

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Appeal from Charleston County

S.C. Supreme Court

R. Markley Dennis, Jr., Circuit Court Judge

SHAUN DAVID CAPLINGER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2012-209529

APPENDIX

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) COURT OF GENERAL SESSIONS
10-GS-10-6773

SHAUN DAVID CAPLINGER
PLAINTIFF
vs.

TRANSCRIPT OF RECORD

THE STATE OF SOUTH CAROLINA
DEFENDANT

November 18, 2011
CHARLESTON, SC

B E F O R E:

THE HONORABLE J. C. NICHOLSON, JR., JUDGE

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

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For

VIVAN CROSS
Official Court Reporter

INDEX OF WITNESSES

RICHARD ALLEN

TRYONE D. MILLER

RICHARD D. CAPLINGER

TYRONE L. MILLER

1 MS. HARRELL: Your Honor, are you ready for me to
2 call them?

3 THE COURT: Yes, go ahead.

4 MS. HARRELL: Richard Allen, Jerry Bradley, Shaun
5 Caplinger, Ladontes Miller.

6 (Whereupon a conference took place off the record.)

7 MR. MCKENNEY: All right. Well, Judge this is Mr.
8 Caplinger, his attorney is in PCR and he will be here
9 shortly, but we just wanted to have him out here until his
10 attorney shows up.

11 THE COURT: Okay. Which one is Mr. Caplinger?

12 MR. CAPLINGER: I am, sir.

13 THE COURT: Okay. Is he coming shortly?

14 MR. MCKENNEY: Okay. We are going to call down and
15 see. He is in PCRs. But, I told him that we were just
16 going to do just one group. If he doesn't get up here,
17 then we'll send him back.

18 THE COURT: Okay. All right. What courtroom is he
19 in?

20 MR. MCKENNEY: PCRs are where? In 3A.

21 THE COURT: Is he actually testifying or just
22 waiting on...

23 MR. MCKENNEY: I can't answer that, Judge.

24 THE COURT: Okay.

25 MR. MCKENNEY: He was up here five minutes ago and

1 I told him what the situation was, and he said that he was
2 going back down there.

3 THE COURT: Okay. All right.

4 MR. MCKENNEY: I said well, he is going back down
5 there. I said, we'll try to get you in, and we will just
6 have to see how it rolls.

7 THE COURT: Okay. All right. All right, Mr.
8 Allen, raise your right hand?

9 RICHARD ALLEN, after being duly sworn, testified
10 as follows:

11 THE COURT: All right, Mr. Miller, raise your right
12 hand?

13 TRYONE D. MILLER, after being duly sworn,
14 testified as follows:

15 THE COURT: All right. Who is this? What's your
16 name?

17 MR. BRADLEY: Jerry Bradley, sir.

18 THE COURT: Sir?

19 MR. BRADLEY: Bradley.

20 THE COURT: Bradley, okay. Have you had an
21 opportunity to talk to them?

22 MR. SMITH: I did, Judge.

23 THE COURT: I mean, if you want some more time,
24 take some time to talk to him. I'll do it. If you want
25 to go talk to him, we can do it in a few minutes.

1 MR. SMITH: If I could have another minute with
2 him?

3 THE COURT: Yeah, go -- let him go talk to Mr.
4 Bradley for a few minutes. They got to work out a couple
5 of things, if you would, please.

6 MR. SMITH: And, I represent Mr. Allen, so I am
7 happy to stay here and do that one or...

8 THE COURT: All right. Well, let's do these two
9 real quick and then you can go talk to him and see what he
10 wants to do, okay.

11 MR. SMITH: Okay. Thank you, Judge.

12 THE COURT: All right. Mr. Allen, how old are you?

13 MR. ALLEN: Fifty-four.

14 THE COURT: And, what's your date of birth?

15 MR. ALLEN: August 30, 1956.

16 THE COURT: Social security number?

17 MR. ALLEN: 249-03---

18 THE COURT: So, Burglary second, what's the maximum
19 there, solicitor?

20 MR. VOIGT: This is under new law, I believe it's
21 on ten years, Your Honor.

22 THE COURT: I understand you can receive up to ten
23 years? You understand that, Mr. Allen?

24 MR. ALLEN: Yes, sir.

25 THE COURT: How far did you go in school, Mr.

1 Allen?

2 MR. ALLEN: Tenth grade.

3 THE COURT: Have you worked anywhere?

4 MR. ALLEN: I worked all the time.

5 THE COURT: Where did you work?

6 MR. ALLEN: I was working when I got arrested. I
7 was with Staff Zone on the Naval Weapon Station,
8 landscaping.

9 THE COURT: Okay. Are you married?

10 MR. ALLEN: No, sir.

11 THE COURT: Ever been married?

12 MR. ALLEN: No, sir.

13 THE COURT: Have any children?

14 MR. ALLEN: No, sir.

15 THE COURT: All right, Mr. Miller---

16 MR. FINCH: Mr. Davis is here, Judge.

17 THE COURT: Oh, he is?

18 MR. DAVIS: Yes, Your Honor.

19 THE COURT: All right. Mr. Caplinger.

20 MR. CAPLINGER: Yes, Your Honor.

21 THE COURT: Raise your right hand?

22 RICHARD D. CAPLINGER, after being duly sworn,
23 testified as follows:

24 THE COURT: How old are you, Mr. Caplinger?

25 MR. CAPLINGER: Twenty-eight.

1 THE COURT: Twenty?

2 MR. CAPLINGER: Twenty-eight.

3 THE COURT: What's your date of birth?

4 MR. CAPLINGER: 5-17-82.

5 THE COURT: Social security number?

6 MR. CAPLINGER: 054-74-

7 THE COURT: Where were you born?

8 MR. CAPLINGER: California.

9 THE COURT: California?

10 MR. CAPLINGER: Correct.

11 THE COURT: And, Assault and Battery of a High and
12 Aggravated Nature, you understand that you can get up to
13 ten years?

14 MR. CAPLINGER: Yes, sir.

15 THE COURT: Have any questions about it?

16 MR. CAPLINGER: No, Your Honor.

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

18 MR. CAPLINGER: I have a GED and one semester of
19 college.

20 THE COURT: Have you ever worked anywhere?

21 MR. CAPLINGER: Yes, I have been working with a
22 West company for the last ten years here in South
23 Carolina.

24 THE COURT: Okay, are you married?

25 MR. CAPLINGER: No, Your Honor.

1 THE COURT: Ever been married?

2 MR. CAPLINGER: No.

3 THE COURT: Have any children?

4 MR. CAPLINGER: No, Your Honor.

5 THE COURT: Let me see, Criminal Sexual Conduct the
6 Second, what's the max on that?

7 MR. FINCH: Twenty years, Your Honor.

8 THE COURT: You understand that you can receive up
9 to twenty years on the Criminal Sexual Conduct Second
10 Degree?

11 MR. CAPLINGER: Yes, Your Honor.

12 THE COURT: Okay. How long have you been in jail,
13 Mr. Caplinger?

14 MR. DAVIS: Judge, today is one hundred and
15 seventy-five days.

16 THE COURT: Okay. Mr. Allen, how long you been in
17 jail?

18 MR. ALLEN: Saturday will be three months or ninety
19 days. About eighty-eight days.

20 THE COURT: Eighty-eight days?

21 MR. ALLEN: Eighty-eight days.

22 THE COURT: Okay. Mr. Miller, raise your right
23 hand?

24 TYRONE L. MILLER, after being duly sworn,
25 testified as follows:

1 THE COURT: Speak up so we can hear you, okay.

2 MR. MILLER: Yes, sir.

3 THE COURT: How old are you, Mr. Miller?

4 MR. MILLER: Twenty-eight.

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

6 MR. MILLER: Eleventh grade.

7 THE COURT: Have you ever worked anywhere?

8 MR. MILLER: Yes, sir.

9 THE COURT: Where? Move over by the microphone.

10 MR. MILLER: Labor Ready Temp Services.

11 THE COURT: Okay. Are you married?

12 MR. MILLER: No, sir.

13 THE COURT: Have any children?

14 MR. MILLER: No, sir.

15 THE COURT: You understand Forgery less than five,
16 what's the max on that, Solicitor?

17 MR. FINCH: Oh, I am sorry, Your Honor, the maximum
18 is five years.

19 THE COURT: You understand you can receive up to
20 five years on Forgery?

21 MR. MILLER: Yes, sir.

22 THE COURT: Have any questions about the charges
23 and the maximum time you can receive?

24 MR. MILLER: No, sir.

25 MS. FRAYER: Your Honor, he did forty-seven days in

1 jail before he bonded out..

2 THE COURT: Okay. Thank you very much. I am going
3 to ask all three of you a series of questions and ask you
4 to respond if it applies to you by raising your right
5 hand. Can you do that, Mr. Allen?

6 MR. ALLEN: Yes.

7 THE COURT: Can you do that, Mr. Caplinger?

8 MR. CAPLINGER: Yes.

9 THE COURT: Can you do that, Mr. Miller?

10 MR. MILLER: Yes.

11 THE COURT: Have you had any drugs or alcohol
12 within the last twenty-four hours? If you have, raise
13 your right hand.

14 (Whereupon, none of the Defendants responded.)

15 THE COURT: Taking any prescription medication,
16 raise your right hand?

17 (Whereupon, none of the Defendants responded.)

18 THE COURT: Have you ever been diagnosed with
19 emotion or medical or mental condition by a doctor, raise
20 your right hand?

21 (Whereupon, none of the Defendants responded.)

22 THE COURT: If you are not satisfied with the
23 services of your attorney, raise your right hand?

24 (Whereupon, none of the Defendants responded.)

25 THE COURT: If there is anything else your attorney

1 should do for you in your opinion, raise your right hand?

2 (Whereupon, none of the Defendants responded.)

3 THE COURT: If you are not completely satisfied
4 with your attorney, raise your right hand?

5 (Whereupon, none of the Defendants responded.)

6 THE COURT: You understand under the Fifth
7 Amendment of the constitution you have the right to remain
8 silent and no one can make you testify against yourself.
9 If you do not understand that, raise your right hand?

10 (Whereupon, none of the Defendants responded.)

11 THE COURT: If you're not willing to give up your
12 Fifth Amendments rights to remain silent and enter a
13 guilty plea, raise your right hand?

14 (Whereupon, none of the Defendants responded.)

15 THE COURT: All right, I believe one is an Alford
16 plea, isn't it?

17 MR. SMITH: One moment again, Your Honor. Your
18 Honor, I believe I put an Alford plea on both, and I
19 apologize. On the ABHAN, he would plead guilty to that,
20 which is the reduced charges of CSC Second we would prefer
21 to go under Alford. Thank you, Your Honor.

22 THE COURT: Okay. All right. Mr. Caplinger,
23 you're going to enter a guilty plea as to Assault and
24 Battery of a High and Aggravated Nature, is that correct?

25 MR. CAPLINGER: Yes, Your Honor.

1 THE COURT: You are going to enter an Alford plea
2 as to CSC Second, is that correct?

3 MR. CAPLINGER: Yes, Your Honor.

4 THE COURT: You understand the difference between
5 an Alford plea and a guilty plea?

6 MR. CAPLINGER: Yes, sir.

7 THE COURT: Has your attorney explained it to you?

8 MR. CAPLINGER: Yes, Your Honor.

9 THE COURT: As far as the Alford plea on the CSC,
10 who is the Solicitor on the case?

11 MR. FINCH: I am, Your Honor, Timmy Finch.

12 THE COURT: All right. Is the State in agreement
13 with the Alford plea?

14 MR. FINCH: No objection from the State.

15 THE COURT: Okay. All right, thank you very much.

16 All right, you understand you're entitled to a jury trial?

17 If you do not understand that, raise your right hand?

18 (Whereupon, none of the Defendants responded.)

19 THE COURT: If you want a jury trial, raise your
20 right hand?

21 (Whereupon, none of the Defendants responded.)

22 THE COURT: All right, Mr. Caplinger, do you
23 understand that a jury trial, the State would be required
24 to prove you guilty beyond a reasonable doubt, do you
25 understand?

1 MR. CAPLINGER: Yes, sir.

2 THE COURT: All twelve jurors would have to find
3 you guilty, do you understand?

4 MR. CAPLINGER: Yes, Your Honor.

5 THE COURT: Your attorney could challenge any
6 statements or evidence that the State may offer at trial,
7 do you understand?

8 MR. CAPLINGER: Yes, Your Honor.

9 THE COURT: You can call witnesses on your behalf.
10 Your attorney could cross examine witnesses, do you
11 understand?

12 MR. CAPLINGER: Yes, Your Honor.

13 THE COURT: All right. Knowing that about a jury
14 trial, do you want a jury trial?

15 MR. CAPLINGER: No, Your Honor.

16 THE COURT: All right. Mr. Caplinger, do you
17 understand that the CSC Second is a serious offense?

18 MR. CAPLINGER: Yes, Your Honor.

19 THE COURT: You understand that if you get two more
20 serious offenses, you could go to jail for life or death
21 row? Does he have anything else serious or more serious?

22 MR. SMITH: He does not, Your Honor.

23 THE COURT: Basically this is commonly referred to
24 as your first strike, do you understand?

25 MR. CAPLINGER: Yes, Your Honor.

1 THE COURT: Do you have any questions about it?

2 MR. CAPLINGER: No, Your Honor.

3 THE COURT: You also understand that the CSC Second
4 is a non parolable offense. You will have to serve at
5 least 85 percent, do you understand?

6 MR. CAPLINGER: Yes, Your Honor.

7 THE COURT: Do you have any questions about that?

8 MR. CAPLINGER: No, Your Honor.

9 THE COURT: All right, do you understand that you
10 have the right to appeal a guilty plea? If you do not
11 understand that, raise your right hand?

12 (Whereupon, none of the Defendants responded.)

13 THE COURT: Mr. Allen, do you waive your Fifth
14 Amendment right and enter your guilty plea today?

15 MR. ALLEN: Yes, sir.

16 THE COURT: Mr. Miller, do you waive your Fifth
17 Amendment right to remain silent and enter your plea
18 today?

19 MR. MILLER: Yes, Your Honor.

20 THE COURT: If anybody has threatened you, coerced
21 your, or intimidated you to make you plead guilty, please
22 your right hand?

23 (Whereupon, none of the Defendants responded.)

24 THE COURT: Has any promises been made to you other
25 than reduction of sentence or a recommendation by the

1 State, raise your right hand?

2 (Whereupon, none of the Defendants responded.)

3 THE COURT: If you have not had enough time to make
4 your decision to plead guilty, raise your right hand?

5 (Whereupon, none of the Defendants responded.)

6 THE COURT: If you're not pleaded guilty on your
7 own free will and accord, raise your right hand?

8 (Whereupon, none of the Defendants responded.)

9 THE COURT: If you've not understood my questions,
10 raise your right hand?

11 (Whereupon, none of the Defendants responded.)

12 THE COURT: If you have not answered the questions
13 truthfully and correctly, raise your right hand?

14 (Whereupon, none of the Defendants responded.)

15 THE COURT: If you have any questions that you want
16 to ask the Court or your attorney, raise your right hand?

17 (Whereupon, none of the Defendants responded.)

18 THE COURT: Let the record reflect that during the
19 series of questions no one has raised their right hand to
20 the questions that the Judge or the Court gave to the

21 individuals or the Defendants as a group. All right, Mr.
22 Allen, how do you wish to plead?

23 MR. ALLEN: Guilty.

24 THE COURT: Are you guilty?

25 MR. ALLEN: Yes, sir.

1 THE COURT: All right. I am going to ask the
2 Solicitor to give me the facts. I want you to listen,
3 okay.

4 MR. VOIGT: May it please the Court.

5 THE COURT: Before we get to that, Mr. Smith, have
6 you explained to Mr. Allen his constitutional rights?

7 MR. SMITH: I have, Your Honor.

8 THE COURT: And, have you explained to him the
9 crime and the elements of the crime?

10 MR. SMITH: I have, Your Honor.

11 THE COURT: Does he appear to understand it?

12 MR. SMITH: He did, Your Honor.

13 THE COURT: And, from your investigation and
14 talking to your client, do you agree with his decision to
15 plead guilty?

16 MR. SMITH: I do, Your Honor.

17 THE COURT: All right. Mr. Allen, listen to the
18 Solicitor, please, sir.

19 MR. VOIGT: I also note for the record, Your Honor,
20 that this is a waiver. On August 21, 2010, at
21 approximately 2:18 in the morning, an unknown person
22 entered the McDonalds at 2770 Rivers Avenue. This was
23 observed by the manager the next morning on videotape.
24 The police were called. They were later called back to
25 the McDonalds when the same person wearing the same

1 clothing entered. The videotape was again reviewed and it
2 was determined that this -- that the person who had
3 entered and had stolen the Ronald McDonald House cash
4 boxes from the front of the registered was, in fact,
5 Richard Allen.

6 Richard Allen led them back to his hotel room. The
7 cash was not found. He admitted to being the person who
8 had entered the McDonalds. His previous record is in 2003
9 he plead guilty to three counts of Burglary Second. In
10 2002, he plead guilty to use of vehicle without
11 permission. In 2001, malicious injury to personal
12 property. And in 2000, the lesser included of damaging a
13 vehicle.

14 In 1999, he plead guilty to attempted Burglary and
15 Assault on a police officer while resisting. In 1990, he
16 plead guilty to two counts of Burglary Second and a Grand
17 Larceny. In 1985, he plead guilty to Burglary Second. In
18 1980, he plead guilty to two counts of house breaking.
19 And in 1976, he plead guilty to house breaking as well.
20 There is no recommendation from the State.

21 THE COURT: Okay. Thank you very much. All right,
22 Mr. Allen, are those facts correct?

23 MR. ALLEN: Yes, sir.

24 THE COURT: Any of those facts you disagree with?

25 MR. ALLEN: No, sir.

1 THE COURT: All right. I find as a factual basis
2 for the plea. That he has freely and voluntarily entered
3 the plea with the advice of his attorney. I'll be glad to
4 hear from you.

5 MR. SMITH: Thank you, Judge. As Mr. Allen told
6 you, he is fifty-four years old. He did go through about
7 ten grade, but later tried to get his GED. Took that test
8 a couple of times, but he was really not able to pass it,
9 but he did make that attempt several times.

10 He has been a life long resident here in Charleston
11 County. He has got a brother who cares a lot about him.
12 His brother is older and has beginning stages of
13 Alzheimer's and could not come to Court, but is still very
14 concerned about Mr. Allen, about his brother and would
15 provide for him a place temporary and some help
16 temporarily once he gets out of jail.

17 As he told you, he has worked for Staff Zone for a
18 good length of time. He does hard work there. He does
19 landscaping work. And they last had him over on the Navy
20 -- the old Navy Shipyard and he was working daily eight to
21 ten hours a day.

22 When I talked to Mr. Allen about what brought him
23 to where he was, he talks about an addiction that he has
24 had to crack cocaine. He has battled that addiction for a
25 long, long time. He really is someone, I think, that

1 could benefit in a lot of ways from some type of intensive
2 inpatient treatment. Because he doesn't have insurance
3 and because we couldn't get him in a situation to be
4 bonded out prior to this, we weren't able to take those
5 steps to get him into that type of treatment.

6 Of his own accord while he has been in jail, Your
7 Honor, he did check into the treatment program at
8 Charleston Center here in town. He is willing to do that.
9 He wants to do that. Charleston Center has two particular
10 programs. They have a short kind of intensive inpatient
11 treatment that is followed up by six to eight weeks of
12 outpatient treatment and that's something that Mr. Allen
13 would like the opportunity to do because he is going into
14 it with no insurance. He has got to pay for it out of his
15 pocket. He is going to have to work doubly hard in order
16 to try to do that.

17 Judge, what I would tell you that particular
18 evening what he said to me and what I think is true about
19 that situation is, he went in there, he took that money,
20 he ultimately does take the cops back to the motel room
21 where he was staying at the time. He wasn't using that
22 money at the time for drugs. He wasn't using the money
23 for anything but a little bit of food he bought. And by
24 the time they see him the next day, that money is gone.
25 He got food, and he actually went back in McDonalds and

1 purchased something that very next day which is how they
2 catch up to him.

3 I think this case is being kind of a sad case
4 because I think these records are very indicative of
5 somebody who has battled addiction for a long, long time.
6 I would ask you to consider the 90 days that he has been
7 in jail. Consider ordering some type of inpatient
8 treatment when he gets out.

9 THE COURT: Has he ever been -- Mr. Allen, have you
10 ever been in jail before?

11 MR. ALLEN: Yes, sir.

12 THE COURT: Where and when?

13 MR. ALLEN: You're talking about what? Jail?

14 THE COURT: Yeah. In prison?

15 MR. ALLEN: I been to Lieber and---

16 THE COURT: How long did you stay at Lieber?

17 MR. ALLEN: The last time I was down there was
18 about five years.

19 THE COURT: About five years?

20 MR. ALLEN: Yes, sir.

21 THE COURT: Where else have you been?

22 MR. ALLEN: In CCI years ago, you know.

23 THE COURT: Well, I mean CCI is gone.

24 MR. ALLEN: Yeah, that's gone. Then, I went to
25 Lieber---

1 THE COURT: They got condominiums there now.

2 MR. ALLEN: It was not no condominium.

3 THE COURT: Uh?

4 MR. ALLEN: It was not no condominium.

5 THE COURT: Well, they tore it down. They got
6 condominiums where it used to be.

7 MR. ALLEN: Yeah, yeah, I seen that when I was
8 working in Columbia.

9 THE COURT: Okay.

10 MR. ALLEN: When I travel up that way.

11 THE COURT: A lot of these people in here probably
12 don't even know where CCI was or are even familiar with
13 it. So, you been in and out of jail basically all of your
14 life, huh?

15 MR. ALLEN: Yeah, mostly, you know. I'm not a
16 violent person. You know, I have had problems with drugs
17 and alcohol, you know, but I mean, I been on and off of
18 it. See, I'm the type of person that sometimes I don't
19 mess with drugs for three years and then things happen and
20 that's why I would to be able to get some, if I could,
21 some probation to go and get into the Charleston Center on
22 my own and just work and pay for it and try to get some
23 help.

24 Going back to prison, sir, it's just -- prison is a
25 tragedy and something that's going on up there now. It's

1 overcrowded. It's no help. I mean, I want to help
2 myself.

