

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from York County

John C. Hayes, III, Circuit Court Judge

RECEIVED

JAN - 9 2014

S.C. Supreme Court

RICHARD JAMES COLEMAN,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-001198

A P P E N D I X

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ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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

THE STATE) TRANSCRIPT OF RECORD
-vs-) 2011-GS-46-3300
RICHARD JAMES COLEMAN,) 2011-GS-46-3301
DEFENDANT.) 2011-GS-46-3302
2011-GS-46-3303
2011-GS-46-3304
2011-GS-46-3305
APRIL 24, 2012
YORK, SOUTH CAROLINA

B E F O R E:
THE HONORABLE LEE S. ALFORD, JUDGE.

A P P E A R A N C E S:.
JENNIFER COLTON, ASSISTANT SOLICITOR
ATTORNEY FOR THE STATE
MARK MCKINNON, ASSISTANT PUBLIC DEFENDER
ATTORNEY FOR THE DEFENDANT
MICHAEL R. WATTS
CIRCUIT COURT REPORTER

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WITNESSES

PAGE

(NO WITNESSES CALLED)

EXHIBITS

1	NO.	DESCRIPTION	ID.	EV.
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3		(NO EXHIBITS MARKED)		
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(PROCEEDINGS, APRIL 24, 2012)

RICHARD COLEMAN, having been first duly sworn,
testified as follows: .

MS. COLTON: Your Honor, I want to make you aware
of the nature of the charges. There is two trafficking.
One -- three trafficking charges. I'm sorry, two
trafficking charges of crack and cocaine; possession with
intent to distribute marijuana. Each of those has an
accompanying proximity. It's under zero 0107. So the
sentencing range for all those proximities would be
identical, Your Honor.

THE COURT: Solicitor, he's pleading to
trafficking in crack cocaine and cocaine, correct?

MS. COLTON: Yes, sir, but with 28 to 100 ounces,
second offense.

THE COURT: And possession with intent to
distribute marijuana?

MS. COLTON: Third offense.

THE COURT: Third, or subsequent?

MS. COLTON: Yes, Your Honor.

THE COURT: And then the three?

MS. COLTON: Yes, Your Honor.

THE COURT: Sir, you are Richard James Coleman, is
that right?

THE DEFENDANT: Yes, sir.

1 THE COURT: How old are you, Mr. Coleman?

2 THE DEFENDANT: 34.

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

4 THE DEFENDANT: I dropped out in the 10th, but I
5 went back and obtained my GED.

6 THE COURT: What do you do for a job or
7 occupation?

8 THE DEFENDANT: I'm currently unemployed.

9 THE COURT: Are you married, sir?

10 THE DEFENDANT: No, sir.

11 THE COURT: Do you have children?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: What are their ages?

14 THE DEFENDANT: 13, three, and one on the way, and
15 five months.

16 THE COURT: Did you serve any time in jail on
17 these charges when you were arrested?

18 THE DEFENDANT: About three months.

19 THE COURT: Mr. Coleman, you are charged today
20 with six separate offenses.

21 You are charged with trafficking cocaine in an
22 amount between 28 grams and 100 grams, second offense, which
23 offense carries a minimum sentence of seven -- it's
24 classified as a felony. It carries a minimum sentence of
25 seven years and a maximum sentence of 30 years and \$50,000

1 fine.

2 Do you understand that charge and the maximum
3 punishment that you could receive?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: You are also charged with trafficking
6 in crack cocaine in an amount between 28 and 100 grams,
7 second offense, which offense is also classified as a
8 felony.

9 It carries a minimum sentence of seven years and a
10 maximum sentence of 30 years and a \$50,000 fine. Do you
11 understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Each of these offenses are no-parole
14 offenses, which means you would expect to serve the sentence
15 that you actually receive on these two charges. Do you
16 understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: They are classified as violent
19 offenses, which could affect your ability to participate in
20 certain programs in the South Carolina Department of
21 Corrections. Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: They are also classified as serious
24 offenses, as are these proximity charges are all serious
25 offenses. If you get -- the importance of that being that

1 if you get three serious offenses on your record, or a
2 combination of three serious and most-serious offenses on
3 your record, upon receiving the third such offense you could
4 get a sentence of life without parole, the so-called
5 Three-Strikes Rule. These offenses will classify as one of
6 those three strikes. Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: You are also charged with possession
9 with intent to distribute marijuana, third or subsequent
10 offense, which offense is classified as a felony. It
11 carries a minimum sentence of five years and a maximum
12 sentence of 20 years and \$20,000 fine. It's also a
13 no-parole offense. Do you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: You are also charged with possession
16 with intent to distribute crack cocaine within proximity of
17 a school, which offense carries a -- it's classified as a
18 felony and it carries a maximum punishment of 10 years and
19 \$10,000 fine. Do you understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You are also charged with possession
22 with intent to distribute crack cocaine within proximity of
23 a school, which also is classified as a felony and it
24 carries a maximum punishment of 10 years and \$10,000 fine.
25 Do you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: You are also charged with possession
3 with intent to distribute marijuana within proximity of a
4 school or park, which again is classified as a felony and it
5 carries a maximum punishment of 10 years and \$10,000 fine.
6 Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Also if I accept your plea of guilty
9 to these charges, they will constitute a drug offense on
10 your record, the importance of that being should you get
11 another drug conviction of any kind in the future with these
12 charges on your record, the penalties would be enhanced or
13 higher because these are on your record. In other words,
14 penalties for a third drug offense are higher, in some cases
15 much higher than they are for a second offense. Do you
16 understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Understanding all that, how do you
19 plead to these charges today, guilty or not guilty?

20 THE DEFENDANT: Guilty.

21 THE COURT: Do you understand that by pleading
22 guilty you give up your right to remain silent?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you understand that by pleading
25 guilty you give up your right to a trial by jury?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And if you give up your right to trial
3 by jury, you also give up your right to assert any legal
4 defenses that you might have in a jury trial?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: I know your attorney has gone over
7 that right with you, and I'm going to do so as well.

8 At trial you would have the right to confront and
9 cross-examine all witnesses against you.

10 You would have the right to present any witnesses
11 and/or evidence in your own defense.

12 You would have the right to testify in your own
13 defense, if you wished to do so, but no one could make you
14 testify in your own trial.

15 If you decided to go to trial and not testify, the
16 judge would tell the jury they could not hold your failure
17 to testify against you. In fact, the jury couldn't even
18 consider your failure to testify in their deliberations on
19 your guilt or innocence.

20 You would be presumed innocent throughout your
21 trial.

22 The State would have to prove you guilty beyond a
23 reasonable doubt to a jury of twelve people. All twelve
24 people would have to unanimously agree that you were guilty
25 in order for you to be convicted.

1 Even if you were convicted, you would still have
2 the right to appeal that conviction.

3 Do you understand your rights with regard to a
4 trial by jury?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Understanding that right, do you still
7 want to plead guilty, or do you want me to set your cases
8 for trial?

9 THE DEFENDANT: Yes, sir, plead guilty.

10 THE COURT: Recommendation or agreements,
11 solicitor?

12 MS. COLTON: 10 year negotiated sentence, Your
13 Honor. It's a recommendation, I'm sorry, Your Honor.

14 THE COURT: Mr. Coleman, the State is recommending
15 to the court a 10 year sentence on these charges. Is that
16 your understanding of the agreement that you had with the
17 solicitor's office in order to plead guilty to these
18 charges?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Has anybody promised you anything
21 other than that in order to get you to plead guilty?

22 THE DEFENDANT: No, sir.

23 THE COURT: Are you satisfied with the manner in
24 which your attorney has advised and represented you in these
25 cases?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Have you and your attorney fully
3 discussed the charges against you?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Has your attorney told you the
6 witnesses and evidence the State has available to present at
7 trial to prove your guilt?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Has your attorney discussed with you
10 any possible legal defenses that might be available to you,
11 if you were to go to trial?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Have you told your attorney the names
14 of any and all witnesses you know of that your attorney
15 could subpoena and bring to trial to assist in your defense,
16 if you were to go to trial?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Are you today under the influence of
19 any mind-altering substance, such as alcohol, drugs or
20 prescription medications, which interfere with your judgment
21 or ability to understand what you are doing in court?

22 THE DEFENDANT: No, sir.

23 THE COURT: Do you have any mental, emotional, or
24 nervous condition that interferes with your judgment or
25 ability to understand what you are doing in court today?

1 THE DEFENDANT: No, sir.

2 THE COURT: Are you pleading guilty today of your
3 own free will?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Are you, in fact, guilty of these
6 charges?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Please give me the facts, solicitor.

9 MS. COLTON: Your Honor, this occurred on July
10 27th, 2011, at approximately three a.m., the Rock Hill
11 police department. An officer was dispatched for a call to
12 service on a female hang-up call. They attempted to call
13 back the number for , Rock Hill, York
14 County, South Carolina. They attempted to call back and
15 check on the female that had hung up and they received no
16 answer, so officers Grace and Beach went to that apartment.
17 First they went to apartment . The call actually came from
18 the apartment building. There was no one there. No female
19 in . They went to , which was Mr. Coleman's apartment and
20 asked if there were any females. He said "yes, my
21 girlfriend is in the house," and they asked to check on the
22 status of the girlfriend and the officers were allowed in
23 the apartment.

24 They smelled the odor immediately of burnt
25 marijuana and fresh marijuana, unburnt marijuana, and saw

1 marijuana in plain view.

2 Officers observed a backpack. They asked for
3 consent to search one backpack. They were granted that.
4 They saw -- there wasn't anything in that one, and they went
5 and searched without consent another backpack and they saw
6 marijuana and they immediately called the DEU to come out.

7 DEU responded. They were going to obtain a search
8 warrant, or attempt to obtain a search warrant. They spoke
9 with Mr. Coleman and he gave them written consent to search
10 the apartment.

11 I will tell the court this, by way of this, part
12 of this was an issue. I don't think it's any issue at
13 trial. I think the State would be successful, but in order
14 to avoid that we have taken that into consideration in
15 giving a plea offer of 10 years, Your Honor, recognizing
16 that that would be a source of debate at trial and an issue
17 at trial.

18 When the DEU -- after the DEU received written
19 consent to search the home, they discovered various packages
20 of marijuana, a package of cocaine, and a couple packages of
21 crack cocaine. The total amount of weight on those drugs
22 were 15 -- a little over 1,500 grams of marijuana, 109 grams
23 of crack cocaine, and 46 grams of powder cocaine, and \$2,100
24 in U.S. currency.

25 This occurred within a half mile of Confederate

1 Park, Your Honor.

2 The predicate sentences --

3 And I will tell the court that Mr. Coleman did
4 give written consent. His girlfriend was in the house. He
5 did claim the drugs as well, and I think that factored into
6 the officers not charging that girlfriend with anything but
7 a pill that was found in her pocketbook.

8 Based on that he was very cooperative -- taking
9 into consideration a potential legal issue, I know this is a
10 lot less than what I would normally recommend for this type
11 of offense, factored into the defendant's prior record as
12 well, and we are appreciative that he is taking
13 responsibility. He took responsibility for this and his
14 girlfriend did not have to face being put into the shoes
15 he's in because of that.

16 His record goes back to 1995. He has a criminal
17 domestic violence and a public disorderly conduct.

18 '97, possession of crack, first offense, and
19 resisting arrest B.

