

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Appeal from Edgefield County

Frank R. Addy, Circuit Court Judge

---

**RECEIVED**

FEB - 7 2014

**S.C. Supreme Court**

STEVEN WHITT,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-001486

---

APPENDIX

---

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Appellate Defender

ALAN WILSON  
Attorney General

South Carolina Commission on Indigent  
Defense  
Division of Appellate Defense  
PO Box 11589  
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ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA                      COURT OF GENERAL SESSIONS  
COUNTY OF EDGEFIELD

|                         |   |                      |
|-------------------------|---|----------------------|
| STATE OF SOUTH CAROLINA | ) |                      |
| -vs-                    | ) | TRANSCRIPT OF RECORD |
| STEVEN WHITT,           | ) | 10-GS-19-073         |
| Defendant.              | ) |                      |

February 22, 2011  
Saluda, South Carolina

B E F O R E:

HONORABLE R. KNOX MCMAHON, Judge.

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

H. FRANKLIN YOUNG, Asst. Solicitor  
Attorney for the State

W. GREG SEIGLER, Public Defender  
Attorney for the Defendant

L. COCONUT PANTSARI, R.P.R.  
Circuit Court Reporter

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INDEX OF WITNESSES

(Court Reporter's Note: There was no direct or cross examination of any witnesses).

INDEX OF EXHIBITS

(Court Reporter's Note: No exhibits were marked or received into evidence).

1 (The following proceedings are reported on  
2 February 22, 2011.)

3 THE COURT: Solicitor.

4 MR. YOUNG: Your Honor, this is Mr. Steven  
5 Whitt, spelled W-H-I-T-T. He is here on an indictment  
6 from Edgefield County -- actually two indictments -- one  
7 of which he is pleading guilty to.

8 Your Honor, he is pleading guilty specifically  
9 to distribution of crack cocaine, a second offense. He  
10 is being allowed to plead to that second offense with a  
11 recommendation for seven years. The State will nol-pros  
12 another accompanying distribution of crack cocaine.

13 THE COURT: Is there a minimum/mandatory on  
14 the distribution of crack cocaine?

15 MR. SEIGLER: Five years.

16 MR. YOUNG: Five years, Your Honor.

17 THE COURT: Five years. Madame Clerk, would  
18 you place Mr. Whitt under oath, please.

19 CLERK: Raise your right hand.

20 STEVEN WHITT is first duly  
21 sworn.

22 THE COURT: Mr. Seigler, you represent Steven  
23 Whitt?

24 MR. SEIGLER: Yes, sir, I do.

25 THE COURT: Have you explained to him the

1 charge, the possible punishment, and his rights,  
2 including his right to a jury trial?

3 MR. SEIGLER: Yes, sir, I have.

4 THE COURT: In your opinion does he understand  
5 these things?

6 MR. SEIGLER: Yes, sir, he does.

7 THE COURT: How does he indicate he wishes to  
8 plead to distribution of crack cocaine second offense?

9 MR. SEIGLER: Guilty, sir.

10 THE COURT: Are you Steven Whitt?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Mr. Whitt, before I can accept a  
13 plea of guilty, it's necessary for me to determine if  
14 your plea is being given freely and voluntarily.  
15 Therefore, I need to ask you some questions.

16 If you do not understand my questions, please  
17 let me know, and I will try to explain them to you. If  
18 at any time you wish to talk with your lawyer, please  
19 let me know, and I will allow you to do so. Do you  
20 understand?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: How old are you?

23 THE DEFENDANT: Thirty-six.

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

25 THE DEFENDANT: Eleventh.

1 THE COURT: What type of work do you do?

2 THE DEFENDANT: I was working at Gentry.

3 THE COURT: Today are you under the influence  
4 of any medication, drugs, or alcohol?

5 THE DEFENDANT: No, sir.

6 THE COURT: Are you aware of any physical,  
7 emotional, or nervous problem that keeps you from  
8 understanding what you are doing today?

9 THE DEFENDANT: No, sir.

10 THE COURT: You have heard your lawyer tell me  
11 that he has explained to you the charge, the possible  
12 punishment, and your rights and that you understand  
13 these things; is that correct?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: I have been handed up Indictment  
16 2010-GS-19-073. It's a true bill indictment from  
17 Edgefield County. It basically reads that you did in  
18 Edgefield County, on or about October 15th of '09,  
19 knowingly and intentionally distribute to a confidential  
20 informant working with the Edgefield County Sheriff's  
21 Office a quantity of crack cocaine in violation of our  
22 drug laws.

23 It appears that would be a distribution of  
24 crack cocaine second offense, for which you can receive  
25 a sentence of not less than five, nor more than 30

1 years, and a fine of up to \$50,000. Do you understand  
2 that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: There are several others issues I  
5 need to discuss with you, Mr. Whitt. First, you are in  
6 Saluda County today. You have an absolute right to have  
7 this case heard and disposed of in Edgefield County. Do  
8 you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you wish to give up your right  
11 to have the case disposed of in Edgefield County? Do  
12 you want to go forward today?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: In Saluda County?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Also, if you plead guilty to a  
17 charge such as this, that being a drug charge, if you  
18 are ever found guilty of or plead guilty to the same or  
19 similar charge in the future, the penalty would be  
20 higher next time because now you will have two prior  
21 convictions for distribution of crack cocaine. Do you  
22 understand?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: When you plead guilty, you give up  
25 certain very important constitutional rights. First,

1 you give up your right to remain silent. Second, you  
2 give up your right to have a jury trial. And, third,  
3 you give up your right to confront and be confronted by  
4 the witnesses against you. Do you understand these  
5 rights?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you understand that when you  
8 plead guilty, you give up these very important  
9 constitutional rights?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Is that what you want do?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You understand you will not get a  
14 jury trial if you plead guilty?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Understanding then the nature of  
17 the charge of distribution of crack cocaine second  
18 offense and the potential penalty of up to 30 years and  
19 a fine of \$50,000, how do you plead to that charge,  
20 guilty or not guilty?

21 THE DEFENDANT: Guilty.

22 THE COURT: Did you commit that crime?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Plea negotiations, Solicitor?

25 MR. YOUNG: Your Honor, we will nol-pros an

1 accompanying indictment for distribution of crack  
2 cocaine. In exchange he will plead guilty here today to  
3 distribution of crack second offense, and the State  
4 recommends seven years confinement.

5 THE COURT: And the charge you are dismissing,  
6 what was the date of that allegation?

7 MR. YOUNG: The allegation on this one, Your  
8 Honor, I believe -- the one you hold I believe was about  
9 two or three days apart. This was October 8, 2009. I  
10 think yours is the 10th, I believe.

11 THE COURT: October 15th.

12 MR. YOUNG: I'm sorry, Your Honor, a week  
13 later.

14 THE COURT: Is that the full and complete plea  
15 negotiations, Mr. Seigler?

16 MR. SEIGLER: Your Honor, in addition, the  
17 State has agreed to dismiss two pending charges here in  
18 Saluda County, Warrant Number 141199, possession of a  
19 pistol, and possession of crack cocaine, J-141200.

20 So the complete agreement, Your Honor, is that  
21 they dismiss basically any and all pending charges  
22 against this man in Saluda and Edgefield County in  
23 exchange for this plea.

24 MR. YOUNG: That's correct, Your Honor.

25 THE COURT: What were the dates of the

1 possession of the firearm and the simple possession of  
2 crack cocaine in Saluda County?

3 MR. SEIGLER: April 4, 2008, sir.

4 THE COURT: April 4th of '08?

5 MR. SEIGLER: Yes, sir.

6 MR. YOUNG: Yes, sir, that's the date of  
7 arrest.

8 THE COURT: Mr. Whitt, is that your  
9 understanding of the plea negotiations?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Is there anything more to it in  
12 your mind?

13 THE DEFENDANT: No, sir.

14 THE COURT: Do you still wish to plead guilty?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: You understand that this is a  
17 recommendation, which means that I can accept it or I  
18 can sentence you up to 30 years. Do you understand  
19 that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you still wish to plead guilty?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Has anyone promised you anything  
24 or held out any hope of reward to get you to plead  
25 guilty?

1 THE DEFENDANT: No, sir.

2 THE COURT: Has anyone threatened you or used  
3 force to get you to plead guilty?

4 THE DEFENDANT: No, sir.

5 THE COURT: Has anyone used any pressure or  
6 intimidation to cause you to plead guilty?

7 THE DEFENDANT: No, sir.

8 THE COURT: Have you had enough time to make  
9 up your mind as to whether or not you want to plead  
10 guilty?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Are you pleading guilty of your  
13 own free will and accord?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Are you satisfied with your  
16 lawyer?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Have you talked with your lawyer  
19 as often and for as long as you feel necessary for him  
20 to properly represent you?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you need anymore time to talk  
23 with your lawyer?

24 THE DEFENDANT: No, sir.

25 THE COURT: Have you understood your talks

1 with your lawyer?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Has your lawyer done everything  
4 for you in this case that you feel like he could have  
5 done or should have done?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Are you totally and completely  
8 satisfied with your lawyer's services?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you have any complaint you want  
11 to make about your lawyer, the solicitor, or any police  
12 officers involved in any of your cases in Edgefield or  
13 Saluda Counties?

14 THE DEFENDANT: No, sir.

15 THE COURT: Have you understood my questions?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Is there anything you would like  
18 to ask me about what we have just been over?

19 THE DEFENDANT: No, sir.

20 THE COURT: I didn't quite catch that.

21 THE DEFENDANT: No, sir, I'm straight.

22 THE COURT: Do you understand you have a right  
23 to appeal your guilty plea and the sentence of the Court  
24 and that you or your lawyer must do so within ten days?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Solicitor, the facts.

2 MR. YOUNG: Your Honor, the date and time  
3 alleged, which I believe is October 15th, an undercover  
4 operative working for the Edgefield County undercover  
5 drug task force made a controlled purchase of crack  
6 cocaine from this gentleman in exchange for some  
7 documented funds. I believe it was \$20.

8 That amount was transferred from the informant  
9 back to law enforcement and submitted to S.L.E.D. for  
10 testing and came back positive in the amount of  
11 .39 grams of crack cocaine.

12 THE COURT: How much was the cost?

13 MR. YOUNG: Twenty bucks.

14 THE COURT: Twenty dollars.

15 MR. YOUNG: Your Honor, he has a prior record  
16 which spans back to 1988. I show a 1988 conviction for  
17 burglary second degree, followed apparently in 1990 with  
18 another burglary second. They coalesced the two  
19 charges.

20 He first received a Y.O.A. on that charge.  
21 Based upon the 1990, apparently they made a suspended  
22 sentence of ten years, suspended to five, split it and  
23 added a petty larceny into that consecutive for 30 days.