3 *THE COURT:* I tend to agree with you, but I don't
4 have a whole lot of choices. I wish there was a place I
5 could order you to go for you to get treatment. Lock you
6 down at night and get you a job during the day. It's more
7 like a restitution center, but I don't have it. I don't
8 have any choices. All I got is probation and jail. Well,
9 until they get somebody that wises up and starts
10 correcting the situation and I don't know if it will ever
11 happen.

12 I mean, with your criminal history whether it's
13 drug related or you're just thief, I don't know. You
14 know, you maybe okay when you're claiming you sober. Most
15 folks I see are. But, you've got a pretty good history of
16 stealing and breaking and that type of activity. What's
17 the minimum for ATU?

18 *PROBATION AGENT:* I think at least eighteen (18)
19 months.

20 *THE COURT:* Eighteen months?

21 *PROBATION AGENT:* Yes, sir.

22 *THE COURT:* Okay. All right, Mr. Allen, indictment
23 number 8688 State Department of Corrections ten years,
24 suspended to twenty-one months, probation for three years.
25 I will give you credit for eighty-eight days total

1 probation while you are in jail and I am going to order
2 ATU while you're in incarcerated. I am going to also
3 condition of probation, substance abuse counseling, random
4 and alcohol drug testing. Now, I've put on the form
5 impatient substance abuse counseling when you get out of
6 jail. I don't know if the Department of Corrections will
7 do the ATU, but it depends on how many beds they delegate
8 to the ATU. Sometimes they do it and sometimes they
9 don't.

10 Some have always taken the position that it's a
11 recommendation by the Court, but I always put on my orders
12 that it's ordered. I have never had anybody bring
13 Department of Corrections in on that issue, but maybe
14 someday somebody will and we can straighten that mess out.
15 Thank you very much. All right, Mr. Caplinger?

16 MR. CAPLINGER: Yes, Your Honor.

17 THE COURT: How do you wish to plead on the Assault
18 and Battery of High and Aggravated nature?

19 MR. CAPLINGER: Guilty, Your Honor.

20 THE COURT: Are you guilty?

21 MR. CAPLINGER: Yes, Your Honor.

22 THE COURT: All right. On the Alford plea, it's
23 reduced from the first to the second, is that correct?

24 MR. CAPLINGER: Correct, Your Honor.

25 THE COURT: The way I understand an Alford plea

1 three things basically has to happen. Number one, the
2 State has to agree to it, which the State has. Number
3 two, you would have to receive some type of benefit or
4 result of the Alford plea and I got to assume that the
5 benefit would be reduced to CSC first or CSC second, is
6 that correct?

7 MR. CAPLINGER: Yes, Your Honor.

8 THE COURT: Do you agree with that?

9 MR. CAPLINGER: Yes, Your Honor.

10 THE COURT: The third requirement under Alford in
11 my opinion is, after I listen to the facts in the case,
12 I'm going to have to ask you in your opinion do you think
13 the jury would find you guilty based on those facts that
14 the Solicitor gives to the Court, do you understand?

15 MR. CAPLINGER: Yes, Your Honor.

16 THE COURT: Have any questions about the Alford
17 Plea on the CSC Second?

18 MR. CAPLINGER: No, sir.

19 THE COURT: All right, Mr. Davis, have you
20 explained to Mr. Caplinger his constitutional rights?

21 MR. DAVIS: I have, Your Honor.

22 THE COURT: Have you explained to him the
23 punishment?

24 MR. DAVIS: I have, Your Honor.

25 THE COURT: Have you explained to him a jury trial?

1 MR. DAVIS: I have, Your Honor.

2 THE COURT: Has he understood the conversations you
3 have had with him?

4 MR. DAVIS: I believe he has, Your Honor.

5 THE COURT: Have you had any difficulty
6 communicating with him?

7 MR. DAVIS: No, sir.

8 THE COURT: Have you had any indication that he
9 would need a mental evaluation for competency hearing?

10 MR. DAVIS: No, sir.

11 THE COURT: Okay... Do you agree with his decision
12 to plead guilty and enter the Alford plea?

13 MR. DAVIS: I understand why he is doing it. This
14 would be a good trial, Judge. But, we certainly get no
15 reductions, the charges dismissed, I will address that at
16 the appropriate time. I have no reason to try to talk him
17 out of this.

18 THE COURT: Okay. All right. Mr. Caplinger, do
19 you have a prior criminal record?

20 MR. CAPLINGER: Yes, I do.

21 THE COURT: What's your criminal history?

22 MR. CAPLINGER: Conviction is two DUIs.

23 THE REPORTER: I didn't understand, Your Honor.

24 MR. CAPLINGER: Oh, two DUIs.

25 THE COURT: Two DUIs?

1 MR. CAPLINGER: Yes, sir.

2 THE COURT: And, that's it?

3 MR. CAPLINGER: Yes. Unless it's operation of the
4 vehicle, that came with the second DUI.

5 THE COURT: Okay.

6 MR. CAPLINGER: Both are over ten years---

7 THE COURT: Okay. Are you aware of any physical,
8 emotional, or nervous problem that may keep you from
9 understanding what you're doing today?

10 MR. CAPLINGER: Not that I am aware of.

11 THE COURT: And, I asked you these questions
12 earlier concerning your attorney, but I am going to ask
13 you again individually. Are you completely satisfied in
14 the manner in which your attorney has advised you and
15 represented you?

16 MR. CAPLINGER: Yes, Your Honor.

17 THE COURT: Have you talked with your attorney as
18 often for as long as you feel necessary?

19 MR. CAPLINGER: Come again?

20 THE COURT: Have you talked to your attorney as
21 often and for as long as you feel is necessary?

22 MR. CAPLINGER: Yes, sir.

23 THE COURT: Do you need more time to talk to your
24 attorney?

25 MR. CAPLINGER: No, Your Honor.

1 THE COURT: You understood the talks that you have
2 had with your attorney?

3 MR. CAPLINGER: Yes, Your Honor.

4 THE COURT: Is there anything else that you feel
5 like your attorney should have done?

6 MR. CAPLINGER: No, Your Honor.

7 THE COURT: Is there anything that you feel that
8 your attorney should not have done?

9 MR. CAPLINGER: No, Your Honor.

10 THE COURT: Are you completely satisfied with your
11 lawyer's services?

12 MR. CAPLINGER: Yes, Your Honor.

13 THE COURT: Have you understood all of my
14 questions?

15 MR. CAPLINGER: Yes, Your Honor.

16 THE COURT: Do you understand the constitutional
17 rights that your attorney explained to you?

18 MR. CAPLINGER: Yes, Your Honor.

19 THE COURT: Do you understand the Fifth Amendment
20 rights that I questioned you about?

21 MR. CAPLINGER: Yes, Your Honor.

22 THE COURT: Do you also understand the right to a
23 jury trial?

24 MR. CAPLINGER: Yes, Your Honor.

25 THE COURT: Do you also understand that you have a

1 right which is referred to as presumption of innocence?

2 MR. CAPLINGER: Yes, Your Honor.

3 THE COURT: The law presumes you're innocent until
4 a jury finds you guilty and that presumption will remain
5 with you throughout the trial until the State has proven
6 you guilty without a reasonable doubt and all twelve
7 jurors have voted to find you guilty, do you understand
8 that?

9 MR. CAPLINGER: Yes, Your Honor.

10 THE COURT: All right, Mr. Caplinger, first I am
11 going to ask the Solicitor to give me the facts on the
12 Assault and Battery of a High and Aggravated Nature and I
13 want you to listen. After he has done that, I am going to
14 ask you to agree with the facts or disagree, do you
15 understand?

16 MR. CAPLINGER: Yes, Your Honor.

17 THE COURT: All right, Solicitor?

18 MR. FINCH: Thank you, Your Honor, may it please
19 the Court. This matter occurred on May 22, 2010, starting
20 at about 8:30 p.m. The Defendant came over to the
21 victim's house a residence at Longwood Drive in North
22 Charleston to talk about their former relationship. The
23 victim was in the home with their twenty month old son.
24 The victim and the Defendant -- told the Defendant that
25 she could not talk to him yet because she had to put her

1 son to bed and she could talk after that.

2 Apparently, this infuriated the Defendant. The
3 Defendant then took the child from the victim, put a couch
4 in front of the door to prevent the victim and her son
5 from leaving. The victim then tried to break a window to
6 escape. The Defendant threw her down with the child still
7 in his arms. The Defendant returned the child to the
8 victim and continue to berate her and threaten her. The
9 victim was trying to put her child to bed and the
10 Defendant threw her around the house and banged her head
11 into the wall in the child's room leaving a concave
12 impression in the drywall.

13 After the child was in bed, the Defendant took the
14 victim's cellphone and keys and continued to physically
15 assault her by throwing her into door frames, walls,
16 kitchen counters, et cetera. At one point, she sat to
17 rest while the Defendant pause in the assault. He then
18 grabbed her by the feet and flung her to the floor. The
19 Defendant grabbed her by the throat and strangling her and
20 causing bruising.

21 With regards to the ABHAN, after the police were
22 called, the Detective did notice holes in the walls, blood
23 splatters on the ground, in the home, and multiple
24 bruising on the victim.

25 THE COURT: All right, what's the relationship

1 between the Defendant and the victim?

2 MR. FINCH: They apparently had a former boyfriend
3 and girlfriend relationship. The child---

4 THE COURT: Former?

5 MR. FINCH: Former. They had broken up, I believe,
6 recently.

7 THE COURT: All right. Mr. Caplinger, are those
8 facts correct?

9 MR. CAPLINGER: Yes, Your Honor.

10 THE COURT: Pardon?

11 MR. CAPLINGER: Yes, Your Honor.

12 THE COURT: Okay. Thank you very much. I find as
13 a factual basis for the plea on the Assault and Battery of
14 a High and Aggravated Nature, it was freely, and
15 voluntary, knowingly, intelligently made decision to plead
16 guilty with the advice of his attorney all other charges
17 have been met. Now--

18 MR. DAVIS: Your Honor, forgive me. I apologize.
19 I am sorry to interrupt. But, he was shaking his head,
20 no, as he answered, yes. I asked him about that. I am
21 not sure. I appreciate if the Court would inquire again
22 about those facts?

23 THE COURT: All right, do you agree with those
24 facts? All the facts?

25 MR. CAPLINGER: Not all of them.

1 THE COURT: All right. What facts do you
2 specifically disagree with?

3 MR. CAPLINGER: Some of the throwing her around in
4 the---

5 THE COURT: Now, be specific with me now, okay.

6 MR. CAPLINGER: Well, what was the---

7 THE COURT: Well, why don't you just tell me in
8 your own words what you did to the victim, okay?

9 MR. CAPLINGER: I can do that.

10 THE COURT: All right, let's do that, all right.

11 MR. CAPLINGER: When I came over to her house, like
12 he said, at 8:30 to discuss the relationship that we had,
13 she wanted just a sexual relationship and I didn't want
14 that anymore because I was seeing somebody else. And we
15 had a discussion and when I told her about the new woman
16 in my life, she started waving around a butcher knife
17 which is in her written statement, but not in the
18 affidavit that I told Rodney Davis about. When she
19 started swinging that around, I gave her two warnings and
20 she didn't stop swinging it around.

21 I saw her little boy come around the corner and I
22 came -- I didn't want to see him -- see that going on.

23 THE COURT: Tell me what you did to her?

24 MR. CAPLINGER: But, I put my hands on her. Didn't
25 mean to hurt her though.

1 THE COURT: Did you choke her?

2 MR. CAPLINGER: Only when my arms got free. I
3 didn't want to stab her or nothing.

4 THE COURT: Did you push her into the wall?

5 MR. CAPLINGER: Only through the struggle. I was
6 only trying to take the knife from her. I wasn't trying
7 to hurt her.

8 THE COURT: Okay.

9 MR. CAPLINGER: But, the little boy was there and
10 it got to much.

11 THE COURT: All right... What else did you do to
12 her? Did you knock her down to the floor?

13 MR. CAPLINGER: Yes.

14 THE COURT: Pardon?

15 MR. CAPLINGER: Yes.

16 THE COURT: Okay. All right. Anything else you
17 wanted to tell me?

18 MR. CAPLINGER: I was just trying to get the knife
19 from her that's all.

20 THE COURT: Okay. All right. All right. Based
21 upon the facts that the State gave to the Court and some
22 of the facts that Mr. Caplinger gave to the Court, I find
23 it's a factual basis for the plea. All right, now. Do
24 you need some time? All right, now we are going to the
25 Alford plea on the CSC Second, can you do that, Mr.

1 Caplinger?

2 MR. CAPLINGER: Yes.

3 THE COURT: Solicitor, give me the facts on that if
4 you would, please, sir?

5 MR. FINCH: Yes, Your Honor, may it please the
6 Court. Immediately following the physical that lead to
7 the ABHAN charge, the Defendant then told the victim to go
8 to the bedroom. In the bedroom the Defendant threw the
9 victim's TV against the wall and told the victim to lie
10 down in the bed, telling her to have sex with him or
11 "things would get worse."

12 The two had penial vaginal sex and the Defendant
13 forced her to perform fellatio and ejaculated in the
14 victim's mouth. The Defendant refused to leave the
15 residence. In the morning, he forced another sexual
16 encounter consisting of penial vaginal and penial anal
17 penetration. The Defendant ejaculated on the victim in a
18 towel which was taken into evidence.

19 THE COURT: All right, Mr. Caplinger, I'm not
20 concerned about your position at all. And, you may have a
21 defense, you may not, I don't know. But, based upon the
22 facts that the Solicitor just gave to the Court, and those
23 facts alone, do you think that a jury will find you
24 guilty?

25 MR. CAPLINGER: Yes, Your Honor.

1 *THE COURT:* All right. I find the Alford plea has
2 a factual basis and he has freely, voluntarily, and
3 knowingly and intelligently made a decision in the Alford
4 plea with the advice of his attorney, all requisite
5 charges have been met. I will be glad to hear from the
6 State on sentences.

7 *MR. FINCH:* The victim has been notified---

8 *THE COURT:* What's the victim's position on all of
9 this?

10 *MR. FINCH:* The victim did not give specifics as to
11 a sentence. I tried to elicit that from her in two phone
12 calls. I spoke to her this morning, she reiterated --
13 this plea had been set originally for earlier in the week.
14 I spoke to her then, she couldn't make it. She was moving
15 residences. This morning she was working. She is a
16 single mother. She couldn't take off work. She wanted
17 the Court to know if you would like to hear it.

18 What she related to me is that she is scared. She
19 is terrified of this Defendant. She is terrified of
20 further encounters, further injuries. She didn't -- she
21 wasn't willing to put any sort of times or numbers to
22 years. I just wanted to relate how this is going to
23 affected her long term and her emotional status is fearful
24 and always looking over her shoulders with regards to any
25 potential attack.

1 With regards to the State, these are serious
2 charges. Definitely for the record we did -- as part of
3 the this deal we are going to null process kidnapping
4 times two for the -- for Ms. Falker(sp) the victim and her
5 son the twenty-one month old and also a Criminal Sexual
6 Conduct First Degree for the morning encounter.

7 So, recognizing still serious charges, we ask the
8 Court to take that -- leave it to the Court's discretion,
9 but understanding the seriousness of the charges between
10 ten and twenty years is---

11 THE COURT: All right. What's his prior criminal
12 history?

13 MR. FINCH: Prior criminal history as he did state
14 two DUI first, both happened in New York. The second one
15 was accompanied by an aggravated unlicensed operator.

16 THE COURT: A what?

17 MR. FINCH: Aggravated unlicensed operator. I
18 don't know if the Charge is in New York City. I think
19 it's driving without a license probably.

20 THE COURT: Aggravated---

21 MR. CAPLINGER: It was suspended---

22 THE COURT: Okay.

23 MR. FINCH: Yeah, that's the title of it,
24 aggravated unlicensed.

25 THE COURT: Okay. I will be glad to hear you, Mr.

1 Davis.

2 MR. DAVIS: Thank you very much, Your Honor.

3 Judge, as you can see, with that minimum prior record,
4 there has never been anything like that that he has to
5 deal with. He has been in our county jail as I told you
6 for 175 days. He is going to speak with you here in just
7 a second, but if I can just address a few legal issues I
8 would like you to consider before you impose sentence.

9 Judge, you've heard basically his rendition about
10 the ABHAN. Certainly this was a volatile on again off
11 again relationship. Judge, I am not here to disparage the
12 lady in this case. She has worked as an adult
13 entertainer. And, so it was not a good relationship for
14 either one of them. He did go over and was let in
15 voluntarily and this was late at night. He'll talk to you
16 about his conditions, mental conditions otherwise that
17 evening. I am not raising any mental health issues, but
18 just where his mind was at that evening.

19 They obviously had a heated discussion turned
20 physical to both of them. He and I talked about -- and
21 again and then discover that at some point she did grab a
22 knife from the kitchen. That would be the dispute as he
23 indicated at trial whether -- in what sequence it
24 happened. He has told me, he doesn't want to go to trial.
25 Doesn't want to use self defense to that charge whether

1 she pulled a knife first or not. He certainly has told
2 you that even if she did, that he went beyond what he
3 should have physically to deal with that. But he could
4 have, should have left, but he didn't.

5 Fortunately, the injuries to her were bruising. No
6 cuts, no bruise required stitches, no broken bones, no
7 concussions, nothing like that, minor injuries. But,
8 certainly given the fact that it was man versus woman,
9 given the fact it was some period of duration, we believe
10 the State would have the evidence of an Assault and
11 Battery of a High and Aggravated Nature which you know has
12 now been retired, but we have agreed that he is going to
13 plead guilty to that.

14 Judge, we would argue that then a separate event
15 happened. That after the argument, things settled down.
16 One of the biggest things he would talk about with regards
17 to the Alford plea, is when he gave the statement to the
18 police officer which he did at booking, right after
19 booking at the jail so quickly after being arrested I mean
20 five days later, he gave a statement. During that
21 discussion, the phrase or before it gets worse, a couple
22 of seconds before it gets worse, certainly the spin on
23 that is, you better have sex with me or I'm going to get
24 more physical with you.

25 There is certainly another way to look at it.

1 Things have calmed down now. We just had a heated
2 argument. Obviously we're passionate about one another.
3 Let's not get things -- let things get worse again. While
4 we're calmer and now settled, let's make love. And, so
5 that's why it needs to be to under Alford because he would
6 dispute that the sex was by force either that night or in
7 the morning. She actually drove him to work the next
8 morning or sometime after that.

9 So, that's why it needs to be under Alford. We --
10 as he told you, we understand the State's facts and they
11 are all -- and are other multiple charges he was charged
12 for anal penetration and then wrongful penetration. He
13 was charged with Kidnapping, for failing to let her leave
14 her own house, and those are going away just by
15 themselves. But, he would tell you if this went to trial,
16 we would fight those facts.

17 However, Judge, this was an on again off again
18 relationship. She was not injured during -- severely
19 during the ABHAN---

20 THE COURT: He said they lived together?

21 MR. DAVIS: No, Judge.

22 MR. CAPLINGER: We did.

23 THE COURT: How long had they been separated?

24 MR. CAPLINGER: Not really. She still wanted --
25 she wanted to have a sexual relationship and her terms

1 it's called Booty call and she wanted that and she was
2 direct about that. She didn't want no kissing during the
3 sexual intercourse or nothing. She just wanted that until
4 she got off her feet and found somebody else.

5 The way I was looking at it, it was bad for the
6 little boy. I was raised in a group home with no parents
7 and I don't like that situation.

8 MR. DAVIS: I don't believe he resided there
9 although he stayed there a lot, Judge, obviously. It was
10 not his address as we still---

11 MR. CAPLINGER: I still have some personal
12 belongings there.

13 THE COURT: Yeah, I didn't mean to cut you off.

14 MR. DAVIS: That's all right, Judge.

15 THE COURT: Yeah, go ahead.

16 MR. DAVIS: That's all right, Judge. I appreciate
17 it. So, with all of that being considered. And with your
18 understanding being a single mom, difficulty about being
19 here, but she is not, Judge. We understand she passed
20 along a message to the Judge or to the Solicitor to pass
21 along to you.

22 We would ask you to consider some type of
23 probationary sentence. He shows no indication in his past
24 history of anything like this---

25 THE COURT: Let me be up front with you. I'm not

1 going to put him on straight probation, okay. But, I'll
2 listen to you about some time. He is going to serve some
3 time, okay.

4 MR. DAVIS: I understand, Judge.

5 THE COURT: I don't want to mislead you. I'm not
6 putting him on probation, okay.

7 MR. DAVIS: I certainly understand, Judge.

8 THE COURT: But, I'll be happy to -- glad to hear
9 anything you want to tell me about how much time, okay.

10 MR. DAVIS: I understand, Judge. Judge, we've
11 talked about -- you've asked him about this, this is the
12 CSC Second even though it's a reduction, it's still 85
13 percent. So, any numbers you give him however small he
14 must serve 85 percent, no good time to get out early. He
15 will have two years of supervision following that unless
16 you structure a probationary sentence for more than that.
17 He understands it's serious. It's his first strike,
18 Judge. No prior record other than the driving offenses
19 and we realize that. So, that's a life long they both
20 will carry with them.

21 Again, I will say, Judge, I think this is very out
22 of the ordinary for his behavior. He has been very
23 involved in this case. Judge as you well know, for
24 something this serious, it's pretty quick that we're
25 getting into Court to resolve this. One hundred and

1 seventy-five days is a very long time for him to stay in
2 jail and we got his attention and on the other hand it is
3 pretty quickly.

4 He is choosing to do this. We have had long talks
5 and as the Court can tell, this will be an interesting
6 trial. I think there is some dispute on both sides, but
7 it is a very interesting trial and he wants to step
8 forward and take responsibility and take the punishment
9 for that. I hope you give some mercy for him doing that
10 and not require him to testify about that.

11 Judge, we hope he gets considered 85 percent. We
12 hope you consider either a straight period of time of
13 single digits. We hope you consider eight-five or less.
14 If you are inclined to put him on probation following
15 that, of course, we understand a much larger number
16 suspended to a single digit number of hopefully five or
17 less to allow him to get out while he is still young.

18 He does have skills so he can get back to work
19 really relatively quickly. He actually have a job waiting
20 on him now if he were allowed to be released and people
21 who would support him to try to get him some help which I
22 am sure you would be concerned about either anger
23 management or substance abuse issues and he is ready to
24 address -- he wants to address you briefly about how much
25 this time in jail has affected him.

