

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

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Appeal from Spartanburg County
Roger L. Couch, Special Circuit Court Judge

S.C. Supreme Court

CHARLES E. COPELAND,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

ROBERT M. DUDEK
Chief Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
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PO Box 11589
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P. O. Box 11549
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ATTORNEYS FOR RESPONDENT

I N D E X

(No witnesses were called by the State or the Defense.)

State's Exhibits:	Marked:	Received:
(None)		

Defendants' Exhibits:	Marked:	Received:
(None)		

Charles Edward Copeland Plea:	Page:
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Recitation of Charges.....10

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Reporter's Note: This transcript may contain quoted material. Such material is reproduced as read or quoted by the speaker.

1 July 26, 2010

2:49 p.m.

2 MS. MOORE: May it please the court?

3 THE COURT: Yes, ma'am.

4 MS. MOORE: Your Honor, before you is Charles Edward
5 Copeland. He is before the Court today to plead on three
6 indictment, the first being 2010-GS-42-3917.

7 That is a true billed indictment for possession with
8 intent to distribute methamphetamine or cocaine base.
9 The second being 2010-GS-42-3918.

10 That, again, is a true bill indictment for
11 distribution of cocaine base and/or crack cocaine. The
12 third being 2010-GS-42-3919. That is a true billed
13 indictment for distribution of cocaine base and/or crack
14 cocaine.

15 He comes before the court today for a plea as
16 indicted to all three. And they come before the Court
17 today with the recommendation of concurrent sentencing.
18 The Defendant is represented by Mr. John Reckenbeil. May
19 I approach?

20 THE COURT: Yes, ma'am.

21 (Documents handed up to the Court.)

22 THE COURT: You're Charles Edward Copeland?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And speak loud enough, so, I can hear
25 you. It says here you're fifty-six (56) years old?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: How far did you go in school, Mr.
3 Copeland?

4 THE DEFENDANT: The ninth (9th) grade.

5 THE COURT: Do you have a GED?

6 THE DEFENDANT: No, sir.

7 THE COURT: Any vocational training?

8 THE DEFENDANT: No, sir.

9 THE COURT: After you -- what kind of work -- before
10 you went to jail and before you were arrested, were you
11 employed?

12 THE DEFENDANT: Yes, sir, at Belters (phonetic) --
13 Belters in Roebuck.

14 MR. RECKENBEIL: Belters in Roebuck, Your Honor. It
15 is a -- a job where he was working in the warehouse.

16 THE COURT: Okay. How long did you work there, Mr.
17 Copeland?

18 THE DEFENDANT: Seven (7) years.

19 THE COURT: Seven (7)?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Are you married?

22 THE DEFENDANT: No, sir.

23 THE COURT: Do you have any children?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: How many do you have?

1 THE DEFENDANT: One.

2 THE COURT: How old is your child?

3 THE DEFENDANT: Thirty-one (31).

4 THE COURT: Okay. Mr. Copeland, are you under the
5 influence of any medication, drugs, or alcohol today?

6 THE DEFENDANT: No, sir.

7 THE COURT: Counselor, are you satisfied that Mr.
8 Copeland is competent to plead guilty?

9 MR. RECKENBEIL: Yes, sir, Your Honor.

10 THE COURT: Mr. Copeland, regardless of any
11 recommendation, you understand I -- I don't have to
12 accept the recommendation?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: I can sentence you to the full amount
15 provided by law; do you understand?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: For possession with intent to distribute
18 crack, I could sentence you to fifteen (15) years?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: For distribution of crack, I could
21 sentence you to another fifteen (15) years?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And the same with distribution.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: So, that is forty-five (45) years I

1 could sentence you today; do you understand?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Knowing that, and knowing that I'm not
4 bound by any recommendation, do you want to go forward
5 with your plea?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Has anybody forced, threatened, or
8 promised you anything to get you to plead guilty?

9 THE DEFENDANT: No, sir.

10 THE COURT: Are you pleading guilty freely and
11 voluntarily?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Are all of these true bills?

14 MS. MOORE: Yes, sir.

15 THE COURT: Do you understand that, on each one of
16 these indictments, you have a right to a jury trial?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And, in that trial, you would be
19 presumed to be innocent and the State would have to prove
20 each and every element of the charges against you beyond
21 a reasonable doubt; do you understand?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: When you plead guilty, you lose that
24 right to a jury trial. You don't have it anymore; do you
25 understand that?

