TAWN KEINAS CHILDS INDICTMENT/CASE#: 2023GS24-0441

SPECIAL CONDITIONS:

PTUP after \_\_\_\_\_ months/years

And Other Terms Listed Below:

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

RESTITUTION     Deferred     Def. Waives Hearing     Ordered

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

Payment Terms: \_\_\_\_\_  Set by SCDPPPS

Recipient: \_\_\_\_\_

*Fine:		\$ _____	Beginning	_____	\$ _____
Fine may be pd. in equal consecutive weekly/monthly pmts. of		\$ _____			\$ _____
§14-1-206 (Assessments 107.5%)					\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)		\$100			\$ <u>100</u>
§14-1-211 (A)(2)(DUI Surcharge)		\$100			\$ _____
§56-5-2995 (DUI Assessment)		\$12			\$ _____
§56-1-286 (DUI Breath Test)		\$25			\$ _____
§14-1-212 (Law Enforce. Funding)		\$25			\$ <u>25</u>
§14-1-213 (Drug Court Surcharge)		\$150			\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41			\$ _____
§50-21-114 (BUI Breath Test Fee)		\$50			\$ _____
§56-5-2942(J) (Vehicle Assessment)		\$40/ea			\$ _____
3% to County (if paid in installments)		TBD			\$ <u>3.75</u>
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees		\$500			\$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD			\$ _____
	TOTAL	\$			\$ <u>128.75</u>

Clerk of Court/Deputy Clerk: [Signature]  
Court Reporter: [Signature]

Presiding Judge: [Signature]  
Judge Code: 2154  
Sentence Date: 2-27-2027

**THE STATE OF SOUTH CAROLINA**

COUNTY OF GREENWOOD

I hereby waive presentment to the Grand Jury.

**WITNESSES**

Greenwood Police Department

**COURT OF GENERAL SESSIONS**

February Term, 2023

Indictment # 2023GS24-0442

*[Signature]*  
Defendant

**WARRANT NUMBER**

2022A2420100734

*[Signature]*  
Witness:

**THE STATE**

vs.

ZYTAWN KEINAS CHILDS

Foreman of the Grand Jury

Date: \_\_\_\_\_

**INDICTMENT FOR**

Possession of Methamphetamine

SC Code: § 44-53-375(A)

**VERDICT**

CDR: 3009

Foreman

THE STATE OF SOUTH CAROLINA

INDICTMENT FOR

COUNTY OF GREENWOOD

Possession of Methamphetamine  
§44-53-375(A)

At a Court of General Sessions, the Grand Jurors of Greenwood County present upon their oath:

The defendant, Zy'tawn Keinas Childs, did on or about June 22, 2022, in Greenwood County, South Carolina, knowingly or intentionally possess methamphetamine as defined in Section 44-53-110, all in violation of Section 44-53-375(A), Code of Laws of South Carolina (1976, as amended).

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

  
C. Yates Brown, Jr.  
Deputy Solicitor

2022 JUN 23 11 53 AM

STATE OF SOUTH CAROLINA )

IN THE COURT OF GENERAL SESSIONS

COUNTY OF GREENWOOD )

STATE )

INDICTMENT/CASE#: 2023GS24- 0442

VS. )

ZYTAWN KEINAS CHILDS )

A/W#: 2022A2420100734

AKA: ZYTAWN KEINAS CHILDS )

Date of Offense: 06/22/2022

Race: Black Sex: M Age: 23 )

S.C. Code §: 44-53-375(A)

DOB: /2000 SS#: )

CDR Code #: 3009

Address: Popular Drive A )

City, State, Zip: Greenwood, SC 29649 )

SENTENCE SHEET

DL#\* SID# )

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

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

TO: Possession of Methamphetamine 1st Offense NMT 3 YEARS &/OR \$5,000

In violation of § 44-53-375(A) of the S.C. Code of Laws, bearing CDR Code # 3009

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

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. X JSC (def.'s initials)

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

ATTEST:

[Signature] 78607 [Signature] [Signature] 6451 103026  
C. Bates Brown, Jr., SC Bar # Defendant Attorney for Defendant SC Bar #  
Deputy Solicitor

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

for a determinate term of 32 months days/months/years/Time Served Time Served  Youthful Offender Act not to exceed \_\_\_ years

and/or to pay a fine of \$\_\_\_; provided that upon the service of \_\_\_ days/months/years/Time Served and or payment

of \$\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

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

The sentence shall run  CONCURRENT or  CONSECUTIVE to sentence on: 2021 65 24-1704  
2023 65 24-441

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc.

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

The Defendant Shall be Released from County Detention Center.