24 Possession of crack cocaine in 1993, two years  
25 suspended on two years probation. Apparently he may

1 have actually been in custody for a brief period of time  
2 on that.

3 1996, public disorderly conduct; disorderly  
4 conduct again in '97; assault and battery in '97. The  
5 most serious offense, Your Honor, occurred in 1999. He  
6 had a distribution of crack cocaine and trafficking  
7 cocaine charge. He received a 15-year and 10-year  
8 sentences to run concurrent.

9 THE COURT: Fifteen and ten to run concurrent  
10 in 1999?

11 MR. YOUNG: Yes, sir.

12 THE COURT: Anything further?

13 MR. YOUNG: No, sir.

14 THE COURT: Thank you. I find there is a  
15 substantial factual basis for the plea. The Defendant's  
16 decision to plead guilty is freely, voluntarily,  
17 knowingly, and intelligently made. He has had the  
18 advice and counsel of a very competent attorney with  
19 whom he says he is well and totally satisfied. His plea  
20 is accepted.

21 Mr. Seigler.

22 MR. SEIGLER: Your Honor, I was appointed to  
23 represent Mr. Whitt on two distribution cases in  
24 Edgefield County. Originally Mr. Whitt hired  
25 Mr. Ellisor on the Saluda County cases.

1           Subsequent to being retained, Mr. Ellisor, of  
2       course, as His Honor is aware, Mr. Ellisor declined  
3       health wise, and Judge Keesley decided to appoint me on  
4       all those cases, whether retained or appointed.

5           I have been dealing with Mr. Whitt for a  
6       couple of years now. He does have 21 months time served  
7       that we ask the Court to give him credit for. There has  
8       been a delay in dealing with the Saluda charges, Your  
9       Honor, based on my late appointment to Mr. Ellisor's  
10      cases.

11          That being said, Judge, I believe this  
12      recommendation is appropriate. Mr. Whitt and I have  
13      been speaking for some time. He's an intelligent  
14      person. We simply ask that you adopt the recommendation  
15      and give him credit for time served.

16          THE COURT: Thank you, Mr. Seigler.  
17      Mr. Whitt, anything you would like to say?

18          THE DEFENDANT: No, sir.

19          THE COURT: Where did this sale take place in  
20      Edgefield County?

21          MR. YOUNG: Your Honor, I don't have that  
22      precise information.

23          THE COURT: Where did this sale take place in  
24      Edgefield County? You were there.

25          THE DEFENDANT: This is my first time being in

1 Edgefield. I don't know too much about Edgefield.

2 THE COURT: Well, you know they've got good  
3 law enforcement if that was the first you had been to  
4 Edgefield. Well, it was actually the second time  
5 because you sold October the 8th and then October the  
6 15th.

7 MR. SEIGLER: Your Honor, if I could assist  
8 the Court. It took place near Mount Calvary Road in  
9 Ridge Springs.

10 THE COURT: It wasn't too far. When you get  
11 across the Aiken County line, if that's I am thinking  
12 about, that's where possum holler is, Sheriff?

13 SHERIFF: That's right, Your Honor.

14 THE COURT: Y'all didn't think I knew that,  
15 did you? Y'all thought I was raised on concrete, didn't  
16 you? Let me get this straight. Where are you from?

17 THE DEFENDANT: Batesburg.

18 THE COURT: Batesburg. You were arrested by  
19 Saluda with a pistol and crack cocaine?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Got out on bond?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And then you sold crack cocaine  
24 twice. From your 1999 fifteen- and ten-year sentence,  
25 how long did you serve, Mr. Whitt?

1 THE DEFENDANT: Seven.

2 THE COURT: Seven years. So you got out in  
3 '06, 2006?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: How much are you going to serve on  
6 this seven years?

7 THE DEFENDANT: I think he said about four  
8 more, I think.

9 THE COURT: About what?

10 THE DEFENDANT: Four more years.

11 THE COURT: Why do you want to go back to the  
12 penitentiary? Mr. Seigler is right. You are an  
13 intelligent young man. Why would you want to give up  
14 your freedom? Were you an addict?

15 THE DEFENDANT: No, sir.

16 THE COURT: I will follow the recommendation,  
17 Solicitor. How long has he been in jail?

18 MR. SEIGLER: Twenty-one months.

19 THE COURT: Is that exact?

20 MR. SEIGLER: He couldn't tell me the exact  
21 date but approximately 21 months. I don't know for  
22 certain myself. Judge, I apologize. He was over here  
23 for a while and then he went to Edgefield.

24 THE COURT: Indictment 2010-GS-19-073, the  
25 State versus Steven Whitt, distribution of crack cocaine

1 second offense, the Defendant is committed to the State  
2 Department of Corrections for a determinate term of  
3 seven years, credit for time served, 660 days. Good  
4 luck to you, Mr. Whitt.

5 \*\*\* END OF REQUESTED TRANSCRIPT OF RECORD \*\*\*  
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## C E R T I F I C A T E

I, the undersigned L. Coconut Pantsari, Official Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal, in the Criminal Court for Edgefield County, South Carolina, but heard in Saluda County, South Carolina, on the 22nd day of February, 2011.

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

August 5, 2011

L Coconut Pantsari

Court Reporter

STATE OF SOUTH CAROLINA

FORM 5

COUNTY OF RICHLAND 2011 JUL 25

AM 11:33

IN THE COURT OF COMMON PLEAS

COUNTY OF EDGEFIELD

2011-CP-19-00233

Full name and prison number (if any) of Applicant.

STEVEN WHITT

V.  
COUNTY OF EDGEFIELD, SOUTH  
CAROLINA DEPT OF CORRECTIONS  
State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

**INSTRUCTIONS - READ CAREFULLY**

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

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

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

1. Place of detention KIRKLAND CORRECTIONAL INSTITUTION
2. Name and location of Court which imposed sentence EDGEFIELD COUNTY COURT OF GENERAL SE
3. Name(s) of co-defendant(s) (if any) \_\_\_\_\_
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2010 - GS - 19 - 073 DISTRIBUTION OF CRACK COCAINE. 2nd OFFENSE
  - (b) \_\_\_\_\_
  - (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) FEB 22nd 2011 SEVEN YEARS
  - (b) \_\_\_\_\_

Revised 3/2003

- (c) \_\_\_\_\_
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ✓
- (b) after a plea of not guilty \_\_\_\_\_
- (c) after a plea of nolo contendere \_\_\_\_\_
7. Did you appeal from the judgment of conviction or the imposition of sentence?  
NO
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. N/A
- ii. N/A
- iii. N/A
- (b) the result in each such Court to which you appealed:
- i. N/A
- ii. N/A
- iii. N/A
- (c) the date of each such result:
- i. N/A
- ii. N/A
- iii. N/A
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. N/A
- iii. N/A
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) WAS NOT INFORMED OF MY RIGHT TO APPEAL BY COUNSEL
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) I WAS HELD TO ANSWER TO AN OFFENSE THAT WAS IN MAJESTATE CC
- (b) THE APPLICANTS ARREST, INDICTMENT AND PROSECUTION WAS PROCEDURALLY BA
- (c) SEE ATTACHMENT FOR ADDITIONAL GROUNDS
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) SOUTH CAROLINA CONSTITUTION ARTICLE I § 11
- (b) THE PROSECUTION WAS NOT INITIATED BY CIRCUIT COURT, NO CONTINUANCES WAS OBT
- (c) SEE ATTACHMENT FOR FACTS SUPPORTING EACH ADDITIONAL GROUND
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A
- (c) the disposition thereof:
- i. N/A
- ii. N/A
- iii. N/A

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

(d) the date of each such disposition:

i. N/A

ii. N/A

iii. N/A

iv. N/A

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

i. N/A

ii. N/A

iii. N/A

iv. N/A

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

NO

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

(a) which grounds have been presented:

i. N/A

ii. N/A

iii. N/A

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

i. N/A

ii. N/A

iii. N/A

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) THE CLERK OF COURT FAILED TO RESPOND TO LETTERS AND PROVIDE/MATERIAL

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

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

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

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

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

- (a) the name and address of each attorney who represented you:
  - i.        W. Greg Seigler
  - ii.        P.O. Box 185L
  - iii.        Mc Cormick, S.C 29835
- (b) the proceedings at which each such attorney represented you:
  - i.        PLEA AND SENTENCING
  - ii.
  - iii.

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

A VACATION OF MY CONVICTION AND SENTENCE AND TO BE COMPENSATED IN THE SUM OF \$250,000.00

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

NO

STATE OF SOUTH CAROLINA )

County of )

VERIFICATION

SOUTHFIELD COU  
CLERK OF COU  
CHARLEY F. NE

2011 JUL 25 AM 1

I, \_\_\_\_\_, 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.

Steen White

SWORN to and subscribed before me this 8th  
day of July, 2011.

Charley F. Nease (L.S.)  
Notary Public

My Commission Expires  
My Commission Expires: October 8, 2014

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

I, \_\_\_\_\_, 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.

*Steven White*  
Applicant

SWORN or affirmed to and subscribed before me this

5<sup>th</sup> day of July, 2011.

*[Signature]*  
Notary Public

My Commission Expires  
My Commission Expires: October 8, 2014

EDGEFIELD COUNTY  
CLERK OF COURT  
SHARLEY R. NEWBY

2011 JUL 25 AM 11:34

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

STEVEN WHITT

APPLICANT

v

COUNTY OF EDGEFIELD, SOUTH

CAROLINA DEPT OF CORRECTIONS

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF EDGEFIELD

MOTION FOR DISCOVERY

17-27-150

APPLICANT REQUEST THE PRODUCTION OF WARRANT J 606673

PRODUCTION OF INDICTMENT 2010-GS-19-0731

PRODUCTION OF CONTINUANCES GRANTED

PRODUCTION OF FINDINGS OF PRELIMINARY HEARING.

PRODUCTION OF RULE 6 CHAIN OF CUSTODY AND CHEMICAL ANALYSIS

PRODUCTION OF BRADY MATERIAL PURSUANT TO RULE 5

PRODUCTION OF WARRANT FOR DISTRIBUTION OF CRACK COCAINE 2ND OFFENSE  
44-53-375(B)(2)

INDICTMENT FOR DISTRIBUTION OF CRACK COCAINE 2ND OFFENSE

COMMITMENT WARRANT IN RELATION TO ANY OF THE HEARINGS MENTION  
CHARGES

RESPECTFULLY SUBMITTED

APPLICANT

STEVEN WHITT

COVINGTON COUNTY  
CLERK OF COURT  
SHIRLEY F. NEWBY

2011 JUL 25 AM 11:35

DEAR CLERK

PLEASE FIND FOR FILING WITHIN  
YOUR OFFICE (1) APPLICATION FOR POST-CONVICTION  
RELIEF WITH ATTACHMENT  
(2) EXHIBITS WARRANT AND  
SENTENCING SHEET.