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

2 **THE COURT:** Do you wish to waive or give up your
3 right to a jury trial and instead plead guilty?

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

5 **THE COURT:** Okay. Talk to -- take a minute and talk
6 to your attorney.

7 **(Off-the-Record Discussion)**

8 **THE COURT:** Okay. Now, Mr. Copeland, going back to
9 what I was asking you, do you want to go to trial on
10 these three indictments or would you rather plead guilty
11 today?

12 **THE DEFENDANT:** I would rather plead guilty today.

13 **THE COURT:** Okay. Because you do understand that,
14 if you go -- if you go forward with your plea, then,
15 there will not be a trial. You give that up on any of
16 these indict -- indictments; you understand that?

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

18 **THE COURT:** Okay. And that is what you want to do?

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

20 **THE COURT:** You understand that you have the
21 constitutional right to confront any witnesses that
22 testify against you and to cross examine those witnesses,
23 the right to present evidence in your defense, and the
24 right to remain silent? Do you understand those
25 constitutional rights?

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

2 **THE COURT:** If you wanted a trial, on any of these
3 indictments and you didn't testify, the jury would be
4 instructed that they couldn't hold the fact that you
5 didn't testify against you in any form or fashion; you
6 understand that?

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

8 **THE COURT:** By pleading guilty, you waive or you
9 give up these constitutional rights. Is that what you
10 want to do?

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

12 **THE COURT:** Do you understand that, if you have any
13 defenses to these indictments, you lose those defenses by
14 pleading guilty?

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

16 **THE COURT:** Knowing all this, and knowing that I am
17 not bound by any recommendation, do you want to go
18 forward?

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

20 **THE COURT:** Are you guilty of possession with intent
21 to distribute crack under indictment 3917?

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

23 **THE COURT:** Are you guilty of distribution of crack
24 under indictment 3918?

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

1 **THE COURT:** Are you guilty of distribution of crack
2 under 3919?

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

4 **THE COURT:** Are you satisfied with the services of
5 your attorney?

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

7 **THE COURT:** Has he reasonably done everything you've
8 asked him to do?

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

10 **THE COURT:** As we stand here in the courtroom today,
11 is there anything you contend that your attorney hasn't
12 done, on any of these three indictments, to either
13 investigate or prepare your case prior to coming in here
14 today?

15 **THE DEFENDANT:** He did.

16 **THE COURT:** Okay. Are you satisfied with your
17 attorney?

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

19 **THE COURT:** Are you completely satisfied with your
20 attorney?

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

22 **THE COURT:** Counsel, have you had a chance to meet
23 with Mr. Copeland to explain the elements of all these
24 charges, the time he could get, see if he has any defense
25 to the charges, as well as explain to him his

1 constitutional rights?

2 MR. RECKENBEIL: Yes, sir, Your Honor. We reviewed
3 all the discovery and we have gone over all of the
4 reports on numerous occasions.

5 And we have made a very team decision that this is
6 the best way to go in light of the offer, as well as the
7 fact that investigation has been done by the police was
8 very thorough and it was a clear-cut case.

9 THE COURT: Do you believe that there is a
10 substantial factual basis for him to plead to all three
11 indictments?

12 MR. RECKENBEIL: Yes, sir, I do.

13 THE COURT: And do you agree with his decision?

14 THE DEFENDANT: Yes, sir.

15 MR. RECKENBEIL: Yes, sir, I do.

16 THE COURT: Thank you very much. Solicitor?

17 MS. MOORE: Thank you, Your Honor. On March the 3rd
18 of two thousand and ten (2010), a confidential reliable
19 informant, working under the direction of the Spartanburg
20 Public Safety Department, was supplied with an
21 audio/visual recording device and recorded funds to do an
22 undercover crack cocaine purchase.

23 The CI called the Defendant and set up the buy at
24 Massachusetts Roebuck (phonetic) here within the city
25 limits of Spartanburg in Spartanburg County.

1 At the buy location, the Defendant was observed
2 meeting with the CI and exchanging point forty two (.42)
3 grams of crack cocaine for the recorded funds. That was
4 in regards to indictment 2010-3918.

5 In reference to indictment 2010-3919, that occurred
6 on February the 8th of two thousand and ten (2010). A CI
7 working, again, under the direction of the Spartanburg
8 County Public Safety Department, was supplied with a
9 audio/visual recording device and recorded funds to do
10 an undercover crack cocaine purchase.