1 THE COURT: Okay. I will be glad to hear you, Mr.
2 Caplinger.

3 MR. CAPLINGER: This is the longest stretch I've
4 done---

5 THE COURT: Speak up so I can hear you, please.

6 MR. CAPLINGER: This is the longest time I've spend
7 in jail and I've observed a lot about my surrounding and
8 this isn't the place I want to be. I haven't done
9 anything of this kind of nature before except for drinking
10 and driving issues which I -- the last time I got that was
11 in '05, I believe so I stopped doing that as well. So, I
12 just want to learn my experience and go back out there
13 with this experience under my belt and get back to work.

14 I've been working for South Carolina Auto Glass
15 Companies about three or four of them now for the last ten
16 years and I was doing well with that and I just want to
17 continue with that.

18 MR. DAVIS: That's all we have, Judge, thank you.

19 THE COURT: Okay. All right. Anything else from
20 the State?

21 MR. FINCH: Nothing else from the State. Just a
22 statement to clarify -- well, just to clarify a couple of
23 things. I know I am not trying the case here, I just
24 wanted to let the Court know that the victim did drive the
25 Defendant away from the home. Her contention was that

1 that was regarding -- in order to get away from the home
2 this was sort of a rouse to take him someplace and then
3 remove her son from the situation. It seemed like the
4 only way.

5 A knife was involved, again. Mr. Davis did bring
6 that up. It was always the contention of the victim that
7 that was a self defense posture on her part not an
8 aggressive posture. But, of course, that's something that
9 we agree---

10 THE COURT: I understand, it doesn't have a whole
11 lot to do with sentencing, okay.

12 MR. FINCH: No, that's all.

13 THE COURT: Anything you want to tell me about
14 sentencing?

15 MR. FINCH: Nothing, Your Honor.

16 THE COURT: Okay. All right, Mr. Caplinger, on
17 indictment number 1006772 that's the Assault and Battery
18 of a High and Aggravated Nature, you are sentenced to the
19 State Department of Corrections for a period of ten years,
20 suspend probation for five years. The conditions of
21 probation no contact with the victim or her family,
22 complete anger management, and a sexual battery counseling
23 when you get out, understand? Probation will be told
24 while you're in jail. You're going to have ten years
25 hanging over your head, you understand?

1 MR. CAPLINGER: Yes, Your Honor.

2 THE COURT: All right on indictment number 1006773
3 that is the CSC Second sentenced to the State Department
4 of Correction for a period of seven years. I will give
5 you credit for one hundred and seventy-five days. Thank
6 you very much.

7 *****End of requested portion.*****

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

I, Patricia A. Danner, Official Court Reporter for the ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Charleston County, South Carolina, on the 18th day of November, 2011.

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

October 12, 2011

Patricia A. Danner

Court Reporter

STATE OF SOUTH CAROLINA

County of Charleston

SCDC #343732

Shaun David Caplinger

Full name and prison number (if any) of Applicant

v.

State of South Carolina

2011-CP-10-3219
IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
2011 MAY -5 AM 10:27
CLERK OF COURT**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 ECI (EVANS Correctional Institute)
2. Name and location of Court which imposed sentence Charleston County,
Charleston South Carolina.
3. Name(s) of co-defendant(s) (if any) - None -
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2010-007931

- (b) _____
- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) Sentence Date: 11/18/10
- (b) 7yrs : CSC 2nd
- (c) 10 suspended to 5yrs probation
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty I Plead to CSC 2nd (offered Plea).
- (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. - NA -
- ii. - NA -
- iii. - NA -
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. - NA -
- iii. _____
- (c) the date of each such result:
- i. - NA -
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. - NA -
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) My LAWYER Never Informed me, OR I would Have Appealed.

- (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) I plead guilty unintelligently.
 (c) No Evidence OR witnesses in case.

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

- (a) SEE ATTACHED PAPER!
 (b) _____
 (c) _____

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

- (a) any petition in a State Court under South Carolina Law? N/A
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
 (d) any other petitions, motions or applications in this or any other Court? N/A

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

- (a) the specific nature thereof:
 i. _____
 ii. _____
 iii. _____
 iv. _____
 (b) the name and location of the Court in which each was filed:
 i. _____
 ii. _____
 iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

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

NO

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

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

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

- (a) IGNORANCE of the LAW.
 (b) My LAWYER NEVER Informed me.
 (c) I HAVE NO family OR funds to help me back to Court.

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

- (a) your arraignment and plea? Yes
 (b) your trial, if any? Yes
 (c) your sentencing? Yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

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

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

- i. RODNEY D. DAVIS : Charleston County Public
Defender.
 ii. O.T. WALLACE County Office Building
101 Meeting St Fifth Floor, CHARLESTON SC 29401-2244
 iii. _____

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

- i. Guilty PLEA & Sentencing
 ii. _____
 iii. _____

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

A Time Reconsideration

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 CHARLESTON)

VERIFICATION

I, Shawn Caplinger, 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.

Shawn Caplinger

#343732

SWORN to and subscribed before me this 3 day of May, 2014.

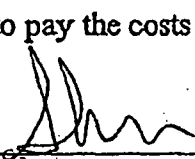
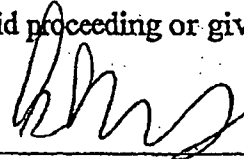
Andrew J. McDowell (L.S.)
Notary Public

My Commission Expires: August 18, 2018

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

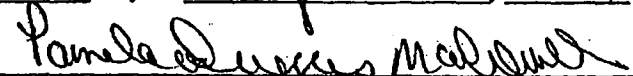
I, Shawn Caplinger, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (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.

  #343732
Applicant

SWORN or affirmed to and subscribed before me this

3 day of May, 2011.


Notary Public

My Commission Expires: August 18, 2018

11.) (a) I believe that I received Ineffective
Assistant Counsel due to the fact that
 I only met with this public Defender
"one time". At that time we never discussed
 my case in detail, we discussed a bond redaction
 which he never followed through with. Mr. Davis
 also told me that he would print out the statutes
 on the charges that I was accused, so that I
 could get a better understanding on what was
 going on & what I was up against. He never
 followed through with any of these promises. I presented
 a list of differences & lies that I found in the
 discovery & contradictions in statements versus other
 reports. He told me he would take the list & show
 the differences to the solicitor.

(B) I plead guilty unintelligently, due to the fact
 I am ignorant of the law. I have never been
 in any real trouble aside from DUI driving
 in fractions. I grew up in a group home my
 whole life. I have no family to have helped
 me make an intelligent decision. I was scared
 & had nobody I trusted to confide in after being
 accused of these outrageous charges by my
 ex-girlfriend.

(C) "No Birdhouse and witness at Case" There is no Birdhouse

54 place. There is no DNA, no restraint marks or ANY proof of ANY kind of forced sex. There also was no witness to ANY crime, including herself.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	2011-CP-10-3219
Shaun David Caplinger, #343732,	)	
	)	
Applicant,	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

The Respondent, making its Return to the application for post-conviction relief (PCR) filed May 5, 2011, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the October 2010 term of the Charleston County Grand Jury for criminal sexual conduct (CSC) – 1st degree (2010-GS-10-6773). Rodney Davis, Esquire, represented the Applicant. On November 18, 2010, the Applicant pled guilty to the lesser-included offense of CSC – 2nd degree. The Honorable J.C. Nicholson, Jr. sentenced him to confinement for seven (7) years for CSC – 2nd degree. The Applicant did not appeal the conviction or sentence.

Attached herewith and incorporated herein are the records of the Charleston County Clerk of Court regarding the subject conviction, the records of the South Carolina Department of Corrections, and the guilty plea transcript.

II.

In his current application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of plea counsel in that counsel only met with Applicant one time, failed to follow through with the bond reduction, and failed to speak with the solicitor about contradictions in the discovery.
2. Involuntary guilty plea.
3. No evidence or witnesses in case.

III.

In a post-conviction relief action, the applicant bears the burden of proving the allegations in the application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant 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, 286 S.C. 441, 334 S.E.2d 813.

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. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance 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 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for

counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

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

IV.

Respondent submits that the Applicant's allegation that his guilty plea was involuntary is without merit. In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Respondent submits that the record fully supports the knowing and voluntary nature of the plea. However, allegations the voluntary nature of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper, 305 S.E.2d 247.

V.

Applicant alleges that there was no evidence or witnesses in his case. This allegation raises a direct appeal issue that is procedurally barred by S.C. Code Ann. §17-27-20(b) (2003). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A PCR application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). The Applicant could have raised this issue at trial or on appeal. His failure to do so has waived this allegation as a ground for relief. Therefore, the Court should summarily dismiss this allegation.

VI.

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

VII.

WHEREFORE, having made its Return, the State requests an evidentiary hearing be held on the issues of ineffective assistance of counsel and involuntary guilty plea.

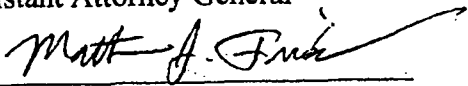
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MATTHEW J. FRIEDMAN
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
(803) 734-3737

October 17, 2011.

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS

2011-CP-10-3219

SHAUN DAVID CAPLINGER, #343732)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

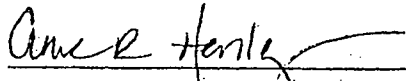
STATE OF SOUTH CAROLINA,)

Respondent.)

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

Mr. Richard C. Webb
P.O. Box 640
Charleston, SC 29402-0640

DATED this 17th day of October, 2011


Anne R. Henley, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
Shaun Caplinger,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 11-CP-10-3219
	)	
State of South Carolina,	)	
	)	
Defendant.	)	

TRANSCRIPT OF HEARING

The within Hearing was held on January 10, 2012, before The Honorable R. Markley Dennis, Jr. in Courtroom 4D of the Charleston County Courthouse, 100 Meeting Street, Charleston, South Carolina; attended by Counsel, as follows:

APPEARANCES:

Richard C. Webb, Esq.
(Information not provided)
Appearing for Applicant

Matthew Friedman, Esq.
OFFICE OF ATTORNEY GENERAL
P O Box 11549
Columbia, SC 29211-1549
Appearing for State of South Carolina

DEBORAH GARRISON
Circuit Court Reporter - 9th Judicial Circuit
Post Office Box 901
Johns Island, South Carolina 29457
dGarrison@sccourts.org

Shaun Caplinger v State of South Carolina
Case No. 11-CP-10-4503
Hearing of January 10, 2012
Before The Honorable R. Markley Dennis, Jr.

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Shaun Caplinger v State of South Carolina

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Case No. 11-CP-10-4503

Hearing of January 10, 2012

Before The Honorable R. Markley Dennis, Jr.

1 THE COURT: Good morning, you are
2 Shaun Caplinger?

3 APPLICANT: Yes, sir.

4 THE COURT: Mr. Caplinger, have you
5 had an opportunity to talk with your lawyer,
6 Mr. Webb?

7 APPLICANT: Correct, Your Honor.

8 THE COURT: And he has explained
9 to you the parameters of this proceeding?

10 APPLICANT: Yes, Your Honor.

11 THE COURT: And one of them -- in
12 looking at it, and I've only read just the
13 synopsis of the plea, it appears that you
14 entered a plea to a lesser-included offense
15 with a sentence of seven years. You understand
16 that if I grant you your request, that you
17 return to possibly face the CSC 1st, which would
18 up to a thirty-year exposure; do you understand
19 that?

20 APPLICANT: Yes, Your Honor.

21 THE COURT: It is your desire to go
22 forward with this?

23 APPLICANT: Yes, sir.

24 THE COURT: Very well. All right.
25 Mr. Webb, you're ready to proceed.

Shaun Caplinger v State of South Carolina

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Case No. 11-CP-10-4503

Hearing of January 10, 2012

Before The Honorable R. Markley Dennis, Jr.

1 MR. WEBB: Yes, Your Honor. Good
2 morning.

3 THE COURT: Good morning. You may
4 call your first witness.

5 MR. WEBB: The applicant calls Mr.
6 Caplinger.

7 (WITNESS TAKES STAND)

8 SHAUN CAPLINGER, being duly sworn to
9 tell the truth, the whole truth and nothing but
10 the truth, testified, as follows:

11 DIRECT EXAMINATION

12 BY MR. WEBB:

13 Q. Mr. Caplinger, how old are you?

14 A. Twenty-nine (29).

15 Q. What did you do before -- for your live-
16 lihood? What work did you do before you were
17 arrested?

18 A. I did auto glass, sales and install.

19 Q. How long have you been in jail now?

20 A. Twenty months, going on twenty-one months.

21 Q. Who were your parents?

22 A. I don't have any parents. I was in Child
23 Care Services as a child.

24 Q. So where did you grow up?

25 A. Buffalo, New York.

Shaun Caplinger v State of South Carolina

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Case No. 11-CP-10-4503

Hearing of January 10, 2012

Before The Honorable R. Markley Dennis, Jr.

1 Q. In a group home?

2 A. Yeah, downtown Buffalo.

3 Q. You find it easy to trust people, Mr.
4 Caplinger?

5 A. No.

6 Q. Why not?

7 A. I have been deceived a lot during my
8 childhood and over the years. Sometimes I can,
9 sometimes I can't. A lot of the people that I
10 have trusted have screwed me over.

11 Q. Who was your attorney in the underlying
12 criminal case?

13 A. Rodney Davis.

14 Q. You remember the date of your arrest?

15 A. I think it was like May 23rd, somewhere
16 between the 22nd to the 26th, somewhere in
17 there, late May.

18 Q. May of 2010?

19 A. Excuse me?

20 Q. You said late May of 2010?

21 A. Yes, between the 26th and the 22nd.

22 Q. Do you recall when you first met your
23 attorney, Mr. Davis?

24 A. Towards my sentencing, maybe the month
25 prior or a month and a half maybe.

1 Q. And your sentencing date was what, do you
2 recall?

3 A. November 18th.

4 Q. So you think that you probably met with
5 him the first time probably sometime in
6 October, is that what you're saying?

7 A. Yes.

8 Q. Where did you meet with him?

9 A. I don't know if they call it the meeting
10 room or -- a room inside the county jail.

11 Q. Did you have any additional meetings with
12 Mr. Davis before the plea hearing?

13 A. He called me before to let me know what
14 the plea was, what the plea bargain was, what
15 they were trying to do.

16 Q. So you met with him in person only two
17 times, the first time ---

18 A. The first time was at the bond reduction.
19 I don't have an impression of being at the
20 courthouse for the bond reduction that day.
21 Then the second day was here when he explained
22 that he had filed a bond reduction and that we
23 were here for a plea bargain.

24 Q. Did you have any other communication with
25 your lawyer?

Shaun Caplinger v State of South Carolina

Case No. 11-CP-10-4503

Hearing of January 10, 2012

Before The Honorable R. Markley Dennis, Jr.

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1 A. I wrote him, asked -- got returned mail
2 from, I believe, Ashley Pennington, I believe
3 it was.

4 Q. Public Defender?

5 A. Excuse me?

6 Q. Mr. Pennington, the Public Defender?

7 A. I think that's -- I don't know if he's a
8 public defender or an overseer. I know he --
9 I was referred to him by someone.

10 Q. Mr. Caplinger, why did you file this PCR
11 application?

12 A. Because after taking a look at the law
13 library facility, I realized that I didn't
14 fully understand what -- the charges, exactly
15 what it was. So he explained it, gave me
16 copies of what each individual charges meant,
17 or the lesser offenses, as they are called,
18 because I had never gotten those.

19 During the course of the meeting with him
20 that day, he -- it was frustrating.

21 Q. So what claims have you asserted in your
22 post conviction relief affidavit?

23 A. Insufficient counsel. Lack of evidence,
24 which they denied for the appeal case -- or
25 something like that. Then just -- lack -- it

Shaun Caplinger v State of South Carolina

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Case No. 11-CP-10-4503

Hearing of January 10, 2012

Before The Honorable R. Markley Dennis, Jr.

1 was my first time really in trouble. I'd had a
2 DUI. I didn't understand what was going on,
3 and I was getting frustrated.

4 Q. Is there anything that you would like to
5 tell us about the ineffective assistance claim
6 that you made? Any additional background on
7 that?

8 A. There were several promises that were
9 unkempt, such as the bond reduction that he
10 told me that he was going to do. I was under
11 the impression that I was going there for it,
12 but when I came here he told me that he never
13 had filed for it -- he didn't have enough time
14 to file it. That was a couple of weeks, maybe
15 even a month, prior to that and I -- I felt
16 that I was betrayed by him. He was one that
17 came to me anyhow, and then he didn't follow
18 through with what he came to see me about.
19 When I -- when I gave him the breakdown of the
20 discovery that I had, of the things that were
21 wrong, things that -- things that were
22 inconsistent in the discovery, so on and so
23 forth, he took it but he didn't want to talk
24 about the case at that time. He said that
25 there would be plenty of time and he'd been

Shaun Caplinger v State of South Carolina

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1 back with me later to talk about the case.

2 So the bond reduction, obviously I didn't
3 get out. The only bond reduction that I could
4 -- was like \$150,000 and anything less would
5 have helped me out. He lied again and said
6 that -- he said that the breakdown of the case
7 per charge -- I didn't understand exactly what
8 I was being charged with; besides kidnaping, I
9 know what kidnaping is. The sex offender
10 registry, he never brought that up whatsoever.
11 Had I known about the sex offender, I wouldn't
12 have done anything.

13 Q. Anything else?

14 A. Not that I can think of at this time. No,
15 not that I can think of.

16 Q. Did you and your lawyer ever had a
17 substantive discussion about the issues about
18 the charges and about potential time and ---

19 A. What kind of discussion?

20 Q. A deep discussion about the charges that
21 you were facing, about the potential time you
22 might have served?

23 A. No, we never had a deep discussion or
24 breakdown of the case; but he did tell me --
25 he told me that he didn't want me to take --

1 he said that he would put together a good trial
2 defense if I wanted to go to trial. But if I
3 took this plea, that more than likely I
4 wouldn't get more than five years. That was
5 enough that gave me, that I weighed in my head
6 at the time, and said 'well, I...' -- I knew
7 that I was guilty but if I took this charge, I
8 -- I was frustrated and said, 'Okay, I will
9 take it.' But if I had known the other
10 situation, if he had put that on the table, he
11 -- I wouldn't have wanted to.

12 Q. Is there anything that you asked of your
13 lawyer, that you asked him to do that he did
14 not do?

15 A. He never contacted my witnesses. Such as
16 my roommate, he never pulled the phone records,
17 he never talked with my boss, none of that. He
18 never followed through with all the paperwork
19 for the bond reduction or the promises that he
20 told me that I would.

21 Q. When you attended the plea hearing in late
22 November of 2010, do you remember being in the
23 courtroom for that plea hearing?

24 A. Yes.

25 Q. Did you trust your lawyer at that time?

Shaun Caplinger v State of South Carolina

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Case No. 11-CP-10-4503

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Before The Honorable R. Markley Dennis, Jr.

1 A. No, but he told me that if I wanted this
2 charge -- that if I wanted to take this plea
3 that I had to say "yes" and "no" to the
4 questions that the judge said. Some of the
5 stuff, I just -- I didn't know to ask a lot
6 of questions, because of my past and I felt
7 insulted -- there were things that I didn't
8 understand that I was just saying 'yes' and
9 'no' because that's what I was told was the
10 only way that I could get the sentence.

11 I didn't want to take the sentence
12 originally, but I thought back and forth, after
13 being consulted, I just totally trusted -- he
14 asked about if I was -- I just got frustrated.
15 He said that because I was learning disabled
16 that there were things that I needed to be
17 aware of, and I felt insulted by that. That
18 was just icing on the cake, so I -- I didn't
19 really trust him but I knew that in order to
20 get through with him, for Ashley Pennington to
21 come through, that I had to say yes or no and
22 take the risk with the judge. I didn't figure
23 judge would give me the time that he did.

24 I didn't think he'd see my side of the
25 story, so I didn't get to -- and he had me step

1 back because I was saying 'yes' and shaking my
2 head, so I think he could tell that I was
3 confused. He had me sit back -- he did or my
4 lawyer did at the time, backed up.

5 Q. Why didn't you trust him?

6 A. Because of lack of following through with
7 the promises that he told me that he would go
8 through and he didn't follow through with them.

9 Q. You mentioned sending requests or
10 correspondence.

11 MR. WEBB: Your Honor, may I pass
12 up a copy of the correspondence to you?

13 THE COURT: Sure.

14 MR. WEBB: (Tenders).

15 THE COURT: Thank you.

16 MR. WEBB: Thank you. For the
17 record, all of these copies are from the Public
18 Defender's office, as filed.

19 THE COURT: Very well.

20 DIRECT EXAMINATION CONTINUED

21 BY MR. WEBB:

22 Q. Mr. Caplinger, I am going to hand you
23 these copies. I know it's kind of difficult
24 for you to flip through them, but if you will
25 take just a ---

Shaun Caplinger v State of South Carolina

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Hearing of January 10, 2012

Before The Honorable R. Markley Dennis, Jr.

1 MR. WEBB: Your Honor, can we take
2 just a few minutes for him to refresh his
3 recollection?

4 THE COURT: Sure.

5 MR. WEBB: Thank you.

6 DIRECT EXAMINATION CONTINUED

7 BY MR. WEBB:

8 Q. That's just a copy of these.

9 A. (Reviewing).

10 THE COURT: Mr. Webb, what do you
11 plan to use these for? Do you plan to
12 introduce them? I'll allow them to be admitted
13 and then you can refer him to whichever ones
14 that you want to, sir.

15 MR. WEBB: Okay, well, why don't we
16 do that?

17 THE COURT: It will be Applicant's
18 Exhibit 1, collectively. Any objection?

19 MATTHEW FRIEDMAN: No objection.

20 THE COURT: Without objection, they
21 are admitted.

22 (SO ENTERED AS APPLICANT'S EXHIBIT 1)

23 MR. WEBB: Thank you, Your Honor.
24 Your Honor, out of respect for the time of the
25 Court, we won't walk through each one of these

Shaun Caplinger v State of South Carolina

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Case No. 11-CP-10-4503

Hearing of January 10, 2012

Before The Honorable R. Markley Dennis, Jr.

1 unless you deem that necessary.