20 2000, malicious damage to property and an unlawful
21 carry, 2001.

22 2004, possession of marijuana.

23 2005, a marijuana conviction.

24 2008, a marijuana conviction. All he pled to --
25 the two of them he pled to answer transfer court, Your

1 Honor, so that makes it a third offense.

2 And then in 2008, in Charlotte, possession with
3 intent to distribute cocaine, felony. He pled to a felony,
4 Your Honor. It wasn't clear if he pled to possession with
5 intent to distribute, but he definitely pled to a cocaine
6 charge and he received a four to six month sentence on that.
7 So really the only time he's ever done in jail is that four
8 to six months on this charge. So he does have a significant
9 prior drug history, albeit the majority being possession.

10 THE COURT: Mr. Coleman, you have heard the facts
11 recited to the court by the solicitor's office with regard
12 to these charges. Do you disagree in any way with what they
13 say happened?

14 THE DEFENDANT: No, sir.

15 THE COURT: I find the decision of the defendant,
16 Richard James Coleman, to plead guilty to these six charges
17 to be made freely, voluntarily and intelligently.

18 He's had the representation of a competent
19 attorney with whom he says he is satisfied.

20 I find the facts presented to the court by the
21 solicitor's office, concurred in by the defendant, fully
22 support the guilty pleas in this case, and I will accept the
23 pleas as freely and voluntarily made.

24 Mr. Coleman, if you disagree with the proceeding
25 in which we are currently involved, you have ten days from

1 today's date within which to file a notice of intent to
2 appeal.

3 Do you understand your right to appeal today's
4 proceeding?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Counsel?

7 MR. MCKINNON: Thank you, Your Honor.

8 May it please the court, first off, Your Honor, we
9 are asking that you go along with the State's recommendation
10 of 10 years on these cases.

11 And I would like to point out a few things to the
12 court. First, I have calculated that he was in jail for 83
13 days before bonding out.

14 In addition, Mr. Coleman from the start has been
15 extremely respectful, intelligent, helpful with me from the
16 very get-go. We both, you know, obviously have been
17 discussing the possibility of going to trial on this case.
18 At trial, you know, I think we certainly realized it would
19 not be much of a factual defense in this case as to whether
20 he possessed these drugs. However, as Ms. Colton said,
21 there certainly would have been some pretrial suppression
22 motions. And, you know, I think that were inevitable
23 discovery doctrine would intercept with, you know, the
24 protections of the Fourth Amendment and ultimately new case
25 law probably would have been made. Strategically Mr.

1 Coleman and I have talked about that over and over again and
2 ultimately Mr. Coleman did not wish to have that risk. And
3 we think that all things considered, the solicitor's office
4 is fair, the offer is fair, and we again ask Your Honor to
5 go along with that recommendation.

6 THE COURT: Mr. Coleman, anything that you want to
7 say to the court?

8 THE DEFENDANT: No, sir.

9 THE COURT: Well, I think you are right. I have
10 sent people to prison for a lot longer period of time than
11 that on these kind of charges, and I think other judges have
12 as well, so I think you did a good job in negotiating this
13 down to 10 with the solicitor.

14 Case number 2011-GS-46-3300, Richard James
15 Coleman, having pled guilty to trafficking in crack cocaine
16 in an amount between 28 and 100 grams, second offense, the
17 sentence of the court is he be committed to the State
18 Department of Corrections for a determinate term of 10
19 years. This sentence is concurrent.

20 He's given credit for 83 days of jail time.

21 Case number 2011-GS-46-3303, Richard James
22 Coleman, having pled guilty to trafficking in cocaine
23 between 28 grams and 100 grams, second offense, the sentence
24 of the court is the same as the previous sentence, to run
25 concurrent.

1 Case number 2011-GS-46-3304, Richard James
2 Coleman, having pled guilty to possession with intent to
3 distribute cocaine within proximity of a school, park or
4 playground, the sentence of the court is the same as the
5 previous sentence, to run concurrent.

6 Case number 2011-GS-46-3305, Richard James
7 Coleman, having pled guilty to possession with intent to
8 distribute crack cocaine within proximity of a school, park,
9 or playground, the sentence of the court is the same as the
10 previous sentence, to run concurrent.

11 Case number 2011-GS-46-3301, Richard James
12 Coleman, having pled guilty to possession with intent to
13 distribute marijuana, third or subsequent offense, the
14 sentence of the court is the same as the previous sentence,
15 to run concurrent.

16 Case number 2011-GS-46-3302, Richard James
17 Coleman, having pled guilty to possession with intent to
18 distribute marijuana within proximity of a school, park or
19 playground, the sentence of the court is the same as the
20 previous sentence, to run concurrent.

21 MR. MCKINNON: Thank you, Your Honor.

22 MS. COLTON: Thank you, Your Honor.

23 (END OF REQUESTED TRANSCRIPT OF RECORD)

24


25

CERTIFICATE

1
2 I, the undersigned, Michael R. Watts, Official Court
3 Reporter for the Sixteenth Judicial Circuit of the State of
4 South Carolina, do hereby certify that the foregoing is a
5 true, accurate and complete Transcript of Record of the
6 proceedings had and the evidence introduced in the trial of
7 the captioned case, relative to appeal, in the Court of
8 General Sessions for YORK County, South Carolina, on the
9 24TH day of APRIL, 2012.

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

12
13
14 October 22, 2012

15
16
17 

18 Michael R. Watts
19 Circuit Court Reporter
20
21
22
23
24
25

CERTIFIED TRUE COPY ^{FORM 5} 2012-CP-460-3281

STATE OF SOUTH CAROLINA 2012 SEP 20 AM 8:35
IN THE COURT OF COMMON PLEAS

County of YORK DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

Richard James Coleman #350680) Ke
Full name and prison number (if any) of Applicant)

v.

State of South Carolina)

APPLICATION FOR
POST-CONVICTION RELIEF

2012 SEP 17 PM 1:07

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 WATERFORD RIVER Correctional Institution 623/Bed 63
P.O. Box 189 Rembert, SC 29128
2. Name and location of Court which imposed sentence York County Clerk of Court General
Sessions Sixteenth Judicial Circuit Division P.O. Box 649, York, SC 29745-0649
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) M-602730; M-602732; M-602733; M-602734; M-602735; M-602736

(b) _____

(c) _____

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

(a) on the day of 4/24/12 six 10yr sentences run cond. sent for a

(b) determinate term of 10 yrs violent 9557

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ✓

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

No

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

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

i. N/A

ii. _____

iii. _____

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

i. N/A

ii. _____

iii. _____

(c) the date of each such result:

i. N/A

ii. _____

iii. _____

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

i. N/A

ii. _____

iii. _____

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

(a) was not advised by counsel that such action could be taken

(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) Violation of United States Constitutional Amendments 4, 5, 6, 14

(c) Failure to prove Subject Matter Jurisdiction

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

(a) Counsel failed to advise defendant of 4th Amendment Rights / Counsel failed

(b) to challenge warrantless entrance of defendant's home without probable cause.

(c) Counsel failed to challenge warrantless search & seizure of drug evidence from home.

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. N/A

ii. _____

iii. _____

iv. _____

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

i. N/A

ii. _____

iii. _____

State of South Carolina
 County of York

Richard S. Coleman #350680

State of ^{V.} South Carolina

IN THE COURT OF COMMON PLEAS

Application For:

Post-Conviction Relief

- D.) Counsel ill-advised defendant of motion to suppression hearing; stating that the judge tends to side with officers and solicitors. If that happens then the defendant has no defense.
- E.) Counsel failed to secure an indictment before the Grand Jury prior to trial or plea and to challenge the validity of the indictments prior to the plea
- F.) Counsel failed to advise defendant to go forward with jury trial, but rather insisted defendant accept the plea. Basing his decision on the amount of years defendant was facing.
- G.) If not for counsel's erroneous advice to plead guilty, defendant would not have plead guilty and would have asked for a trial.
- H.) Applicant contends that pursuant to all of the above allegations his guilty plea attorney's performance was deficient under professional norms of reasonable representation.

iv. _____

(c) the disposition thereof:

i. N/A

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. N/A

ii. _____

iii. _____

iv. _____

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

i. N/A

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. N/A

ii. _____

iii. _____

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

i. N/A

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:
- Grounds rely on additional facts reviewed outside the record after the plea which were not presented to any previous court. 10 & 11 were not presented
 - because of ineffective counseling and are requested to be addressed in a PCR hearing
17. Were you represented by an attorney at any time during the course of:
- your arraignment and plea? YES
 - your trial, if any? N/A
 - your sentencing? YES
 - your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
 - preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? N/A
18. If you answered "yes" to one or more parts of (17), list:
- the name and address of each attorney who represented you:
 - ~~Mark~~ Mark McKinnon, York County Public Defender's Office
1675 York Hwy York, SC 29745
 -
 -
 - the proceedings at which each such attorney represented you:
 - Plea Arraignment, Sentencing
 -
 -

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

Applicant seeks dismissal and expungement of all charges and sentence
hereof. Also request immediate release back into society

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

No

Revised 3/2003

STATE OF SOUTH CAROLINA)
County of York Sumter)

VERIFICATION

I, Richard J. Coleman, 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.

Richard J. Coleman
Richard J. Coleman

SWORN to and subscribed before me this 18th
day of September, 2012.
Kamele Ditzfield (L.S.)
Notary Public

My Commission Expires: 3/5/2014

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

I, Richard J. Deussen # 350631, 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.

Richard J. Deussen
Applicant

SWORN or affirmed to and subscribed before me this

17th day of September, 2012.

Kemelc Ditzhold
Notary Public

My Commission Expires: 3/15/2011

STATE OF SOUTH CAROLINA)
 COUNTY OF YORK)
)
)
 Richard James Coleman, #350680,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 SIXTEENTH JUDICIAL CIRCUIT

2012-CP-46-3281

RETURN

In response to the post-conviction relief application filed on September 17, 2012, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the York County Clerk of Court's orders of commitment. The Applicant was indicted by the October 2011 term of the York County Grand Jury for Trafficking Crack Cocaine (2011-GS-46-3300), Possession of Marijuana with Intent to Distribute (PWID) (2011-GS-46-3301), PWID Marijuana within proximity of a public park or playground (2011-GS-46-3302), Trafficking Cocaine (2011-GS-46-3303), PWID Cocaine within proximity of a public park or playground (2011-GS-46-3304), and PWID Crack Cocaine within proximity of a public park or playground (2011-GS-46-3305). The Applicant was represented by Mark McKinnon, Esq. On April 24, 2012, the Applicant pled guilty to Trafficking Crack Cocaine, 2nd offense as a lesser included offense, PWID Marijuana, 3rd of subsequent offense, PWID Marijuana within proximity of a park, Trafficking Cocaine, 2nd offense, PWID Cocaine, and PWID Crack Cocaine as indicted. The Honorable Lee S. Alford sentenced the Applicant, pursuant to a negotiated sentence, to confinement for ten (10) years for each

charge to run concurrently. The Applicant did not appeal his conviction or sentence.

II.