11 The CI called the defendant and set up the buy,
12 again, at Massachusetts Roebuck here in the city limits
13 of Spartanburg.

14 At the buy location, the Defendant was observed
15 meeting with the CI and exchanging, on this occurrence,
16 point three four (.34) grams of crack cocaine for the
17 recorded funds.

18 In regards to indictment 2010-3917, that occurred on
19 February the 15th of two thousand and ten (2010) here in
20 Spartanburg County.

21 A search warrant was executed of the Defendant's
22 home, which is located at [REDACTED] Street (phonetic) here
23 in Spartanburg, the city -- the city limits of
24 Spartanburg.

25 The Defendant was brought back from a traffic stop

1 on John B. White Senior Boulevard. On the defendant's
2 person, officers located four separate clear green Zip-
3 Loc baggies with point six eight (.68) grams of crack
4 cocaine located inside.

5 Inside the residence, officers found multiple clear
6 plastic baggies and two large packs of ball tickets. A
7 total sum of three thousand, three hundred and thirty-six
8 dollars (\$3,336.00) cash was found during the execution
9 of the search warrant.

10 The Defendant voluntarily forfeited the currency and
11 the vehicle used in the drug sale. In exchange for this
12 plea today, the State is dismissing two counts of
13 distribution within a half-mile.

14 (Off-the-Record Comment)

15 THE COURT: Okay. What is his criminal record
16 like, please?

17 MS. MOORE: Your Honor, he does not have anything
18 within the last ten (10) years. However, in 1986 he had
19 a CDV; 1990, an unlawful carrying; 1992, possession with
20 intent to distribute crack and an unlawful carrying;
21 1993, a possession of crack; and, in 1994, a trafficking
22 in crack over twenty-eight (28) grams.

23 (Brief Pause)

24 THE COURT: All right. Counselor?

25 MR. RECKENBEIL: Yes, Your Honor. Thank you. May

1 it please the Court? As Ms. Moore has stated, that
2 correctly and accurately reflects his criminal history.

3 Obviously, it's a defense attorney's job to find a
4 silver lining in something to try to convince the Court,
5 but -- but I do think that there is some merit to what I
6 am about to say.

7 He served an active sentence of five (5) years in
8 1994, which would put him in 1999.

9 Then, with a ninth grade education, he kept a job
10 for seven (7) years and was working in a warehouse at
11 Belters (phonetics) here in Spartanburg County.

12 I -- I don't think it's an illusion for us to say
13 that the economic condition has depleted people's
14 employment all over this globe to include CEOs down to
15 laborers.

16 An individual with a ninth grade education I do not
17 believe has the resource that somebody like I would have
18 to walk out there back on the street to -- to find a job;
19 that I would be better qualified.

20 That's not to say that I'm going to, then, turn to
21 sell drugs. But, unfortunately, that is all this man
22 knew how to do to make money.

23 And, when working for a -- a period of time of seven
24 (7) years and, then, all of a sudden losing his job the
25 first of February, that's what he does. He resorts back

1 to what he knows how to do to make money.

2 Again, a silver lining, he accepted responsibility
3 right away. They -- they asked him to forfeit the -- the
4 currency seized.

5 They asked him to forfeit an automobile that he had.
6 And he did both of them.

7 He is now on unemployment. He is actively trying to
8 seek a job.

9 The only thing that -- you know, Your Honor, with
10 the fact that this being a situation where he hopefully
11 learned his lesson, wanting to sustain a life, and then,
12 unfortunately loses his job.

13 I think that's the only thing that you could see
14 some sort of justification. But there's no excuse for
15 him to do that.

16 Your Honor, we are asking probably a lot in this
17 situation. We've -- we've worked out these deals to have
18 it concurrent, but hopefully, in light of this situation
19 of where he's looking at this magnitude of time, that the
20 small amount of drugs that this man was selling as
21 opposed to a lot more that has come probably across this
22 court;

23 A second chance after you've already had a second
24 chance of when he was put back out on the street from
25 his, you know, first jail term.

1 But that is what I'm asking Your Honor is that, if
2 there's a sentence fashionable for a man like this, who
3 knows that, if he has one more chance and he screws up,
4 then, that that's it. And that he won't see the light of
5 day because of his years because he's old.

6 But, if he had one more chance and the fact that he
7 tried to correct his life, after his second chance,
8 that's what we are asking for; some sort of sentence to
9 fashion that.