2 THE COURT: They speak for them-
3 selves. But if you want to reference any of
4 them, please free feel to do so. Whatever.

5 MR. WEBB: Thank you.

6 DIRECT EXAMINATION CONTINUED

7 BY MR. WEBB:

8 Q. Mr. Caplinger, having looked back over
9 correspondence that you sent to your lawyer and
10 also to Mr. Pennington of the Public Defenders
11 Office, is there anything else that you would
12 like to add?

13 A. I don't know. There are so many of them,
14 first off.

15 Q. There are fifteen inmate request forms and
16 two or three letters.

17 A. I was helped along with some of these by
18 some of the other inmates, advised me what I
19 needed to file. I think I see another one
20 there that's status -- or something or other,
21 where I was trying to get through. In the
22 beginning, after being three months sitting in
23 County, I thought that I wasn't being followed
24 through. So I was trying to get Ashley
25 Pennington to -- maybe do me or give me another

Shaun Caplinger v State of South Carolina

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Before The Honorable R. Markley Dennis, Jr.

1 lawyer who'd come see me, because I had seen
2 several lawyers -- other public defenders come
3 inside the unit or up in the camera room and
4 talk to their clients. For example, one major
5 thing that I didn't know, like I told you, was
6 that -- what do you call it, thirty days after
7 you're arrested you have a -- some type of
8 hearing. I forget the name of it. But their
9 bond was dropped like from a hundred or five
10 hundred thousand to, like, fifty thousand. I
11 was never made aware of -- I knew nothing of
12 it. What I could get out of that was a
13 different story but I wasn't even able to know
14 about that, I knew nothing about that.

15 Q. I am going to show you a couple of these
16 and ask you just to read what you wrote ---

17 THE COURT: Mr. Webb, I am not
18 going to allow him to -- they are already in
19 the record. He doesn't need to read it into
20 the record.

21 MR. WEBB: Okay.

22 THE COURT: You can ask him a
23 question about it if you wish.

24 DIRECT EXAMINATION CONTINUED

25 BY MR. WEBB:

Shaun Caplinger v State of South Carolina

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Case No. 11-CP-10-4503

Hearing of January 10, 2012

Before The Honorable R. Markley Dennis, Jr.

1 Q. Mr. Caplinger, what was it that you
2 wanted? Why did you write all these inmate
3 request forms and all the letters?

4 A. (No verbal response).

5 Q. What was your concern? What did you want?

6 A. I wanted him to review my case, to see
7 what the discovery he had was.

8 Q. How did your lawyer advise you on the day
9 of the plea hearing? What was his advice on
10 the plea offer?

11 A. He rambled on about for it a little while
12 and he told me, basically he was -- he was
13 telling me that it may look like a good plea
14 but it really -- something along those
15 comments. I know he told me that the original
16 charge would be dropped to a CSC 2nd and he told
17 me to give him some more time, to just sit back
18 in County and he'd go forward and -- with a
19 defense at trial. That my victim wasn't
20 showing up to any of the proceedings so far and
21 that -- that I would be able to tell even more
22 my side of the story if I sat back and didn't
23 go through with this. I didn't follow through
24 because I trusted him. Then after he insulted
25 me, I didn't want -- I was done with him. I

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1 was angry. Lost my patience with him, got
2 frustrated, and just said to hell with it.
3 I'd just take my chances with it, maybe the
4 judge would let me explain -- you know.

5 Q. You rejected your lawyer's advice at the
6 plea hearing and took the plea?

7 A. Pretty much.

8 Q. I want to ask you about something in the
9 transcript.

10 MR. WEBB: Judge, can I show him
11 this?

12 THE COURT: Yes, sir.

13 DIRECT EXAMINATION CONTINUED

14 BY MR. WEBB:

15 Q. Page 30 of the transcript, the Court is
16 questioning you about facts that were presented
17 by the solicitor -- would you read, beginning
18 at Line 12?

19 A. It says, "Thank you very much. I find
20 that there is a factual basis for the plea on
21 the assault and battery of a high and
22 aggravated nature, that it is a freely,
23 voluntarily, knowingly and intelligently made
24 decision to plead guilty with the advice of his
25 attorney, all other charges having been met."

1 Q. Then who speaks?

2 A. Mr. Davis.

3 Q. What did your lawyer say?

4 A. It says, "Your Honor, forgive me, I
5 apologize. I'm sorry to interrupt but he was
6 shaking his head "no" as he was answering the
7 questions "yes" and..." ---

8 Q. So you were telling the judge, the plea
9 judge 'yes, that the facts presented by the
10 solicitor were correct' but you were shaking
11 your head 'no' and your lawyer realized what
12 you were doing and brought that to the court's
13 attention?

14 A. (Affirmative nod).

15 Q. I ---

16 THE COURT: Mr. Webb, this is an
17 *Alford* plea, so that doesn't -- so what? I
18 mean that doesn't mean anything. That is not
19 the question. He never -- that's what an
20 *Alford* plea means, that he doesn't agree with
21 the facts. He doesn't agree with it but he
22 believes that if he goes to trial that he would
23 most probably be found guilty.

24 MR. WEBB: Your Honor, at this
25 stage, I believe that it was the assault and

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1 battery, which was not an *Alford* plea.

2 THE COURT: Well, the assault and
3 battery -- do you really want a trial? I give
4 you a trial on the assault and battery but
5 that's not the one that is going to be the
6 kicker, I don't think. So -- okay?

7 MR. WEBB: The kicker is the
8 criminal sexual conduct charge.

9 THE COURT: Yes, sir. No question
10 about it, from what he has said thus far.

11 I mean, proceed. I just -- I under-
12 stand that. If the -- the transcript deals
13 with that and we will have to deal with it, and
14 you can argue that. I don't need him to tell
15 me that or to tell me what he meant by that.

16 You can tell me why -- you can go into
17 why did he proceed with his guilty plea. I'd
18 like to know that, if none of that was true.

19 DIRECT EXAMINATION CONTINUED

20 BY MR. WEBB:

21 Q. So you shook your head 'no.' but told the
22 judge yes. Why did you go forward with that
23 guilty plea?

24 A. Well, first I didn't feel like that would
25 be the way -- I was more curious to see if I

1 could -- I didn't understand the *Alford* plea.
2 I thought that I had a chance at probation.
3 I knew that I was guilty. I just couldn't get
4 enough attention to speak my justice. When it
5 came to me talking, I felt like -- he didn't
6 give me a chance to talk, and I was ashamed at
7 the time.

8 Q. Mr. Caplinger, the plea judge asked you on
9 a number of occasions if you were satisfied
10 with your lawyer. Do you recall that?

11 A. Yes.

12 Q. What did you tell the plea judge?

13 A. I told him yes.

14 Q. Why did you tell him that and now you're
15 telling us that you weren't satisfied?

16 A. When we were in that room here at the
17 courthouse, he said 'If you want to take this
18 plea, then you're going to have to say yes and
19 no to everything that the judge says to you.

20 If you try to steer out of yes or no answers,
21 then he is going to deny accepting this plea.'
22 So he was trying to coach me by saying -- he
23 gave me an example -- he asked me a question
24 and I would -- I don't remember if I said yes
25 or no to whatever his question was, but when I

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1 went into trying to explain stuff he said no,
2 'he'll get mad at you, you have to say yes or
3 no to these answers, that's it.' So I was
4 under the impression that that -- we role-
5 played, basically, with yes or no questions.

6 Q. Do you believe that your lawyer provided
7 you effective assistance of counsel?

8 MATTHEW FRIEDMAN: Objection, Your
9 Honor. That's a question for the court.

10 THE COURT: I will allow him to
11 answer it, in his view. I agree with you.

12 THE WITNESS: I don't believe so.

13 DIRECT EXAMINATION CONTINUED

14 BY MR. WEBB:

15 Q. Would you have done anything differently
16 had you trusted your lawyer?

17 A. Yes, I would have. I would have gotten
18 more attention if I had been more patient, if
19 we'd developed a better relationship. I'd only
20 seen him a few times over the whole case and
21 there wasn't -- and if I wasn't insulted by
22 him.

23 Q. Would you have pled to both of the charges
24 that you pled to if you had trusted your
25 lawyer?

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1 A. No, I would not have. I didn't know about
2 the central registry.

3 Q. What would you have asked your lawyer to
4 do instead?

5 A. I would have told him that I didn't want
6 to take a plea bargain, so I don't know what
7 would have happened from there.

8 Q. So, 'you're welcome to try the case if
9 need be'?

10 A. No.

11 Q. Is there anything else that you want to
12 tell the judge? This is your opportunity.
13 Anything else that you want to share?

14 A. Just that my background history did play
15 into the part of me getting to know the lawyer
16 and trusting him. Not having any real criminal
17 history, I didn't know the court system like I
18 should have. I really didn't understand what I
19 was doing, what I was taking -- so on and so
20 forth. I think this time around I could be
21 more fair.

22 MR. WEBB: Your Honor, no further
23 questions.

24 THE COURT: Thank you. Cross
25 examine?

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1 MATTHEW FRIEDMAN: Thank you, Your
2 Honor.

3 CROSS EXAMINATION

4 BY MATTHEW FRIEDMAN:

5 Q. Mr. Caplinger, is it your testimony that
6 you only met with Mr. Davis two times prior to
7 pleading?

8 A. Correct.

9 Q. And one of those times was on the day of
10 the plea, is that correct?

11 A. Yes, here at the courthouse.

12 Q. I believe that you also testified that
13 counsel never explained the lesser-included
14 offenses to you, is that right?

15 A. Lesser-included offenses? What do you
16 mean by that?

17 Q. I thought that you testified that you
18 wanted him to explain lesser-included offenses
19 and he failed to do that?

20 A. All the charges included, and he said that
21 he was going to send me paperwork so that I
22 could read it and understand it.

23 Q. Did he explain to you that you were
24 pleading to criminal sexual conduct, second
25 degree, instead of first degree?

1 A. He said to the lesser degree.

2 Q. Did you discuss the elements of the
3 charges with him?

4 A. He was more trying to lean more towards
5 trying to take the plea.

6 Q. Did you discuss any potential defenses
7 with him?

8 A. Any potential what?

9 Q. Defenses?

10 A. Not that I can recall.

11 Q. You wanted to go to trial, is that right?

12 A. Correct.

13 Q. Whose decision was it for you to take the
14 plea?

15 A. Mine.

16 Q. Ultimately you pled guilty under *Alford* to
17 the criminal sexual conduct, second degree;
18 right?

19 A. Right.

20 Q. You pled guilty to assault and battery of
21 a high and aggravated nature?

22 A. Correct.

23 Q. Do you remember telling the plea court
24 that you understood the charges and the
25 possible punishments?

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1 A. I don't recall. If it is in the
2 transcript, I probably did.

3 Q. Do you remember the judge telling you that
4 criminal sexual conduct, second degree, carried
5 up to twenty years?

6 A. No. I remember reading that.

7 Q. So you knew that going into the plea?

8 A. No, I remember reading it.

9 Q. Do you remember telling the judge that you
10 understood your right to a jury trial?

11 A. No.

12 Q. Do you remember telling the plea judge
13 that you understood the difference between a
14 guilty plea and an *Alford* plea?

15 A. I don't recall it, but I didn't know the
16 difference really. We briefly went over that
17 but I didn't understand what he meant by -- I
18 was still a little -- I can say that I under-
19 stood fully.

20 Q. Do you remember telling the plea court
21 that no one had threatened you or promised you
22 anything to get you to plead guilty?

23 A. Yes.

24 Q. You also told the court that you were
25 completely satisfied with your attorney?

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1 A. Correct.

2 Q. You also said that you didn't need any
3 more time with him, do you remember that?

4 A. Yeah.

5 MATTHEW FRIEDMAN: Beg the Court's
6 indulgence.

7 THE COURT: Certainly.

8 CROSS EXAMINATION CONTINUED

9 BY MATTHEW FRIEDMAN:

10 Q. You mentioned some witnesses that you
11 wanted counsel to contact. Who were those
12 witnesses?

13 A. Who were they?

14 Q. (Affirmative nod).

15 A. My roommate, his two little girls, the gas
16 station attendant where we stopped by when we
17 filled up gas, and my -- a couple of my
18 coworkers and my boss.

19 Q. Did you give him the names and contact
20 information on those witnesses?

21 A. Yes.

22 Q. What was the reason that you wanted him to
23 contact those witnesses?

24 A. What was the reason? The gas station is
25 where we went to get gas, that was right down

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1 the street. If I had kidnaped her or done
2 anything like that, as soon as we stopped, she
3 could have done something. That was a lie.

4 My roommate and his two children could
5 tell them that she pulled up and that she
6 stayed for a little bit.

7 Q. This kidnaping charge was dismissed in
8 this case. Right?

9 A. Set aside. Dismissed. I don't know.

10 Q. Do you know if Mr. Davis contacted those
11 individuals?

12 A. I know he didn't contact them.

13 Q. I believe that you also testified that
14 there were also some phone records that you
15 wanted him to get?

16 A. Right.

17 Q. What was the substance of those phone
18 records?

19 A. What would they have consisted of?

20 Q. (Affirmative nod).

21 A. They was just texting and phone calls
22 showing that she was -- that it randomly showed
23 that she'd called me over and over, texted some
24 sexual comments and other things that provoked
25 me to come over there. It was going more to

1 show my case. Get my records, get hers, to
2 show that she was texting me.

3 MATTHEW FRIEDMAN: Nothing
4 further.

5 THE COURT: Redirect, Mr. Webb?

6 MR. WEBB: Thank you, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. WEBB:

9 Q. Did you receive guidance from anyone when
10 you made the plea, your actual decision to
11 plead?

12 A. I don't really -- I mean -- Rodney Davis
13 was more letting me know to try to sit back.
14 He wasn't -- he said that he wasn't prepared,
15 that he wasn't ready, so this wasn't a good
16 decision to take it. But after talking to
17 him a little bit, I -- I was thinking about
18 withdrawing, but once I'd asked him some
19 questions and then he asked me if I was mildly
20 -- or if I was learning disabled, I just said
21 'no, I am going to take the plea.'

22 Q. The evidence of discovery that you just
23 discussed with Mr. Friedman, that you wanted
24 your lawyer to pursue, speaking with the gas
25 station attendant and others, did you think

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1 that any of that information would help your
2 defense against a criminal sexual conduct
3 charge?

4 A. Oh, sure. It would help me.

5 MR. WEBB: Nothing further.

6 MATTHEW FRIEDMAN: I have nothing
7 further, Your Honor.

8 THE COURT: Thank you. You may come
9 down, Mr. Caplinger.

10 (WITNESS STEPS DOWN)

11 THE COURT: Call your next witness.

12 MR. WEBB: Your Honor, the
13 Applicant calls Mr. Davis.

14 THE COURT: Very well. Thank you.

15 (WITNESS TAKES STAND)

16 RODNEY DAVIS, being duly sworn to tell
17 the truth, the whole truth and nothing but the
18 truth, testified, as follows:

19 DIRECT EXAMINATION

20 BY MR. WEBB:

21 Q. Mr. Davis, what do you do for a living?

22 A. I am attorney.

23 Q. What type of law do you practice?

24 A. Primarily criminal defense.

25 Q. How long have you been doing that?

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1 A. October began my sixteenth year.

2 Q. Where are you currently employed?

3 A. Currently with a brand new law firm that I
4 founded with four other attorneys -- Rodenberg,
5 Callihan Davis Lohr & Syracuse -- just over ten
6 days ago.

7 Q. Congratulations.

8 A. Thank you.

9 Q. Where were you employed before this new
10 firm?

11 A. The Charleston County Public Defender's
12 office.

13 Q. How long were you with the Public
14 Defender's Office?

15 A. About nine years. Actually, I think, a
16 little over nine years.

17 Q. Do you recall representing Mr. Caplinger?

18 A. I do.

19 Q. When did you first undertake that
20 representation?

21 A. The file that the date was opened in the
22 Public Defenders Office was June 16th. My first
23 contact with the case would have been signing
24 the Rule 5 request on June 22nd, 2010.

25 Q. When did you first meet Mr. Caplinger?

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1 A. The first meeting that I noted in my file
2 is on October 7th, 2010.

3 Q. Why the delay of almost four months?

4 A. I can't give a specific answer to that.
5 Obviously as a public defender, I was probably
6 at that time carrying a case load of about a
7 hundred and forty or so clients. I think
8 that's what it was when I left. But
9 specifically why it took from June 22nd to
10 October 10th on this case, I don't have a
11 specific recollection.

12 Q. Did you have any subsequent meetings with
13 him?

14 A. I reviewed the file, actually reviewed it
15 in the office the other day and then again this
16 morning, uh, -- my notes, I can -- I can
17 quantify three meetings and there are notes on
18 a e-mail that suggests a fourth one.

19 Q. Where would those meetings have taken
20 place?

21 A. The first one, October 7th, was at the
22 Charleston County Detention Center. (Reading):
23 "Meeting with the defendant at CCDC (lengthy
24 conversation)."

25 Another one would have been here at the

1 courthouse.

2 Another one at -- CCDC is the Charleston
3 County Detention Center. The third one was at
4 the detention center.

5 The fourth one, as I said, I have notes to
6 suggest that there was a meeting with my
7 client. This is from my notes, breaking down
8 what the charges were and the consequences. It
9 doesn't indicate whether that was at the jail
10 or at the courthouse.

11 Q. Is it the policy of the public defender's
12 office to document meetings with clients?

13 A. It's more appropriate to say that it is my
14 policy. I believe that one can never document
15 the file enough. Obviously as to what appears
16 to be this last meeting, I don't have the date
17 or time to tell you for sure that there was a
18 meeting. I regret that.

19 Q. Mr. Caplinger testified to a slew of
20 inmate request forms; again which your office
21 very kindly supplies. Do you recall receiving
22 those forms from Mr. Caplinger?

23 A. I recall receiving quite a bit of
24 correspondence from Mr. Caplinger, yes.

25 Q. And do you recall the gist of his request?

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1 A. My summary of the gist of his concerns,
2 and certainly we have the transcript of his
3 testimony but my recollection of back during
4 the time that I was receiving them, uh, he was
5 understandably impatient, wanted to be out of
6 jail, wanted something to move forward quickly
7 on his case.

8 He has testified, obviously, about hope-
9 fully having a bond reduction or some other way
10 of getting to court quickly.

11 His impatience was with the workings of
12 the system, both with court dates and with my
13 visiting him.

14 Q. How did you respond to the requests?

15 A. The only dispute that I have perhaps with
16 his testimony is that I did not notify him of
17 a bond reduction that did occur. I did notify
18 the person who my information gave me to
19 notify, that was out of jail, that would
20 potentially be posting bond. That was his
21 boss, or former boss, where he hoped to be re-
22 employed. So I did notify him when we got the
23 bond reduced in the hopes that perhaps his
24 employer would be able to make the bond.

25 I certainly met with him -- I have copies

1 of all of the statutes. Unfortunately, I
2 cannot recall whether I provided those to him,
3 provided him with copies or them or not. I
4 would testify that I reviewed them with him.
5 I don't have notes whether I actually provided
6 him copies of the statutes.

7 Q. Are you aware that on at least two
8 occasions that Mr. Caplinger wrote directly
9 told Mr. Pennington requesting assistance, that
10 you would come visit him and that you would
11 provide the discovery which he had been asking
12 for?

13 A. I know that he wrote Mr. Pennington. I'd
14 have to review the notes to know whether it was
15 two or more than two. I don't recall. I was
16 aware that he had written Mr. Pennington.

17 Q. How did you respond to those letters?

18 A. I can't say specifically in this case but
19 generally Mr. Pennington's paralegal, Ms.
20 Driggers, will forward any letters or any
21 correspondence that they receive from
22 individual public defender's clients; after
23 getting them, they will provide them to that
24 attorney. Sometimes all that is required is,
25 'Hey, your client is writing us.' Or there

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1 have been times, certainly, that Mr. Pennington
2 and I have had discussions about a particular
3 issue.

4 I don't recall having discussion with Mr.
5 Pennington on this case. It might have been
6 something that was added to the file. Again,
7 his concerns of more frequent contact with me
8 and hoping that the court process would speed
9 up.

10 Q. What was your opinion about the plea
11 offer?

12 A. Mixed. Mixed. I think that's also in the
13 record. While Mr. Caplinger was very under-
14 standably concerned about the speed with which
15 we were moving forward, I think that there is a
16 reference in the transcript that a hundred and
17 seventy-five days, give or take, to go to court
18 on five charges of this serious nature is
19 rather quick.

20 I am not thankful for that in the sense
21 that my clients remain in jail for that period
22 of time, but that's a rather quick timeframe to
23 get to court.

24 I expressed to him, privately and on the
25 record, that while there were factual issues

1 about all of these allegations that I was
2 ready, willing and able to more fully prepare
3 and go to trial on the issues that were readily
4 apparent to him and to me.

5 Q. Did you ever seek the bond reduction, the
6 further bond reduction, that he repeatedly
7 requested?

8 A. Not the second one. Again, the original
9 bond was set after arrest at five hundred
10 thousand dollars. That would have been in June
11 -- I'm sorry. He was arrested on May 27th. So
12 within a day.

13 On July 1st, in front of Magistrate Judge
14 Gosnell, it was reduced to a hundred and fifty
15 thousand surety, consolidated, with no contact
16 with the victim.

17 Beyond that, I made no attempt for any
18 additional reduction.

19 Q. But he asked you to do so?

20 A. (Affirmative nod), he had.

21 Q. He mentioned discovery that he requested.
22 Did you pursue that discovery that he
23 requested?

24 A. If you can tell me specifically, I'll do
25 my best to answer.

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1 Q. He testified as to getting phone records,
2 cell phone records; meeting with a gas station
3 attendant; speaking with his boss and with
4 others who would have seen he and the alleged
5 victim.

6 A. I have in my notes from the first meeting
7 the lengthy conversation on October 7th. Notes
8 to get -- I'm blanking on the lady's name, his
9 paramour's name but her phone records from T-
10 Mobile. I know both his boss' and his
11 roommate's name and number. I did not obtain
12 records. I don't have a note that I spoke with
13 Mr. Roberts or with Mr. Capose (phonetic), who
14 were his boss and roommate.

15 That's the type of thing that I was
16 debating with him -- if we were going to trial,
17 those were things that were necessary that I
18 do. If he was to accept this plea, then of
19 course those become moot points.