THANK YOU

STEVEN WHITT

EDGEMOND COUNTY  
CLERK  
SHIRLEY HENRY

2011 JUL 25 AM 11:35

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

STEVEN WHITT

ATTACHMENT TO

APPLICANT

APPLICATION FOR POST-CONVICTION

V

RELIEF

STATE OF SOUTH CAROLINA, COUNTY

OF EDGEFIELD, SOUTH CAROLINA

DEPT OF CORRECTIONS

GROUND

(A) THE CIRCUIT COURT LACKED SUBJECT-MATTER JURISDICTION TO TRY AND ACCEPT APPLICANTS PLEA TO DISTRIBUTION OF CRACK COCAINE SECOND OFFENSE BECAUSE APPLICANT WAS NEITHER ARRESTED FOR SUCH OR INDICTED BY A GRAND JURY.

FACTS IN SUPPORT

THE PREREQUISITE FOR OBTAINING PERSONAL JURISDICTION OF THE APPLICANT AND OF THE SUBJECT-MATTER WAS NOT COMPLIED WITH IN THAT

(1) NO WARRANT CHARGING A VIOLATION OF 44-53-375 B(2), WAS ISSUED FROM THE CIRCUIT COURT IN THE NAME OF THE ATTORNEY GENERAL OR SOLICITOR FOR THE CIRCUIT

(2) NO WARRANT CHARGING A VIOLATION OF 44-53-375 (B) (2) WAS SERVED ON APPLICANT OR FILED WITH THE CLERK OF COURT

(3) NO INDICTMENT WAS TRUE BILL BY A GRAND JURY OR PRESENTED CHARGING ME WITH A VIOLATION OF 44-53-375

(B) (2)

(1)

(4) NO WARRANT CHARGING THE OFFENSE OF 44-53-375(B)2 WAS SENT TO SOLICITORS OFFICE AND THE SOLICITOR OFFICE DID NOT FILE THIS CHARGE WITH THE CLERK OF COURT FOR EDGEFIELD COUNTY.

(5) THE OFFENSE OF DISTRIBUTION OF CRACK COCAINE 2nd IS NOT A LESSER INCLUDED OFFENSE OF MANUFACTURING, DISTRIBUTING DRUGS COCAINE BASE 3rd OFFENSE

#### LAW ANALYSIS

PURSUANT TO SC CONST 1 § 23 THE PROVISION OF THE CONSTITUTION "SHALL" BE TAKEN, CONSTRUED AND DEEM MANDATORY AND PROHIBITORY AND NOT MERELY DIRECTORY, EXCEPT WHERE EXPRESSLY MADE. SO BY ITS OWN TERMS THE APPLICANT BRINGS A VIOLATION OF SUCH IN RELATION TO HIS ARREST, SEIZURE, TRIAL, CONVICTION AND CONFINEMENT WHICH ARE ILLEGAL BECAUSE A WANT OF JURISDICTION

THE APPLICANT ADMITS AS EVIDENCE THE WARRANT AS EXHIBIT "A" WHICH WAS PREPARED IN EXCESS OF THE MAGISTRATES JURISDICTION

THE WARRANT ALLEGES A COUNTY ORDINANCE VIOLATION BUT NONE WAS PROVIDED

THE WARRANT ALSO GIVE NOTICE OF DRUGS/MANUFACTURING ETC OF "COCAINE BASE" 3rd SUB OFFENSE

THE AFFIDAVIT SECTION OF THE WARRANT STATED THAT "THIS VIOLATION DID OCCURE AT APPROXIMATELY 6.03 PM. NEAR MT CALVERY Rd RIDGE, SPRING SC. SAME BEING IN EDEFIELD COUNTY THE PLACE WHERE THE OFFENSE IS ALLEGED TO HAVE BEEN COMMITTED IS BEYOND THE GEOGRAPHICAL BOUNDARY OF THE COUNTY AND THEREFORE, THE WARRANT IS INVALID, THE ARREST IS ILLEGAL AND THE MAGISTRATE, INVESTIGATOR WARREN T MILLER AND LT RANDY T. DORAN ACTIONS ARE UNLAWFULL AMOUNTING TO KIDNAPPING IN VIOLATION OF 16-3-910

FURTHER MORE, ACCORDING TO SOUTH CAROLINA CONSTITUTION ARTICLE 7 §14 "NO COUNTY LINES SHALL BE SO ESTABLISHED AS TO PASS THROUGH ANY INCORPORATED CITY OR TOWN. THEREFORE THIS CHARGE WAS NOT COGNIZABLE.

SOUTH CAROLINA CONSTITUTION ARTICLE 5 §11 PROVIDES THE CIRCUIT COURT SHALL BE A GENERAL TRIAL COURT WITH ORIGINAL JURISDICTION. CRIMINAL CASES EXCEPT THE CASES IN WHICH EXCLUSIVE JURISDICTION SHALL BE GIVEN TO INFERIOR COURTS AND SHALL HAVE APPELLATE JURISDICTION AS PROVIDED BY LAW.

PURSUANT TO STATE STATUTE 17-1-10 A CRIMINAL ACTION IS PROSECUTED BY THE STATE AS A PARTY AGAINST A PERSON CHARGED WITH A PUBLIC OFFENSE

PURSUANT TO 14-7-260 PROVIDE THAT THE CLERK SHALL ISSUE ALL PROCESS, EVERY EXECUTION, BENCH WARRANT OR OTHER PROCESS ISSUABLE OR DIRECTED TO BE ISSUED BY THE COURT OF GENERAL SESSIONS IN THE NAME (3)

OF THE ATTORNEY GENERAL OR SOLICITOR OF THE CIRCUIT  
 IN EVERY CRIMINAL PROSECUTION THE RESPONSIBILITY FOR  
 THE CONDUCT OF THE TRIAL IS UPON THE SOLICITOR  
 THE RECORD DOES NOT REFLECT THAT ANY WARRANT WAS  
 ISSUED FROM THE CIRCUIT COURT IN THE NAME OF THE  
 SOLICITOR OR ATTORNEY GENERAL  
 OR THAT ANY WAS FILED, OR PROBABLE CAUSE DETERMINATION  
 HEARINGS HAVING BEEN GRANTED WITHIN (48) HRS AFTER MY CONFINEMENT  
 AT

#### INDICTMENT

SOUTH CAROLINA CONSTITUTION ART 1 § 11 PROVIDES NO  
 PERSON MAY BE HELD TO ANSWER FOR ANY CRIME THE JURISDICTION  
 ON OVER WHICH IS NOT WITHIN THE MAGISTRATES COURT  
 UNLESS ON A PRESENTMENT OR INDICTMENT OF A GRAND-  
 JURY OF THE COUNTY WHERE THE CRIME HAS BEEN COMMITTED.  
 THE APPLICANTS PLEA NOT ONLY VIOLATED ARTICLE 1 § 11  
 IT VIOLATED MY CONSTITUTIONAL AND CIVIL RIGHTS TO BE  
 FREE TO DUE PROCESS OF LAW BY FILING AND PRESENTING ME  
 WITH AN ARREST WARRANT AND A VALID INDICTMENT FOR THE  
 OFFENSE THAT THE STATE RECOMMEND I PLEAD GUILTY TO  
CRIMINAL LAW KEY 100 (1) 'A COURTS AUTHORITY TO EXERCISE ITS  
 SUBJECT MATTER JURISDICTION OVER A CASE MAY BE RESTRICTED  
 BY FAILURE TO COMPLY WITH STATUTORY REQUIREMENTS THAT  
 ARE MANDATORY IN NATURE AND THAT ARE PREREQUISITE TO A  
 COURTS LAWFUL EXERCISE OF THAT JURISDICTION  
 (4)

INDICTMENT AND INFORMATION KEY (3) (5)

CIRCUIT COURT DOES NOT HAVE SUBJECT-MATTER JURISDICTION TO HEAR GUILTY PLEA UNLESS THE DEFENDANT HAS BEEN INDICTED BY A GRAND JURY OR HAS WAIVED PRESENTMENT. THE RECORD WOULD REFLECT THAT THE APPLICANT WAS NOT INDICTED FOR THE OFFENSE OF 44-53-375 B(2) AND DID NOT SIGN A WRITTEN WAIVER OF PRESENTMENT IN RELATION TO SUCH IN STATE V. BEACHUM 288 SC 325, 342 SE2d 597 (1986) THE SUPREME COURT HELD "A COURT LACKS SUBJECT MATTER JURISDICTION TO CONVICT AND SENTENCE A DEFENDANT FOR AN OFFENSE FOR WHICH HE WAS NOT INDICTED. IN ADDITION AN AMENDMENT TO AN INDICTMENT DURING TRIAL THAT CHANGES THE NATURE OF THE OFFENSE CHARGED DEPRIVES THE TRIAL COURT OF SUBJECT-MATTER JURISDICTION. CITING CLAIR V. STATE 324 SC 144, 478 SE 2d 54 (1996), A REVIEW OF THE SENTENCING SHEET WOULD REFLECT SUCH AN AMENDMENT IN THE THE WARRANT J 606673 IN THE AFFIDAVIT SECTION<sup>1</sup> STATES THAT THE APPLICANT SOLD A QUANTITY OF CRACK COCAINE, IN THE SECTION OF THE WARRANT RESERVE FOR THE STATE LIST THE OFFENSE AS DISTRIBUTING, MANUFACTURING DRUGS, COCAINE BASE 3rd OFFENSE IN VIOLATION OF 44-53-375 (B)(3).

HOWEVER THE SENTENCING SHEET STATES DISTRIBUTION OF CRACK COCAINE 2nd OFFENSE IN VIOLATION OF 44-53-375(B)(2) THIS AMENDMENT AMOUNTS TO A VIOLATION OF THE FIFTH AND FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND  
(5)

SOUTH CAROLINA CONST ART L § 3

GROUND

APPLICANT WAS HELD TO ANSWER TO AN OFFENSE THE JURISDICTION THAT WAS WITHIN THE MAGISTRATE COURT.