In his application for post conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
 - a. "Counsel ill-advised defendant of motion to suppression hearing; stating that the judge tends to side with officers and solicitors. If that happens then the defendant has no defense."
 - b. "Counsel failed to secure an indictment before the Grand Jury prior to trial or plea and to challenge the validity of the indictments prior to the plea."
 - c. "Counsel failed to advise defendant to go forward with jury trial, but rather insisted defendant accept the plea. Basing his decision on the amount of years defendant was facing."
2. "Violation of United States Constitutional Amendments 4,5,6,14"
3. "Failure to prove Subject Matter Jurisdiction"

For the purpose of this Return, the Respondent incorporates the Clerk of Court records, the South Carolina Department of Corrections' records, and the guilty plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

The Respondent interprets the Applicant's allegations as claims of ineffective assistance of plea counsel. The Respondent asserts that the Applicant's attorney rendered effective assistance well within the standard of reasonableness within professional norms for a criminal defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Petitioner must prove that counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result. Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within

the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668, 104 S. Ct. 2052. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its reasonableness under professional norms. Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland v. Washington. Second, counsel's deficient performance must have 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, 386 S.E.2d at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The Applicant claims subject matter was not proved in this case. The Respondent submits this allegation is without merit. A circuit court has subject matter jurisdiction to convict a defendant of an offense if there is an indictment that sufficiently states the offense, the defendant waives presentment, or the offense is a lesser-included offense of the crime charged in the indictment. State v. Wilkes, 353 S.C. 462, 464-465, 578 S.E.2d 717, 719 (2003), citing Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001). However, the allegation of ineffective assistance of counsel probably raises

questions of fact that cannot be conclusively refuted by the record. Respondent requests an evidentiary hearing to fully resolve this issue. *Sharper v. State*, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

VI.

WHEREFORE, the Respondent requests an evidentiary hearing for the purpose of determining whether the Applicant's plea counsel was ineffective and whether the Applicant's plea was knowingly and voluntarily entered.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

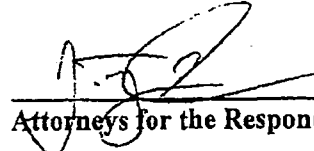
SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

J. RUTLEDGE JOHNSON
Assistant Attorney General

P.O. Box 11549
Columbia, S.C. 29211

Columbia, South Carolina
March 6, 2012

By:


Attorneys for the Respondent

STATE OF SOUTH CAROLINA)
)
 COUNTY OF YORK)
)
)
)
 RICHARD J. COLEMAN, 350680)
)
) Applicant,)
)
) vs)
)
 STATE OF SOUTH CAROLINA,)
)
) Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS

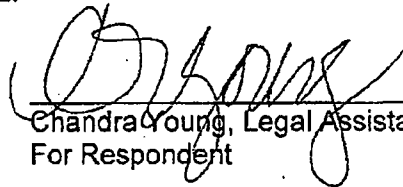
2012-CP-46-3281

AFFIDAVIT 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(s) by depositing same in the United States mail, postage prepaid:

Tracy Frick, Esquire
 727 Dilworth Ln., Ste. 201
 Rock Hill, South Carolina 29732

DATED this 6th day of December, 2012.



 Chandra Young, Legal Assistant
 For Respondent

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<u>WITNESS</u>	<u>BY:</u>	<u>PAGE NO.</u>
Richard Coleman	Mr. Brooks	P.5-13
	Mr. Johnson	P.14-20
Mark McKinnon	Mr. Brooks	P.21-26
	Mr. Johnson	P.26-27

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E -X-H-I-B-I-T-S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
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No Exhibits were received into the record.

1 (COURT IN SESSION IN THE MATTER OF RICHARD COLEMAN
2 VERSUS STATE OF SOUTH CAROLINA THURSDAY, MAY 16, 2013 AT
3 11:55 A.M..)

4 (DEFENDANT RICHARD COLEMAN ENTERING COURTROOM.)

5 MR. BROOKS: May it please the court, Your Honor.

6 THE COURT: Yes, sir.

7 MR. BROOKS: This is Richard Coleman versus State of
8 South Carolina. It's case number 2012-CP-46-3281. Mr.
9 Coleman was indicted at the October 2011 term of the York
10 County Grand Jury for trafficking in crack cocaine,
11 possession of marijuana with intent to distribute, PWID
12 marijuana within proximity of a public park or playground,
13 trafficking cocaine, PWID cocaine within proximity of a
14 park or playground and PWID crack cocaine within proximity
15 of public park or playground.

16 On April 24, 2012, he pled guilty to trafficking crack
17 cocaine, second offense, as a lesser included; PWID
18 marijuana, third subsequent offense; PWID marijuana within
19 a proximity of a park; trafficking cocaine, second
20 offense; PWID cocaine within proximity of a public park and
21 PWID crack cocaine within proximity as indicted before the
22 Honorable Lee S. Alford.

23 As recommended by the State, the sentence was
24 concurrent for ten years for each charge. There was no
25 appeal filed, however, there was a timely PCR application

RICHARD COLEMAN: BY MR. BROOKS

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1 filed on September 17, 2012. The State filed it's return
2 December 6, 2012, and he is represented here today by Mr.
3 Charles Brooks.

4 THE COURT: Mr. Brooks.

5 MR. BROOKS: If it please the court, Judge. Mr.
6 Coleman respectfully asks the Court for a continuance in
7 this matter.

8 THE COURT: On what basis?

9 MR. BROOKS: He just feels he needs a little bit more
10 time to be actively prepared to present his PCR case.

11 THE COURT: That motion is denied. He filed it back
12 in September and we're ready to go forward.

13 Call your first witness.

14 MR. BROOKS: We call Mr. Coleman to the stand.

15 MADAME CLERK: Mr. Coleman, if I can get you to stop
16 here and place your left hand on the Bible and raise your
17 right.

18 (WHEREUPON: RICHARD COLEMAN,
19 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

20 MR. BROOKS: Ready, Judge?

21 THE COURT: Yes, sir.

22 DIRECT EXAMINATION

23 RICHARD COLEMAN BY MR. BROOKS:

24 Q. Mr. Coleman, you pled guilty to these charges; is that
25 correct?

1 A. Yes, sir.

2 Q. And you received a negotiated sentence of ten years?

3 A. I believe it said recommended if I'm not mistaken.

4 Q. But you got ten years?

5 A. Yes, sir.

6 Q. Okay. And you filed this PCR here today?

7 A. Yes, sir.

8 Q. And you do understand what happens if you win your
9 PCR?

10 A. Yes, sir.

11 Q. For the record, if you win your PCR you would go back
12 and face these charges all over again. You understand
13 that?

14 A. Yes, sir.

15 Q. And you understand that as a part of your plea you had
16 a multitude of drug charges that were all wrapped up into
17 this plea?

18 A. Yes, sir.

19 Q. And you understand that if you go back through this
20 you could face thirty, forth, fifty years?

21 A. Yes, sir.

22 Q. And you're fully aware of that and it is still your
23 desire to go forward on your PCR; is that correct?

24 A. Yes, sir.

25 Q. Okay. Now, why did you end up pleading guilty in this

RICHARD COLEMAN: BY MR. BROOKS

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1 case, Mr. Coleman?

2 A. I pled guilty because I was led to believe that my
3 defense was minimum, if any at all. I wasn't fully aware
4 of all the amendment rights that they had violated. He
5 didn't thoroughly go through that information with me.

6 Q. Okay. All right. Now he was court appointed to you;
7 is that correct?

8 A. Yes, sir.

9 THE COURT: Let's say who he is.

10 Q. That would be Mr. McKinney?

11 A. Yes, sir.

12 Q. Is that right?

13 A. Yes, sir.

14 Q. He was court appointed to your case?

15 A. Yes, sir.

16 Q. Okay. Do you recall how often you met with him?

17 A. About four or five times.

18 Q. Were you in jail or out on bond?

19 A. On bond.

20 Q. So did you go to his office?

21 A. Yes, sir. Well, one - the first time I met him I was
22 in the county jail when I met him initially.

23 Q. All the other meeting times after that, you were in
24 his office?

25 A. Yes, sir.

1 Q. Okay. Now, you've had a chance to look at the
2 transcript and which you did plea in front of Judge Alford.
3 The transcript is like sixteen, seventeen pages?

4 A. Yes, sir.

5 Q. Okay. Now, what do you know now that if you had known
6 then would have caused you not to plead guilty?

7 A. Well, like I say, violation of Fourth Amendment rights
8 and just the whole process of going through - you know,
9 going to trial. Like, when I met him - initially when I
10 was in the county, I asked him for a preliminary hearing or
11 whatever to seek all the evidence that was against me. I
12 never received that.

13 Q. The discovery?

14 A. Yeah. I mean he just - Go ahead.

15 Q. When you were out of jail, you never saw it in his
16 office?

17 A. Yeah. I mean, I got a motion of discovery.

18 Q. Okay.

19 A. But as far as like the preliminary hearing in itself,
20 I never received that.

21 Q. Okay. Do you think that would have made a difference
22 in your case?

23 A. I think it would have.

24 Q. Can you tell the court why?

25 A. I don't think that based on the violations of my

RICHARD COLEMAN: BY MR. BROOKS

-9-

1 Fourth Amendment rights, that they would have passed - True
2 Billed it to indict me on those charges.

3 Q. Can you tell the court how you feel your Fourth
4 Amendment rights were violated?

5 A. Well, initially when the officers arrived, they didn't
6 have enough information to properly dispatch the officers
7 to an address. When they arrived, they can't say that they
8 were at the right house is basically what I'm saying. You
9 know what I'm saying?

10 Q. Uh-huh.

11 A. Okay. Upon them arriving, they asked me had I called
12 or had there been a call made from my apartment for a CDV.
13 I told them no. I also explained that we were in the bed,
14 so after that they asked me, you know, who is we. Is
15 somebody else with you. So I said, yeah, my lady friend.
16 So then the officers asked, well do you mind if we speak
17 with her. I told them, hold on. Let me go get her. Okay.
18 After I did that, I stepped a couple feet away from the
19 door, they just entered the house. They didn't - I don't
20 feel like they had probable cause to even enter my house.

21 MR. JOHNSON: Your Honor, that's a direct appeal
22 issue. And I know it's his day in court but he's trying to
23 retry the case.

24 THE COURT: I understand.

25 BY MR. BROOKS:

1 Q. Did you relay all this information to Mr. McKinney?

2 A. Yes, sir.

3 Q. And what was his response to you?

4 A. To everything that I said, his response was a
5 remittance of how much time I was facing. Seven to thirty
6 for this, seven to thirty. Ten years for the proximity
7 charges. His whole response to everything that I had to
8 say was a remittance of how much time I'm facing.

9 Q. Okay. And you understand that if you do have your PCR
10 granted, that you will probably have that same conversation
11 with somebody else?

12 A. Yeah. I had that with you.

13 Q. Right. And you understand it. And you totally
14 understand it?

15 A. Yeah.

16 Q. All right. How much time do you have left to do?

17 A. About seven and a half years.

18 Q. Your max out date is 2020?

19 A. Yes, sir.

20 Q. Okay. That would be about six and a half wouldn't it?

21 A. Around --

22 Q. Give or take?

23 A. Yeah.

24 Q. And it's still your desire to give up a certain six
25 and a half for all those risks that we talked about?

RICHARD COLEMAN: BY MR. BROOKS

-11-

1 A. Yes, sir.

2 Q. Okay. You're sure of that?

3 A. Yes.

4 Q. All right. Now you also - And you felt that your plea
5 was coerced; is that correct?

6 A. Yes.

7 Q. You felt that Mr. McKinney forced you to take this
8 deal?

9 MR. JOHNSON: Your Honor, that's not in the
10 allegations and I ask that it be stricken.

11 THE COURT: I'll go ahead and hear it.

12 Go ahead.

13 A. Well like I say, he basically led me to believe that I
14 didn't have any defense towards these allegations. That -
15 okay, he kept saying over and over about the amount of
16 time, so I told him that I understood that but I wanted to
17 know what tactics that he would use to defend me. Right.
18 So he mentioned about a suppression hearing. Okay.