20 Q. Is it possible that the almost four months
21 delay from the time you received the case until
22 the time you actually set down with Mr.
23 Caplinger could have caused him to distrust or
24 to be uncomfortable with you and your
25 representation of ---

1 THE COURT: Mr. Webb, I am not going
2 to allow that. Under 602, he can't possibly
3 give me any answer to that because he's not a
4 psychiatrist. If you want to qualify him, --
5 but I don't think he's qualified to render an
6 opinion on that or to answer the question. So
7 move on to something else. He's already
8 testified as to his belief. We all know -- as
9 a practitioner, we understand what happens in
10 the process. So thank you, sir. I am aware of
11 that.

12 DIRECT EXAMINATION CONTINUED

13 BY MR. WEBB:

14 Q. Did Mr. Caplinger give you any basis to
15 think that had he been taking your advice and
16 trusting you that he would not have pled?

17 A. Good question.

18 THE COURT: Again -- listen, what he
19 decides to do hasn't got a thing to do with
20 what an individual does. I'm sorry. In fact,
21 it's the -- the fact that he is doing what Mr.
22 Davis wants him to do, he's probably more
23 ineffective than he is otherwise. You and I
24 both know that that can't be the lawyer's
25 decision. It's got to be his decision. So

1 thank you very much. I'm not going to -- the
2 question has no probative value and he can't
3 possibly answer it. So thank you. In my
4 opinion. Unless you want him to confirm that
5 he wasn't ineffective by answering the
6 question, 'no, he was told to do what he should
7 do.'

8 MR. WEBB: Your Honor, I am simply
9 trying to get ---

10 THE COURT: So ask it -- ask it
11 another way for me. Rephrase your question.
12 Right now, the way that it is put, he's almost
13 answering 'did he do what you wanted him to
14 do?' That would be, I think, ineffective as
15 counsel in a criminal defense case, personally.

16 Now, if you are asking him that, I
17 think he can probably answer that.

18 MR. WEBB: Yes, sir.

19 THE WITNESS: Judge, could you
20 rephrase ---

21 THE COURT: Yes, did you -- did your
22 client do what you were wanting him to do? As
23 a lawyer?

24 THE WITNESS: I wanted him to
25 wait longer, to allow me to pursue the

1 investigation.

2 THE COURT: That's what I gleaned
3 from the plea, which is very -- the key to
4 this, the whole case is triggered by Alford
5 and then the responses.

6 I understand your position but to me
7 that's -- those are key aspects of it because
8 that changes the dynamics of this plea
9 dramatically, an Alford plea. They aren't
10 frequently done in cases like this. I probably
11 have seen two in my career, with CSC.

12 I think Mr. Davis answered the
13 question. I think Mr. Davis answered the
14 question in the colloquy with the court. I
15 mean, it is pretty significant, what he says.

16 Now, if you want to deal with that,
17 asking him what he meant by that, to elaborate,
18 I have no problem with that. But asking him
19 whether his client was doing what he wanted him
20 to do or not, I really -- that's not -- I don't
21 think that's really relevant at this point,
22 because he's already said why he did what he
23 did. He was frustrated. He wanted to take his
24 chance, is what I heard him say. I am
25 certainly summarizing but that's what he said

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1 and I think that's -- he is the best person to
2 testify what he did, rather than Mr. Davis. So
3 ---

4 MR. WEBB: Yes, sir.

5 THE COURT: Thank you. But please
6 feel -- I don't mean to interrupt you, Mr.
7 Webb. I'm sorry. Thank you very much.

8 MR. WEBB: Your Honor, this is your
9 court.

10 THE COURT: No. Well, it's my court
11 but it is your client's day in court and I am
12 not going to restrict that, sir. Thank you.

13 MR. WEBB: Thank you.

14 THE COURT: You bet.

15 DIRECT EXAMINATION CONTINUED

16 BY MR. WEBB:

17 Q. Mr. Davis, would you do anything different
18 if this happened over again?

19 A. I can never note my file clearly enough.

20 I can never meet with clients frequently
21 enough. I also note in the transcript -- on
22 the front of the file, and this would have been
23 written on the day of the plea, I have
24 "Registry, 85%, Serious". I think the only
25 thing that made the record was the eighty-five

1 percent. I would have reviewed those things
2 with my client. I would have -- it would have
3 been my intention to get those on the record.
4 I don't know that that all three of them were.

5 But as far as my conversations with my
6 client, being as clear as I could about my
7 suggestions, I don't have any regrets about our
8 conversation or the content.

9 MR. WEBB: Thank you. Nothing
10 further.

11 THE COURT: Thank you, Mr. Webb.
12 I appreciate that, sir. Cross-examine?

13 MATTHEW FRIEDMAN: Thank you, Your
14 Honor.

15 CROSS EXAMINATION

16 BY MATTHEW FRIEDMAN:

17 Q. Mr. Davis, I believe that you testified
18 that you met with the Applicant three or four
19 times prior to the trial -- to the plea?

20 A. Certainly three. Maybe four.

21 Q. Do you think that you had enough time to
22 prepare this case?

23 A. I was prepared for the plea.

24 Q. Had he decided to go to trial, would it
25 have been day or at a later time?

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1 A. It would have been at a later time.

2 Q. Do you recall if you discussed the
3 elements of the charges, what the State was
4 required to prove?

5 A. I did.

6 Q. Do you remember if you discussed the
7 applicant's versions of the facts?

8 A. We did.

9 Q. Did you discuss potential defenses with
10 him?

11 A. We did.

12 Q. Did you have any problems communicating
13 with him?

14 A. I didn't sense any problems communicating
15 but there was some testimony on his behalf
16 about me questioning about some learning
17 disability. Whatever caused that was again on
18 the days leading up to his guilty plea. The
19 conversations that we had about my desire to
20 investigate more fully and to potentially try
21 the case and his desire to move forward was
22 sometimes conflicting. Certainly I recall
23 having concerns about him not hearing -- his
24 not hearing well what I was saying. I
25 certainly meant it in no derogatory way. I

1 just wanted to make sure that there wasn't some
2 other issue that I was missing.

3 Q. One of the charges he pled guilty under
4 *Alford* and the other one he pled guilty to; is
5 that right?

6 A. Correct.

7 Q. Did you think that he understood the
8 significance of that?

9 A. Very clearly, especially for one to be a
10 straight guilty plea and the other one being
11 an *Alford* plea. We explained that. There
12 was a unique reason in this case why it was
13 explained. His version of the facts, both in
14 speaking with me and on the record, did not fit
15 with the State's version, yet he was willing to
16 plea.

17 Q. Did the State offer any recommendations or
18 negotiations?

19 A. Not a negotiated plea. Again, the terms
20 of the plea arrangement were that the assault
21 and battery with intent to kill was reduced to
22 an assault and battery of a high and aggravated
23 nature, one criminal sexual conduct first
24 degree was dismissed, two kidnaping charges
25 were dismissed, and the remaining criminal

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1 sexual conduct first was reduced to a second.

2 Q. Whose decision was it to plead guilty?

3 A. My client's.

4 Q. Did you explain the lesser-included
5 offense of criminal sexual conduct second
6 degree, that he was pleading guilty to?

7 A. I did.

8 Q. Do you recall ever telling him that you
9 would probably get five years if he pled
10 guilty?

11 A. I would not have used that phrase. I know
12 that was a number that we had talked about.
13 We'd discussed that that was something that we
14 -- as he testified earlier, that was a number
15 that he was hopeful that he could probably do
16 that amount. The record reflects that. That's
17 what I requested the court to impose.

18 Q. I believe that you testified that you had
19 noted something about the registry on your
20 file. Do you remember discussing the sex
21 offender registry?

22 A. I had. While he was testifying, I
23 checked. There was a meeting here at the
24 courthouse on November 15th, 2010. My note,
25 reading: "Meeting at courthouse, explained

1 Alford, trial, 85%, registry, asked defendant
2 to wait, defendant wants me to ask for a
3 recommendation of probation and an *Alford*
4 plea." That would been two days -- three days
5 before he entered the plea.

6 Q. I believe that you testified that you
7 reviewed the statutes with him?

8 A. Yes.

9 Q. Did you review all the discovery that you
10 had with him?

11 A. I would have reviewed discovery with him.
12 I'm trying to see her whether my notes say the
13 paralegal sent him a copy of the discovery -- I
14 don't see a note where we sent it to him, that
15 he had a copy of it, but I would have reviewed
16 that. I would have reviewed the State's
17 allegations with him and the discovery
18 received. In fact, there is a note on the 17th,
19 when I met with him at the jail, that I need
20 don't have the rape kit and result. I still
21 don't have DNA analysis.

22 Q. I'm sorry. That you still don't have the
23 rape kit, and what was the other one?

24 A. Or DNA results on whether there was a
25 match or not.

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1 Q. Okay.

2 A. So we were, the day before his plea, still
3 discussing what the State had, what they didn't
4 have, what further investigation would reveal.

5 MATTHEW FRIEDMAN: Nothing
6 further.

7 THE COURT: Redirect?

8 MR. WEBB: Nothing, Your Honor.

9 THE COURT: I have a question.

10 Based on your statement and since the court
11 didn't further inquire, and I am not suggesting
12 that the court was in error, I just would have
13 -- it's question that I would have asked, I
14 think. I'm asking it now. I understand your
15 response is that you basically said that it was
16 his decision to do the *Alford* plea. I see
17 where the court asked Mr. Caplinger whether or
18 not he agreed that if the jury heard those
19 facts that they would probably find him guilty
20 and he said "yes." The question wasn't asked
21 of you. Do you believe that, as his lawyer.

22 MR. DAVIS: That is the second time,
23 Your Honor, that I have been asked that on the
24 record. In both cases, I -- I am not certain
25 of that.

1 THE COURT: Okay. Thank you.

2 You may step down.

3 (WITNESS STEPS DOWN)

4 THE COURT: Any additional questions
5 based on the court's inquiry?

6 MR. WEBB: No, Your Honor.

7 MATTHEW FRIEDMAN: None, Your
8 Honor.

9 THE COURT: Any additional
10 witnesses, Mr. Webb?

11 MR. WEBB: Nothing further, Your
12 Honor.

13 THE COURT: Anything from the State?

14 MATTHEW FRIEDMAN: No witnesses
15 from the State.

16 THE COURT: Mr. Webb, I'll be happy
17 to hear from you in closing, sir.

18 MR. WEBB: Thank you, Your Honor.
19 The issue is effective assistance of counsel.

20 The underlying issue here, the
21 foundational issue, is Mr. Caplinger's state
22 of mind and whether he trusted counsel. Trust
23 is crucial to what our Constitution intends in
24 effective assistance of counsel. If one feels
25 "alone" in the courtroom, for whatever reason,

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1 then they don't have that effective assistance.

2 There is no one act or inaction on the
3 part of Mr. Davis, and this is not intended to
4 disparage him at all, -- there is no one action
5 that appears to rise to the level of what case
6 law would typically refer to as ineffective
7 assistance. However, taken as a whole, all of
8 these facts provide an environment that do rise
9 to that level, particularly given this
10 defendant and his background, his lack of trust
11 in general, and the fact that he's testified --
12 it's even clear, given the last item in the
13 packet that handed up, that he didn't trust Mr.
14 Davis. He just didn't trust him. He actually
15 mentions a lack of trust in a few other
16 instances as well in the correspondence. This
17 is not something manufactured after the point.
18 This was his state of mind as all of this was
19 happening.

20 This was an intimidating environment.
21 As Mr. Davis testified, there were a number of
22 very serious charges here. This was unfamiliar
23 territory to Mr. Caplinger, his prior were just
24 I think two DUI's. For him to make a knowing
25 and intelligent decision, he needed meaningful

1 assistance from an experienced defense attorney
2 he could trust. He had an experienced criminal
3 defense attorney. I have no doubt that Mr.
4 Davis wanted to elicit that trust, but for any
5 number of reasons that we've discussed --
6 discovery not pursued, almost four months
7 before an additional meeting, three or possible
8 four meetings -- though Mr. Caplinger says only
9 two, -- failed promises, no followup with bond
10 reduction. All of these things combined to
11 prevent Mr. Caplinger from trusting his lawyer.
12 He went in, essentially alone, at that plea
13 hearing. He did not take the advice of his
14 lawyer and made a decision that he now regrets.

15 He responded to the court as he did at
16 the plea hearing again out of confusion and
17 uncertainty and, as he testified, because Mr.
18 Davis said that 'if you want to take the plea,
19 you gotta say 'yes' to whatever the court asks
20 you.' I think it is to Mr. Davis' credit, by
21 the way, that he actually stopped the plea
22 judge and said, 'Judge, he is shaking his head
23 no but telling you yes.'

24 Mr. Caplinger has testified that he
25 would not have taken the pleas had he trusted

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1 his lawyer, who was advising him that he ought
2 not do that. As a result of this lack of
3 trust, which I think there is an objective
4 reason or basis for him not to have had, uh,
5 he's suffered the consequences and he's been
6 prejudiced. He wants another bite at the apple
7 with a relationship that he can trust in and
8 move forward with. Thank you, Your Honor.

9 THE COURT: Thank you.

10 MATTHEW FRIEDMAN: Thank you, Your
11 Honor. The State would submit that there is
12 nothing to suggest that Mr. Davis was
13 ineffective in this case. He met with the
14 applicant a sufficient number of times, he
15 explained the elements of the charges and the
16 State's allegations to the applicant. He
17 informed the applicant that he would like more
18 time to investigate before the Applicant
19 decided whether or not to plead guilty or to go
20 to trial. Told him that he did not have the
21 results of the rape kit, nor the DNA results
22 the day before the plea, and yet the Applicant
23 still want to plead guilty and resolve the
24 case.

25 We would submit that he is not

1 satisfied now because he wanted to get five
2 years and he ended up getting more time than
3 that.

4 He made the decision to enter the plea
5 freely and voluntarily. The court relied on
6 his responses during the plea hearing and we
7 would ask the court to deny and dismiss the
8 application.

9 THE COURT: Any reply?

10 MR. WEBB: No, Your Honor.

11 THE COURT: Well, this is one of
12 those cases that, quite honestly, have
13 perplexed me for years; and, this is no
14 exception. Alford pleas in cases of this
15 nature -- probably not all of my brothers and
16 sister on the bench will accept them. I do, as
17 obviously does Judge Nicholson. But they are
18 really problematic. They are extremely
19 problematic when I'm confronted with what I see
20 here. Because I have a lawyer that honestly,
21 as a trial lawyer, thought that the better
22 approach for his client was to not do the plea.

23 I am framing this, and I really am
24 framing it, because I want the Court to address
25 this if there is further review of what we do.

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1 Because it is a -- it is a very complex
2 situation.

3 The question is -- and I understand
4 your question, Mr. Webb, and quite honestly it
5 succinctly states what I am about to say. Does
6 a lawyer have a right to tell a client that
7 'you can't do this plea, because I think you're
8 wrong and I legally don't agree with you'?

9 I don't think you do. I think the
10 case belongs to the individual. Now, I agree
11 with you that he has to have some modicum of
12 understanding. But I appreciate the
13 applicant's one -- because it seems to be a
14 progression insofar as his relationship with
15 Mr. Davis, which -- it speaks for itself.

16 But clearly I agree with Mr. Davis.
17 A case of this nature in the 9th Circuit, to be
18 resolved in a hundred and seventy-five days is
19 quite remarkable. Is that good? No, it's not.
20 A hundred and eighty days is the benchmark, but
21 should it be shorter than that? Sure, it
22 should. It is realistically possible when
23 you're churning out -- I administered a charge
24 to our new grand jury. They're dealing with
25 about seven hundred indictments a month. Now,

1 I understand what everybody wants but when
2 you're dealing with that many cases and we
3 don't have the money in this state, or
4 obviously in other states, to hire the massive
5 amount of lawyers that you would have to hire
6 in the public setting, lawyers that are willing
7 to do what Mr. Davis and others have done for
8 years, which is quite amazing to me. Mr. Davis
9 is now venturing into the private sector, and I
10 wish him well. But he has made a tremendous
11 commitment for this profession and this
12 process, and I think a sacrifice -- frankly.
13 I have had the pleasure of trying a number of
14 cases with Mr. Davis, as a trial judge, and he
15 is an extremely able and competent lawyer.

16 Unusual -- and what we learn in these,
17 and rest assured that I've tried to do this but
18 I will make a note and my clerk -- my clerk is
19 going to make a note based on what I am going to
20 say, that in cases such as this that we need to
21 make sure that I put on the record that I'm
22 satisfied that you're wanting to go forward,
23 notwithstanding, and that means contrary, to
24 your attorney's wishes, -- I try to do that
25 when these situations arise. I don't always

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1 succeed in doing that.

2 Not that it changes anything, because
3 the bottom line -- and this is the problem that
4 you have, and let me -- I digress because --
5 you were under oath before Judge Nicholson.
6 You are under oath before me. Totally
7 opposites, poles apart in what you're saying.
8 Why should I believe you today as opposed to
9 what you did before Judge Nicholson? Judge
10 Nicholson is an able jurist. He is and has
11 been a productive member of our profession for
12 as long as I have, because he and I were in the
13 same law school class. We've been around for a
14 long time. I am grateful for that. We've been
15 here. He understands it, because he was a
16 practitioner, too, as I was.

17 This letter of March 25th, 2011, which
18 is a part of the packet, and I commend you
19 because I -- as an aside, I was involved years
20 ago when I was in the Methodist church with one
21 of the organizations involving KAIROS. You
22 mentioned KAIROS in this. I am not trying to
23 promote any religious position, but it's
24 significant to me because what you've shared --
25 the out of the prison is called the MYO's for

1 the Methodist Church and I participated in that
2 program and I shared some of your same feelings
3 that you've expressed in your letter. But what
4 this letter seems to be, as a new person in a
5 lot of ways but a new person insofar as you
6 begin to understand some of the problems with
7 your case and some of the problems for the
8 practitioner. You apologize to him, numerous
9 occasions. This is after all of these
10 frustrating letters.

11 You see the problem that you have, and
12 maybe Mr. Davis told you, maybe he didn't, --
13 and I can't speak for every judge, but he's
14 heard me say this enough that he's not going to
15 bring you in and frustrate you more, which I
16 think that it would. You're entitled to one
17 bond reconsideration in this Circuit. You got,
18 with Judge Gosnell. The only way that you
19 could get now another is that there would have
20 to be change in circumstances. Lawyers bring
21 it before judges all the time and I -- I
22 typically -- I don't think -- I can't think of
23 a time that I haven't taken this position --
24 just because you've been incarcerated and
25 unable to make bond is not a change in

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1 circumstances. So there would have been no
2 purpose in doing that, other than to frustrate
3 you.

4 So that part of it, I understand that
5 you don't like that but that's reality.
6 Whether you like it, whether you agree with it
7 or not, I respect your right to differ with it,
8 but that's the reality of the situation. So
9 that isn't ineffective assistance. The bond
10 situation. Nothing.

11 The fact that he waited four months,
12 yeah, maybe, it would have been nice, and he
13 said so, maybe it would have been nice if he
14 would have been earlier. Maybe it would have
15 helped you initially. But it seems that you
16 moved into a relationship -- because you
17 acknowledge that before Judge Nicholson,
18 clearly. Not just once, but on several
19 occasions. Judge Nicholson is in a position to
20 view that. It's ten that you have to express
21 your frustration. It's then that you have to
22 say that I don't understand what you're saying.
23 Frankly, I look for that. I'm sure Judge
24 Nicholson does too. The people whom are
25 sitting around this courtroom have heard me

1 reject pleas numbers of times because -- the
2 first thing that a person has to do is to
3 convince me that's what they want to do.

4 And an Alford plea, in this case, from
5 what I've read -- yeah, there was -- there was
6 -- I understand the legal part. I understand
7 being a lawyer. But it's just as we shared
8 with an individual in Beaufort about a month
9 ago, there was a really intriguing -- I am not
10 going to bore you with the details of it but it
11 was an intriguing legal question. I thought
12 that it was fascinating and I really wanted to
13 rule on it, and the lawyers were prepared to
14 argue it -- but there was a deal worked out and
15 it would have affected the deal for us to rule
16 on it. The defendant said, 'I don't want y'all
17 to go through that. I want to take the deal.'
18 If I'd ruled one way, there wouldn't have been
19 any case because it would have been thrown out
20 -- I would have suppressed the evidence.

21 It's an interesting question,
22 fascinating -- almost a law school type
23 question. I even placed that on the record.
24 But I also said to him -- but 'it's your case,
25 because you're the one because if I don't rule

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1 it out and you have to face the charge, the
2 punishment is going to be greater than what
3 you've been offered, most probably.' He said
4 'that's right, and I want to take it.'

5 Happens every day. It happens --
6 except this is why I said Alford is unique.
7 There's a benefit, that's part of the deal.
8 That's one of the things that I try to stress.
9 It's somewhat -- it is alluded to here but I
10 stress it. I ask them, what do you believe the
11 benefit? In this case, I know what the answer
12 to that question is -- as you do. The benefit
13 was to come from a 20-year exposure -- excuse
14 me -- from a 30-year exposure to drop a
15 kidnaping charge -- which in kidnaping
16 everybody has a misconception.

17 If you restrict somebody's movement --
18 it can be within their house, as I am sure your
19 lawyer has explained to you, you've just
20 established the elements of kidnaping. If they
21 believe that you put her in her room and
22 wouldn't let her out, guess what? She's been
23 kidnaped under the strict construction of our
24 law. Supports it if the jury were to find
25 that. I don't know what a jury would do, but

1 you got rid of that exposure.

2 You also had the charge and you
3 articulated about the guilty plea. I don't
4 have any problem with the assault and battery.
5 I mean, clearly he articulated the reason for
6 that. I understand your position was -- and
7 this is where he talks about you're giving up
8 some defense, the self-defense issue that you
9 wanted to remove the knife from her possession,
10 but you knew that you were giving that up. So
11 you knew that you -- and that's a jury issue,
12 and you chose to say 'no, I did not.' He asked
13 you to tell him and you told him precisely.
14 You, by your very words, articulated that. So
15 to say that you didn't know what was going on
16 is not consistent with that either. You've
17 clear responded, in an appropriate fashion and
18 very articulately.