FACTS

THE RECORD WOULD REFLECT THAT THE WARRANT J606673 WAS ISSUED BY THE MAGISTRATE COURT ON 10/30/09

WHENEVER A MUNICIPAL COURT OR A MAGISTRATE COURT SHALL ACQUIRED JURISDICTION BY REASON OF SOMEONE COMMITTING AN ACT WHICH IS ALLEGED TO BE IN VIOLATION OF A MUNICIPAL ORDINANCE AND WHICH IS IN VIOLATION OF THE CRIMINAL LAWS OF THE STATE A CONVICTION OR ACQUITTAL BY THE FIRST COURT ACQUIRING JURISDICTION SHALL BE A COMPLETE BAR TO A TRIAL BY ANOTHER COURT FOR THE SAME ALLEGED UNLAWFUL ACT OR ACTS

THE APPLICANT IN THIS CASE HAD ALREADY BEEN PUNISHED BY BEING CONFINED FOR A PERIOD OF 660 DAYS IN THE COUNTY JAIL ON THE BASIS OF THIS MAGISTRATE COURT WARRANT THE TERM "PUNISHMENT" BLACKS LAW DICTIONARY IS A SANCTION SUCH AS A FINE A PENALTY SUCH AS LOSS OF PROPERTY, CONFINEMENT LOSS OF A RIGHT, PRIVILEGE ASSESSED AGAINST A PERSON WHO HAS VIOLATED THE LAW.

INASMUCH AS NO PROCESS OR SERVICE OF PROCESS WAS ISSUED FROM THE STATE COURT JURISDICTION WAS IN THE MAGISTRATE COURT.

LAW ANALYSIS

JURISDICTION OF MAGISTRATES IS FIXED BY THE CONSTITUTION AND STATUTES ENACTED PURSUANT THERETO CRIMINAL LAW.

KEY 90 (1) AND JURISDICTION OF THE PERSON IS ACQUIRED WHEN THE PERSON CHARGED IS ARRESTED CITING STATE V. ADAMS 580 SE 2d 785 (APP 2003)

COURTS KEY 24 "PARTIES CANNOT CONFER SUBJECT-MATTER JURISDICTION BY CONSENT"

IT IS THE GENERAL NOTICE THAT MUST ADVISE THE DEFENDANT OF THE PARTICULAR CHARGE TO BE TRIED STATE V. GOODE (1999) 299 SC 479. 385 SE 2d 844 IT IS THE SERVICE OF PROCESS THAT CONFERS PERSON JURISDICTION UPON THE COURT INASMUCH AS THE APPLICANT WAS SERVED WITH PROCESS FROM THE MAGISTRATE COURT AND WHO'S DOCUMENT ALLEGE THAT I VIOLATED THE LAWS OF THE COUNTY THUS THE MAGISTRATE COURT HAVE JURISDICTION

THE APPLICANTS ARREST, INDICTMENT AND PROSECUTION WAS  
PROCEDURALLY BARRED

### FACTS

THE RECORD WOULD REFLECT THAT (1) THE CHARGES WAS  
FILE IN THE WRONG COURT (2) THE APPLICANT WAS SEIZED  
AND UNLAWFULLY CONFINED FOR A PERIOD OF 660 DAYS (3)  
THE APPLICANT WAS PROSECUTE IN VIOLATION OF THE DOUBLE  
JEOPARDY CLAUSE AND THE FAST AND SPEEDY TRIAL REMEDY CLAUSE  
(4) THE ARREST OF APPLICANT WAS ILLEGAL

### LAW ANALYSIS

STATE STATUTE § 17-13-40 (A) WHEN THE POLICE ARE IN  
PURSUIT OF AN OFFENDER FOR A VIOLATION OF A MUNICIPAL ORDINANCE  
OR STATUTE OF THIS STATE COMMITTED WITHIN THE COOPERATE  
LIMITS AT A PLACE WITHIN THE COUNTY, THE AUTHORITIES MAY  
ARREST THE OFFENDER WITH OR WITHOUT A WARRANT AT A PLACE  
WITHIN THE COOPERATE LIMITS OR AT A LOCATION/PLACE WITHIN  
A RADIUS OF THREE MILES OF THE COOPERATE LIMITS  
HOWEVER PURSUANT TO 17-13-110 (1) SUCH POLICE OFFICER OR  
DEPUTY SHERIFF "SHALL" NOT DETAIN ANY ARRESTED PERSON  
IN SUCH PRISON LONGER THAN (18) HRS EXCEPT A PERSON ARRESTED  
ON SATURDAY AND THEN NO LONGER THAN (42) HRS

THE APPLICANT IS ENTITLED TO RECOVER PENALTIES AND DAMAGES  
AGAINST THE INVESTIGATOR, LT SHERIFFS, DEPT. COUNTY, AND  
SOLICITORS OFFICE FOR FALSE ARREST.

(8)

FALSE ARREST BLACKS LAW DICTIONARY "AN ARREST MADE WITHOUT PROPER LEGAL AUTHORITY. STATE STATUTE §28-17-90. IF ANY SHERIFF OR DEPUTY SHERIFF, WITHOUT WRIT, WARRANT OR PROCESS SHALL SUMMON ANYONE BY ARRESTING THE PERSON NOT HAVING AT THE TIME ANY PROCESS TO JUSTIFY SUCH SUMMONS. UPON COMPLAIN THEREOF ON OATH THE SHERIFF OR DEPUTY SHERIFF SHALL BE LIABLE TO BE PUNISHED FOR A CONTEMPT BY EITHER THE COURT OF COMMON PLEAS OR GENERAL SESSIONS. STATE STATUTE 16-3-910 PROVIDES THAT WHOEVER SHALL UNLAWFULLY SEIZE, CONFINEMENT, INVEIGLE, DECOY, KIDNAP & ABDUCT OR CARRY AWAY ANOTHER PERSON BY ANY MEANS WHATSOEVER WITHOUT AUTHORITY OF LAW SHALL BE GUILTY OF A FELONY AND UPON CONVICTION SHALL BE PUNISH TO LIFE IMPRISONMENT. THE APPLICANT ARREST PURSUANT TO A MAGISTRATE WARRANT IS UNLAWFULL. NO BREACH OF THE PEACE TO PLACE WITHIN THE COUNTY OR EIGHT MILE FROM THE MUNICIPAL, TOWN OR CITY AS TO GIVE THE MAGISTRATE JURISDICTION TO ISSUE A WARRANT. THE APPLICANTS PRESENT CONFINEMENT IS ALSO UNLAWFULL AND IS A PRODUCT OF A CONSPIRACY, OR ACQUIESCENCE IN THE ACT OF ONE ANOTHER THE SOLICITOR, CLERK, COUNSEL THAT REPRESENTED ME AND THE MEMBERS OF THE SHERIFFS DEPARTMENT UNLAWFULL SENT ME TO PRISON FOR AN OFFENSE I WAS NOT ARRESTED FOR OR INDICTED, OR WAIVE PRESENTMENT TO IN VIOLATION OF STATE STATUTE 16-3-910 AND THE RULES OF PROFESSIONAL CONDUCT 3.1. 8.4.

### PROSECUTION BAR

SOUTH CAROLINA RECOGNIZES TWO (2) TYPES OF PLEA IN BAR OF PROSECUTION (1) THE DOUBLE JEOPARDY CLAUSE OF US CONST AMEND V AND SOUTH CAROLINA CONST ART 1 § 12 AND S C CODE ANN § 17-23-10 AND (2) DENIAL TO THE RIGHT OF A FAST AND SPEEDY TRIAL OR REMEDY U.S. CONST AMEND VI, SC CONST ART 1 § 9.

IN ASHEV SWINSON THE SUPREME COURT APPLIED A COLLATERAL ESTOPPEL ANALYSIS TO FIND A DOUBLE JEOPARDY BAR TO A SUBSEQUENT PROSECUTION. THE COURT HELD THAT WHEN AN ISSUE OF ULTIMATE FACT HAS BEEN DETERMINED THAT ISSUE CANNOT BE RELITIGATED U.S. 436 25 LED 2d 469, 90 SCT 1189.

IT IS CONCLUSIVE THAT THE MAGISTRATE COURT HAS EXERCISE "ORIGINAL JURISDICTION" IN THIS CASE THEREBY DEPRIVING THE CIRCUIT COURT OF SUCH AS REQUIRED AND CONFERRED BY S.C. CONST ART 5 § 11.

THE MAGISTRATES COURT ACTION WAS UNCONSTITUTIONAL IN THAT (1) IT VIOLATED THE SEPERATION OF POWERS DOCTRINE S.C. CONST ART 1 § 8 AND THE DOCTRINE OF SPECIAL LEGISLATION IN VIOLATION OF S.C. CONST ART 3 § 34.

PURSUANT TO S.C. CONST ART (8)(14) PROVIDES THAT POLITICAL SUBDIVISIONS OF THE STATE DO NOT HAVE POWER TO ALTER OR SET ASIDE CRIMINAL LAWS AND THEIR PENALTIES. THEY CANNOT ALTER THE STRUCTURE FOR AND THE ADMINISTRATION OF THE STATE JUDICIAL SYSTEM, THEY CANNOT LEGISLATE THEIR OWN STANDARDS WHERE THE STATE HAS SET STANDARDS

(10)

A DEFENDANT CANNOT BE TRIED IN BOTH MUNICIPAL COURT AND STATE COURT FOR THE SAME OFFENSE WITHOUT VIOLATING THE DOUBLE JEOPARDY, AS SEPERATE SOVERAINTIES ARE INVOLVED. EVEN WHERE THE MUNICIPAL COURT HAD NO JURISDICTION OVER THE FELONY TRIED IN STATE COURT THEREFORE APPLICANTS TRIAL WAS BARRED. WALLER V FLORIDA 397 US 387, 90 SC 1184, 25 L ED 2D 435 (1970).

### CONSEQUENCES OF

### FAILURE TO INDICT

PURSUANT TO SC CONST ART 1 § 9 THE ACCUSE ENJOYS THE RIGHT TO A FAST AND SPEEDY TRIAL OR REMEDY. THE RULES OF CRIM PROCEDURE IN THE CIRCUIT COURT PROVIDES IN RUL. OF CRIM PROC RULE (3) THAT IN ALL CASES WITHIN THE COURT OF GENERAL SESSIONS SHALL FORWARD TO THE CLERK OF COURT THE ARREST WARRANT AND THE BOND WITHIN (15) DAYS FROM THE DATE OF ARREST RULE (3)(B) PROVIDES THAT THE CLERK OF THE COURT OF GENERAL SESSION SHALL FORWARD A COPY OF THE WARRANT TO THE SOLICITOR WITHIN 90 DAYS OF RECEIPT OF THE ARREST WARRANT THE SOLICITOR SHALL TAKE ACTION ON THE WARRANT BY PREPARING AN INDICTMENT FOR PRESENTMENT TO THE GRAND JURY BY FILING SUCH WITH THE CLERK OF COURT AND OBEY THE COURT RULES. RULES PROF CONDUCT (3)4 E

THE APPLICANT WAS SERVED ON 10-30-09, AND WAS NOT TRIED UNTIL FEB 22ND 2011 IN VIOLATION OF SC CONST ART 5 § 4 WHICH PROVIDE FOR MANDATORY DISPOSAL WITHIN 180 DAYS

IN CRIMINAL CASES RULE 7(A) SCR CRIM P DIVIDES THE AUTHORITY TO GRANT CONTINUANCES BETWEEN THE CHIEF ADMINISTRATIVE JUDGE FOR GENERAL SESSIONS AND THE PRESIDING JUDGE DURING A TERM OF COURT.