19 He mentioned, he we'll have the suppression hearing.
20 If they grant that, then we'll go in there and which they
21 probably gonna side with the solicitor and the officers,
22 I'm telling you that right now. He said upon me losing
23 that, that I would probably do three to five years, you
24 know, after I do an appeal and if they accept the appeal, I
25 probably been done done three to five years for that and

1 that if I received the appeal and came and lost and I did
2 another appeal, then it would be another three years on top
3 of that so basically he was saying that by the time that
4 after I lose and do all those appeals, I would have been
5 done done the sentence which I'm serving right now, so I
6 might as well go ahead and take the plea. You see what I'm
7 saying?

8 Q. All right. And now you've got information that
9 indicates you should have done something different. Right?

10 A. Yes, sir.

11 Q. Because you feel that if the state had tried you on
12 each one of these drug charges, you would be acquitted of
13 them here in York County; is that correct?

14 A. I believe that during the suppression hearing that the
15 evidence would have been dismissed.

16 Q. You think the judge would have disallowed the
17 evidence?

18 A. I think so, yeah.

19 Q. Okay. Is there anything else you want to tell the
20 court about why you think your plea should be set aside?

21 A. I mean, I just think that based on that I wasn't
22 allowed the proper information to make a proper decision on
23 whether or not to go to trial, that I should be granted
24 that PCR. I mean, he had more information that he could
25 have provided me with that would have abled me to make a

RICHARD COLEMAN: BY MR. BROOKS

-13-

1 better decision other than based on how much time I'm
2 facing because that's all I got, was how much time I'm
3 facing over and over.

4 Q. Okay. All right. Is there anything else you want to
5 tell the Judge?

6 A. I think that's about it at this moment that I can
7 think of. I'm kind of nervous.

8 Q. Take a deep breath, man. This is your bite at the
9 apple.

10 A. I just feel like Mr. McKinney's[sic] whole aim was to
11 get me to plead. That he was aware of violations of my
12 rights that could have had that evidence suppressed and he
13 did raise the possibility of a suppression hearing but he
14 didn't go - I didn't get any other further detail of how it
15 works or the process of it and things of that matter. He
16 just basically was just telling me that I'm going to lose
17 the suppression hearing and upon that then, I couldn't
18 receive less than twenty-five years.

19 Q. And you feel like you would a won the suppression
20 hearing?

21 A. Yeah. I feel like I would have.

22 Q. Okay. All right. Anything else?

23 A. That's all.

24 Q. Okay. Answer any questions --

25 THE COURT: Cross?

1 MR. JOHNSON: Thank you, Your Honor.

2 CROSS EXAMINATION

3 RICHARD COLEMAN BY MR. JOHNSON:

4 Q. Mr. Coleman, so what you're saying is that you felt
5 like you should have had a suppression hearing in this
6 case?

7 A. Yes, sir.

8 Q. And have you ever thought about the consequences if
9 you lose that suppression hearing? I know you're very
10 optimistic, but what if you lose that suppression hearing?
11 Do you realize that on one of those charges, you're facing
12 mandatory minimum of twenty-five years in prison?

13 A. Well, I was reminded over and over again of, you know,
14 the consequences of that, nothing but that.

15 Q. And on the next trafficking is twenty-five to thirty?

16 A. Yeah.

17 Q. So that's what, sixty? Then you have the PWID
18 marijuana, third offense. That's another few years. I
19 mean, you were looking upwards to eighty years, ninety
20 years in prison aren't you? And you're willing to risk all
21 that instead of serving six and a half?

22 A. Yeah.

23 Q. All right. Let's talk about the guilty plea. The
24 judge asked you if you understood those charges and what
25 they carried. You said yes. Correct?

RICHARD COLEMAN: BY MR. JOHNSON

-15-

1 A. Yes.

2 Q. Okay. But that you wanted to plead guilty; isn't
3 that right?

4 A. Well, judging by the information that I had, yeah.
5 Because I had vague information.

6 Q. And the judge went over your constitutional rights to
7 a jury trial? Correct?

8 A. As far as what?

9 Q. You went over your right to a jury, right to remain
10 silent; the right to present witnesses on your behalf. And
11 you waived those rights. Correct?

12 A. Yeah.

13 Q. And nobody promised you or threatened you or anything
14 to get you to plead guilty?

15 A. Well, he promised me the ten years. Yeah.

16 Q. Well, that was negotiated between he and the
17 solicitor. Correct?

18 A. Yeah.

19 Q. And you said you were satisfied with your attorney.
20 Correct?

21 A. Yes.

22 Q. And that he fully discussed the charges?

23 A. Yes. Yeah.

24 Q. And that you discussed any possible defenses?

25 A. Yes.

1 Q. But what you're saying today is that you didn't
2 discuss those defenses or you didn't have enough
3 information. Correct?

4 A. I had - Yes. Yeah.

5 Q. And the judge gave you an opportunity to speak and you
6 didn't say anything did you?

7 A. No.

8 Q. But you had your chance to talk and say, hey, listen
9 judge, he didn't discuss this with me. I honestly think I
10 should go to trial, I should get the suppression hearing.
11 You didn't say that did you?

12 A. I said based on that information that he gave me, that
13 that was my only option other than the other time that I
14 was facing.

15 Q. So where does this new information come from?

16 A. As far as what?

17 Q. You now know that you could have the suppression
18 hearing and all this. Where does all this new knowledge
19 come from that you didn't know at the guilty plea?

20 A. Oh, the new knowledge that I have now? Just upon my
21 being incarcerated, you know, just going to the law library
22 and just studying and looking up different information.

23 Q. But you agreed with the facts of the case which stated
24 that at three o'clock in the morning officers were
25 dispatched to the apartment you were in or the house you

RICHARD COLEMAN: BY MR. JOHNSON

-17-

1 were in. That they saw and smelled marijuana. Correct?

2 A. Actually, it was an apartment.

3 Q. It was an apartment.

4 A. Yes. It was three room one-bedroom apartments. Yeah.

5 Q. But they saw and smelled marijuana. Correct?

6 A. No. That's what they stated.

7 Q. And that's what you agreed to at the guilty plea under
8 oath. Correct?

9 A. Yes.

10 Q. Okay. And then they went and got a search warrant and
11 they came in and they found 1,500 grams of marijuana, 109
12 grams of crack cocaine, 46 grams of powdered cocaine and
13 \$2,100 in cash?

14 A. No. They never received it - they never --

15 Q. That's what you agreed to. Correct?

16 A. They never - it didn't say that that they obtained a
17 search warrant.

18 Q. It says that in the facts, when the solicitor was
19 reviewing the facts.

20 A. No. It said that they could have or that they were
21 going to but that they never received --

22 Q. Oh. And you gave them consent to search the
23 apartment. Correct?

24 A. After they had already searched, then I signed a
25 consent form. After they had already - they had already

1 searched my apartment already. They already had the drugs
2 already, so they were telling me to sign this form so they
3 can further search my apartment. You see what I'm saying?

4 Q. All right.

5 A. Then upon that they're telling me, well our search
6 warrant is on the way. That's what the narcotics agent was
7 telling me, that his search warrant was on the way already.
8 Okay. Him and the officer are telling me that the longer -
9 I could wait on that search warrant or I could sign this.
10 The longer that I make them wait, that they was going to
11 make it hard for me to bond out and make it impossible for
12 me to get a bond and all these other extra additives to
13 that. Both of them just like - just ranting at me at the
14 same time.

15 Q. But you didn't tell the judge that in the guilty plea,
16 did you, when you had the chance to speak?

17 A. No, sir. The reason why I didn't is because my
18 attorney advised me that any signs of unsurety would alter
19 my plea and he was telling me that, you know, just tell him
20 you need to take this plea because I'm going to lose and
21 I'm going to get no less than twenty-five years and, you
22 know, he had me thinking that I had no other defense.

23 Q. So you're kind of claiming now that the drugs weren't
24 your's? Is that what you're getting at?

25 A. Yeah.

RICHARD COLEMAN: BY MR. JOHNSON

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1 Q. Okay. But you do have many convictions for drug
2 possession do you not?

3 A. No, I don't. I have two if I'm not mistaken.

4 Q. You don't have a 1997 possession of crack charge?

5 A. Yes, sir.

6 Q. And a 2004 possession of marijuana?

7 A. In 2004?

8 Q. Yes, sir. And 2005 and 2008.

9 A. Those other charges are simple possession if I'm not
10 mistaken.

11 Q. It's all same, possession of marijuana. And you had a
12 PWID cocaine in 2008 in North Carolina do you not?

13 A. Yes, sir.

14 Q. That's multiple convictions isn't it?

15 A. Yeah.

16 Q. This isn't your first rodeo in the drug game is it?

17 A. Well, those other convictions were like probationary.

18 The outcome of those was probation so it wasn't like
19 no I hadn't been through a trial. I mean, as far as going
20 through a trial so I knew the process of going through a
21 trial. I was offered probation for those incidents.

22 Q. But that wasn't my question, sir. My question was,
23 is that this is not your first time dealing drugs is it?

24 A. I never said I was dealing drugs. I said --

25 Q. Dealing in drugs.

1 A. I said that I had possession for my own personal use.
2 Those were simple possession charges that added up to
3 - that they enhanced to a bigger charge once this incident
4 happened.

5 Q. But you've had experiences with drugs before have you
6 not?

7 A. What do you mean by that?

8 Q. By your convictions, you obviously have had experience
9 with drugs.

10 A. I mean, can you --

11 Q. Yes or no. Have you had experience with drugs?

12 A. Can you be more specific about that?

13 MR. JOHNSON: Your Honor, I think the record speaks
14 for itself. No further questions.

15 THE COURT: I think the court can figure that one out.

16 MR. JOHNSON: Thank you.

17 MR. BROOKS: No other questions, Your Honor.

18 THE COURT: You can step down and have a seat with
19 your attorney.

20 (WITNESS LEAVING WITNESS STAND.)

21 THE COURT: Mr. Brooks, call your next witness.

22 MR. BROOKS: We call Mr. McKinney to the stand.

23 THE COURT: Mr. McKinnon

24 (WHEREUPON: MARK MCKINNON,

25 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:

MARK MCKINNON: BY MR. BROOKS

-21-

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DIRECT EXAMINATION

MARK MCKINNON BY MR. BROOKS:

Q. Mr. McKinney.

A. Good morning.

Q. How are you today?

A. Fine.

Q. You represented Mr. Coleman?

A. I did.

Q. You were court appointed?

A. I was.

Q. Now, did you go over his constitutional rights and having some things suppressed in this case?

A. Yes, sir. In fact, I think what Mr. Coleman was referring to when he said that I told him he had no other defense was that in fact in this case there was virtually no factual defense and the entirety of our meetings together was based on his Fourth Amendment rights and whether he could get this evidence suppressed. That was the focal point of our defense strategy yes.