19 So having said all of that, could your
20 lawyer have been a kinder, gentler person?
21 Sure, he could have been. Does that make him
22 in effective? No. Should he have screamed and
23 hollered at the judge, 'I think he is making
24 the most serious mistake of his life'? Maybe.
25 I just don't believe that is what ineffective

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1 assistance does because I think the bottom line
2 is that it is your call. So if a lawyer is
3 supposed to stop you from doing something after
4 he's told you and says on the record 'I
5 understand why, I think there is a real issue
6 here.'

7 The fact that these things hadn't been
8 done, I -- I know that I do that numbers of
9 times, especially when we are doing a guilty
10 plea to expedite the plea. But I will put on -
11 - I try to do this because of this very same
12 issue. You understand that you're restricting
13 your lawyer's opportunity to prepare your case
14 by entering a guilty plea, because there is no
15 reason to go to the full extent of getting
16 ready for trial unless it's necessary.

17 Again, in a perfect world, in a
18 perfect society, when you've got all the -- I
19 enjoyed when I had to -- when I chose to run
20 for a circuit court judge, I had to stop taking
21 cases, because I couldn't in good conscience
22 tell a client that I may be able to handle it.
23 If I was elected, then I needed to be able to
24 wrap up my practice. As a result, my caseload
25 started diminishing. Towards the end it was

1 really fun, because I could spend all the time
2 I wanted on my cases. I didn't have to worry
3 about somebody else's cases. I had bucco
4 amounts of time. Great position. But that's
5 not reality. That's not the way that the real
6 world works.

7 The real world works even more
8 stressfully when you're a public defender and
9 has the caseload that they have. So there is
10 no question that he is going to use his time
11 effectively. He has to. I don't think it's
12 ineffective by not getting fully prepared for
13 trial when you're not going to trial.

14 Now, does that restrict him from
15 further preparation? Absolutely not. So --
16 for the purposes of this guilty plea, I don't
17 find that he was ineffective. Quite frankly,
18 he got an amazing deal. I understand the
19 facts, but he got a sentence where he was
20 exposed to twenty years -- he wanted five, he
21 got seven. That's not a bad outcome. So I --
22 I don't think it would have been any different
23 if -- and, frankly, there's a part of me that
24 almost wanted to turn it around, to let the
25 State appeal it, reverse it, and say 'lawyer,

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1 you shouldn't do it.' I could do that. I
2 could take that position, that a lawyer is
3 supposed to stop it and say, 'Judge, I am not
4 going to represent him. I refuse. I think
5 he's making a mistake and he's wrong.' I just
6 don't think that a lawyer can do that.

7 So I don't find that there was -- I
8 don't find that there would have been any
9 difference if -- quite frankly, to go back and
10 then have to only plead to a first, that is not
11 -- and kidnaping and the other charge, uh, --
12 if he goes to trial and he is acquitted, that's
13 great. If he doesn't, he's going to be serving
14 a lot longer than seven years. I can promise
15 him that, most probably. That's not a threat.
16 Don't know what the outcome is going to be.
17 We'll frame that and you'll have an opportunity
18 to -- I'd ask that the State please prepare the
19 appropriate Order. If you would, send it to me
20 within thirty days. Good luck to you, Mr.
21 Caplinger.

22 Thank you, Mr. Webb, for presenting
23 the case as thoroughly as you did, sir. Thank
24 you.

25 (HEARING CONCLUDED)

1 CERTIFICATE OF REPORTER

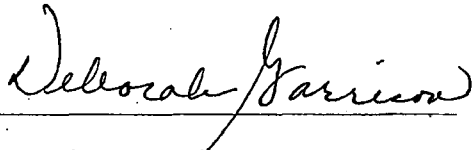
2

3 I, the undersigned, Deborah Garrison,
4 official court reporter for the 9th Judicial
5 Circuit of the State of South Carolina, do
6 hereby certify that the foregoing is a true,
7 accurate and complete transcript of the hearing
8 held before The Honorable R. Markley Dennis,
9 Jr., on January 10, 2012;

10 I further certify that I am neither kin
11 nor counsel to any of the parties and have no
12 interest in the outcome of this action.

13

14



15

Deborah Garrison

16

Circuit Court Reporter

17

9th Judicial Circuit

18

19

20

21

22 Charleston, South Carolina

23 March 26, 2012

RODNEY ATT?
DAVIS

CHARLESTON COUNTY DETENTION CENTER
INMATE REQUEST FORM

NAME (Last, First): CAPLINGER SHAUN # 1333529
HOUSING UNIT: 3F ROOM NUMBER: 3113 DATE: JUNE 7, 10

- | | |
|--|---|
| 1. ☐ DISCIPLINARY HEARING REVIEW | 7. ☐ CHAPLAIN |
| 2. ☐ CLASSIFICATION INFORMATION | 8. ☐ RECORDS |
| 3. ☐ INDIGENT STATUS | 9. ☐ DRESSOUT |
| 4. ☐ DRUG & ALCOHOL COUNSELOR | 10. ☒ PUBLIC DEFENDER |
| 5. ☐ LIBRARY PROGRAM | 11. ☐ OTHER |
| 6. ☐ INMATE WORKER / DETAIL PROGRAM | |

INMATE REQUEST: MR. DAVIS PLEASE COME VISIT ME
ASAP! I WOULD LIKE TO DISCUSS WHATS GOING ON
WITH MY CASE! I HAVE YET SEEN YOU FACE TO FACE!
I ALSO WOULD LIKE TO PUT A REQUEST FOR A BOND
REDUCTION PLEASE!
(PLEASE WRITE ON REVERSE SIDE OF WHITE COPY ONLY, IF MORE SPACE IS REQUIRED)

RECEIVING OFFICER'S NAME: Raeck DATE RECEIVED: 7-7-10
ACTION TAKEN: FUD

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

RECEIVING SGT'S NAME: [Signature] DATE RECEIVED: _____
ACTION TAKEN: [Signature]

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

RECEIVING TOUR COMMANDER'S NAME: _____ DATE RECEIVED: _____
ACTION TAKEN: _____

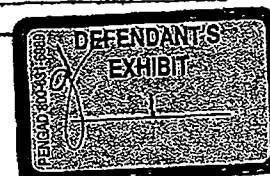
REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

STAFF OFFICER THIS REQUEST REFERRED TO: _____ DATE RECEIVED: _____

STAFF OFFICER'S RESPONSE: _____

INMATE - WHITE

CENTRAL FILE - YELLOW



Attention
Rodney Davis

CHARLESTON COUNTY DETENTION CENTER
INMATE REQUEST FORM

NAME (Last, First): Caplinger, Shaun # 1333529
HOUSING UNIT: 3-F ROOM NUMBER: 3113 DATE: 7-1-10

- | | |
|--|---|
| 1. ☐ DISCIPLINARY HEARING REVIEW | 7. ☐ CHAPLAIN |
| 2. ☐ CLASSIFICATION INFORMATION | 8. ☐ RECORDS |
| 3. ☐ INDIGENT STATUS | 9. ☐ DRESSOUT |
| 4. ☐ DRUG & ALCOHOL COUNSELOR | 10. ☒ PUBLIC DEFENDER |
| 5. ☐ LIBRARY PROGRAM | 11. ☐ OTHER |
| 6. ☐ INMATE WORKER / DETAIL PROGRAM | |

INMATE REQUEST:

Mr. Davis, I am requesting my
(Rule 5) and I am requesting the motion
Discovery and the motion to suppress
all evidence that they have against me.

(PLEASE WRITE ON REVERSE SIDE OF WHITE COPY ONLY, IF MORE SPACE IS REQUIRED)

Thank you,
Shaun Caplinger

RECEIVING OFFICER'S NAME:

[Signature]

DATE RECEIVED:

7/1/10

ACTION TAKEN:

FWD

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

RECEIVING SGT'S NAME:

[Signature]

DATE RECEIVED:

7-1-10

ACTION TAKEN:

Send to the P.D. office

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

RECEIVING TOUR COMMANDER'S NAME:

DATE RECEIVED:

ACTION TAKEN:

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

STAFF OFFICER THIS REQUEST REFERRED TO:

DATE RECEIVED:

STAFF OFFICER'S RESPONSE:

Attention:
Rodney Davis

CHARLESTON COUNTY DETENTION CENTER
INMATE REQUEST FORM

NAME (Last, First): Coplinger, Shaun # 1333529
HOUSING UNIT: 3-F ROOM NUMBER: 3113 DATE: 7-9-10

1. ☐ DISCIPLINARY HEARING REVIEW
2. ☐ CLASSIFICATION INFORMATION
3. ☐ INDIGENT STATUS
4. ☐ DRUG & ALCOHOL COUNSELOR
5. ☐ LIBRARY PROGRAM
6. ☐ INMATE WORKER / DETAIL PROGRAM

7. ☐ CHAPLAIN
8. ☐ RECORDS
9. ☐ DRESSOUT
10. ☒ PUBLIC DEFENDER
11. ☒ OTHER Fast and Speedy Trial

RSD

INMATE REQUEST: Mr. Davis, I would like to have
OR Request for a fast an speedy trial.
(ASAP) (Please Come!) Thank You
meet me! Shaun Coplinger
(PLEASE WRITE ON REVERSE SIDE OF WHITE COPY ONLY, IF MORE SPACE IS REQUIRED)

RECEIVING OFFICER'S NAME: CORONADO DATE RECEIVED: 7/9/10
ACTION TAKEN: FWD

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

RECEIVING SGT'S NAME: [Signature] DATE RECEIVED: 7-10-10
ACTION TAKEN: Forward to P.D. office

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

RECEIVING TOUR COMMANDER'S NAME: _____ DATE RECEIVED: _____
ACTION TAKEN: _____

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

STAFF OFFICER THIS REQUEST REFERRED TO: _____ DATE RECEIVED: _____

STAFF OFFICER'S RESPONSE: _____

ATT.
RECORDS

CHARLESTON COUNTY DETENTION CENTER
INMATE REQUEST FORM

NAME (Last, First):

CAPLINGER, SHAWN

1333529

HOUSING UNIT:

3F

ROOM NUMBER:

3113

DATE:

July 13, 10

1. ☐ DISCIPLINARY HEARING REVIEW
2. ☐ CLASSIFICATION INFORMATION
3. ☐ INDIGENT STATUS
4. ☐ DRUG & ALCOHOL COUNSELOR
5. ☐ LIBRARY PROGRAM
6. ☐ INMATE WORKER / DETAIL PROGRAM

7. ☐ CHAPLAIN
8. ☒ RECORDS
9. ☐ DRESSOUT
10. ☒ PUBLIC DEFENDER
11. ☐ OTHER

RDD
2010

INMATE REQUEST:

I would like to have my affidavit
the the charges, because I've never
receive one.

thank you

(PLEASE WRITE ON REVERSE SIDE OF WHITE COPY ONLY, IF MORE SPACE IS REQUIRED)

Shawn Caplinger

RECEIVING OFFICER'S NAME:

Ranch

DATE RECEIVED:

7-13-10

ACTION TAKEN:

FWD

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

RECEIVING SGT'S NAME:

Sgt. [Signature]

DATE RECEIVED:

ACTION TAKEN:

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

RECEIVING TOUR COMMANDER'S NAME:

DATE RECEIVED:

ACTION TAKEN:

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

STAFF OFFICER THIS REQUEST REFERRED TO:

DATE RECEIVED:

STAFF OFFICER'S RESPONSE:

ATTN: RODNEY DAVIS

CHARLESTON COUNTY DETENTION CENTER
INMATE REQUEST FORM

NAME (Last, First): Caplinger Shawn # 1333529
HOUSING UNIT: 3F ROOM NUMBER: 3113 DATE: July 20, 10

- | | |
|---------------------------------------|---|
| 1. () DISCIPLINARY HEARING REVIEW | 7. () CHAPLAIN |
| 2. () CLASSIFICATION INFORMATION | 8. () RECORDS |
| 3. () INDIGENT STATUS | 9. () DRESSOUT |
| 4. () DRUG & ALCOHOL COUNSELOR | 10. ☒ PUBLIC DEFENDER |
| 5. () LIBRARY PROGRAM | 11. () OTHER |
| 6. () INMATE WORKER / DETAIL PROGRAM | |

PDD

INMATE REQUEST: MR. DAVIS I have put in many Request to see you and have not received a response yet. I would really like to know what is going on with my case. I don't belong in here. I have not received an affidavit or anything period. REGARD DING MY CASE, I feel lost in here. Please find time to come see me and get these documents to me.
(PLEASE WRITE ON REVERSE SIDE OF WHITE COPY ONLY, IF MORE SPACE IS REQUIRED)

RECEIVING OFFICER'S NAME: _____ DATE RECEIVED: _____
ACTION TAKEN: Refered Furled 7-20-10
REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL: _____

RECEIVING SGT'S NAME: ROXAS DATE RECEIVED: 7/20/10
ACTION TAKEN: Forward
REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL: _____

RECEIVING TOUR COMMANDER'S NAME: _____ DATE RECEIVED: _____
ACTION TAKEN: _____
REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL: _____

STAFF OFFICER THIS REQUEST REFERRED TO: _____ DATE RECEIVED: _____
STAFF OFFICER'S RESPONSE: _____

MR. DAVIS, would you even CARE to
HEAR my side of this story!

As you know there is two sides to
every story! And I would like

To be Able to EXPRESS my side!

ATT: Rodney Davis

CHARLESTON COUNTY DETENTION CENTER
INMATE REQUEST FORM

NAME (Last, First):

Caplinger Shawn

1333529

HOUSING UNIT:

3F

ROOM NUMBER:

3113

DATE:

July 28

1. ☐ DISCIPLINARY HEARING REVIEW
2. ☐ CLASSIFICATION INFORMATION
3. ☐ INDIGENT STATUS
4. ☐ DRUG & ALCOHOL COUNSELOR
5. ☐ LIBRARY PROGRAM
6. ☐ INMATE WORKER / DETAIL PROGRAM

7. ☐ CHAPLAIN
8. ☐ RECORDS
9. ☐ DRESSOUT
10. ☒ PUBLIC DEFENDER
11. ☐ OTHER

RDD

INMATE REQUEST:

Please take some time
and come see me!
I have not heard or seen you since
I've been locked up.
I'd like to put in for a bond reduction.

(PLEASE WRITE ON REVERSE SIDE OF WHITE COPY ONLY, IF MORE SPACE IS REQUIRED)

\$150,000 is still too high. Please respond
ASAP!

RECEIVING OFFICER'S NAME:

CORONADO

DATE RECEIVED:

7/28/10

ACTION TAKEN:

FWD

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

RECEIVING SGT'S NAME:

Smagg

DATE RECEIVED:

7/28

ACTION TAKEN:

FWD

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

RECEIVING TOUR COMMANDER'S NAME:

DATE RECEIVED:

ACTION TAKEN:

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

STAFF OFFICER THIS REQUEST REFERRED TO:

DATE RECEIVED:

STAFF OFFICER'S RESPONSE:

Att¹²
RODNEY
DAV.S

CHARLESTON COUNTY DETENTION CENTER
INMATE REQUEST FORM

NAME (Last, First):

CAPLINGER SHAWN

1333529

HOUSING UNIT:

3F

ROOM NUMBER:

3113

DATE:

July 29, 10

1. () DISCIPLINARY HEARING REVIEW
2. () CLASSIFICATION INFORMATION
3. () INDIGENT STATUS
4. () DRUG & ALCOHOL COUNSELOR
5. () LIBRARY PROGRAM
6. () INMATE WORKER / DETAIL PROGRAM

7. () CHAPLAIN
8. () RECORDS
9. () DRESSOUT
10. (X) PUBLIC DEFENDER
11. () OTHER

RDD

INMATE REQUEST:

Please come see me ASAP!
I have not yet been given a chance
to see you or talk to you about my case.
I've been here 2-1/2 months & would like
to put in for a bond reduction. I'm innocent
& it's my help for nothing wasting time.

RECEIVING OFFICER'S NAME:

MORRIS JO

DATE RECEIVED:

7/29/10

ACTION TAKEN:

fwd PD

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

RECEIVING SGT'S NAME:

TALCO
fwd

DATE RECEIVED:

7-29-10

ACTION TAKEN:

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

RECEIVING TOUR COMMANDER'S NAME:

DATE RECEIVED:

ACTION TAKEN:

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

STAFF OFFICER THIS REQUEST REFERRED TO:

DATE RECEIVED:

STAFF OFFICER'S RESPONSE:

Shaun Caplinger

Dear Mr. Rodney Davis,

8/3/2010

First and foremost I need to see you as soon as possible. About my case, I need you to put me in for a fast and speedy trial (ASAP).

I would like my bond reduced to a reasonable amount if possible. These accusations about me are untrue, and these are not facts, and I have witnesses and proof that can verify my situation with this woman. I need you to investigate this young lady, that has me entangled in her (web) of lies. I need my life back, she's probably doing this because I was planning on leaving her. If I leave her, all her finances would be gone.

Thank you,

Shaun Caplinger

Please send me my motion rule 5 and all evidence they have against me.

Thank you again.

Shaun Caplinger

P.S. I want to take a lie detector test to prove my innocence.

Please investigate this
young lady, my life
is at stake.

2/11/1911. 2/11/1911.

Att:
RODNEY DAVIS

CHARLESTON COUNTY DETENTION CENTER
INMATE REQUEST FORM

NAME (Last, First):

CAPLINGER D. SHAWN

#0001333529

HOUSING UNIT:

3F

ROOM NUMBER:

3113

DATE: 8/11/10

1. ☐ DISCIPLINARY HEARING REVIEW
2. ☐ CLASSIFICATION INFORMATION
3. ☐ INDIGENT STATUS
4. ☐ DRUG & ALCOHOL COUNSELOR
5. ☐ LIBRARY PROGRAM
6. ☐ INMATE WORKER / DETAIL PROGRAM

7. ☐ CHAPLAIN
8. ☐ RECORDS
9. ☐ DRESSOUT
10. ☒ PUBLIC DEFENDER
11. ☐ OTHER

RDD

INMATE REQUEST:

I AM ASKING FOR A BOND
MOTIFICATION. Please do your best to get
me a more AFFORDABLE bond.
I also need to see you about my case
I am sitting in here on case charges &
have witnesses to prove please respond ASAP!

RECEIVING OFFICER'S NAME:

PTJ [Signature]

DATE RECEIVED:

8/11/10

ACTION TAKEN:

Forward

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

RECEIVING SGT'S NAME:

Roxas

DATE RECEIVED:

8/12/10

ACTION TAKEN:

Forward

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

RECEIVING TOUR COMMANDER'S NAME:

DATE RECEIVED:

ACTION TAKEN:

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

STAFF OFFICER THIS REQUEST REFERRED TO:

DATE RECEIVED:

STAFF OFFICER'S RESPONSE:

INMATE - WHITE

CENTRAL FILE - YELLOW

05/06

Att: Stephine Singleton / Legal Liaison

CHARLESTON COUNTY DETENTION CENTER
INMATE REQUEST FORM

NAME (Last, First): CAPLINGER Shawn # 0001333529
HOUSING UNIT: 3F ROOM NUMBER: 3113 DATE: 8/14/10

- | | |
|--|---|
| 1. ☐ DISCIPLINARY HEARING REVIEW | 7. ☐ CHAPLAIN |
| 2. ☐ CLASSIFICATION INFORMATION | 8. ☐ RECORDS |
| 3. ☐ INDIGENT STATUS | 9. ☐ DRESSOUT |
| 4. ☐ DRUG & ALCOHOL COUNSELOR | 10. ☐ PUBLIC DEFENDER |
| 5. ☐ LIBRARY PROGRAM | 11. ☒ OTHER |
| 6. ☐ INMATE WORKER / DETAIL PROGRAM | |
- RDD
Rodney Davis

INMATE REQUEST: I Need A motion For A either
A Fast AND Speedy trial OR A motion
For Dismissal AND I need to take A
Lie Detector test, to clear my name.
Please Help, Thank You.
(PLEASE WRITE ON REVERSE SIDE OF WHITE COPY ONLY, IF MORE SPACE IS REQUIRED)

RECEIVING OFFICER'S NAME: KMS DATE RECEIVED: 8/14/10
ACTION TAKEN: find PD

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL: _____

RECEIVING SGT'S NAME: _____ DATE RECEIVED: _____
ACTION TAKEN: _____

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL: _____

RECEIVING TOUR COMMANDER'S NAME: _____ DATE RECEIVED: _____
ACTION TAKEN: _____

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL: _____

STAFF OFFICER THIS REQUEST REFERRED TO: _____ DATE RECEIVED: _____

STAFF OFFICER'S RESPONSE: _____

RDP

Dear Ashley Pennington,

My name is SHAWN CAPLINGER #1333529.
First of all I'd like to start off by saying
that I Apologize for this inconvenience. I know
how busy you must be, but I would like to touch
base with you on a few subjects that have
been on my mind.

First my lawyer Rodney Davis has not
impressed me at all with his work ethics, because
I have been here 90 days with no visit from
him to even hear my side of the story!

I need to talk with him to try and get
a polygraph test set up, to clear my name and
clear my credibility. If you could get this
set up for me I would greatly appreciate it.

If you can't, please write me back and let
me know who could set this up for me. I'm sick
of sitting in jail over bogus charges brought
against me by my jealous, bi-polar ex-girlfriend.

Thank You.

SHAWN
CAPLINGER

SEPTEMBER 29, 2010

ASHLEY PENNINGTON
NINTH CIRCUIT PUBLIC DEFENDER

MR. PENNINGTON:

I AM WRITING THIS LETTER IN REFERENCE CONCERNING YOUR
RECENT WRITTEN CORRESPONDENCE DATED SEPTEMBER 17, 2010.

MR. PENNINGTON, I AM EXTREMELY APPRECIATIVE OF THE PROVISION
OF DISCOVERY DOCUMENTS AS WELL AS YOUR TIMELY RESPONSE IN
REGARDS TO THIS MATTER. HOWEVER THE TONE OF YOUR LETTER
GROSSLY IN SUPPORT OF RODNEY DAVIS LACK ADULT ATTITUDE, AND
OR SUB PAR PERFORMANCE AS MY ATTORNEY IS UNACCEPTABLE.