10 But, I would hope that a -- a gentleman, at Mr.
11 Copeland's age, would realize that this is probably the
12 last chance if Your Honor ever was to see fit to give him
13 a second -- a second chance.

14 **THE COURT:** Mr. Copeland, do you have anything you
15 want to add?

16 **THE DEFENDANT:** Yes. It's like he said, I had just
17 lost my job and I had turned back to drugs, back to
18 smoking it.

19 And I decided I'd -- that's what I had, I would get
20 the drugs and I'd sell some to try to make ends meet.
21 And it turned out that I got caught doing it.

22 **THE COURT:** Anything from you further?

23 **MS. MOORE:** No, sir.

24 **THE COURT:** All right.

25 **(Brief Pause)**

1 **THE COURT:** Has he served any time that he gets
2 credit for?

3 **MR. RECKENBEIL:** Your Honor, only one day he was in.
4 And, then, he bonded out.

5 **THE COURT:** All right.

6 **(Brief Pause)**

7 **THE COURT:** All right. I am going to accept Mr.
8 Copeland's pleas as knowingly and intelligently --
9 knowingly and intelligently and voluntarily made with
10 advice of counsel with whom he is well satisfied.

11 I will accept the recommendation because there is a
12 find -- there is a substantial basis for the plea.

13 I'm going to sentence all of these concurrently.
14 I'm going to sentence you to ten (10) years suspended on
15 five (5) years active time and put you on probation for
16 three (3) years. Good luck to you.

17 **THE DEFENDANT:** Thank you, Your Honor.

18 **(Whereupon, the proceeding concluded at 3:04 p.m.)**

19

20

21

22

23

24

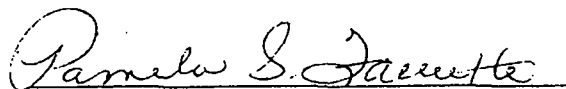
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REPORTER'S CERTIFICATE

I, the undersigned **PAMELA FAUCETTE**, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that I acted as the Court reporter at the foregoing proceeding; that the foregoing pages, numbered 1 through 16, were transcribed by me and represent a complete and accurate transcription of said proceeding to the best of my knowledge and belief.

I do further certify that I am not of counsel for or in the employment of either of the parties to this action, nor am I interested in the results of this action.

November 16, 2010



Pamela S. Faucette
Official Court Reporter
Seventh Judicial Circuit

FORM 5

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SUMTER)
)
 Charles E. Copeland, 214518)
 Full name and prison number (if any) of Applicant.)
)
 v.)
)
 State of South Carolina)
)

IN THE COURT OF COMMON PLEAS

2010-CP-42-5406

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. Wateree River Correctional Institution, Rebert, S.C.
2. Name and location of Court which imposed sentence Spartanburg County Court of General Sessions, Spartanburg, S.C.
3. Name(s) of co-defendant(s) (if any) No.
4. ~~The indictment number or numbers (if known) upon which and the offense for which~~
 sentence was imposed:
 (a) 2010-GS-4203917 PWID, Crack
 (b) 2010-GS-4203918 Dist., Crack
 (c) 2010-GS-4203919 Dist., Crack
5. The date upon which sentence was imposed and the terms of the sentence:
 (a) July 26, 2010, 10 years suspended to 5 years, with 3 years Probation, Probation only with 5 years sentence
 (b) regarding Ind. # 2010 GS4203919, Concurrent

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- (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. None
 - ii. None
 - iii. None
 - (b) the result in each such Court to which you appealed:
 - i. None
 - ii. None
 - iii. None
 - (c) the date of each such result:
 - i. None
 - ii. None
 - iii. None
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. None
 - ii. None
 - iii. None

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- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) Appeal suitable for Post Conviction Relief
 - (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) Illegal Search and Seizure
- (c) Denial of Preliminary Hearing
- (d) Denial of Discovery (Rule 5, Brady)

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

- (a) See Attachment A
- (b) _____
- (c) _____

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

- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No

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

- (a) the specific nature thereof:
 - i. None
 - ii. None
 - iii. None
 - iv. None
- (b) the name and location of the Court in which each was filed:
 - i. None
 - ii. None
 - iii. None
 - iv. None
- (c) the disposition thereof:
 - i. None
 - ii. None
 - iii. None