Q. Do you recall what you told him about getting it suppressed?

A. Yes, sir. My recollection and based on going over my notes and refreshing my memory, was that I thought it was a somewhat complicated Fourth Amendment issue that was not - there was no case directly on point on this and that there

1 was eventually - inevitable discovery doctrine issue that
2 would kind of conflict with his Fourth Amendment rights.
3 There was a sequence of events that took place in this case
4 that was not elicited by Mr. Coleman there that I think
5 would further shed light on what some of the Fourth
6 Amendment issues were. If you'd like me to go through
7 those, I can.

8 Q. Please.

9 A. Okay. My recollection and from refreshing my memory
10 here, the officers were called to a four unit building and
11 dispatch could only tell them what the address was but
12 there were in fact four units, , , and but dispatch
13 could not tell the officers which of those four units the
14 call actually originated from.

15 It was a female in distress or domestic call. They
16 knocked on one door, the unit. Nobody was home, I think,
17 or there were no females present. They went to the next
18 one, , which was Mr. Coleman's residence. Entered - or he
19 answered the door, I'm sorry. And they asked if there is a
20 female present. He said, yes but she's fine. They say,
21 can we check on her. He is saying that they just kind of
22 walked in. They say that they were allowed in.

23 Ultimately I did not think that that was really that
24 much of an issue although, you know, we could have gone
25 over that, I guess, but the main issue I thought in the

MARK MCKINNON: BY MR. BROOKS

-23-

1 case was that after the officers found marijuana in plain
2 view, they then asked for consent to search one particular
3 bag which Mr. Coleman agreed to, yes you may search this
4 bag. They opened it up, there was nothing illegal found.
5 They then went to a second bag. Did not ask for consent on
6 that and went ahead and opened that up where they
7 discovered a large amount of narcotics.

8 The issue would be then that Mr. Coleman eventually
9 consented to a search of the apartment. The question I
10 think would then be whether if we had a hearing, the
11 officers would come in and tell the court that based on
12 what they had already found in the apartment, that they
13 were going to seek a search warrant and based on my reading
14 of case law, that would determine the issue of whether that
15 evidence would be suppressed that they found in the bag.
16 Between that search of the bag and the consent to search of
17 the apartment.

18 So that was the basis for our discussion was what
19 would happen. This would be a suppression hearing the day
20 of the trial. We typically could not get a suppression
21 hearing prior to trial here and if you lost, we're stuck
22 with virtually no factual defense and he's facing mandatory
23 minimum of twenty-five at least on that one charge. So
24 yes, that was kind of the crux of the discussion.

25 Q. And how was it arrived that he would take the plea?

1 A. Well, we certainly discussed that a lot. Mr. Coleman
2 had a lot of reservations and he did not jump on it
3 immediately but was the product of many, well I would say
4 what he said, four or five meetings or discussions over
5 this. And we certainly did discuss the fact that were he
6 to lose the suppression hearing, he would get at least
7 twenty-five and then we'd just be hoping and waiting for
8 the Court of Appeals or ultimately the South Carolina
9 Supreme Court, to overturn the judge's decision to deny the
10 suppression motion.

11 Q. No guarantee of that?

12 A. Certainly not.

13 Q. Did you explain that to him?

14 A. Yes, sir. I did. I think on several times. And in
15 fact, another attorney in my office assisted me on that
16 just to make sure he was crystal clear on what the stakes
17 were and how this whole process would play out.

18 Q. Did you say, you've got to take this deal?

19 A. No. I told him my recommendation was certainly that
20 he should take this deal. In my opinion, this was his best
21 option but certainly I made it clear that ultimately it was
22 his decision and he knew that as he pondered on that
23 decision for quite some time, over weeks and months.

24 Q. Do you have an opinion as to whether or not you would
25 have been able to prevail on that suppression motion?

MARK MCKINNON: BY MR. BROOKS

-25-

1 A. Honestly, I could not give him a definite result. I
2 think it's a grey area of the law. I think I even said on
3 the record that were this to go to a suppression motion,
4 that I thought that either way this would probably make new
5 case law with these particular facts. So his risk was just
6 that, he's facing a large amount of time for sure or a
7 known lesser amount of time without the benefit of trying
8 to suppress the entire thing.

9 Q. Was it a negotiated ten or recommended ten?

10 A. I'd have to check my notes if you don't mind. I've
11 got a copy of the sentencing sheet here. I believe it was
12 a recommendation but I'll have to be sure. No, I'm sorry.
13 It was in fact negotiated.

14 Q. Now, Mr. McKinney, is this the best way to describe
15 that whole factual scenario and ability to get it
16 suppressed as maybe 50/50?

17 A. I hate to tell clients odds like that, but in this
18 case, the best of my ability, sure.

19 Q. Okay. The reason I asked you that is wasn't this a
20 situation of - and I'm going to use this as a way to
21 illustrate it. Door number one, go forward with the
22 supersession motion. We may win; you go home. We may
23 lose; you're stuck at a mandatory minimum of twenty-five.
24 That's door number one.

25 Or, door number two. Solicitor says, we offer you the

MARK MCKINNON: BY MR. BROOKS
BY MR. JOHNSON

-26-

1 negotiated ten. We forget about suppression motions, all
2 of that, so that there was a little bit of give and take on
3 the solicitor's part too. Is that a better way to describe
4 it?

5 A. Yes, that's accurate. If I remember, his original
6 offer I believe was fifteen and I discussed the Fourth
7 Amendment issues with Solicitor Colton and that's how we
8 arranged to bring this down to a ten year offer and she was
9 willing to give that as part of their acknowledgment that
10 there was risk on the state's side.

11 MR. BROOKS: No other questions, Your Honor.

12 THE COURT: All right.

13 Cross?

14 MR. JOHNSON: Just a few questions.

15 CROSS EXAMINATION

16 MARK MCKINNON BY MR. JOHNSON:

17 Q. Mr. McKinney, so you did in fact make your client
18 aware that there were Fourth Amendment implications in this
19 case?

20 A. Oh, yes. That was, like I said, pretty much the
21 entire thrust of our defense discussion.

22 Q. And did he seem to understand those discussions with
23 you?

24 A. I believe he did.

25 Q. And whose decision was it to plead guilty based on

MARK MCKINNON: BY MR. JOHNSON

-27-

1 that advice?

2 A. It was Mr. Coleman's.

3 MR. JOHNSON: No further questions, Your Honor.

4 THE COURT: You can step down and be excused. We
5 appreciate your time.

6 MR. MCKINNON: Thank you, sir.

7 THE COURT: Mr. Brooks, any further witnesses?

8 MR. BROOKS: No other witnesses.

9 THE COURT: Any witnesses?

10 MR. JOHNSON: None from the State.

11 THE COURT: I'll take this under advisement.

12 MR. BROOKS: Thank you, Judge.

13 (DEFENDANT, RICHARD COLEMAN, ESCORTED FROM THE
14 COURTROOM.)

15 (END OF TRANSCRIPT OF RECORD.)

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STATE OF SOUTH CAROLINA)
)
 COUNTY OF YORK)
)
 Richard J. Coleman, 350680,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 SIXTEENTH JUDICIAL CIRCUIT
 Case No.: 2012-CP-46-3281

FILED-RECEIVED
 2013 MAY 22 AM 10:30
 GRAND JURY ROOM
 C. C. P. & C.S.
 YORK COUNTY, SC

ORDER

Applicant filed his application for Post-Conviction Relief (PCR) on September 17, 2012. The case was heard by the undersigned on the 16th day of May 2013. The State of South Carolina was represented J. Rutledge Johnson, Esquire, and the Applicant was represented by Richard Brooks, Esquire.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the York County Clerk of Court's orders of commitment. The Applicant was indicted by the October 2011 term of the York County Grand Jury for Trafficking Crack Cocaine (2011-GS-46-3300), Possession of Marijuana with Intent to Distribute (PWID) (2011-GS-46-3301), PWID Marijuana within proximity of a public park or playground (2011-GS-46-3302), Trafficking Cocaine (2011-GS-46-3303), PWID Cocaine within proximity of a public park or playground (2011-GS-46-3304), and PWID Crack Cocaine within proximity of a public park or playground (2011-GS-46-3305). The Applicant was represented by Mark McKinnon, Esq. On April 24, 2012, the Applicant pled guilty to trafficking Crack Cocaine, 2nd offense as a lesser included offense, PWID Marijuana, 3rd or subsequent offense, PWID Marijuana within proximity of a park, Trafficking Cocaine, 2nd offense, PWID Cocaine, and PWID Crack Cocaine as indicted. The Honorable Lee S. Alford sentenced the Applicant, pursuant to a negotiated

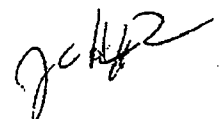
sentence, to confinement for ten (10) years for each charge to run concurrently. The Applicant did not appeal his conviction or sentence.

In his Application for post-conviction relief, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
 - a. "Counsel ill-advised defendant of motion to suppression hearing; stating that the judge tends to side with officers and solicitors. If that happens then the defendant has no defense."
 - b. "Counsel failed to secure an indictment before the Grand Jury prior to trial or plea and to challenge the validity of the indictments prior to the plea."
 - c. "Counsel failed to advise defendant to go forward with jury trial, but rather insisted defendant accept the plea. Basing his decision on the amount of years defendant was facing."
2. "Violation of United States Constitutional Amendments 4,5,6,14"
3. "Failure to prove Subject Matter Jurisdiction"

I.

In his Application, the Applicant claims subject matter jurisdiction was not proved in this case. At the time of the PCR hearing, there was no testimony or other evidence presented to support this allegation. The Court finds that the Applicant has not met his burden of proving a lack of subject matter jurisdiction, and, therefore, the allegation will not be considered by the Court in determining whether the Applicant's PCR should be granted.



II.

The Applicant claims that he was provided ineffective assistance of counsel in entering his plea of guilt. The Court finds that the Applicant's attorney rendered effective assistance well within the standard of reasonableness within professional norms for a criminal defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Petitioner must prove that counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result. Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668, 104 S. Ct. 2052. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 200 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, *citing* Strickland. Second, counsel's deficient performance must have 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, 386 S.E.2d at 625. A reasonable probability is a probability sufficient to



undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997).

At the hearing, the Applicant first took the stand to testify on his own behalf. The Applicant testified that he made the decision to take the negotiated¹ plea offered by the solicitor on the case based on Mark McKinnon (plea counsel) leading him to believe that the defenses available to him were minimal. The Applicant testified that his plea counsel failed to fully explain potential Fourth Amendment violations that could lead to the suppression of the evidence, specifically the drugs, found in the Applicant's apartment on the night of his arrest. The Applicant testified that the main focus of his meetings with plea counsel was the suggestion by counsel to take the plea offer and very little focus on trial strategy. The Applicant further testified that he understood that should his PCR be granted, he would be facing forty (40) to (50) years but, nonetheless, wished to proceed.