MR. PENNINGTON, IN A PREVIOUS CORRESPONDENCE FORWARDED TO
TO YOU VIA UNITED STATES PREPAID MAIL DATED SEPTEMBER 7,
2010 I EXPRESSED MY DISSATISFACTION WITH RODNEY DAVIS LACK
OF COMMUNICATIVE SKILLS SPECIFICALLY IN REGARD TO THE
PRELIMINARY HEARING BEFORE THE COURT APPROXIMATELY 85 DAYS
TO DATE IN WHICH THE SOLE PURPOSE OF SAID HEARING IS TO
DETERMINE IF SUFFICIENT EVIDENCE EXIST IN ORDER FOR THE
SOLICITOR TO PREPARE AN INDICTMENT FOR PRESENTMENT TO
THE GRAND JURY.

MR. DAVIS, WAS ALSO TO REQUEST A BOND REDUCTION, AND OR
MODIFICATION AT THIS TIME. MR. PENNINGTON AS TO DATE RODNEY
DAVIS HAS FAILED TO INFORM ME OF THE OUTCOME OF SAID
PRELIMINARY HEARING. RODNEY DAVIS INABILITY TO TAKE A FEW
MOMENTS OF HIS TIME IN WHICH TO KEEP ME APPRAISED OF
MY CURRENT LEGAL SITUATION IS UNEXCUSEABLE. YET YOU ARE
SATISFIED THAT RODNEY DAVIS IS WORKING VIGOROUSLY IN MY
BEHALF, PLEASE MR. PENNINGTON, I THINK NOT!!!

MR. PENNINGTON, IN REGARDS TO THE INDICTMENT PROCESS,
RODNEY DAVIS HAS NOT BEEN PROVIDED WITH COPIES OF THE
INDICTMENTS AS YET

MR. PENNINGTON, I HAVE BEEN INCARCERATED APPROXIMATELY

128 DAYS, THE SOLICITOR HAS (90) CALENDAR DAYS IN WHICH TO PREPARE AN INDICTMENT FOR PRESENTMENT TO THE GRAND JURY, AN EXTENSION, AND/OR ENLARGEMENT OF ADDITIONAL TIME MAY BE SOUGHT WITHIN THOSE (90) CALENDAR DAYS.

MR. PENNINGTON, HOWEVER FURTHER EXAMINATION OF THE CASE AT BAR EMPHATICALLY SHOWS THAT NEITHER THE INDICTMENTS, AND/OR AN EXTENSION IN WHICH TO FILE THE INDICTMENTS HAVE BEEN SOUGHT AS TO DATE THEREBY VIOLATING MY CONSTITUTIONAL RIGHTS, DEPRIVING ME DUE PROCESS OF THE LAW.

MR. PENNINGTON, WHY HAS RODNEY DAVIS NOT ACTED UPON THE INSTANT INFRENGEMENT OF MY CONSTITUTIONAL RIGHTS!! A MOTION TO DISMISS OR PERSONAL RECOGNIZANCE BOND IN THE ALTERNATE SHOULD HAVE BEEN FILED APPROXIMATELY 38 DAYS AGO, YET RODNEY DAVIS IS WORKING VICARIOUSLY IN MY BEHALF (THANK GOD), YET YOU ARE SATISFIED THIS FAR WITH RODNEY DAVIS PERFORMANCE AS MY ATTORNEY, YOUR IN SUPPORT OF HIS ACTING OR LACK THEREOF 100%.

MR. PENNINGTON, I AM KNOWLEDGEABLE TO THE FACT THAT THE INDICTMENTS (TRUE OR NOT) ON THE ALLEGED PENDING CHARGES DO NOT EXIST AT THIS TIME, NOR HAS AN EXTENSION, AND/OR ENLARGEMENT OF TIME BEEN SOUGHT IN ORDER OF THE FILING OF THESE INDICTMENTS IN ACCORDANCE WITH SOUTH CAROLINA LAWS. THE SOLICITOR HAS EXCEEDED HIS JUDICIAL AUTHORITY IN ATTEMPTING TO CIRCUMVENT THE INDICTMENT PROCESS THEREBY I AM DEMANDING AT THIS TIME THAT RODNEY DAVIS FILE A MOTION TO DISMISS OR PERSONAL RECOGNIZANCE BOND IN THE ALTERNATE ON THE ALLEGED PENDING CHARGES PAST WRITE.

MR. PENNINGTON, FAILURE TO FILE SAID MOTION TO DISMISS OR PERSONAL RECOGNIZANCE BOND IN THE ALTERNATE, ALSO TO PROVIDE A COPY OF SAID MOTION DATE STAMPED FROM THE CLERK OF COURT WITHIN A SPECIFIED TIMEFRAME OF (10) WORKING DAYS WILL ENVOKE THE SEVEREST OF PENALTIES IMPOSED UPON YOURSELF AND RODNEY DAVIS.

MR. PENNINGTON, THE COURT WILL BE INFORMED OF THESE IMPROPRIETIES, JUDGE HOUNGSTON IN FAILING TO AFFORD THE PROVISION OF MY CONSTITUTIONAL AND DUE PROCESS RIGHTS, NOTIFICATION OF THE SUPREME COURT OF SOUTH CAROLINA, AND THE JUDGES

PRESIDENT SAID HIGHER COURT, LESLEY DOGG JUDGE OFFICE OF DISCIPLINARY
COUNSEL, AND OR ANY OTHER STEPS OR MEASURES DEEMED NECESSARY IN ORDER
TO RIGHT THIS MISCARriage OF JUSTICE.

GOVERN YOURSELF ACCORDINGLY.

SINCERELY,

Shaun Caplinger

SHAUN CAPLINGER

TELEPHONE # 1335529

C.O.D.C.

3841 LEEB AVE.

CHARLESTON, SC 29405

ATT: Rodney

DAVIS

CHARLESTON COUNTY DETENTION CENTER
INMATE REQUEST FORM

NAME (Last, First): Caplinger Shawn # 1333529
 HOUSING UNIT: 3F ROOM NUMBER: 3113 DATE: Oct 5, 2010

- | | |
|--|---|
| 1. ☐ DISCIPLINARY HEARING REVIEW | 7. ☐ CHAPLAIN |
| 2. ☐ CLASSIFICATION INFORMATION | 8. ☐ RECORDS |
| 3. ☐ INDIGENT STATUS | 9. ☐ DRESSOUT |
| 4. ☐ DRUG & ALCOHOL COUNSELOR | 10. ☒ PUBLIC DEFENDER |
| 5. ☐ LIBRARY PROGRAM | 11. ☐ OTHER |
| 6. ☐ INMATE WORKER / DETAIL PROGRAM | |

INMATE REQUEST: MR. DAVIS, I WANT to see you within the next week, OR I Am going to a higher Authority. you have failed to come see me Even one time in the last 133 DAYS. Further more I have Not been indicted in the
(PLEASE WRITE ON REVERSE SIDE OF WHITE COPY ONLY, IF MORE SPACE IS REQUIRED)

RECEIVING OFFICER'S NAME: [Signature] DATE RECEIVED: 10-5-10
 ACTION TAKEN: [Signature]

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL: _____

RECEIVING SGT'S NAME: [Signature] DATE RECEIVED: 10/5/10
 ACTION TAKEN: [Signature]

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL: _____

RECEIVING TOUR COMMANDER'S NAME: _____ DATE RECEIVED: _____
 ACTION TAKEN: _____

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL: _____

STAFF OFFICER THIS REQUEST REFERRED TO: _____ DATE RECEIVED: _____

STAFF OFFICER'S RESPONSE: _____

INMATE - WHITE

CENTRAL FILE - YELLOW

08/06

* See Reverse Side *

90 Days the state had Allowed
to Draw up AN Indictment!

I have Spoken with my People
ON the outside AND they HAVE INFORMED
ME ON the LAW.

YOU ARE NOT doing ANYTHING TO
help me ~~beat~~ these False Charges!

I Received the discovery & have
ANALIZED it, AND found all the lies
AND differences in each report.

I Am INNOCENT AND Need to
be P.R. Bonded, I have NO Indictment.

The discovery has NO EVIDENCE OR
WITNESSES to match their lies.

I WANT to come Speak with
me About what is going on with
my case. OR I Am going to be forced

ATT: Rodney DAVIS #

CHARLESTON COUNTY DETENTION CENTER
INMATE REQUEST FORM

NAME (Last, First):

Caplinger Shawn

1333529

HOUSING UNIT:

1D

ROOM NUMBER:

2415

DATE: 10/20/10

1. ☐ DISCIPLINARY HEARING REVIEW
2. ☐ CLASSIFICATION INFORMATION
3. ☐ BOND HEARING
4. ☐ INDIGENT STATUS
5. ☐ DRUG & ALCOHOL COUNSELOR
6. ☐ LIBRARY PROGRAM

7. ☐ INMATE WORKER / DETAIL PROGRAM
8. ☐ CHAPLAIN
9. ☐ RECORDS
10. ☐ DRESSOUT
11. ☒ PUBLIC DEFENDER / BOND REDUCTION
12. ☐ OTHER

INMATE REQUEST:

MR. DAVIS I am still waiting for you to respond to when my bond reduction is scheduled! please update me on the date ASAP!

MR. DAVIS I am also looking to see what kind of plea they are willing to hand me! please see

(PLEASE WRITE ON REVERSE SIDE IF MORE SPACE IS REQUIRED)

If you get me a plea of any amount of probation, I'll take it!

RECEIVING OFFICER'S NAME:

[Signature]

DATE RECEIVED:

10/20/10

ACTION TAKEN:

Thank You

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

RECEIVING SGT'S NAME:

J. Snells

DATE RECEIVED:

10/20

ACTION TAKEN:

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

RECEIVING TOUR COMMANDER'S NAME:

DATE RECEIVED:

ACTION TAKEN:

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

STAFF OFFICER THIS REQUEST REFERRED TO:

DATE RECEIVED:

STAFF OFFICER'S RESPONSE:

ATT: RODNEY
DAVIS

CHARLESTON COUNTY DETENTION CENTER
INMATE REQUEST FORM

NAME (Last, First):

Caplinger Shaun

1333529

HOUSING UNIT:

1B

ROOM NUMBER:

2415

DATE:

Oct 17, 2010

1. ☐ DISCIPLINARY HEARING REVIEW
2. ☐ CLASSIFICATION INFORMATION
3. ☐ INDIGENT STATUS
4. ☐ DRUG & ALCOHOL COUNSELOR
5. ☐ LIBRARY PROGRAM
6. ☐ INMATE WORKER / DETAIL PROGRAM

7. ☐ CHAPLAIN
8. ☐ RECORDS
9. ☐ DRESSOUT
10. ☒ PUBLIC DEFENDER
11. ☐ OTHER

RDD

INMATE REQUEST:

MR. DAVIS I'm looking for a
Response on the Bond Reduction that
we discussed on your visit with me
last week! Please write back with the
UP DATE.

(PLEASE WRITE ON REVERSE SIDE OF WHITE COPY ONLY, IF MORE SPACE IS REQUIRED)

Thank
you!

RECEIVING OFFICER'S NAME:

LINDFORS

DATE RECEIVED:

10/17/10

ACTION TAKEN:

FWD

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

RECEIVING SGT'S NAME:

DATE RECEIVED:

ACTION TAKEN:

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

RECEIVING TOUR COMMANDER'S NAME:

DATE RECEIVED:

ACTION TAKEN:

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

STAFF OFFICER THIS REQUEST REFERRED TO:

DATE RECEIVED:

STAFF OFFICER'S RESPONSE:

ATT:
 RODNEY DAVIS

CHARLESTON COUNTY DETENTION CENTER
INMATE REQUEST FORM

NAME (Last, First): CAPlinger Shawn # 1333529
HOUSING UNIT: 1D ROOM NUMBER: 2415 DATE: Oct 18, 2016

- | | |
|---------------------------------------|-------------------------|
| 1. () DISCIPLINARY HEARING REVIEW | 7. () CHAPLAIN |
| 2. () CLASSIFICATION INFORMATION | 8. () RECORDS |
| 3. () INDIGENT STATUS | 9. () DRESSOUT |
| 4. () DRUG & ALCOHOL COUNSELOR | 10. (X) PUBLIC DEFENDER |
| 5. () LIBRARY PROGRAM | 11. () OTHER |
| 6. () INMATE WORKER / DETAIL PROGRAM | |

RDD
Notice # 2

INMATE REQUEST: MR. DAVIS please write me back OR
stop by AND visit me I would like to be
informed about my bond reduction ASAP!
you told me you would have my bond reduced
this week & if you need somebody to sign up
on my behalf let me know! Please Respond ASAP! THANK
you!

(PLEASE WRITE ON REVERSE SIDE OF WHITE COPY ONLY, IF MORE SPACE IS REQUIRED)

RECEIVING OFFICER'S NAME: Chick DATE RECEIVED: 10/18/16
ACTION TAKEN: FWD

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL: _____

RECEIVING SGT'S NAME: _____ DATE RECEIVED: _____
ACTION TAKEN: _____

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL: _____

RECEIVING TOUR COMMANDER'S NAME: _____ DATE RECEIVED: _____
ACTION TAKEN: _____

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL: _____

STAFF OFFICER THIS REQUEST REFERRED TO: _____ DATE RECEIVED: _____

STAFF OFFICER'S RESPONSE: _____

ATT: Rodney

CHARLESTON COUNTY DETENTION CENTER
INMATE REQUEST FORM

= Davis

NAME (Last, First):

Caplinger Shann

1333529

HOUSING UNIT:

ID

ROOM NUMBER:

2415

DATE:

Oct 27, 2010

1. ☐ DISCIPLINARY HEARING REVIEW
 2. ☐ CLASSIFICATION INFORMATION
 3. ☐ INDIGENT STATUS
 4. ☐ DRUG & ALCOHOL COUNSELOR
 5. ☐ LIBRARY PROGRAM
 6. ☐ INMATE WORKER / DETAIL PROGRAM

7. ☐ CHAPLAIN
 8. ☐ RECORDS
 9. ☐ DRESSOUT
 10. ☒ PUBLIC DEFENDER
 11. ☐ OTHER

RDD

INMATE REQUEST:

MR. DAVIS, I would like to receive
 AN UPDATE of what's going on with my
 BOND Reduction you put in for me.

*I would also like you to put in a plea for a
 PROBATION sentence. Please respond ASAP Thank
 You!

RECEIVING OFFICER'S NAME:

FWD

DATE RECEIVED:

10-27-10

ACTION TAKEN:

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

RECEIVING SGT'S NAME:

DATE RECEIVED:

ACTION TAKEN:

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

RECEIVING TOUR COMMANDER'S NAME:

DATE RECEIVED:

ACTION TAKEN:

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL:

STAFF OFFICER THIS REQUEST REFERRED TO:

DATE RECEIVED:

STAFF OFFICER'S RESPONSE:

** Rodney Davis* Please see REVERSE side for more... ** RDT*

CHARLESTON COUNTY DETENTION CENTER
INMATE REQUEST FORM

NAME (Last, First): Caplinger Shawn # 1333529
HOUSING UNIT: 1D ROOM NUMBER: 2415 DATE: Nov 2, 2010

- | | |
|--|---|
| 1. ☐ DISCIPLINARY HEARING REVIEW | 7. ☐ CHAPLAIN |
| 2. ☐ CLASSIFICATION INFORMATION | 8. ☐ RECORDS |
| 3. ☐ INDIGENT STATUS | 9. ☐ DRESSOUT |
| 4. ☐ DRUG & ALCOHOL COUNSELOR | 10. ☒ PUBLIC DEFENDER |
| 5. ☐ LIBRARY PROGRAM | 11. ☐ OTHER |
| 6. ☐ INMATE WORKER / DETAIL PROGRAM | |

INMATE REQUEST: MR. DAVIS, I AM WRITING YOU AGAIN IN
REGARDS to my BOND Reduction you told me was supposed
to be set for Fri Oct 22 or Oct 29. I have not
heard anything from you as an update to what has
happened. please respond ASAP or I will write a
higher power to find out what is going on - THANK!
you.

RECEIVING OFFICER'S NAME: Ellis DATE RECEIVED: 11-2-10
ACTION TAKEN: Fwp

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL: _____

RECEIVING SGT'S NAME: _____ DATE RECEIVED: _____
ACTION TAKEN: _____

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL: _____

RECEIVING TOUR COMMANDER'S NAME: _____ DATE RECEIVED: _____
ACTION TAKEN: _____

REASON THIS REQUEST CAN NOT BE RESOLVED AT THIS LEVEL: _____

STAFF OFFICER THIS REQUEST REFERRED TO: _____ DATE RECEIVED: _____

STAFF OFFICER'S RESPONSE: _____

KIND OF PLEA DEAL IF YOU CAN ARRANGE A
GOOD ONE WITH THE SOLICITOR? I WILL BE WILLING
TO TAKE A PROBATION DEAL OF ANY AMOUNT!

I HAVE A DECENT BACKGROUND & I DO NOT
GET INTO TROUBLE OFTEN SO I AM COOL
WITH BEING ON PROBATION. IF YOU CAN'T GET
A DEAL WITH THE SOLICITOR... THEN I WANT
YOU TO PUT IN FOR A PAST & SPEEDY TRIAL!
PLEASE GET BACK WITH ME WITHIN 10
BUSINESS DAYS OR I WILL BE FORCED TO
PUT IN A COMPLAINT FOR I FEEL LIKE YOU
ARE NOT FIGHTING FOR ME & WHAT I
WANT! I AM NOT GUILTY & DID NOT
COMMIT WHAT I AM BEING ACCUSED OF,

AND I HAVE SAT LONG ENOUGH!

I DON'T BELONG IN JAIL I AM A
GOOD PERSON & A HARD WORKER.

MDP

①

November 5, 2010

D. Ashley Pennington
Ninth Circuit Public Defender.

Mr. Pennington,

I AM WRITING this letter in Reference concerning
Some ISSUES I AM having.

Mr. Pennington this ISSUE is in regards to my
CASE AT HAND. I did sit down AND discuss my
CASE A little bit with MR. DAVIS ON Oct 7, 2010, AND
I thank you very much for talking with him
AND PASSING the message that I wanted to
see him.

Mr. Pennington during the meeting I had
that Thursday with Mr. Davis, he promised
me a Bond modification, which was to be
held ON Oct 22, 2010 OR Oct 29, 2010, ON one of
those two FRIDAYS depending ON which Judge
was to be ON the STAND. As I sit here in
CCDC today Nov 5, 2010, I still have NOT received
A bond Reduction OR any written Response AS
to what is going on with that issue, he promised
to keep me updated, AND has failed to comply.

Please PASS the message AND get me the
update as to what is going on with the Bond.

Mr. Pennington the Second issue I have is
that I have is that I have spoken to Rodney
about A Plea Agreement. I want to see if
it is POSSIBLE for me to receive A

Plea to Time served OR time suspended to ²
~~some~~ some length of Probation.

I have sat in here for long enough especially on these bogus trump-up charges!

I would so appreciate if you could talk my concerns over with Rodney Davis.

I know and understand he has an overload of clients, with all these crazy criminals I have around me, but I would appreciate some attention.

I have not been in much trouble in my life, and the troubles I have gotten into were due to poor decisions with a regret. I am a hard worker and a good South Carolina resident, if the solicitor gives me time suspended to probation, I can assure you I will stay out of trouble. I just want to go back to work and don't want to be locked up for the holidays, I have never been in jail this long & have learned alot. I never want to come back here again.

Please respond back to me as soon as possible as you have in the past for me.

Mr. Pennington you seem like a great

PERSON $\frac{1}{2}$ A VERY HARD WORKING MAN! ③

I Apologize to have to bother you $\frac{1}{2}$ MR. DAVIS the way I have been, but I have never been in JAIL this long $\frac{1}{2}$ OR in trouble for something so SCARY, that I know I Am not guilty of.

Please just help me with these issues AND let me know what I have to do AND I will do it.

MR. PENNINGTON IF EITHER YOU OR MR. DAVIS CAN NOT get that plea for me this week, I demand MR. DAVIS Submit me IN FOR A Fast $\frac{1}{2}$ SPEEDY TRIAL this week. I want one OR the other to be presented to the SOLICITOR OR I will write A higher POWER to submit it.

I HAVE SAT $\frac{1}{2}$ WASTED enough time $\frac{1}{2}$ lost enough money sitting here. I want to get this behind me and get my life back doing $\frac{1}{2}$ helping people in the state of South CAROLINA. THANK you so much for your time $\frac{1}{2}$ consideration concerning these matters. I AM mailing you this ORIGINAL copy $\frac{1}{2}$ keeping for my records A COPY. ~~some~~ You have been helpful to me so far

every time I have written you, please ④
help me get out of here, and get this
matter resolved before the holidays!

Sincerely,

Shaun Caplinger

Shaun Caplinger

Inmate #1333529

CCDC

3841 Leeds Ave

Charleston SC 29405

MARCH 25, 2011

- Rodney D. Davis -
Charleston County
Public Defender

SHAWN CAPLINGER

MR. DAVIS:

I AM writing this Letter in Reference concerning my Current situation. I AM PRAYING to GOD that you CAN help me, OR Advise me what I can do to get myself out of this mess!

First off let me start ~~with~~ AND Apologize for not lowering my guard & trusting in your Guidance, you were trying to help me & I was pushing you AWAY. If I would of just listened & trusted you, you very well could have proven my INNOCENCE, OR at worst gotten me a better deal.

Mr. Davis just to brief you on my Reasons behind my Actions. I was raised in a group home most of my life. I have a VERY hard time lowering my guard & allowing people in & trusting people on the street. It was especially hard in this extremely SCARY position that I was in. I Am not used to being in trouble like this & being locked up with NO outside help or guidance & felt helpless & SCARED. I was so stressed & scared I felt like everyone was out to hurt me... my Guard went up ten fold & I would not let you help me, which Now I realize you defiantly were trying to do

me right, I do your best to get me the best deal possible in light of my record. I have been told over the years that if I don't lower my guard I give some people a chance to help me that I would just be hurting myself... I realize that now I am so Extremely SORRY. I also have had Attention Disorders for most of my life, that's why when you told me about the open plea I had my mind set I made up with me having a clean record that I would be let off with probation - I would prove my INNOCENCE off the street.

MR. DAVIS I WAS WRONG I should have listened to you the 20 times you kept telling me just to SIT longer, that they would come with a better deal and lack of evidence.

You were probably right, I wish I could turn back time I take it back but I CAN'T... I just want to know what I can do Now to help myself.