THE MOTION MAY BE GRANTED ONLY UPON A SHOWING OF GOOD CAUSE AND THE ORDER GRANTING THE MOTION MUST BE WRITTEN, WRITTEN AND IMMEDIATELY FILE WITH THE CLERK OF COURT. A CONTINUANCE GRANTED BY A PRESIDING JUDGE CANNOT EXTEND BEYOND THE NEXT TERM OF COURT WITHOUT THE APPROVAL OF THE CHIEF ADMINISTRATIVE JUDGE.

IN FAMILY COURT THE SUPREME COURT REQUIRES CASES TO BE STRUCK AFTER 270 DAYS HAS ELAPSED SO THAT COURT ADMINISTRATION WILL HAVE A STANDARD FOR MEASURING THE NUMBER AND AGE OF ACTIVE CASES.

THE COURT ADMINISTRATION SENT A MEMORANDUM TO JUDGES PARTICULARLY CHIEF ADMINISTRATIVE JUDGES, AND ATTACHED IT TO THE DAVIS ADVANCE SHEETS. THE MEMORANDUM STATED "CONTINUED CASES BEYOND 270 DAYS UPON SHOWING OF GOOD CAUSE CONTINUANCES SHOULD BE THE RULE AND A HEARING SHOULD GENERALLY NOT BE REQUIRED. THE EXCEPTIONAL CIRCUMSTANCES STANDARD WAS ABOLISHED A LONG TIME AGO IF A TIME AND DATE CERTAIN CANNOT BE PROVIDED BECAUSE OF A LACK OF AVAILABLE COURT TIME, YOU CERTAINLY HAVE DISCRETION TO PROVIDE FOR A REASONABLE AMOUNT OF TIME IN WHICH THE CASE CAN BE HEARD IN ANY ORDER OF CONTINUANCE

THE APPLICANT WAS NOT SERVED WITH ANY CONTINUANCES AS PART OF THE LEGAL PROCESS TO CONTINUE THE CAUSE AGAINST HIM. STATE STATUTE 17-23-90 PROVIDES IF ANY DEFENDANT UPON PRAYER OR PETITION THE FIRST WEEK OF THE TERM TO BE BROUGHT TO HIS TRIAL SHALL NOT BE INDICTED AND TRIED THE SECOND TERM AFTER HIS COMMITMENT OR UPON HIS TRIAL SHALL BE ACQUITTED.

IN CONCLUSION

THE APPLICANTS ARREST, SEIZURE AND CONFINEMENT IS UNLAWFUL AND SEEKS WARRANTS AGAINST THE SHERIFFS DEPARTMENT EMPLOYEES, THE CLERK, THE SOLICITOR, THE JUDGE MEMBERS OF THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS FOR ILLEGALLY CONFINING ME AND FAILING TO BRING SUCH ILLEGALITY TO THE PROPER AUTHORITIES.

APPLICANT ALSO SEEK PUNITIVE AND COMPENSATORY MONETARY DAMAGES.

AND VACATION OF HIS CONVICTION AND SENTENCE BECAUSE IT VIOLATES U.S.C.A. § 14 AND SOUTH CAROLINA CONSTITUTION ART 1 § 11 S.C. CONST 1 § 3 S.C. CONST A2 3 § 84 IN THAT APPLICANT WAS TRIED AND SENTENCE TO AN OFFENSE NOT ARRESTED FOR OR INDICTED FOR BY A GRAND JURY.

SWORN TO AND SUBSCRIBE BEFORE ME

Steven Whit  
STEVEN WHITT

this 15th DAY OF JULY 2011

L. C. Whit  
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires My Commission Expires  
(13) October 8, 2014

|                          |   |                              |
|--------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA  | ) | IN THE COURT OF COMMON PLEAS |
|                          | ) |                              |
| COUNTY OF EDGEFIELD      | ) | Case No: 2011-CP-19-0233     |
|                          | ) |                              |
| Steven Whitt, #255456,   | ) |                              |
|                          | ) |                              |
| Applicant,               | ) |                              |
|                          | ) |                              |
| v.                       | ) | <b>RETURN</b>                |
|                          | ) |                              |
| State of South Carolina, | ) |                              |
|                          | ) |                              |
| Respondent.              | ) |                              |
|                          | ) |                              |

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The Respondent, making its Return to the application for post-conviction relief (PCR) filed July 25, 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 Edgefield County Clerk of Court. The Applicant was indicted at the February 2010 term of the Edgefield County Grand Jury for Distribution of Crack Cocaine – 2<sup>nd</sup> Offense (2010-GS-19-073). Applicant was represented by W. Greg Seigler, Esquire. On February 22, 2011, the Applicant pled guilty as charged. The Honorable R. Knox McMahon sentenced the Applicant to confinement for a period of seven (7) years. Applicant did not appeal his conviction or sentence.

Attached herewith and incorporated herein are the records of the Edgefield County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, and the guilty plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## II.

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

1. Ineffective Assistance of Counsel
  - a. failure to inform of right to appeal
  - b. Applicant was held to answer to an offense that was in Magistrates Court
  - c. Applicant's arrest, indictment and prosecution was procedurally barred
2. Lack of Subject Matter Jurisdiction
  - a. no warrant charging violation of 44-53-375B(2) was issued or served on Applicant
  - b. no indictment was true billed by a grand jury or presented charging Applicant with a violation of 44-53-375(B)(2)
  - c. no lesser included offense
  - d. Violation of Rule 3, SCRCrimP

## III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their 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, 80 L.Ed.2d 674, 692 (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 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).

The Respondent submits that the 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, the 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.

The Applicant has claimed that the trial court lacked subject matter jurisdiction due to defects in his indictment. Defects in the indictment do not affect subject matter jurisdiction. See State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005); U.S. v. Cotton, 535 U.S. 625, 122 S.Ct. 1781 (2002). The indictment is a notice document, and any challenges to its sufficiency must be made in accordance with S.C. Code Ann. § 17-19-90 (2003). See also S.C. Code § 17-19-20 (2003). Subject matter jurisdiction is the power of a court to hear a particular class of cases, and

it has nothing to do with the indictment document. See Gentry, 610 S.E.2d 494; Dove v. Gold Kist, Inc., 314 S.C. 235, 442 S.E.2d 598 (1994).

In post-conviction relief, an Applicant wishing to raise challenges to the sufficiency of an indictment must do so in the context of ineffective assistance of counsel, basically alleging that his trial counsel failed to properly move to quash the indictment in accordance with S.C. Code Ann. § 17-19-90 (2003). A claim of this nature is subject to the procedural bars in the Uniform Post-Conviction Procedure Act – notably the statute of limitations and successiveness. See S.C. Code §§ 17-27-45 and -90 (2003).

An Applicant may still challenge the subject matter jurisdiction of the trial court, and such a claim is one that may be raised at any time. See Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001), overruled in part by Gentry, 610 S.E.2d 494. However, “[c]ircuit courts obviously have subject matter jurisdiction to try criminal matters.” Gentry, 610 S.E.2d 494; See also S.C. Const. Art. V, § 7. Thus, the Applicant must present evidence that his case is of some class over which the circuit court does not have the authority to preside. The Applicant’s conviction involved a criminal charge in General Sessions Court. Thus, the circuit court had subject matter jurisdiction.

The Applicant contends that the indictments were void because the State did not obtain indictments within ninety days of the Applicant’s arrest. This allegation does not warrant relief. The grand jury returned each indictment. The failure to obtain an indictment within ninety days of arrest does not render it void for lack of jurisdiction. State v. Culbreath, 282 S.C. 38, 316 S.E.2d 681 (1984). The Applicant has not shown that the sentencing court lacked subject matter jurisdiction to accept his plea.

A presumption of regularity attaches to all proceedings in the courts of this State, and it is incumbent upon one who challenges a proceeding to prove his claims. *See, e.g., Tate v. State*, 345 S.C. 577, 549 S.E.2d 601 (2001); *Pringle v. State*, 287 S.C. 409, 339 S.E.2d 127 (1986). The failure to follow administrative procedures regarding the disposition of indictments or the filing of the same does not affect the subject matter jurisdiction of the trial court to hear a particular case. *See State v. Culbreath*, 282 S.C. 38, 316 S.E.2d 681 (1984).

V.

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

VI.

WHEREFORE, having made its Return, the State requests that a hearing be held.

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY ELLIOTT  
Senior Assistant Deputy Attorney General

KAELOE E. MAY  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

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

February 21, 2012.

|                          |   |                              |
|--------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA  | ) |                              |
|                          | ) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF EDGEFIELD      | ) |                              |
|                          | ) |                              |
|                          | ) | 2011-CP-19-0233              |
|                          | ) |                              |
| STEVEN WHITT, #255456    | ) |                              |
|                          | ) |                              |
| Applicant,               | ) |                              |
|                          | ) |                              |
| vs                       | ) | AFFIDAVIT OF SERVICE BY MAIL |
|                          | ) |                              |
| STATE OF SOUTH CAROLINA, | ) |                              |
|                          | ) |                              |
| Respondent.              | ) |                              |

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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:

Elizabeth A. McLeod, Esquire  
P.O. Box 1477  
Augusta, GA 30903

DATED this 22<sup>nd</sup> day of February, 2012

Lena Pelishenko  
Lena Pelishenko, Legal Assistant  
For Respondent

## ORIGINAL

STATE OF SOUTH CAROLINA )  
COUNTY OF EDGEFIELD ) COURT OF COMMON PLEAS

Steven Whitt, )  
) )  
PLAINTIFF, ) Post-Conviction Relief  
) Hearing  
-VS- ) 2011-CP-19-0233  
) )  
State of South Carolina, )  
) )  
DEFENDANT. )  
\_\_\_\_\_ )

BEFORE THE HONORABLE FRANK R. ADDY, JR., JUDGE

APRIL 15, 2013

LEXINGTON, SOUTH CAROLINA

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

Dorothy H. Hagg, Esq.  
For the Applicant

J. Walt Whitmire, Esq.  
For the State

REMA K. GANTT THOMAS  
CIRCUIT COURT REPORTER

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## E X H I B I T S

THERE WERE NO EXHIBITS MARKED TO THIS HEARING.

4

1                   (The defendant, together with counsel, was  
2 personally present in the courtroom.)