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iv. None

(d) the date of each such disposition:

i. None

ii. None

iii. None

iv. None

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

i. None

ii. None

iii. None

iv. None

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. None

ii. None

iii. None

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

i. None

ii. None

iii. None

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

(a) No prior Appeal filed

(b) _____

(c) _____

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

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- (a) your arraignment and plea? yes
- (b) your trial, if any? —
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? —
- (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. Law Office of John G. Reckenbeit, Attorney,
 - ii. 215 Magnolia St., P.O. Box 1633, Spartanburg,
 - iii. S.C. 29304
- (b) the proceedings at which each such attorney represented you:
 - i. Plea Hearing and Sentencing
 - ii. —
 - iii. —

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

Dismissal of Charges, Relief/Reduction in Sentence

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

No

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STATE OF SOUTH CAROLINA)

County of Sumter)

VERIFICATION

I, Charles 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.

Charles L. Copeland

SWORN to and subscribed before me this 5th
day of October 2010

Samuel D. Hill (L.S.)
Notary Public.

My Commission Expires: 3/15/2011

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

I, Charles 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.

Charles E. Cleveland
Applicant

SWORN or affirmed to and subscribed before me this
5th day of October, 2010.

Pamela D. Heath
Notary Public

My Commission Expires: 3/15/2011

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" ATTACHMENT A "

INEFFECTIVE ASSISTANCE OF COUNSEL

Page 1 of 2

The Applicant alleges Counsel (Reckenbill) was ineffective in his representation of the Applicant which is a violation of the VI Amendment of the United States Constitution.

The Applicant alleges his lawyer did not show up for the Preliminary Hearing.

The Applicant alleges his lawyer refused to return phone calls.

The Applicant alleges his lawyer informed him that he had to go to trial to receive his Rule 5 (Discovery).

The Applicant alleges his attorney's performance was "unreasonable under professional norms." Cherry, 300 S.C. at 117, 386 S.E. 2d at 625 citing Strickland. The Applicant alleges that Counsel's deficient performance prejudiced him such that "there is a reasonable probability that but for Counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E. 2d at 625.

The Applicant alleges his guilty plea was a result of ineffective assistance of Counsel. Hill v. Lockhart, 474 S. 52 (1985).

The Applicant alleges Counsel failed to properly investigate Wiggins v. Smith, 123 S.Ct. 2527 (2003).

ILLEGAL SEARCH AND SEIZURE

The Applicant alleges authorities (police) conducted an

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illegal search and seizure in regards to relying on information provided by a Confidential Informant to conduct a traffic stop to detain the Applicant. In State v. Harris, 286 S.E. 2d 137, 277 S. C. 274, it states in part: Warrantless stop of automobile based on information provided by a reliable informant, is illegal. Before there can be a valid search with consent, and waiver of right against illegal search and seizure, consent must be free and voluntary with no coercion present and must be an intelligent waiver of one's constitutional rights. Pofter v. Ashmore, 248 F. Supp. 951, reversed 421 F.2d 1186.

DENIAL OF PRELIMINARY HEARING

The Applicant alleges he was denied his right to a Preliminary Hearing. In State v. Brown, (S.C. 1962) 62 S.C. 374, 40 S.E. 776, it states in part: Magistrates required to hold a preliminary investigation on the issue of a warrant charging a crime at the demand of the defendant.

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 M. HOPES-BLACKLEY

DENIAL OF DISCOVERY (RULE 5, BRADY)

The Applicant alleges the Prosecution failed to disclose "Brady" (exculpatory) material that was in the hands of investigating agencies. Kyles v. Whitley, 514 U.S. 419 (1995).

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)
)
)
 Charles E. Copeland, #214518,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 SEVENTH JUDICIAL CIRCUIT

2010-CP-42-5406

RETURN

In response to the post-conviction relief application filed on October 8, 2010, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Spartanburg County Grand Jury indicted the Applicant at the July 2010 term of General Sessions for possession with intent to distribute methamphetamine or cocaine base (10-GS-42-3917), two counts of distribution of cocaine base and/or crack cocaine (10-GS-42-3918, -3919), and two counts of distribution of crack cocaine within one half mile of school (10-GS-42-3920, -3921). John G. Reckenbeil, Esquire, represented the Applicant. On July 26, 2010, the Applicant pled guilty to all charges with the exception of the two proximity charges, which were *nolle prossed* as a result of Applicant's agreement to plead guilty. The Honorable R. Lawton McIntosh sentenced the Applicant to concurrent sentences of ten years suspended to five years and three years of probation on each charge. The Applicant did not appeal his conviction or sentence.