MR. DAVIS I CAN SAY this, I should have never taken that plea I come to prison, but the one blessing I have received from this experience is the religious belief I never had. I was accepted to a Christian program called "KAIROS". I took what they called the 4-DAY WALK... It was one of greatest experiences

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I have ever been through! I was saved by the LORD
And am now Reborn in the Christian Faith.

I let alot of my unforgiveness out, & left the
past in the past, of the people whom have betrayed
& left me. Most importantly I realized I am
not without love, just because I was born & raised
with no family (mother & father) does not mean that
people don't care for me! I feel 100% better about
life.

MR. DAVIS PLEASE write back to me
AS SOON AS you possibly get the CHANCE... I
know you ARE extremely busy. I am just looking
for your honest opinion on what my next
step on what you think I can do to help
myself. Should I go back of a P.C.R., or Time
Reconsideration, or is there something else I
can do to help myself. Again I Apologize for
Not allowing you to help me the first time
but I am READY to listen to your guidance
now. I also never received my Sentencing
Sheets, please can you mail those to me along with
any PAPER work that may help me

4.)

with my next step of why I need more that I may need.

MR. DAVIS I am not going to lie to you I am ignorant to the law & have no idea what to do... I hear a million different opinions back here but would like to hear it from you.

Please do your best to try & help me dig myself out of the huge hole I am in... I will do whatever it is I have to, to get myself out on that street working & living my life again, And believe me I am ready to take this experience forward to help others as well as my self to never come back to prison.

MR. DAVIS THANK YOU FOR YOUR TIME, I look forward to hearing back from you! God bless you, & PRAY THAT EVERYTHING IS GOING well for you in both sides business & personal!

- Sincerely
John L. Linn
SHAWN CAPLINGER
SCDC #343732
ECI P-3 A#284
610 Hwy 9 West
Bonnetsville SC 29512

P.S.

MR. DAVID if you need
my old ~~code~~ code # 133529.

I WAS NOT SURE if you
would need it to pull me up.

PLEASE help me in ANY
way you think would be best
for me. I'm sorry for my
DECISIONS & NOT LISTENING in the
past with you, I WAS SCARED.

I am also sorry I didn't drop
this in the mail Friday when
I made it, because Saturday I
had some kind of mental breakdown
when I went to sleep & I WAS STUCK
under observation for the weekend
& they COULDN'T figure out or explain
what happened to me. I WAS HAVING
RANTS & RAGE & CONVULSIONS & I WAS
HAPPENING BE & off for a few
hours. I WAS SCARED because
I had NO memories of it.

PLEASE WRITE me back & guide me

IN the right direction I help
me how to go About whatever
it is I have to do

CC
AT
AG
SOL
GS

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

Shaun David Caplinger, #343732,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS

2011-CP-10-3219

ORDER OF DISMISSAL

BY

JAMES J. ANASTROPH
CLERK OF COURT

2012 FEB 22

AM 9:03

FILED

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed May 5, 2011. The Respondent made its Return on October 17, 2011. An evidentiary hearing into the matter was convened on January 10, 2012 at the Charleston County Courthouse. The Applicant was present at the hearing and was represented by Richard C. Webb, Esquire. Matthew J. Friedman, Esquire, of the South Carolina Attorney General's Office represented the Respondent.

Applicant and plea counsel, Rodney Davis, Esquire, testified at the PCR hearing. This Court had before it the records of the Charleston County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections, the guilty plea transcript, the PCR application, Respondent's Return thereto, and several inmate request forms and letters from Applicant to Mr. Davis and Mr. Pennington.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the October 2010 term of the Charleston County Grand Jury for criminal sexual conduct (CSC) – 1st degree (2010-GS-10-6773) and assault and battery of a high and aggravated

Rmdg/1

nature (ABHAN) (2010-GS-10-6772). Rodney Davis, Esquire, represented the Applicant. On November 18, 2010, the Applicant pled guilty under Alford to the lesser-included offense of CSC – 2nd degree and pled guilty as indicted to ABHAN. The State dismissed two kidnapping charges and another CSC charge in exchange for the plea. The Honorable J.C. Nicholson, Jr. sentenced him to confinement for seven (7) years for CSC – 2nd degree and ten (10) years suspended to five (5) years of probation for ABHAN. The Applicant did not appeal the guilty plea or sentence.

ALLEGATIONS

The Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of plea counsel in that counsel only met with Applicant one time, failed to follow through with the bond reduction, and failed to speak with the solicitor about contradictions in the discovery.
2. Involuntary guilty plea.
3. No evidence or witnesses in case.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court had the opportunity to review the record in its entirety and hear the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon his or her credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

The Applicant testified that he met with plea counsel for the first time about a month before the plea. He testified that they had no additional meetings until the day of the plea. Applicant testified that he wrote counsel several times and got return mail from the Chief Public Defender Ashley Pennington. He asserted that he did not fully understand the charges and the lesser-included offenses because counsel did not fully explain them to Applicant. He testified

that he did not receive a bond reduction. Applicant testified that counsel told him he would mail a breakdown of the charges, but he did not do so. He testified that counsel did not inform him about the sex offender registry, and he would not have pled guilty had he known he would go on the registry. Applicant asserted that counsel told him that he had put together a good trial defense and gave him a number of five (5) years. He testified that counsel never contacted witnesses, pulled phone records, or talked to his boss. He testified that counsel told him to say yes to the judge's questions during the plea hearing. Applicant testified that he was insulted when counsel asked him if he had a learning disability. He testified that he rejected counsel's advice to go to trial and decided to plead guilty. He admitted that it was his decision to plead guilty. Applicant asserted that he thought he had a chance at probation if he pled guilty.

Plea counsel testified that he met with Applicant four times prior to the plea. He testified that he was prepared for the plea, and he would have had time to fully prepare for the trial if Applicant had elected to go to trial. He testified that the trial would have been at a later date. He testified that he discussed with Applicant the elements of the charges, Applicant's version of the facts, and possible defenses. He testified that he reviewed the discovery with Applicant, including the State's allegation and the relevant statutes. Counsel testified that he had a note from the day before the plea, in which he reminded Applicant that they still did not have the rape kit or DNA results. Counsel testified that he recalls receiving quite a bit of correspondence from Applicant, and he asserted that Applicant was understandably impatient. He testified that he informed Applicant's employer, who was his out of jail contact, about the bond reduction. He testified that he did not seek a second bond reduction.

Counsel testified that he had mixed feelings about the plea offer. He testified that Applicant was concerned about the speed of the process. Counsel testified that to go to court in

175 days on five charges of this nature was a fairly quick time frame. He asserted that he told Applicant that there were factual issues for trial. Counsel testified that if they had gone to trial, he would have requested the phone records and subpoenaed witnesses on Applicant's behalf. He asserted that he wanted to wait longer and fully investigate everything, but Applicant decided to plead guilty. Counsel testified that he discussed the sex offender registry and parole eligibility with Applicant. He testified that he did not have any problems communicating with Applicant, although he did not think that Applicant was hearing everything he was saying. He testified that he wanted to fully investigate, but Applicant wanted to resolve the case. Counsel asserted that Applicant understood what he was doing when he pled guilty under Alford to CSC and pled guilty to ABHAN. He testified that he told Applicant five (5) years would be a good number to shoot for, but he did not tell Applicant he would get five (5) years.

Ineffective Assistance of Counsel

The Applicant alleges that he received ineffective assistance of counsel. In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the applicant 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 (1984); Butler, 334 S.E.2d 813.

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. The applicant must overcome this

presumption in order to receive relief. Cherry, 386 S.E.2d 624.

Courts use a two-pronged test to evaluate 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." Id. at 625 (citing Strickland, 466 U.S. 668). 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." Id. 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). When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59, 106 S. Ct. 366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)). When a defendant pleads guilty on the advice of counsel, the plea may only be attacked through a claim of ineffective assistance of counsel. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2002) (citations omitted).

This Court finds that Applicant's testimony is not credible while also finding that

counsel's testimony is credible. This Court finds that counsel is a trial practitioner who has experience in the trial of serious offenses. Counsel conferred with the Applicant on numerous occasions. During conferences with the Applicant, counsel discussed the pending charges, the elements of the charges and what the State was required to prove, Applicant's constitutional rights, Applicant's version of the facts, and possible defenses or lack thereof.

This Court finds that the record reflects that Applicant's plea was entered freely, voluntarily, knowingly, and intelligently. Applicant acknowledged that he understood the nature of the charges and the possible punishments. He indicated that no one had threatened him or promised him anything to get him to plead guilty. He acknowledged that he understood the difference between an Alford plea and a guilty plea. Applicant told the court that he was satisfied with counsel's representation and did not need more time to speak with him. This Court finds that it was Applicant's decision to plead guilty with a full understanding of the consequences of the plea.

Regarding the Applicant's claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds that Applicant's attorney demonstrated the normal degree of skill, knowledge, professional judgment, and representation that are expected of an attorney who practices criminal law in South Carolina. State v. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977); Strickland, 466 U.S. at 668; Butler, 286 S.C. 441, 334 S.E.2d 813. This Court further finds counsel adequately conferred with the Applicant, conducted a proper investigation, and was thoroughly competent in his representation. This Court finds that counsel's representation did not fall below an objective standard of reasonableness.

This Court finds that counsel met with Applicant a sufficient number of times and

properly explained to Applicant the elements of the charges, the State's allegations, and potential defenses. He also properly informed Applicant of the sex offender registry. This Court finds that it was Applicant's decision to plead guilty. Although counsel testified that he wanted to fully investigate the case and either wait to plead guilty or go to trial, this Court finds that counsel did not have the right to tell a client that the client is wrong. This Court finds that counsel was not fully prepared for trial at the time of the plea, but Applicant was not going to trial yet. This Court finds that counsel obtained a very favorable deal for Applicant.

This Court finds that counsel was not ineffective for failing to get a second bond reduction for Applicant. This Court finds that Applicant was entitled to one bond reduction and he got it in this case. For a second bond reduction, Applicant must show a change of circumstances. Merely being incarcerated is not a change of circumstances.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test, specifically that counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that counsel committed either errors or omissions in his representation of the Applicant. The Applicant failed to show that counsel's performance was deficient. This Court also finds the Applicant has failed to prove the second prong of Strickland, specifically that he was prejudiced by plea counsel's performance. Applicant's complaints concerning counsel's performance are without merit and are denied and dismissed.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant

waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.

CONCLUSION

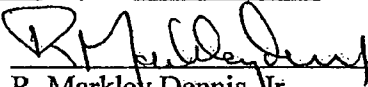
Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner, nor was the Applicant prejudiced by counsel's representation. Therefore, this application for PCR must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of written notice of entry of this Order to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely served and filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 16 day of Feb., 2012.


 R. Markley Dennis, Jr.
 Presiding Judge
 9th Judicial Circuit

Charleston, South Carolina.

FCH20100502844

WITNESSES

KIPTON M. COOKE
Charleston County Sheriff

AGENCY CASE NUMBER

2010007931B

ARREST WARRANT NUMBER

K611932

DATE OF ARREST

May 27, 2010

ACTION OF GRAND JURY

TRUE BILL

Lonnie H. Hentley
Foreperson of Grand Jury
Date: OCT 4 2010

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2010GS1006773

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS

October Term 2010

THE STATE

vs.

10-2841 (01)

SHAUN DAVID CAPLINGER
DOB: [REDACTED]
W/M

Indictment for

Criminal Sexual Conduct 1st Degree

167

FILED

10/22/2010 8:13:55 AM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

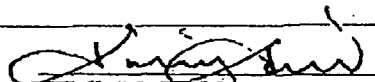
INDICTMENT

At a Court of General Sessions, convened on October 4, 2010 the Grand Jurors of Charleston County present upon their oath:

Criminal Sexual Conduct 1st Degree

That in Charleston County, South Carolina, on or about May 22, 2010, the Defendant, SHAUN DAVID CAPLINGER, did commit a sexual battery upon the victim, Ashleigh Spofford, and the victim did submit to sexual battery while also the victim of forcible confinement, kidnapping, robbery, extortion, burglary or other similar offense or act; all in violation of Section 16-3-651 of the South Carolina Code of Laws (1976) as amended.

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


TIMMY FINCH
ASSISTANT SOLICITOR

FCH20100502844

WITNESSES

KIPTON M. COOKE
Charleston County Sheriff

AGENCY CASE NUMBER

2010007931B

ARREST WARRANT NUMBER

K611931

DATE OF ARREST

May 27, 2010

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: OCT 04 2010

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2010GS1006772

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS

October Term 2010

THE STATE

vs.

10-2841 (03)

SHAUN DAVID CAPLINGER
DOB: 05-17-1982
W/M

Indictment for

Assault and Battery with Intent to Kill

FILED

10/22/2010 8:13:55 AM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

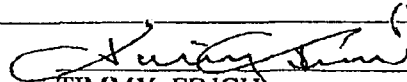
INDICTMENT

At a Court of General Sessions, convened on October 4, 2010 the Grand Jurors of Charleston County present upon their oath:

Assault and Battery with Intent to Kill

That in Charleston County, South Carolina, on or about May 22, 2010, the Defendant, SHAUN DAVID CAPLINGER, with malice aforethought, did commit an unlawful act of a violent nature upon the victim, Ashleigh Spofford, to wit: the Defendant did throw the victim into walls, door frames, and onto the floor and strangled her; all in violation of the Common Law of South Carolina and Section 16-03-620 of the South Carolina Code of Laws (1976) as amended.

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


TIMMY FINCH
ASSISTANT SOLICITOR

Charleston County Sheriff's Office
Criminal Investigations Division
Phone (843) 554-2475



3505 Pinehaven Drive
Charleston Heights, SC 29405
FAX (843) 554-9744

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

AFFIDAVIT

OCA # 2010-007931-B

Personally appeared before me, a magistrate of this County, one Detective K. Cooke, who, first being duly sworn, deposes and says that

SHAUN DAVID CAPLINGER

did within this County and State between the 22nd day of May, 2010 and 23rd of May, 2010, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE
CRIMINAL SEXUAL CONDUCT 1ST DEGREE
16-3-652

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

That between May 22, 2010 and May 23, 2010, while at [REDACTED] in the County and State aforesaid, the above named defendant, **SHAUN DAVID CAPLINGER**, did commit offense of violation section 16-3-652 of the South Carolina Code of Laws, 1976 as amended, **CRIMINAL SEXUAL CONDUCT 1ST DEGREE**, in that he did willfully, unlawfully, and feloniously commit a sexual battery against the victim: to wit penile penetration of the vagina and fellatio, while confining her in her own residence against her will.

On May 23, 2010, the victim, reported to the Charleston County Sheriff's Office that the defendant, who is her ex-boyfriend, came to her residence, which is the incident location, on May 22, 2010 at approximately 8:30 pm to talk about their relationship. The victim stated that the defendant became angry because she refused to talk until she put her infant child to bed. Before the victim was able to put the infant in bed, the defendant took the child from her and refused to give her the child. The defendant put a couch in front of the door so the victim and the child could not leave. When the victim tried to break a window to escape, the defendant threw her down while he was still holding the child in his arms. The child is not the defendant's biological child. The defendant gave the child to the victim and while the victim was putting her child to bed, the defendant continued to yell, and become more irate. During that time the defendant attempted to punch her in the vagina, but missed. The defendant threw the victim into the wall in the child's room causing her to strike her head on the wall, and causing injury. The defendant then took her cell phone and keys, and began to assault her by throwing her into a window frame as well as living room wall. The victim stated that the suspect then threw her down the hallway and into a door frame. The victim stated that at one point the suspect stopped assaulting her and she sat down in a chair to rest. The suspect grabbed her by the legs and flipped her onto the floor. The victim stated that the defendant grabbed her by the throat, strangling her and causing bruising, and told her to go to the bedroom. The defendant then threw her television against the wall and forced her to lie down on the bed. The victim stated that the suspect told her to have sex with him or things "would get worse." The victim stated that she had penile-vaginal sex with the defendant at approximately 10:30 pm on May 22, 2010. The victim further stated that the defendant forced her to perform fellatio on him and that he ejaculated in her mouth. The victim stated that the defendant refused to leave her residence and stayed there throughout the night. On the morning of May 23, 2010, the defendant forced her to submit to another sexual battery by attempting penile-anal penetration and penile-vaginal penetration. The victim stated that the defendant ejaculated on her stomach and on a towel that was on the bed next to her. When the assault was over the victim convinced him that she was fine so that he would allow her to take him home, which she did. The victim immediately called the police and gave a signed, written statement upon meeting with them. The victim was transported by Det. Cooke to MUSC Women's Health Center-Northwoods for completion of a sexual assault kit and exam.

Detective Cooke met with the victim and observed that there were multiple bruises on her legs, the backs of her arms, around her neck, and on her lower back. The victim also had a large lump on the back of her head that she stated was a result of being thrown into a bedroom wall. Det. Cooke also noted that the wall behind her television had a hole in it and that there were spots of blood on the floors of the kitchen hallway and in the victim's bedroom.

This information is known through the signed written statements of Ashleigh Spofford and the investigation of Detective Cooke of the Charleston County Sheriff's Office, and they are witnesses to prove the same against the form of the statute and the peace and dignity of the State.

Sworn to and Subscribed before me
This ____ day of _____

Signature of Judge

MAY 24 2010

[Signature]
Detective K. Cooke
Charleston County Sheriff's Office
3505 Pinehaven Drive
North Charleston, SC 29405
843-554-2475

STATE OF SOUTH CAROLINA

COUNTY OF Charleston
 STATE VS.
SHAUN DAVID CAPLINGER

AKA:

Race: W Sex: M Age: 28DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip: LADSON, SC 294560000DL#: 295578129 SID#: SC01864482*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
 TO: Criminal Sexual Conduct - 2nd Degree (20)

in violation of § 16-03-0653 of the S.C. Code of Laws, bearing CDR Code # 0161

☐ 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:

Finch, Jimmy

78123
SC Bar#

Defendant

Attorney for Defendant

12396
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 7 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.☐ 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

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	\$ 100.00
§ 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	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 133.90

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (06/2010)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS1006773A/W#: K611932Date of Offense: 5/22/2010 - 5/23/2010S.C. Code §: 16-03-0652CDR Code #: 0160

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS ALFOY

PTUP _____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

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

\$ _____ paid to Public Defender Fund

Other: _____

☐ Condition Discharge, § 44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date: 11/18/10

CMTI330D

OMCOMITA

SCDC# > 343732

CAPLINGER, SHAUN DAVID

OFFENDER TYPE....: ADULT-STRAIGHT SENTENCE

SCDC OFFENDER MANAGEMENT SYSTEM
RELEASE DATE SCREEN

LOC: EVANS

05/25/11

C040481

SCDC CLASSIFICATION...: VIOLENT

SEXUAL REGISTRY...: Y

SEXUAL PREDATOR...: PENDING

DNA STATUS...: COMPLETED

GPS REQUIREMENT...: N

PREA DECISION...:

CURRENT SENTENCE: 007-00-000

007-00-000

CONSECUTIVE SENTENCE...: N

CURRENT SENT START DATE: 05/27/2010

PROJECTED COMPLETION DATES

MAXOUT DATE: 05/06/2016

YOA SIX YEAR DATE: / /

INITIAL PAROLE DATE: 00/00/0000

CURRENT EWC...: 2 F 5

CURRENT EEC...: NOT CURRENTLY EARNING EEC

NEXT PAROLE HEARING DATE: 00/00/0000

TOTAL GT DAYS EARNED: 000000

TOTAL EARNED WORK CREDITS...: 000128

TOTAL EDUCATION CREDITS...: 000000

TOTAL EXTRA EARNED CREDITS...: 000

TOTAL SERVICE TIME EARNED...: 000358

LABOR CREW/WORK PROG DATE: 99/99/9999

LABOR CREW DISQ REASON:

CURRENT OR PRIOR SEX CONDUCT CONVICT

PFKEYS: 5: HISTORY OF DATE CHANGES

4-©

1 Sess-1 167.750.33

SCDC1339

3/11

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

RECORD SUMMARY REPORT DATED 05/25/11

C04

CAPLINGER, SHAUN DAVID FBI # 145688VB9 SID# SC01864482 SCDC # 343732
 OFFENDER TYPE.: ADULT-STRAIGHT SENTENCE
 INSTITUTION ...: EVANS CORR INST
 SECURITY/CUST.: 2 MINIMUM IN
 CURR INCARC SENT...: 7 YRS 0 MOS 0 DYS
 CENTRAL MONITORING.: NO
 SOCIAL SECURITY #...: [REDACTED]

DORM.....: 3A0284A
 RACE.....: W SEX....: M
 PROJ MAXOUT DATE: 05/06/2016
 PROJ PAROLE DATE: 00/00/0000
 EWC JOB...: FOOD SERVICE AIDE
 EDUC PGM.: INMATE TUTOR
 EWC LEVEL: 2F5 EEC LEVEL:
 ASSIGNMENT...: FOOD SERVICE

CURRENT PROGRAM...: NO CURRENT PROGRAM
 AGE...: 29 DATE OF BIRTH...: [REDACTED]

PREVIOUS NUMBERS:

** NO PREVIOUS NUMBERS **

CURRENT OFFENSES	SENTENCE YRS MOS DYS COUNTY	SENTENCE START U/NO CATEG
CRIMINAL SEX CNDCT. 2ND DE	7 0 0 CHARLESTON	5/27/2010 U 4

PRIOR COMMITMENTS OVER 90 DAYS:

MISSING PRIORS DATA

DETAINEES (HOLD, WANTED, NOTIFY):

NO DETAINEES

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

NO ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:

NO NON-ASSAULTIVE DISCIPLINARY HISTORY

HISTORY OF MOVEMENTS:

DATE	LOCATION	STATUS	REASON
2/17/11	EVANS	INCARCERATED	ADMINISTRATIVE
11/22/10	KIRKLAND	INCARCERATED	R&E PROCESSING
11/22/10	LIEBER	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	YI
FOOD SERVICE AIDE	04/13/11	0/ 0/ 0		LI
LITERACY PROGRAM	03/30/11	4/12/11	LATERAL TRANSFER	YI
LITERACY PROGRAM	03/18/11	3/28/11	PLACED IN ST/SP CUSTODY	YI
LITERACY PROGRAM	03/04/11	3/17/11	MI ELIGIBLE FOR LEVEL 2	YI

HISTORY OF EARNED EDUCATION CREDITS:

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON

NO SCHOOL ASSIGNMENTS

***** END OF REPORT *****