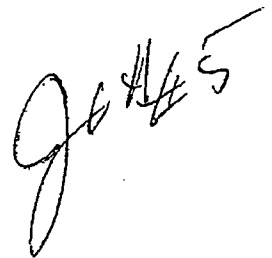
The Applicant then called plea counsel, Mark McKinnon, to the stand to testify. Plea counsel testified that there were, in reality, no factual defenses available for the Applicant and that the entirety of the meetings with the Applicant consisted of discussions on the potential violations of the Applicant's Fourth Amendment rights and getting the evidence obtained as a result of such violations suppressed. Plea counsel testified that he explained to the Applicant that the potential Fourth Amendment violations fell within a gray area of the law. Plea counsel further testified that he explained to the Applicant that going to trial with the only hope being suppression of the evidence with no factual defenses to rely on should the evidence not be suppressed was a great risk. Plea Counsel testified that while most of his conversations with the Applicant did, in fact, center around the plea offer, he did explain to the Applicant the possibility

¹ The Applicant testified that the plea was a recommended plea; however, it was later determined in the hearing by reference to the plea agreement form that the plea was actually a negotiated plea.

of a judge suppressing the evidence, the appeals process, and that it was the Applicant's decision to take the plea or go forward with a trial.


The Court finds that plea counsel reasonably explained to the Applicant the possible outcomes and defenses should the case go to trial, and the record reflects that the Applicant agreed that all of his potential defenses had been explained to him by plea counsel at the time of his plea. (TR p. 11, LL 9-12). The Court finds that the Applicant was apprised by his plea counsel, as well as the Court, of his right to a trial by jury, right to present his witnesses, and right to testify on his own behalf should he decide to do so. (TR p. 9, LL 2-19). The Court finds that the Applicant was made fully aware of his right to appeal should he take his case to trial by the Court, and from the testimony presented, was consulted as to the entire appeals process by plea counsel. (TR p. 10, LL 1-2). Based on testimony by the Applicant at his PCR hearing, as well as at the time of his plea, the Court finds the Applicant was not promised anything in return for pleading guilty. (TR p. 10, LL 20-22). The Court finds that it was the decision of the Applicant to enter his plea of guilt upon advice of competent counsel with which the Applicant was satisfied at the time of the plea. (TR p. 10, LL 23-25; TR p. 11, L 1).

Based on the evidence presented at the PCR hearing, as well as a review of the record, the Court finds that the Applicant has not met his burden of proving ineffective assistance of counsel and finds that the Applicant's claim is without merit; therefore, his Application for Post-Conviction Relief is denied and dismissed with prejudice.



Applicant has thirty (30) days to seek Certiorari from the South Carolina Supreme Court after receipt of this Order.

IT IS SO ORDERED.


John C. Hayes, III
Presiding Judge # 6

May 20, 2013
York, South Carolina

M-602730

STATE OF SOUTH CAROLINA
County/ Municipality of

York

THE STATE

2017000252396

Richard James Coleman

against

Address:

Rock Hill, SC 29730

Phone:

SSN:

Sex: M Race: B Height: 5 11 Weight: 150

DL State: SC DL #:

Agency ORI #: SC0460000

Prosecuting Agency: York County Sheriff

Prosecuting Officer: L. Harrelson - H1721

Charge: Drugs / Trafficking in ice, crack or crack - 100 g

or more, but less than 200 g

License Code: 0368

Order/Ordinance Sec: 44-53-0375(C)(3)

This warrant is CERTIFIED FOR SERVICE in the
County/ Municipality of

The accused

to be arrested and brought before me to be

all with records to the City of York (L.S.)

Signature of Constable/ Law Enforcement Officer

RETURN

copy of this arrest warrant is delivered to defendant Richard James Coleman

07-27-11

Signature of Constable/ Law Enforcement Officer

TURN WARRANT TO:

York County General Sessions
1675 York Hwy
York, SC 29745

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

York

Personally appeared before me the affiant L. Harrelson

being duly sworn deposes and says that defendant Richard James Coleman

did within the county and state on or about 07/27/2011

State of South Carolina (or ordinance of York County/ Municipality of York

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in ice, crack or crack - 100 g or more, but less than 200 g

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

The defendant did willfully and unlawfully violate SC Code of Law by Trafficking Crack while at

Ave, Rock Hill, York County, South Carolina. A criminal history indicates the defendant has one prior drug conviction.

Police Investigation

Recovery of Evidence (Approximately 109.2 grams of Crack)

Signature of Affiant

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

York

Affiant's Address
Moss Justice Center
York 29745-7428

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 7/27/2011

defendant Richard James Coleman

did violate the criminal laws of the State of South Carolina (or ordinance of York) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in ice, crack or crack - 100 g or more, but less than 200 g

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant, and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable sworn to and subscribed before me

on 07/27/2011

Judges Address
Moss Justice Center
York, SC 29745-7423

Signature of Issuing Judge
Mandrite-HMC Young

Judge's Telephone
(803) 628-3020

Judge Code: 5078

Issuing Court: Magistrate

ORIGINAL

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Form Approved by
Internal Security
April 21, 2009
SCCA #18

DAVID HARRISON
CLERK OF COURT
YORK COUNTY, SC
2012 SEP 20 AM 9:22
CERTIFIED TRUE COPY

WITNESSES

DEU / Harrelson

DOCKET NO. 2011-GS-46-03300

The State of South Carolina

County of York

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

Defendant

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

October 13, Term 2011

COURT OF GENERAL SESSIONS

ARREST WARRANT NUMBER

M-602730

THE STATE

VS.

ACTION OF GRAND JURY

RICHARD JAMES COLEMAN

Witness: *Greg Dixon* of *appec*.
C.C.C. PLS. AND G.S.

Defendant

VERDICT

Forperson of Grand Jury *James Harrelson*
Date: *10/13/11*

Indictment for

TRAFFICKING CRACK COCAINE

SC Code: 44-53-375
CDR Code: 0368

Forperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA) INDICTMENT
 COUNTY OF YORK) CERTIFIED TRUE COPY
 2012 SEP 20 AM 9:22

At a Court of General Sessions convened on October 13, 2011, the Grand Jurors of York County present upon the oath of the CLERK OF COURT YORK COUNTY, SC

TRAFFICKING CRACK COCAINE

On or about July 27, 2011, the Defendant, Richard James Coleman , did knowingly sell, manufacture, deliver, purchase, or bring into this State, or who provided financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or knowingly was in actual or constructive possession or knowingly attempted to become in actual or constructive possession of One hundred grams or more of crack cocaine, a cocaine base, as defined and otherwise limited in Section 44-53-110, 44-53-210(d)(1), or 44-53-210(d)(2). Said incident occurred in York County, South Carolina, all in violation of Section 44-53-375, Code of Laws of South Carolina (1976, as amended).

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


 ASSISTANT SOLICITOR

STATE OF York
 VS.
Richard James Coleman
 AKA:
 Race: BLACK Sex: M Age: 34
 DOB: SS#:
 Address:
 City, State, Zip: Rock Hill, SC 29730
 DL#: SID#:

INDICTMENT/CASE#: 2011GS4603300
 A/W#: M602730
 Date of Offense: 7/27/2011
 S.C. Code § : 44-53-0375(C)(3)
 CDR Code #: 0368

ORIGINAL

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Drugs / Trafficking in ice, crack or crack - 28-100 grams 2nd offense

in violation of § 44-53-0375(C)(3) of the S.C. Code of Laws, bearing CDR Code # 0389
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45
 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
 ATTEST: SC 06 60591 Richard J. Coleman 74065
Colton, Jennifer S. 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 days/months/years and/or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. S.S. 8/3/11
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
 Total: \$ plus 20% fee: \$ days/hours Public Service Employment
 Payment Terms:
 Set by SCDPPPS
 Recipient:
 *Fine: \$
 Obtain GED
 Attend Voc. Rehab. or Job Corp.
 May serve W/E beginning
 Substance Abuse Counseling
 Random Drug/Alcohol testing
 Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
 \$ paid to Public Defender Fund
 Other:

*Fine:		\$
§ 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	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25-</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ <u>150</u>
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5-</u>
3% to County (if paid in installments)		\$
TOTAL		\$ <u>880-</u>

YORK COUNTY, S.C. CLERK OF COURT
 DAVID HAMILTON
 Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.
 SEP 20 AM 9:22
 CERTIFIED TRUE COPY

Clerk of Court/ Deputy Clerk David Hamilton
 Court Reporter: Mike WATTS
 SCCA/217 (03/2011)

Presiding Judge
 Judge Code: 2113
 Sentence Date: 4/24/12

ARREST WARRANT

M-602732

STATE OF SOUTH CAROLINA

County/ Municipality of

York

THE STATE

201100026295

Richard James Coleman

against

Address:

Rock Hill, SC 29730

Phone: M Race: B Height: 5 11 Weight: 150

DL State: SC DL#: Agency ORI #: SC0460000

Rescuing Agency: York County Sheriff

Rescuing Officer: L. Harrelson - H1721

Offense: Drugs / Manuf., poss. of other sub. in Sch. I, II, III or flunitrazepam, w.i.t.d. - 3rd or sub. offense

Offense Code: 0188

Order/Ordinance Sec: 44-53-0370(b)(2)

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of York

to be arrested and brought before me to be

call with regarding to the defendant (L.S.)

Signature of Judge

Signature of Judge

RETURN

copy of this arrest warrant was delivered to

Richard James Coleman

07-27-11

Signature of Constable/Enforcement Officer

Signature of Constable/Enforcement Officer

RETURN WARRANT TO:

York County General Sessions

1675 York Hwy

York, SC 29745

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of York

York

AFFIDAVIT

ORIGINAL

Form Approved by Federal Bureau of Investigation April 27, 2009 SSA 516

Personally appeared before me the affiant L. Harrelson

being duly sworn deposes and says that defendant Richard James Coleman

did within this county and state on or about 07/27/2011

State of South Carolina (or ordinance of York County/ Municipality of York

in the following particulars: Drugs / Manuf., poss. of other sub. in Sch. I, II, III or flunitrazepam, w.i.t.d. - 3rd or sub. offense

DESCRIPTION OF OFFENSE

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

The defendant did willfully and unlawfully violate South Carolina Drug Law 44-53-370 by being in possession of approximately 1528.52 grams of marijuana, with the intent to distribute while at Rock Hill, York County, South Carolina. Criminal records indicates the defendant has five prior drug conviction.

Police Investigation

Recovery of Evidence (1528.52 grams of Marijuana)

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of York

York

Affiant's Address Moss Justice Center

York 29745-7428

Affiant's Telephone

2012 SEP 20 AM 8:22 PERMITTED TRUE COPY DAVID HAMILTON CLERK OF COURSE YORK COUNTY SC

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

it appearing from the above affidavit that there are reasonable grounds to believe that

on or about 7/27/2011 defendant Richard James Coleman

did violate the criminal laws of the State of South Carolina (or ordinance of York) as set forth below

DESCRIPTION OF OFFENSE: Drugs / Manuf., poss. of other sub. in Sch. I, II, III or flunitrazepam, w.i.t.d. - 3rd or sub. offense

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of his execution, or as soon thereafter as is practicable Sworn to and subscribed before me on 07/27/2011

Judge's Address Moss Justice Center

York, SC 29745-7423

Judge's Telephone (803)628-3020

Issuing Court: X Magistrate

ORIGINAL

ORIGINAL

ORIGINAL

Signature of Issuing Judge

Mandarin Rose Young

Judge Code: 5078

ORIGINAL

WITNESSES

DEU / Harrelson

DOCKET NO. 2011-GS-46-03301

The State of South Carolina

County of York

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

Defendant

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

October 13, Term 2011

COURT OF GENERAL SESSIONS

ARREST WARRANT NUMBER

M-502732

THE STATE

vs.