3                   THE COURT: I think we are going to switch  
4 gears here momentarily and take care of some cases  
5 that Mr. Seigler has due to his unavailability later  
6 this week. Which case are we planning on going with  
7 first?

8                   MR. WHITMIRE: Your Honor, Steven Whitt v.  
9 State.

10                  THE COURT: Okay, yes, Whitt versus State.  
11 At this point, the record should reflect that we are  
12 on the record on 11-CP-19-233. I believe this is an  
13 Edgefield case. We have Mr. Steven Whitt present  
14 with his attorney.

15                  Is it Ms. Hagg or Haig?

16                  MS. HAGG: It's Hagg, Your Honor.

17                  THE COURT: All right, Ms. Hagg. Is the  
18 applicant ready to proceed and the State is ready to  
19 proceed, everyone?

20                  MS. HAGG: Yes, Your Honor.

21                  MR. WHITMIRE: Yes, Your Honor.

22                  THE COURT: All right, Ms. Hagg, you can  
23 call your first witness. I have had a chance to  
24 review the transcript last evening, so I do  
25 understand what we're looking at.

1 MS. HAGG: Thank you, Your Honor. I call  
2 Steven Whitt.

3 THE COURT: Sir, if you'll come up,  
4 please, and be sworn.

5 (The witness was sworn.)

6 CLERK OF COURT: Have a seat and state  
7 your name for the record.

8 MR. WHITT: Steven Whitt.

9 STEVEN WHITT, having first been duly  
10 sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. HAGG:

13 Q Thank you, Mr. Whitt. We're here today on  
14 your PCR application, and you've alleged a number of  
15 grounds. We'll go through them one by one. One of  
16 the first ones in the amended application, we have  
17 alleged the ground of failure to investigate. What  
18 was your attorney's name who represented you in the  
19 guilty plea?

20 A Mr. Greg Seigler.

21 Q Okay. And you have alleged that he failed  
22 to investigate your case. Could you please tell the  
23 judge what you think that Mr. Seigler did not do.

24 A Your Honor, he didn't -- when the police  
25 had gotten me, they said they took a marked \$20 bill

Steven Whitt - Direct

6

1 out of my pocket and take them from me. But I  
2 didn't have but a \$1.37 on me. So he didn't  
3 investigate any of that.

4 Q Did you ask Mr. Seigler to investigate the  
5 marked money?

6 A No, ma'am.

7 Q Were you aware of it at the time?

8 A No, ma'am.

9 Q Do you have anything additional to add  
10 with regards to your failure to investigate claim?  
11 Anything else Mr. Seigler should have done?

12 A I was telling her about the true bill  
13 paper and my charge paper. Okay, I didn't really  
14 understand it, I guess. But, see, they charged me  
15 with a second offense. It would have been my third,  
16 but they dropped it to a second. But on the true  
17 bill, they've got me charged with a first offense.  
18 So I explained that to my lawyer.

19 Q And, Mr. Whitt, can you please explain to  
20 the judge why you believe that you should not have -  
21 - that the Court did not have subject matter  
22 jurisdiction? Can you explain that to Judge Addy,  
23 please, based on the true bill and the difference  
24 between what was in the true bill and the  
25 indictment?

Steven Whitt - Direct

7

1                   MR. WHITT: Well, can I ask her something  
2 else?

3                   THE COURT: Sure.

4                   MS. HAGG: Do you want me to rephrase the  
5 question?

6                   MR. WHITT: Yes, ma'am.

7                   MS. HAGG: Okay.

8               Q     I just wanted you to explain a little bit  
9 more to Judge Addy the basis for your belief that  
10 counsel was ineffective and what he should have done  
11 with regards to what was on the true bill.

12              A     Okay. On the true bill, like he should  
13 have came to me and told me about the true bill,  
14 about the money and stuff. But at that moment,  
15 about the true bill, and he kept coming over, coming  
16 to see me. He like wanted me to sign the paper.

17                   And at one time, I asked for my true bill  
18 paper. And he came back and said he was going to  
19 bring it to me. But that week when he came, he  
20 didn't have the true bill paper. So I think he had  
21 got a little upset, and I told him I was going go  
22 back to my cell and change my true bill paper.

23                   I wasn't going to sign that. So the next  
24 following week when he came back, he came back and  
25 told me that they said I had pleas at court term or

Steven Whitt - Direct

8

1 take a jury trial. So at that moment, I went ahead  
2 and signed the paper.

3 But if they've got me charged with a first  
4 offense, the true bill like -- like I'm thinking I'm  
5 doing like too much time on that seven years,  
6 because it's got right here I'm charged with first  
7 offense. But on my charge paper, it's got I'm  
8 charged with second offense.

9 Q Mr. Whitt, if you had been able to get  
10 that paper from your attorney and talked to him a  
11 little bit more about that, would that have made a  
12 decision as to whether or not you went to trial or  
13 you took a guilty plea?

14 A Yes, ma'am.

15 Q You've also alleged in your PCR  
16 application that you did not appeal because you were  
17 not informed of your right to appeal. Following  
18 your guilty plea, did you ever meet with Mr. Seigler  
19 again?

20 A I met with him a couple of times.

21 Q After you pled guilty?

22 A Oh, no, no.

23 Q After you pled guilty, did you meet with  
24 him?

25 A No, no.

Steven Whitt - Direct

9

1 Q Did he tell you that you may have any  
2 right to appeal?

3 A Yes.

4 Q Okay. He did, okay.

5 No further questions, Your Honor.

6 THE COURT: Cross?

7 CROSS-EXAMINATION

8 BY MR. WHITMIRE:

9 Q Good afternoon, Mr. Whitt. When you pled  
10 in front of Judge McMahon, you were under oath,  
11 weren't you? When you pled in front of Judge  
12 McMahon, you were under oath, weren't you?

13 A Yes.

14 Q Do you recall telling Judge McMahon you  
15 were satisfied with your attorney?

16 A Yes.

17 Q Do you recall the time you were looking at  
18 on these charges?

19 A Yes.

20 Q Do you recall the minimum amount of time  
21 you were looking at?

22 A Yes.

23 Q What was that?

24 A Twenty-five.

25 Q You were looking at a minimum amount of

Steven Whitt - Cross

10

1 five years. Do you recall if the State followed the  
2 recommendation in your case?

3 A Yes.

4 MR. WHITMIRE: One minute. Beg the  
5 Court's indulgence.

6 THE COURT: Certainly.

7 Q At any point during the proceeding, did  
8 you wave over to Mr. Seigler and tell him you didn't  
9 understand anything?

10 A No, sir.

11 Q In fact, didn't Judge McMahon instruct you  
12 that if you were unaware of something for you to  
13 stop and ask him or ask him your counsel?

14 A Yes.

15 Q And regarding the appeal, didn't Judge  
16 McMahon advise you you had 10 days to file an  
17 appeal?

18 A Yes.

19 Q And did you contact Mr. Seigler within  
20 those 10 days?

21 A If I'm not mistaken, I think I sent him a  
22 letter, but he didn't respond back on it.

23 Q Do you have that letter here today?

24 A No, sir.

25 MR. WHITMIRE: No further questions, Your

1 Honor.

2 THE COURT: Redirect?

3 MS. HAGG: Nothing, Your Honor.

4 THE COURT: Thank you, sir. You can step  
5 down.

6 MR. WHITT: All right.

7 MS. HAGG: Nothing further, Your Honor.

8 THE COURT: All right. Call your witness,  
9 please.

10 MR. WHITMIRE: Your Honor, at this time  
11 the State calls Mr. Seigler.

12 THE COURT: Come up, please.

13 (The witness was sworn.)

14 CLERK OF COURT: Have a seat and state  
15 your name for the record, please.

16 MR. SEIGLER: My name is William Gregory  
17 Seigler -- S-E-I-G-L-E-R.

18 MR. WHITMIRE: May it please the Court,  
19 Your Honor.

20 WILLIAM GREGORY SEIGLER, having first been  
21 duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. WHITMIRE:

24 Q Mr. Seigler, how long have you been  
25 practicing criminal law?

William Gregory Seigler - Direct

12

1           A     '99 -- so what is that, 14 years?

2           Q     Do you recall if you were appointed or  
3 retained on this case?

4           A     I was appointed on this case, if I recall  
5 correctly. The late Mickey Ellisor I believe was  
6 retained or appointed on a number of cases in the  
7 tri-county area. And Judge Keesley appointed me to  
8 all of his cases, both retained and appointed, based  
9 on his decline in health.

10          Q     You were appointed on the charges --

11          A     Yes.

12          Q     -- that applied to the rest?

13          A     I believe I was appointed to all of Mr.  
14 Whitt's charges in both Edgefield and Saluda.

15          Q     Do you recall the first time you met with  
16 Mr. Whitt?

17          A     I do not. I talked with Mr. Whitt  
18 numerous times while he was incarcerated, both at  
19 the jail and at the courthouse.

20          Q     Do you recall Mr. Whitt's version of the  
21 facts that led to his charges?

22          A     In regards to the distribution case?

23          Q     In regards to the buy/bust and CI  
24 transaction.

25          A     It was basically a typical buy/bust. I

1 mean, he was a CI working with the Sheriff's  
2 Department, I believe, or maybe it was the City. I  
3 can't recall.

4 Q Did you file for discovery in this case?

5 A Yes, sir, I believe so. I mean, Mr. Whitt  
6 and I went through all of the discovery that was  
7 provided to me by the State on numerous occasions.

8 Q And based on your view of the discovery  
9 and your conversations with Mr. Whitt, were you able  
10 to form an opinion with regards to the quality of  
11 the State's evidence in this case?

12 A Well, you know, it was a standard case.  
13 Mr. Whitt and I talked many times about his  
14 potential conviction at trial. I mean, that was --  
15 he was exposed to a tremendous amount of time.

16 Q And did Mr. Whitt consider a trial in this  
17 case?

18 A To my recollection, I don't recall him  
19 ever requesting that we seriously prepare for a  
20 trial. We'd been through discovery numerous times,  
21 and, like I say, he had numerous different charges  
22 in two counties. And I said I would get Mr. Whitt  
23 the best deals I could after I was appointed on his  
24 case. Like I say, Mr. Ellisor had been dealing with  
25 Mr. Whitt for some time prior to my appointment.

William Gregory Seigler - Direct

14

1           Q     If you remember, can you briefly describe  
2     plea negotiations with the State?

3           A     If I remember correctly, I think that when  
4     Mr. Ellisor was representing Mr. Whitt, he had been  
5     offered more time than what I was able to convince  
6     the prosecutors to offer. And I believe that was  
7     one of the factors that Mr. Whitt decided to accept  
8     the offer.