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

STATE VS. ZYTAWN KEINAS CHILDS

INDICTMENT/CASE#:

2023GS24- 0442

SPECIAL CONDITIONS:

PTUP after \_\_\_\_\_ months/years

And Other Terms Listed Below:

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

RESTITUTION  Deferred  Def. Waives Hearing  Ordered

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

Payment Terms: \_\_\_\_\_  Set by SCDPPPS

Recipient: \_\_\_\_\_

\*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	_____	\$ _____
§14-1-206 (Assessments 107.5%)				\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)				\$100 \$ <u>100</u>
§14-1-211 (A)(2)(DUI Surcharge)				\$100 \$ _____
§56-5-2995 (DUI Assessment)				\$12 \$ _____
§56-1-286 (DUI Breath Test)				\$25 \$ _____
§14-1-212 (Law Enforce. Funding)				\$25 \$ <u>25</u>
§14-1-213 (Drug Court Surcharge)				\$150 \$ <u>150</u>
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)				\$41 \$ _____
§50-21-114 (BUI Breath Test Fee)				\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)				\$40/ea \$ _____
3% to County (if paid in installments)				TBD \$ <u>8.25</u>
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees				\$500 \$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund				TBD \$ _____

TOTAL \$ 283.25  
 J.C. W/A  
 2154  
 2-27-2023

Clerk of Court/Deputy Clerk: \_\_\_\_\_  
Court Reporter: \_\_\_\_\_

Charles Coyle  
D. J. [Signature]

Presiding Judge: \_\_\_\_\_  
Judge Code: \_\_\_\_\_  
Sentence Date: \_\_\_\_\_

**WITNESSES**

Bryan Louis  
Greenwood County Sheriff's Department

**WARRANT NUMBER**

*Direct Indictment*

**TRUE BILL**

*Julie Wideman*  
Foreman of the Grand Jury

Date: 7-13-18

**VERDICT**

Foreman

**THE STATE OF SOUTH CAROLINA**

COUNTY OF GREENWOOD

**COURT OF GENERAL SESSIONS**

July Term, 2018  
Indictment #2018CS24-1166

**THE STATE**

vs.  
ZY'TAWN KEINAS CHILDS

**INDICTMENT FOR**

Distribution of Fentanyl  
SC Code: § 44-53-370

CDR: 0183

I hereby waive presentment to the Grand Jury.

Defendant

Witness:

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

INDICTMENT FOR

Distribution of Fentanyl  
§44-53-370

At a Court of General Sessions, convened on the 13th day of July, 2018, the Grand Jurors of Greenwood County present upon their oath:

The defendant, Zy'tawn Keinas Childs, did on or between September 12, 2017 and September 14, 2017, in Greenwood County, South Carolina, manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase fentanyl, a schedule II controlled substance narcotic, all in violation of Section 44-53-370, Code of Laws South Carolina (1976, as amended).

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



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Anna W. Sumner  
Assistant Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF GREENWOOD

STATE VS.

ZYTAWN KEINAS CHILDS

AKA:

Race: Black Sex: M Age: 20

DOB: /2000 SS#:

Address: Poplar Drive

City, State, Zip: Greenwood, SC 29649

DL# SID#

INDICTMENT/CASE#: 2018GS24-1166
A/W: DIRECT INDICTMENT
Date of Offense: 09/12/2017
S.C. Code #: 44-53-370
CDR Code #: 0183

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazard Yes No

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

CONVICTED OF or PLEADS

TO: Distribution of Fentanyl 1st Offense

In violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 0183

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

The charge is: As indicted. Lesser Included Offense. Defendant Waives Presentment to Grand Jury. (def.'s initials)
The plea is: Without Negotiations or Recommendation. Negotiated Sentence. Recommendation by the State.

ATTEST:

Anna W. Sumner, Assistant Solicitor SC Bar # 101888 Defendant
Attorney for Defendant SC Bar # 73996

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of 310 days/months/years and of payment
of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for 310
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 2020 BS-24-01106

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections. Credit 310 Days

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$ days/hours Public Service Employment
Obtain (FEID)

Set by SCTDPPPS Attend Voc. Rehab. Or Job Corp.

Recipient: May serve W/E beginning

\*Fine: \$ Substance Abuse Counseling

§14-1-206 (Assessments 107.5%) \$ Random Drug/Alcohol Testing

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$100 Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ prmts. of \$ Beginning

§56-5-2995 (DUI Assessment) \$12 \$ Paid to Public Defender Fund

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

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

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

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

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

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

3% to County (if paid in installments) \$ \$25

TOTAL \$283.25

Appointed PD or appointed other counsel. Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge: Judge Code: Sentence Date: 10/12/20

Clerk of Court/Deputy Clerk: Court Reporter:

**WITNESSES**

Greenwood Police Department

**WARRANT NUMBER**

Direct indictment

Foreman of the Grand Jury

Date: \_\_\_\_\_

**VERDICT**

Foreman

**THE STATE OF SOUTH CAROLINA**

COUNTY OF GREENWOOD

**COURT OF GENERAL SESSIONS**

October Term, 2020

Indictment #2020G524-01106

**THE STATE**

vs.