RICHARD JAMES COLEMAN

Richard Coleman
Defendant

ACTION OF GRAND JURY
TRUE BILL

David P. Davis
Foreperson of Grand Jury 10/13/11

VERDICT

Indictment for

POSSESSION OF MARIJUANA WITH
INTENT TO DISTRIBUTE

For person of Petit Jury
Date:

SC Code: 44-53-370
CDR Code: 0188

Witness:
D.P. Dixon at spec.
C.C.C. P.J.S. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)
CERTIFIED TRUE COPY INDICTMENT
2012 SEP 20 AM 9:22

At a Court of General Sessions convened October 13, 2011, the Grand Jurors of York County present upon their oath:
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

POSSESSION OF MARIJUANA WITH INTENT TO DISTRIBUTE

That on or about July 27, 2011, in York County, South Carolina, the Defendant, Richard James Coleman., did possess with intent to distribute, dispense, or deliver a quantity of marijuana, a controlled substance under provisions of Section 44-53-110, et seq., Code of Laws of South Carolina (1976), as amended, or did otherwise aid, abet, attempt, or conspire to manufacture, distribute, dispense, or deliver marijuana, all in violation of Section 44-53-370, Code of Laws of South Carolina (1976), as amended.

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


ASSISTANT SOLICITOR

COUNTY OF York
STATE VS.
Richard James Coleman
AKA: _____
Race: BLACK Sex: M Age: 34
DOB: _____ SS#: _____
Address: _____
City, State, Zip: Rock Hill, SC 29730
DL#: _____ SID#: _____

INDICTMENT/CASE#: 2011GS4603301
A/W#: M602732
Date of Offense: 7/27/2011
S.C. Code § : 44-53-0370(b)(2)
CDR Code #: 0188

ORIGINAL

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Possession w/intent to distribute Marijuana 3rd or sub. offense

CONVICTED OF or PLEADS

in violation of § 44-53-0370(b)(2) of the S.C. Code of Laws, bearing CDR Code # 0188
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45
w/minor 1st or Lewd Act)

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

ATTEST: J. S. Coles (65591) Richard Coleman M. J. [Signature] 74065
Cotton, Jennifer S. 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 _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 83 days
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment
Payment Terms: _____ Obtain GED
 Set by SCDPPPS _____ Attend Voc. Rehab. or Job Corp. _____
Recipient: _____ May serve W/E beginning _____
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(I) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$280

YORK COUNTY, SC
CLERK OF COURT
DAVID HAMILTON

Appointed PD or appointed other counsel,
§ 47-12 requires \$500 be paid to Clerk
of Court for probation.

VERIFIED TRUE COPY

Clerk of Court/ Deputy Clerk David Hamilton
Court Reporter: Mike Watts
SCCA217 (03/2011)

Presiding Judge _____
Judge Code: 2113
Sentence Date: 8/24/11

ARREST WARRANT

M-602733

STATE OF SOUTH CAROLINA

County/ Municipality of

York

THE STATE

201100025295

Richard James Coleman

against

Address:

Rock Hill, SC 29730

Phone:

SSN:

Sex: M Race: B Height: 5 11 Weight: 150

DL State: SC PI #:

DOB: Agency ORI #: SC00460000

Prosecuting Agency: York County Sheriff

Prosecuting Officer: L. Harrelson - H1721

Charge: Drugs / Distribute, sell, purchase, manuf. drug other than crack cocaine, or pwid, near school

Jense Code: 0107

Code/Ordinance Sec: 44-53-0445(B)(1)

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

to be arrested and brought before me to be

leall with according to the laws of the State of South Carolina (L.S.)

Date: 07-27-11

RETURN

A copy of this arrest warrant was delivered to defendant Richard James Coleman on 07-27-11

Signature of Controlling and Commanding Officer

RETURN WARRANT TO:

York County General Sessions
1675 York Hwy
York, SC 29745

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA
 County/ Municipality of
York

AFFIDAVIT

ORIGINAL

Form Approved by
B.G. Attorney General
SCCA 418

Personally appeared before me the affiant L. Harrelson

being duly sworn deposes and says that defendant Richard James Coleman

did within this county and state on or about 07/27/2011

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Distribute, sell, purchase, manuf. drug other than crack cocaine, or pwid, near school

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

The defendant did willfully and unlawfully violate South Carolina Drug Law 44-53-445 by being in possession of approximately 1528.52 grams of marijuana, with the intent to distribute while at South Carolina. This incident occurred within one-half mile of Confederate Park, Rock Hill, York County.

Police Investigation

Recovery of Evidence (1528.52 grams of Marijuana)

Signature of Affiant

STATE OF SOUTH CAROLINA
 County/ Municipality of
York

Affiant's Address
Moss Justice Center
York 29745-7428

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 7/27/2011 defendant Richard James Coleman

did violate the criminal laws of the State of South Carolina (or ordinance of) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Distribute, sell, purchase, manuf. drug other than crack cocaine, or pwid, near school

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable Sworn to and subscribed before me on 07/27/2011

Judge's Address
Moss Justice Center
York, SC 29745-7423

Judge's Telephone
(803)628-3020

Signature of Issuing Judge
Mandefife-Hose Young

Judge Code: 5078

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

WITNESSES

DEU / Harrelson

DOCKET NO. 2011-GS-46

03302

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

October 13, Term 2011

ARREST WARRANT NUMBER

M-602733

THE STATE

VS.

RICHARD JAMES COLEMAN

ACTION OF GRAND JURY
TRUE BILL

Henry H. Hines
Foreperson of Grand Jury 10/13/11

VERDICT

Indictment for

POSSESSION OF MARIJUANA WITH
INTENT TO DISTRIBUTE WITHIN
PROXIMITY OF A PUBLIC PARK OR
PLAYGROUND

SC Code: § 44-53-445

CDR Code: 0107

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

Defendant

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

Richard James Coleman
Defendant

Witness: *J.P. Dixon et al per.*
C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on October 13, 2011; the Grand Jurors of York County present upon their oath:

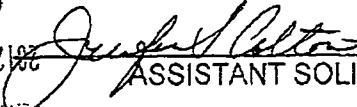
POSSESSION OF MARIJUANA WITH INTENT TO DISTRIBUTE WITHIN PROXIMITY OF A PUBLIC PARK OR PLAYGROUND

That on or about July 27, 2011, in York County, South Carolina, the Defendant, Richard James Coleman, did distribute, sell, purchase, manufacture, or unlawfully possess with intent to distribute marijuana, a controlled substance under provisions of Section 44-53-110, et seq., Code of Laws of South Carolina (1976), as amended, within a one-half mile radius of the grounds of the Confederate Park, a public park or playground, such conduct not having been authorized by law, all in violation of Section 44-53-445, Code of Laws of South Carolina (1976), as amended.

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

DAVID HAMILTON
CLERK OF COURT

2011 SEP 20 AM 9:22



ASSISTANT SOLICITOR

REPRODUCED TRUE COPY

COUNTY OF York
 STATE VS.
Richard James Coleman
 AKA:
 Race: BLACK Sex: M Age: 34
 DOB: SS#:
 Address:
 City, State, Zip: Rock Hill, SC 29730
 DL#: SID#:

INDICTMENT/CASE#: 2011GS4603302
 A/W#: M602733
 Date of Offense: 7/27/2011
 S.C. Code § : 44-53-0445(B)(1)
 CDR Code #: 0107

ORIGINAL

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Possession w/intent to distribue Marijuana w/in Proximity of a school/park

in violation of § 44-53-0445(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0107
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45
 w/minor 1st or Lewd Act)

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

ATTEST: Jennifer S. SC Bar# 68591 Defendant [Signature] Attorney for Defendant 74065 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 83 Days
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
 Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment
 Payment Terms: _____ Obtain GED
 Set by SCDPPPS _____ Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling
 Random Drug/Alcohol testing
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Recipient: _____

*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 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. 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/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$
3% to County (if paid in installments)	\$	\$
TOTAL		\$ 280

DAVID HAMILTON
 CLERK OF COURT
 YORK COUNTY, SC
 SEP 20 11 9:22 AM
 RECORDED TRUE COPY

Clerk of Court/ Deputy Clerk David Hamilton
 Court Reporter: Mike Watts
 SCCA 217 (03/2011)

Presiding Judge [Signature]
 Judge Code: 113
 Sentence Date: 8/24/12

ARREST WARRANT

M-602734

STATE OF SOUTH CAROLINA

York

THE STATE 20110002935

Richard James Coleman

Rock Hill, SC 29730

Sex M Race B Height 5 11 Weight 150

DL State: SC DL #

DOB: Agency ORI # SC0460000

Prosecuting Agency: York County Sheriff

Prosecuting Officer: L. Harrelson - H1721

Offense: Drugs / Trafficking in cocaine, 28 g or more, but less than 100 g - 2nd offense

Offense Code: 0388

Code/Ordinance Sec: 44-53-0370(e)(2)

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

is to be arrested and brought before me to be dealt with according to the law

RECEIVED PH 2:39

Date: 07/27/2011

A copy of this arrest warrant was delivered to defendant Richard James Coleman on 07-27-11

Signature of Constable/Enforcement Officer: [Signature]

RETURN WARRANT TO: York County General Sessions

1675 York Hwy York, SC 29745

ORIGINAL

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ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of York

York

Personally appeared before me the affiant L. Harrelson

being duly sworn deposes and says that defendant Richard James Coleman

did within this county and state on or about 07/27/2011

violate the criminal laws of the State of South Carolina (or ordinance of York County) in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in cocaine, 28 g or more, but less than 100 g - 2nd offense

further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

The defendant did willfully and unlawfully violate South Carolina Drug Laws 44-53-370 by trafficking in approximately 46.5 grams of cocaine, while at 504 North Confederate Ave Apt B. This incident occurred in Rock Hill, York County, South Carolina. Criminal records indicate the defendant has one prior cocaine conviction.

Police Investigation **Recovery of Evidence (46.5 Grams of Cocaine)**

Signature of Affiant: [Signature]

STATE OF SOUTH CAROLINA County/ Municipality of York

York

Affiant's Address: Moss Justice Center York 29745-7428

Affiant's Telephone:

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 7/27/2011 defendant Richard James Coleman

did violate the criminal laws of the State of South Carolina (or ordinance of York County) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in cocaine, 28 g or more, but less than 100 g - 2nd offense

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable. Sworn to and subscribed before me on 07/27/2011

Signature of Issuing Judge: [Signature] Judge's Address: Moss Justice Center York, SC 29745-7423

Signature of Judge: [Signature] Judge's Telephone: (803) 628-3020

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

DOCKET NO. 2011-GS-46-3803

WITNESSES
DEU \ Harelson

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

October 13, Term 2011

ab
ARREST WARRANT NUMBER
M-602734

THE STATE

vs.

RICHARD JAMES COLEMAN

ACTION OF GRAND JURY
TRUE BILL

Richard Coleman
Foreperson of Grand Jury 10/13/11

VERDICT

Indictment for

TRAFFICKING COCAINE

Foreperson of Petit Jury
Date:

SC Code: §44-53-370
CDR Code: 0388

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

Defendant

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

Richard Coleman
Defendant

Witness:
Richard Coleman
C.C.C. PLS AND GS.