9           Q     Do you recall the specific offer that Mr.  
10    Whitt pled guilty to in this case?

11          A     Yes, sir. I believe it was a seven years  
12    recommendation on distribution second, I believe.

13          Q     Prior to Mr. Whitt accepting this guilty  
14    plea, what advice did you give him on the  
15    consequences of entering a guilty plea?

16          A     That's kind of a broad question. I mean,  
17    I have a litany of questions that I go through. I  
18    represent hundreds and hundreds of people each year.  
19    And I go through each and every constitutional right  
20    that they have, and we discuss the 85 percent  
21    service of whatever the judge gave him.

22                He knew he had a right to an appeal. We  
23    specifically -- I specifically discuss that with  
24    each and every one of my clients -- jury trial,  
25    right to remain silent, all the constitutional.

1 rights, the same thing that we typically go through  
2 before any plea. And we had been through those, if  
3 I remember, numerous times.

4 I don't think there was any question that  
5 he knew exactly what he was doing. Besides, if I  
6 remember correctly, I believe Mr. Whitt had pled  
7 guilty to several other things in the past. So this  
8 wasn't his first plea -- if I recall correctly.

9 Q If you remember the actual proceeding  
10 colloquy, did Mr. Whitt ever nudge you, stop you,  
11 and tell you he didn't want to go forward?

12 A Not that I recall.

13 Q Did you have any indication that this plea  
14 might have been involuntary?

15 A Not at all.

16 Q And subsequent to Mr. Whitt entering his  
17 guilty plea, did he request an appeal?

18 A No, sir.

19 Q You never received any correspondence?

20 A No, sir.

21 Q Could you briefly detail your procedure on  
22 appeals for your clients? Do you make a mark in  
23 your notes if they want to appeal?

24 A Oh, if they tell me that they want to  
25 appeal, we file the appeal for them immediately, and

William Gregory Seigler - Direct

16

1     it's turned over to Indigent Defense at the  
2     appellate level. After we file it further, of  
3     course it's referred to another attorney with the  
4     Office of Indigent Defense to handle the appeal.  
5     That's the extent of our representation. If they  
6     ask for an appeal, we file it immediately.

7             Q     One last question, Mr. Seigler. If Mr.  
8     Whitt desired a jury trial, would you have been  
9     prepared?

10            A     Sure.

11                     MR. WHITMIRE: No further questions, Your  
12     Honor.

13                     THE COURT: Cross?

14                     MS. HAGG: Thank you, Your Honor.

15                             CROSS-EXAMINATION

16     BY MS. HAGG:

17             Q     When you go through their rights, their  
18     constitutional rights, including the right to  
19     appeal, with your clients, do you make a note of  
20     that for the file, or do you just do it verbally?

21             A     No, ma'am, I do not make a note for the  
22     file. I talk with hundreds of people, and I can  
23     recite pretty much what their constitutional rights  
24     are to each one of them. If they tell me they may  
25     want to appeal, if they don't like the result of the

1 sentence, then of course we make a note that he may  
2 want an appeal.

3 But typically, you know, if a defendant is  
4 sentenced, they immediately say, "I want an appeal.  
5 I want to appeal this decision," or whatever they  
6 might say. I tell my assistant, and we do it  
7 immediately. There's no notes or any waiting in  
8 line for an appeal. We file it. I contact her  
9 immediately after the plea and tell her to prepare  
10 the paperwork for my signature, and it's done  
11 immediately.

12 Q So did meet with Mr. Whitt again following  
13 the plea, or did you last see him just in the  
14 courtroom?

15 A Ma'am, I don't recall.

16 Q Okay.

17 A I'm not going to mislead this Court.  
18 That's been a while back, and I do not recall. But  
19 he didn't mention anything to me, nor did he send me  
20 a letter indicating he had any desire to appeal the  
21 decision, because this is what we discussed. I  
22 mean, seven years was the recommendation.

23 The judge didn't deviate from the  
24 recommendation that he and I had discussed many,  
25 many times. Now, if he had given him 20 instead of

William Gregory Seigler - Cross

18

1       seven, obviously we would have discussed that. And  
2       we still may have discussed it anyway. I don't  
3       recall. But he got exactly what we agreed to.  
4       Although it was a recommendation, he understood he  
5       could have given him more or less.

6           Q     Did you ever discuss with him his concern  
7       or question about the \$20 bill?

8           A     I don't recall Mr. Whitt ever bringing  
9       that up to me at all.

10          Q     Do you recall him discovering there was  
11       any indication of money on the CI or money taken  
12       from Mr. Whitt?

13          A     I don't recall, ma'am. There was nothing  
14       that sticks out that Mr. Whitt brought up to me.

15                MS. HAGG: No further questions, Your  
16       Honor.

17                       REDIRECT EXAMINATION

18       BY MR. WHITMIRE:

19          Q     I have just a few questions, Mr. Seigler.  
20       Regarding the indictment, did you have any concerns  
21       upon reading the indictment prior to the guilty  
22       plea?

23          A     I didn't notice any defects.

24          Q     If there were any defects, could the State  
25       have just re-indicted him?

1           A     Sure -- or he could have waived  
2     presentment or whatever he wanted to do. But at the  
3     time, I certainly didn't notice any defect.

4           Q     And regarding your investigation, just one  
5     last question. Did you investigate all the  
6     witnesses that Mr. Whitt gave you in his case?

7           A     If there were any he had given me, we  
8     certainly would have. And if he did, I certainly  
9     would have. Mr. Whitt and I had a pretty cordial  
10    relationship. He was straightforward with me, and  
11    I, of course, was the same with him throughout the  
12    process after my being appointed to Mr. Ellisor's  
13    cases.

14           MR. WHITMIRE: No further questions, Your  
15    Honor.

16           THE COURT: All right. You can step down,  
17    Mr. Seigler.

18           MR. SEIGLER: Thank you, Judge.

19           THE COURT: Anything that anyone wants to  
20    point out?

21           MS. HAGG: No, Your Honor.

22           MR. WHITMIRE: No, Your Honor. We rest on  
23    the record.

24           THE COURT: Very good. My usual practice  
25    is to issue a Form 4 in these cases. I have

1 reviewed the transcript, and I feel like I have a  
2 very good idea of what the particular issues are.  
3 But you'll be receiving a Form 4 from me in the  
4 coming days. Thank you all very much.

5 MR. WHITMIRE: Thank you, Judge.

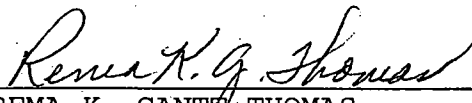
STATE OF SOUTH CAROLINA   )  
COUNTY OF LEXINGTON       )

**COURT REPORTER'S CERTIFICATION**

I, REMA K. GANTT THOMAS, OFFICIAL COURT  
REPORTER, AND NOTARY PUBLIC IN AND FOR 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 ABOVE-CAPTIONED CASE ON APRIL 15,  
2013, IN LEXINGTON, SOUTH CAROLINA.

I FURTHER CERTIFY THAT I AM NEITHER OF COUNSEL  
NOR KIN TO ANY OF THE PARTIES TO THIS CAUSE OF  
ACTION, NOR AM I INTERESTED IN ANY MANNER IN ITS  
OUTCOME.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND  
AND SEAL AT LEXINGTON, SOUTH CAROLINA, THIS THE  
TWENTY-SEVENTH DAY OF AUGUST, 2013.

  
REMA K. GANTT THOMAS  
OFFICIAL COURT REPORTER  
NOTARY PUBLIC FOR SOUTH CAROLINA  
MY COMMISSION EXPIRES 11/21/2013

W-11

EDGEFIELD COUNTY  
CLERK OF COURT  
RECEIVED

STATE OF SOUTH CAROLINA  
COUNTY OF EDGEFIELD

2013 JUN 25 AM 9:50

IN THE COURT OF COMMON PLEAS  
ELEVENTH JUDICIAL CIRCUIT

Case No: 2011-CP-19-~~223~~  
233

Steven Whitt,  
S.C.D.C. No. 255456,

Applicant,

v.

State of South Carolina,

Respondent.

ORDER OF DISMISSAL

This matter comes before the Court pursuant to an Application for Post-Conviction Relief (PCR) filed July 25, 2011. Respondent made its Return on February 25, 2012. An evidentiary hearing into the matter was convened on April 15, 2013 at the Lexington County Courthouse. Applicant was present at the hearing and was represented by Dorothy H. Hogg, Esquire. Respondent was represented by Walt Whitmire, Esquire, of the South Carolina Attorney General's Office.

At the hearing, Applicant testified on his own behalf. W. Gregg Seigler, ("plea counsel") Esquire, testified. This Court also had before it the records of the Lexington County Clerk of Court, the transcript of the proceedings against the Applicant, and the Applicant's records from the South Carolina Department of Corrections.

### I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Edgefield County Clerk of Court. The Applicant was indicted at the February 2010 term of the Edgefield County Grand Jury for Distribution of Crack Cocaine, Second Offense (2010-GS-19-073). Applicant was represented by W. Gregg Seigler, Esquire. On

February 22, 2011, the Applicant pled guilty as charged. The Honorable R. Knox McMahon sentenced the Applicant to confinement for a period of seven (7) years. Applicant did not appeal his conviction or sentence.

At the PCR hearing, Applicant alleged he was being held unconstitutionally for the following reasons:

1. Ineffective Assistance of Counsel
  - a. failure to investigate the sufficiency of the State's evidence;
  - b. failure to challenge the sufficiency of the indictment;
  - c. failure to inform Applicant of the right to file an appeal

## II. SUMMARY OF TESTIMONY

At the PCR hearing, Applicant testified he was arrested pursuant to an alleged control buy of narcotics. Applicant stated the police connected him to the offense with marked currency. Applicant stated plea counsel was ineffective for not investigating the currency to see if it in fact connected Applicant to the offense.

Applicant testified plea counsel was ineffective for failing to challenge the sufficiency of the indictment. Applicant stated the guilty plea hearing court did not have subject matter jurisdiction to accept his guilty plea and render a sentence. Applicant stated he was neither arrested for distribution, second offense, nor was he charged with distribution, second offense.

Applicant testified plea counsel was ineffective for failing to advise him of his right to file an appeal. Applicant stated he would have insisted plea counsel file an appeal if he was properly advised on the matter.