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

II.

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

1. Ineffective assistance of counsel, in that;
 - a. Counsel failed to show up for the preliminary hearing,
 - b. Counsel refused to return phone calls,
 - c. Counsel informed Applicant that in order to receive discovery materials, Applicant would have to go to trial,
 - d. Counsel failed to properly investigate,
2. Illegal search and seizure, in that;
 - a. Police conducted a warrantless stop and search of Applicant's automobile based on information provided by confidential informant, and
3. Denial of preliminary hearing; and
4. Denial of Discovery (Rule 5, Brady), in that;
 - a. Prosecution failed to disclose exculpatory information.

III.

Respondent asserts that the Applicant's allegation of ineffective assistance of trial counsel is without merit. Respondent asserts that the Applicant's attorney rendered effective assistance well within the standard of reasonableness within professional norms for a criminal defense attorney.

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

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

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

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

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

IV.

Applicant also alleges that the traffic stop and subsequent search and seizure were illegal. However, Respondent submits that 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 post-conviction relief 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; however, his failure to do so has waived this allegation as a ground for relief. Therefore, the Court should summarily dismiss this allegation.

V.

Applicant further alleges that he was denied his right to a preliminary hearing. Every criminal defendant is entitled to notice of his right to a preliminary hearing "to determine whether sufficient evidence exists to warrant [his] detention and trial." Rule 2(a), SCRCrimP. If a defendant makes a timely request for a hearing, one should be held within ten days. Rule 2(a)-(b), SCRCrimP. However, the hearing "shall not be held ... if the defendant is indicted by a grand jury ... before the preliminary hearing is held." Rule 2(b), SCRCrimP; see also State v. Hawkins, 310 S.C. 50, 54-55, 425 S.E.2d 50, 53 (Ct.App.1992) (holding trial court did not err in refusing to quash defendant's indictments because he did not receive a requested preliminary hearing because he was indicted before a preliminary hearing was held). Furthermore, a defendant has no constitutional right to a preliminary hearing. State v. Keenan, 278 S.C. 361, 365, 296 S.E.2d 676, 678 (1982). Thus, although the Applicant could may have timely requested a preliminary hearing, his right to have the hearing ended with the grand jury's indictment. Therefore, the Court should summarily dismiss this allegation.

VI.

Finally, Applicant alleges a violation of Brady. In evaluating post-trial Brady claims, the Applicant must show that (1) the prosecution suppressed evidence, (2) the evidence would have been favorable to the accused, and (3) the suppressed evidence is material. United States v. Wolf, 839 F.2d 1387 (10th Cir. 1988). A Brady violation does not warrant reversal if the evidence is merely cumulative or impeaching. Clark v. State, 315 S.C. 385, 434 S.E.2d 266 (1993). "Impeachment or exculpatory evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." Id., 434 S.E.2d at

268.

Respondent submits that the Applicant's guilty plea was knowing and voluntary, and he waived any defense when he pled guilty. Therefore, the Court should summarily dismiss this allegation.

VII.

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

VIII.

WHEREFORE, the Respondent requests an evidentiary hearing solely on Applicant's claims of ineffective assistance of counsel.

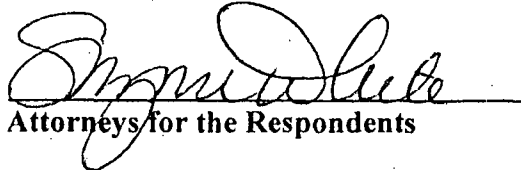
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Attorney General

By: 
Attorneys for the Respondents

P.O. Box 11549
Columbia, S.C. 29211
(803) 734-3737

April 16, 2011.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

)
)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

Charles E. Copeland,

)

2010-CP-42-5406

Applicant,

)

)

v.

)

CERTIFICATE OF SERVICE BY MAIL

State of South Carolina,

)

)

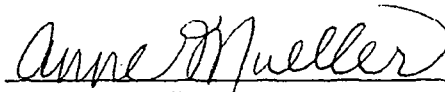
Respondent.

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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 Respondent's Return in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

David M. Collins, Jr., Esquire
Lawrence, Rudasill & Collins, P.A.
P.O. Box 5722
Spartanburg, South Carolina 29304



Anne A. Mueller
Legal Assistant for the Respondent

DATED this 26th day of April, 2011.