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on October 13, 2011, the Grand Jurors of York County present upon their oath:

TRAFFICKING COCAINE

That on or about July 27, 2011, in York County, South Carolina, the Defendant, Richard James Coleman, did unlawfully and knowingly sell, manufacture, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of a quantity of cocaine, as defined and otherwise limited in Sections 44-53-110, 44-53-210(b)(4), 44-53-210 (d)(1), or 44-53-210(d)(2), in an amount being more than 28 grams, in violation of Section 44-53-370, Code of Laws of South Carolina, (1976, as amended).

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


ASSISTANT SOLICITOR

82 STATE OF SOUTH CAROLINA)
 COUNTY OF York)
 STATE VS.)
 Richard James Coleman)
 AKA:)
 Race: BLACK Sex: M Age: 34)
 DOB: SS#:)
 Address: B)
 City, State, Zip: Rock Hill, SC 29730)
 DL#: SID#:)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS4603303
 A/W#: M602734
 Date of Offense: 7/27/2011
 S.C. Code § : 44-53-0370(e)(2)(b)2
 CDR Code #: 0388

ORIGINAL

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Drugs / Trafficking in cocaine, 28 g or more, but less than 100 g - 2nd offense

in violation of § 44-53-0370(e)(2)(b)2 of the S.C. Code of Laws, bearing CDR Code # 0388
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45
 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] 68591 [Signature] 79065
 Clerk, Jennifer S. 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 _____ days/months/years and/or payment
 of \$ _____, plus costs and assessments as applicable*, the balance is suspended with probation for _____

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

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 83 Days
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____ days/hours Public Service Employment
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 Set by SCDPPPS _____

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 47.9 (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/ea	\$
Proviso 90.5 (SCGIA Surcharge)	\$5	\$ 5-
3% to County (if paid in installments)		\$
TOTAL		\$ 280-

Obtain GED
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling
 Random Drug/Alcohol testing
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____
 Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/ Deputy Clerk: David Hamilton
 Court Reporter: Mike Watts
 SCCA217.(03/2011)

Presiding Judge: [Signature]
 Judge Code: 243
 Sentence Date: 4/24/12

ARREST WARRANT

M-602735

STATE OF SOUTH CAROLINA

York

THE STATE 201100026295

Richard James Coleman

Roak Hill, SC 29730

Sex: M Race: B Height: 5 11 Weight: 150

Agency ORI #: SC0460000

Offense: Drugs / Distribute, sell, purchase, manuf. drug other than crack, cocaine, or p.wid., near school

Code/Ordinance Sec: 44-53-0445(B)(1)

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

is to be arrested and brought before me to be dealt with according to the law

RECEIVED AUG 11 PM 2:33

Date: 07-27-11

A copy of this arrest warrant was delivered to defendant Richard James Coleman on 07-27-11

Signature of Constable or Enforcement Officer: [Signature]

York County General Sessions 1675 York Hwy York, SC 29745

ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA

York

Personally appeared before me the affiant L. Harrelson

being duly sworn, deposes and says that defendant Richard James Coleman did, within this county and state on or about 07/27/2011

violate the criminal laws of the State of South Carolina (or ordinance of York County) in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Distribute, sell, purchase, manuf. drug other than crack cocaine, or p.wid., near school

I, further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

The defendant did willfully and unlawfully violate South Carolina Drug Laws 44-53-445 by being in possession of approximately 46.5 grams of cocaine, with the intent to distribute, Carolina This incident occurred within one-half mile of Confederate Park

Police Investigation **Recovery of Evidence (46.5 Grams of Cocaine)**

Signature of Affiant: [Signature]

Affiant's Address: Moss Justice Center York 29745-7428

STATE OF SOUTH CAROLINA

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 7/27/2011 defendant Richard James Coleman did violate the criminal laws of the State of South Carolina (or ordinance of York County) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Distribute, sell, purchase, manuf. drug other than crack cocaine, or p.wid., near school

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable Sworn to and subscribed before me on 07/27/2011

Signature of Issuing Judge: [Signature] Judge's Address: Moss Justice Center York, SC 29745-7423

Judge's Telephone: (803) 628-3020

ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL

WITNESSES

DEU \ Harrelson

DOCKET NO. 2011-GS-46-03304

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

October 13, Term 2011

ARREST WARRANT NUMBER

M-602735

THE STATE

vs.

RICHARD JAMES COLEMAN

ACTION OF GRAND JURY
TRUE BILL

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

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

Defendant

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

Defendant

Witness:
C.C.D. P.S. AND G.S.

Indictment for

POSSESSION WITH INTENT TO DISTRIBUTE
COCAINE WITHIN PROXIMITY OF A PUBLIC
PARK OR PLAYGROUND

SC Code: § 44-53-445
CDR Code: 0107

86 STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF York
STATE VS.

INDICTMENT/CASE#: 201 IGS4603304

Richard James Coleman

A/W#: M602735

AKA:

Date of Offense: 7/27/2011

Race: BLACK Sex: M Age: 34

S.C. Code §: 44-53-0445(B)(1)

DOB: SS#:

CDR Code #: 0107

Address:

City, State, Zip: Rock Hill, SC 29730

DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

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

TO: Drugs / Distribute, sell, purchase, manuf. drug other than crack cocaine, or pwid, near school - Cocaine

in violation of § 44-53-0445(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0107

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State

ATTEST: Colton, Jennifer S. SC Bar# 68591 Defendant

Attorney for Defendant SC Bar# 74065

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,

for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of

probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied

by the State Department of Corrections. 83 Days

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal

Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION; Deferred Def. Waives Hearing Ordered PTUP

Total \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

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 47.9 (Public Def/Prob) \$500 \$

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

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

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

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

Proviso 90.5 (SCCA Surcharge) \$5 \$ 5-

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

TOTAL \$ 280-

Clerk of Court/ Deputy Clerk David Hamilton

Court Reporter: Mike Watto

SCCA/217 (03/2011)

ORIGINAL

SENTENCE SHEET

Presiding Judge: Joe Ryan

Judge Code: 2113

Sentence Date: 4/24/12

ARREST WARRANT

M-602736

STATE OF SOUTH CAROLINA
County/ Municipality of

York

THE STATE

201100025296

Richard James Coleman

against:

Address: Rock Hill, SC 29730

Phone: Sex M Race B Height 5' 11" Weight 150

DL State: SC DL #: Agency OR # SC0460000

DOB: Prosecuting Agency: York County Sheriff

Offense: Drugs / Distribute, sell, purchase, manuf. crack

cocaine, or pwid, near school

Offense Code: 0108

Code/Ordinance Sec: 44-53-0443(B)(2)

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

to be arrested and brought before me to be dealt with according to the law

Date: 07-27-11

Signature of Judge

A copy of this arrest warrant was delivered to defendant: Richard James Coleman

Signature of Constable or Enforcement Officer

RETURN WARRANT TO: York County General Sessions

1675 York Hwy York, SC 29745

ORIGINAL

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STATE OF SOUTH CAROLINA
County/ Municipality of

York

Personally appeared before me the affiant L. Harrelson

being duly sworn, deposes and says that defendant Richard James Coleman

did within this county and state on or about 07/27/2011

violate the criminal laws of the State of South Carolina (or ordinance of York County) in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Distribute, sell, purchase, manuf. crack cocaine, or pwid, near school

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

The defendant did willfully and unlawfully violate South Carolina Drug Laws 44-53-445 by being in possession of approximately 109.2 grams of crack, with the intent to distribute, while at Carolina. This incident occurred within one-half mile of Confederate Park

Police Investigation
Recovery of Evidence (109.2 Grams of Crack)

Signature of Affiant

STATE OF SOUTH CAROLINA
County/ Municipality of

York

Affiant's Address: Moss Justice Center

York 29745-7428

Affiant's Telephone:

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY,

it appearing from the above affidavit that there are reasonable grounds to believe that

on or about 7/27/2011 defendant Richard James Coleman

did violate the criminal laws of the State of South Carolina (or ordinance of York County) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Distribute, sell, purchase, manuf. crack cocaine, or pwid, near school

Having found probable cause and the above affiant having sworn before me you are empowered and directed to arrest the said defendant and bring him or her before me for trial with to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable. Sworn to and subscribed before me

on 07/27/2011

Judge's Address: Moss Justice Center

York, SC 29745-7423

Judge's Telephone: (803) 628-3020

Issuing Court: Magistrate

ORIGINAL

ORIGINAL

ORIGINAL

WITNESSES

DEU \ Harrelson

DOCKET NO. 2011-GS-46-

03305

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

October 13, Term 2011

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

Defendant

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

ARREST WARRANT NUMBER

M-602736

THE STATE

VS.

RICHARD JAMES COLEMAN

TRUE BILL

ACTION OF GRAND JURY

Foreperson of Grand Jury

[Signature]
10/13/11

VERDICT

Indictment for

POSSESSION OF CRACK COCAINE WITH
INTENT TO DISTRIBUTE WITHIN
PROXIMITY OF A PUBLIC PARK OR
PLAYGROUND

SC Code: § 44-53-445

CDR Code: 0108

Foreperson of Petit Jury
Date:

Defendant

[Signature]

Witness
G.F. Dixon et al.
C.C. P. SANDS

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on October 13, 2011, the Grand Jurors of York County present upon their oath:

POSSESSION OF CRACK COCAINE WITH INTENT TO DISTRIBUTE WITHIN PROXIMITY OF A PUBLIC PARK OR PLAYGROUND

That on or about July 27, 2011, in York County, South Carolina, the Defendant, Richard James Coleman, did unlawfully possess with intent to distribute crack cocaine, a controlled substance under provisions of Section 44-53-110, et seq., Code of Laws of South Carolina (1976), as amended, within a one-half mile radius of the grounds of Confederate Park, a public park or playground, such possession not having been authorized by law, all in violation of Section 44-53-445, Code of Laws of South Carolina (1976), as amended.

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


ASSISTANT SOLICITOR

90 STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF York
STATE VS

INDICTMENT/CASE#: 2011GS4603305

Richard James Coleman

A/W#: M602736

AKA:

Date of Offense: 7/27/2011

Race: BLACK Sex: M Age: 34

S.C. Code §: 44-53-0445(B)(2)

DOB: SS#:

CDR Code #: 0108

Address:

City, State, Zip: Rock Hill, SC 29730

DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Drugs / Distribute, sell, purchase, manuf. crack cocaine, or pwid, near school

in violation of § 44-53-0445 of the S.C. Code of Laws, bearing CDR Code # ~~0108~~ 0107

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Jennifer S. Colton, Jennifer S. 68591 Defendant Attorney for Defendant 74065 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 83 days
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP days/hours Public Service Employment
Total: \$ plus 20% fee: \$
Payment Terms:
 Set by SCDPPPS

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 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. 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/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5 -
3% to County (if paid in installments)		\$
TOTAL		\$280 -

Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender Fund
Other:

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: David Hamilton
Court Reporter: Mike Watto
SCCA/217 (03/2011)

Presiding Judge: [Signature]
Judge Code: 2113
Sentence Date: 4/14/11

ORIGINAL