**ZYTAWN KEINAS CHILDS**

**INDICTMENT FOR**

Breach Of Peace, Aggravated in Nature

SC Code: § 17-25-0030

CDR: 0955

I hereby waive presentment to the Grand Jury.

Defendant

Witness:

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

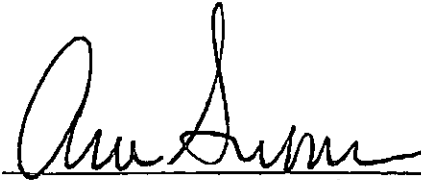
INDICTMENT FOR

Breach Of Peace, Aggravated in Nature  
§17-25-0030

At a Court of General Sessions, convened on the 9th day of October, 2020, the Grand Jurors of Greenwood County present upon their oath:

The defendant, Zy'tawn Keinas Childs, did on or about December 19, 2019 in Greenwood County, South Carolina, commit the crime of Breach of Peace of a High and Aggravated Nature. The defendant was an affrayer, rioter, disturber, and breaker of the peace or was dangerous and disorderly. This offense was of a high and aggravated nature, to wit: the Defendant was present during gang activity which led to a robbery. All in violation of 17-25-0030 Code of Laws of South Carolina (1976, as amended).

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



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Anna W. Sumner  
Assistant Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF GREENWOOD  
STATE VS.

INDICTMENT/CASE#: 2020GS24-01106  
A/W: DIRECT INDICTMENT  
Date of Offense: 12/19/2019  
S.C. Code §: 17-25-0030  
C'DR Code #: 0955

ZYTAWN KEINAS CHILDS  
AKA: \_\_\_\_\_  
Race: Black Sex: M Age: 20  
DOB: [redacted] 2000 SS#: [redacted]  
Address: Poplar Drive  
City, State, Zip: Greenwood, SC 29649  
DL# [redacted] SID# \_\_\_\_\_

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No   
In disposition of the said indictment comes now the Defendant who was  
TO: Breach Of Peace, Aggravated in Nature  
In violation of § 17-25-0030 of the S.C. Code of Laws, bearing C'DR Code # 0955

CONVICTED OF or  PLEADS

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  §17-25-15  
(CSC w/minor 1\* or CSC w/minor 3rd)

The charge is  As indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury (def's initials)  
The plea is  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State

ATTEST  
*[Signature]* 101888 *[Signature]* 73996  
Anna W. Sumner, Assistant Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center,  
for a determinate term of 10 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of 310 days/months/years and if payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for  
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which  
are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_  
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State  
Department of Corrections. Credit 310 Days  
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_ days/hours Public Service Employment

Set by SCJDPPPS \_\_\_\_\_  
Obtain GED  3) must maintain residence with mother  
Attend Voc Rehab. Or Job Corp. with mother  
May serve W/E beginning \_\_\_\_\_  
Substance Abuse Counseling   
Random Drug/Alcohol Testing

Recipient: \_\_\_\_\_  
\*Fine: \_\_\_\_\_ \$ \_\_\_\_\_  
§14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_  
§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100  
§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ \_\_\_\_\_  
§56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_  
§56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_  
Proviso (Public Def/Prob) \$500 \$ \_\_\_\_\_  
§14-1-212 (Law Enforce. Funding) \$25 \$ 25  
§14-1-213 (Drug Court Surcharge) \$150 \$ \_\_\_\_\_  
§50-21-114 (BUI Breath Test Fee) \$50 \$ \_\_\_\_\_  
§56-5-2942(J) (Vehicle Assessment) \$40/vea \$ \_\_\_\_\_  
3% to County (if paid in installments) \$ \$ 3.75  
TOTAL \$ 128.75

Other 1) completion of Piedmont Tech Degree  
2) Refrain from associating with known gang members  
 Appointed PD or appointed other counsel.  
Proviso requires \$500 be paid to Clerk \_\_\_\_\_ during probation and shall be collected before \_\_\_\_\_ any other fees.

Clerk of Court/Deputy Clerk: Charlene Opeland  
Court Reporter: Mary Ann Nelson  
Presiding Judge: \_\_\_\_\_  
Judge Code: 2167  
Sentence Date: \_\_\_\_\_  
4) Any probation revocation hearings to be brought before this judge  
10/12/20  
1st full