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

The Honorable Roger L. Couch, Circuit Court Judge

Case No. 2010-CP-42-5406

Charles Copeland, # 214518,

Plaintiff/Applicant

vs.


State of South Carolina,

Respondent

PROOF OF SERVICE

I certified that I have served the Notice of Appeal by depositing a copy of it in the United States Mail, postage prepaid, on the State of South Carolina, addressed to its attorney of Record, Suzanne H. White, Assistant Attorney General, Office of the Attorney General, Post Office Box 11549, Columbia, South Carolina 29211-1549

November 18, 2011



John R. Holland, Esq.
Campbell & Shabel, LLC
104 N. Daniel Morgan Ave, Suite 201
Spartanburg, S.C. 29306
Telephone: 864-583-0001
FAX: 864-583-1199
Attorney for Applicant

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STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG) COURT OF COMMON PLEAS NONJURY

CHARLES E. COPELAND,) TRANSCRIPT
APPLICANT,) OF
vs.) RECORD
STATE OF SOUTH CAROLINA,) 2010-CP-42-5406
RESPONDENT.)

June 15th, 2011
Spartanburg, South Carolina

B E F O R E :

THE HONORABLE ROGER L. COUCH, Judge.

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

JOHN R. HOLLAND
ESQ.
Attorney for the Applicant

SUZANNE H. WHITE
ASSISTANT ATTORNEY GENERAL
Attorney for the State

PAMELA E. GREEN
Circuit Court Reporter
Seventh Judicial Circuit

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THE COURT: Yes, Ms. White.

MS. WHITE: Thank you, Your Honor.

This is Charles Copeland versus the State of South Carolina. It's Case Number 2010-CP-42-5406. He's represented today by Mr. John Holland. Mr. Copeland was indicted in July of 2010 for PWID crack, two distribution of crack, and two proximity charges. The proximity charges were not proessed, and he ultimately received a sentence of ten years suspended to five years and three years probation concurrent on all charges. I believe there might of been two charges that were dismissed in addition as well.

There was no appeal filed. The application -- obviously he pled guilty to July 26th, 2010. Application was filed October 8th. He's alleged ineffective assistance of counsel, denial of Brady, denial of preliminary hearing, and illegal search and seizure, and, Your Honor, I believe, in our return, we did move to dismiss any issues of search and seizure that would be direct appeal issues.

I believe he's claimed that counsel did not show up for preliminary hearings, refused to return phone calls, told applicant in order to receive discovery he must go to trial and failed to investigate.

1 So, I will turn it over to Mr. Holland at this time.

2 THE COURT: Yes, sir, Mr. Holland.

3 MR. HOLLAND: Thank you, Your Honor.

4 I call Charles Copeland.

5 THE COURT: Well, first, before we do that, Mr.

6 Holland, have you discussed with your client that if this
7 were granted that all those charges that were dismissed will
8 come back?

9 MR. HOLLAND: I have. I've -- I have spoke to him in
10 the jail last night, again this morning, and just now again.

11 THE COURT: Uh-huh. (Affirmative).

12 Is he aware of that?

13 MR. HOLLAND: Are you that -- have I---

14 (Applicant nods affirmatively.)

15 MR. HOLLAND: Yes.

16 THE COURT: Okay, sir. If he wants to proceed I'll be
17 happy to hear him.

18 You want to call him?

19 MR. HOLLAND: Yes, sir.

20 THE COURT: Come forward.

21 CHARLES COPELAND, having been first duly
22 sworn, testified as follows:

23 THE COURT: State your name please, sir.

24 MR. HOLLAND: Charles Copeland.

25 THE COURT: Mr. Holland, your witness.

Charles Copeland - Direct examination
by Mr. Holland

1 MR. HOLLAND: Thank you.

2 DIRECT EXAMINATION

3 BY MR. HOLLAND:

4 Q Mr. Copeland, were you indicted in July of 2010 with
5 three distribution charges and two proximity charges within
6 a, within a half mile of a school?

7 A Repeat that. I didn't understand you.

8 Q You were indicted with five charges?

9 A It was.

10 Q You were charged with five charges?

11 A Yes.

12 Q And the jury later indicted you, which meant that --
13 well, you were gonna go to trial in June of, in July of 2010
14 on all these charges?