At the PCR hearing, plea counsel testified. Plea counsel testified he was originally appointed to represent Applicant on his pending Edgefield charges. Plea counsel inherited Applicant's pending Saluda charges when the health of Applicant's other attorney on those charges declined. Plea counsel filed for discovery and discussed the State's evidence with

Applicant. Plea counsel met with Applicant on numerous occasions prior to Applicant's guilty plea hearing. Plea counsel discussed Applicant's version of the offenses. Plea counsel investigated the marked twenty dollar bill used by law enforcement in one of the two control buys of which Applicant was charged with distribution. Plea counsel stated the control buy was standard and found no deficiency that would have aided in Applicant's defense. Plea counsel advised Applicant that the State would have most likely obtained convictions if the Applicant contested the charges at trial. Plea counsel discussed Applicant's potential exposure of thirty years imprisonment on his pending charges. Plea counsel pursued guilty plea negotiations with the solicitor and obtained a guilty plea offer of a recommended seven year sentence on a distribution, second offense, where all other pending charges, including an additional distribution charge, would be *nolle prosequi*. Plea counsel advised Applicant of the benefit and detriments of pleading guilty. Subsequently, Applicant voluntarily pled guilty and the guilty plea hearing judge followed the solicitor's recommendation.

Plea counsel testified that as a matter of practice, he advises his clients of their appellate rights during representation. Plea counsel stated that he did not recall Applicant requesting and appeal. Plea counsel stated he saw no reason why Applicant would have desired an appeal because the guilty plea hearing judge followed the solicitor's recommendation.

### III. APPLICABLE LAW

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their 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, 692 (1984); Buller, 286 S.C. at 441, 334 S.E.2d at 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. at 668, 104 S.Ct. at 2064. 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 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).

#### IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court reviewed the Clerk of Court records regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, the

application for post-conviction relief, the transcripts and documents from the prior proceedings, and, and legal arguments of counsel. Pursuant to S.C. Code Ann. §17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

A.

This Court finds Applicant has failed to meet his burden to prove plea counsel was ineffective for failing to investigate any alleged impropriety with the marked currency used in the control buy. This Court finds plea counsel more credible than Applicant. This Court finds plea counsel filed for discovery and testified that Applicant's arrest was pursuant to a valid and standard controlled buy. To establish counsel was inadequately prepared, an Applicant must present evidence of what counsel could have discovered or what other defenses could have been pursued had counsel been more fully prepared. Jackson v. State, 329 S.C. 345, 495 S.E.2d 768 (1998). ). The Applicant failed to produce any witnesses or offer any other evidence from which this Court could conclude that the outcome of the case would likely have been different had that evidence been developed. Therefore, this allegation is denied and dismissed.

B.

This Court finds Applicant's allegation that plea counsel failed to challenge the subject matter of the guilty plea hearing court based on an alleged defective indictment is without merit. Defects in the language of an indictment do not divest an otherwise proper court of subject matter jurisdiction over a case. U.S. v. Cotton, 535 U.S. 625, 122 S.Ct. 1781 (2002). Citation of the proper statute in the indictment's body is sufficient to fulfill the notice and jurisdictional requirements. State v. Owens, 346 S.C. 637, 552 S.E.2d 745 (2001). Here, Applicant was properly charged under S.C. Code § 44-53-375(b)(3) where he was allowed to enter a guilty plea to its lesser included offense. Additionally, this Court finds the plea colloquy shows Applicant

was on sufficient notice he was pleading guilty to the lesser included distribution, second offense, of the charged and indicted distribution, third offense. (Guilty Plea Tr. 3, lines 4—15). Furthermore, Applicant told the guilty plea judge plea that counsel had explained the charges and possible punishments with Applicant. (Guilty Plea Tr. 5, lines 10-14). Therefore, this allegation is denied and dismissed.

**C.**

Last, this Court find Applicant failed to meet his burden to prove plea counsel was ineffective for failing to advise him of his right to appeal. This Court finds plea counsel's testimony credible and Applicant's testimony not credible. "[C]ounsel has a constitutionally imposed duty to consult with the defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal (for example, because there are non-frivolous grounds for appeal), or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing." Roe v. Flores-Ortega, 528 U.S. 470, 480, 120 S.Ct. 1029 (2000). Plea counsel diligently and successfully obtained a favorable guilty plea offer during the course of representation. Plea counsel persuasively testified he had no reason to believe a defendant would have desired an appeal because the guilty plea judge followed the solicitor's recommendation. Applicant freely and voluntarily entered his guilty plea. Furthermore, Applicant failed to prove he conveyed a desire to appeal to plea counsel. Therefore, this allegations is denied and dismissed.

**All Other Claims**

Except as discussed above, this Court finds that the Applicant affirmatively waived the remaining allegations set forth in his application at the hearing. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas

Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

#### V. CONCLUSION

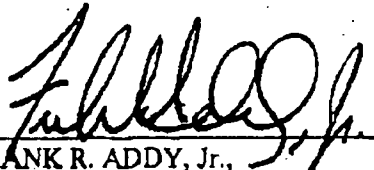
Based on all the forgoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Therefore, this application for post-conviction relief must be denied and dismissed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

This Court notes that Applicant must file and serve a notice of intent to appeal within thirty (30) days from receipt of this Order to secure the appropriate appellate review. *See* Rule 203, SCACR. Rule 71.1(g), SCRCP; Bray v. State, 336 S.C. 137, 620 S.E.2d 743 (2005), for the obligation of Applicant's counsel to file and serve notice of appeal. The Applicant's attention is also directed to South Carolina Appellate Court Rule 243 for appropriate procedures after notice has been timely filed.

#### IT IS THEREFORE ORDERED:

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

**IT IS SO ORDERED** this 14<sup>th</sup> day of June, 2013.

  
FRANK R. ADDY, Jr.,  
Presiding Judge  
Eleventh Judicial Circuit

Laurens, South Carolina

STATE OF SOUTH CAROLINA  
COUNTY OF EDGEFIELD  
IN THE COURT OF COMMON PLEAS

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STEVEN WHITT, 255456,

Applicant,

v.

STATE OF SOUTH CAROLINA,

Respondent.

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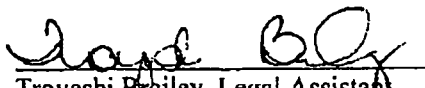
CERTIFICATE OF SERVICE

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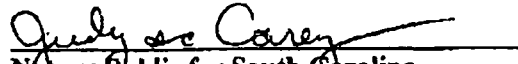
The undersigned hereby certifies that a true copy of the **Order of Dismissal** has been served upon the applicant by mailing one (1) copy in the United States mail, postage prepaid, addressed to:

Dorothy H. Hogg, Esquire  
Post Office Box 1477  
Augusta, GA 30903

This 1<sup>st</sup> day of July, 2013.

  
Troyeshi Bailey, Legal Assistant  
For Respondent

SWORN to before me this 1st day of July, 2013.

  
Notary Public for South Carolina.  
My Commission Expires: May 11, 2014

WITNESSES

MILLER

ECSSO

ARREST WARRANT NUMBER

J606673

ACTION OF GRAND JURY

**TRUE BILL**

*Martha Williams*  
Foreperson of Grand Jury  
Date: FEB 12 2010

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. 2010-GS-19- 013

The State of South Carolina

County of EDGEFIELD

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2010

THE STATE

vs.

STEVEN WHITT

CDR#3039

Indictment for

DISTRIBUTION OF CRACK COCAINE

DONALD V. MYERS, SOLICITOR

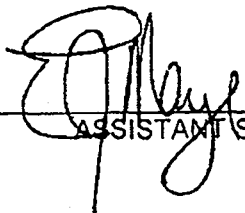
STATE OF SOUTH CAROLINA )  
COUNTY OF EDGEFIELD )

INDICTMENT FOR  
DISTRIBUTION OF CRACK COCAINE

At a Court of General Sessions, convened on February 1, 2010 the Grand Jurors of Edgefield County present upon their oath:

That STEVEN WHITT, did in Edgefield County on or about October 15, 2009, knowingly and intentionally, distribute to a confidential informant working with Edgefield County Sheriff's Office, a quantity of Crack Cocaine, a controlled substance, in Violation of § 44-53-370(A)(1), of the Code of Laws of South Carolina (1976), as amended, such distribution not having been authorized by law, with penalties provided for in § 44-53-375(b)(3) of the Code of Laws of South Carolina (1976), as amended.

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

  
\_\_\_\_\_  
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

5-30 yrs / \$50,000

IN COURT OF GENERAL SESSIONS

COUNTY OF  
STATE

Edgefield

VS.

Steven Whitt

INDICTMENT/CASE#: 2010-GS-19-073

AW#: J606673

Date of Offense: 10/15/2009

S.C. Code §: 44-53-0375(B)(3)

CDR Code #: 3039

## SENTENCE SHEET

AKA:

Race: B Sex: M Age: 38

DOB: SS#:

Address:

City, State, Zip: Batesburg, SC 29006

DL#: SID#

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

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

☐ CONVICTED OF or ☒ PLEADSTO: DISPOSITION OF CRACK COCAINE - 2<sup>ND</sup> OFFENSEIn violation of § 44-53-0375(b)(2) of the S.C. Code of Laws, bearing CDR Code # 3015☐ NON-VIOLENT ☐ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1<sup>st</sup> or Lowd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury,

(defendant's initials)

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

Attest:

Solicitor

SC Bar #

Defendant

Attorney for Defendant

16711

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 7 yearsand/or to pay a fine of \$ 100.00; provided that upon the service of 7 days/months/years and or paymentof \$ 100.00; plus costs and assessments as applicable\*; the balance is suspended with probation for 7

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

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

## SPECIAL CONDITIONS:

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

PTUP

Total: \$ 100.00 plus 20% fee: \$ 20.007 days/hours Public Service EmploymentPayment Terms: Set by SCDPPPSObtain GED ☐☐ Set by SCDPPPSAttend Voc. Rehab. Or Job Corp. 7Recipient: Steven WhittMay serve W/E beginning 7Substance Abuse Counseling ☐

\*Fine:

\$14-1-206 (Assessments 107.5%) \$ 100.00\$14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00\$14-1-211 (A)(2)(DUI Surcharge) \$100 \$ 100.00\$56-5-2995 (DUI Assessment) \$12 \$ 12.00\$56-1-286 (DUI Breath Test) \$25 \$ 25.00\$47.12 (Public Def/Prob) \$500 \$ 500.00\$14-1-212 (Law Enforce. Funding) \$25 \$ 25.00\$14-1-213 (Drug Court Surcharge) \$100 \$ 100.00\$50-21-114 (BUI Breath Test Fee) \$50 \$ 50.00\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ 40.00\$90.7 (SCCA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 6.90TOTAL \$ 236.90Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

mnts. of \$ 100.00 Beginning 7\$ 100.00 Paid to Public Defender FundOther: 7☐ Appointed PD or appointed other counsel,

\$47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge 2145Judge Code: 2145Sentence Date 2-2-11Clerk of Court/Deputy Clerk 2145  
Court Reporter: 2145