15 A Was I going -- I don't -- well, they didn't tell me
16 when I was going to court.

17 Q Okay. But you, you hired John Reckenbeil to be your
18 lawyer?

19 A Yes, sir.

20 Q All right. Tell us about hiring John Reckenbeil.

21 A Well, when he had -- when I went to him I told him the
22 situation cause the guy that was, that knowed him recommend
23 that I go to him.

24 Q Okay.

25 A Cause he had the same, about the same charges as I did.

Charles Copeland - Direct examination
by Mr. Holland

1 And, so, when I went to him, I told Mr. Reckenbeil, I said,
2 I explained everything that happened, which he said he
3 already knowed.

4 Q Okay.

5 A I seen on his computer and he told me that he can get
6 me 18 months probation.

7 Q Okay. And, so, he said he could do that with all five
8 charges?

9 A Yes, for---

10 Q Okay.

11 A ---\$2,500.

12 Q And, so, you hired him?

13 A Yes, sir.

14 Q How much did you pay him?

15 A 2,500.

16 Q All right. And did Mr. Reckenbeil go over the
17 discovery with you?

18 A No.

19 Q Did you ask him to go over the discovery with you?

20 A Well, he -- yes, I asked him. Once he told me that
21 when he come back, me and him together, we would sit down
22 and go over it.

23 Q Did you ever go over it with him?

24 A Only one thing. The weight of the drugs.

25 Q The weight of the drugs?

Charles Copeland - Direct examination
by Mr. Holland

1 A The only time I ever --.

2 Q All right. Did you call him?

3 A Yes, I called him.

4 Q Did he ever not return your phone call?

5 A He didn't return my -- that's, that's why he showed me
6 the weight of the drugs cause after it was time to go to
7 court he sat down and said, said I'm sorry I didn't get to
8 call, return your call, but what, what were the problems,
9 and I told him. That's when he showed me the weight of the
10 drugs.

11 Q All right. Was this on the day of your guilty plea?

12 A On the same day.

13 Q All right. Tell them -- tell the court about you
14 receiving word that you were to plead guilty.

15 When did you find out you were gonna plead guilty?

16 A The same day of the hearing.

17 Q All right. And were you---

18 A Right. I know I was gonna plead guilty, but I didn't
19 know he entered a plea --

20 Q All right.

21 A -- that day.

22 Q When you went to his office, were you dressed
23 appropriately for a guilty plea?

24 A He said I wasn't.

25 Q All right. What were you wearing?

Charles Copeland - Direct examination
by Mr. Holland

1 A A sandals and shorts and a -- it was a short set, the
2 whole set.

3 Q So, you went home to change?

4 A He told me to.

5 Q All right. Prior to going home to change, what did Mr.
6 Reckenbeil tell you about a, any recommendations?

7 A He, he came -- well, we was sitting in the hallway, and
8 he run up to me and he said well, come on cause we going in
9 here, sign right here, which, you know, he said something,
10 but I don't know what it was, and I just signed it. But he
11 never did say nothing about no ten years, five years,
12 nothing like that. He never did say nothing like that. He
13 said just go ahead and sign it.

14 Q So, is it your testimony that he never went over the
15 minimum and maximum sentences?

16 A No, sir.

17 Q All right. Did he ever promise you anything?

18 A Eighteen months probation.

19 Q And, so, your testimony is not that he said we have a
20 recommendation of 18 months, it's that he promised you 18
21 months?

22 A Right, he said I, I can get you 18 months. I know --
23 well, wait on that jury, judge, the judge that he knew, and
24 the officer, I told him about the narcotic's agent, that
25 they gave me an offer. They said -- like I made -- like it

Charles Copeland - Direct examination
by Mr. Holland

1 happened, I can make it disappear. He said well, I can get
2 you a deal for, for you working with the government.

3 Q The officer said that?

4 A No, Mr. Reckenbeil.

5 Q Mr. Reckenbeil said that.

6 All right. Let's see here. Now, the State's gonna go
7 over your transcript where you answered a bunch of questions
8 to the judge.

9 Did you answer those questions truthfully?

10 A No, sir.

11 Q Why did you not answer them truthfully?

12 A Because he had, he had me under the impression that I
13 was gonna get 18 months and he told me -- it was a guy in
14 front of me being sentenced too, and he said, said what he
15 said, do like he did.

16 Q All right. You've raised a legal search and seizure.

17 Did you ever bring that issue up with your attorney?

18 A Yes.

19 Q Would he talk to you about it?

20 A He told me sometimes it's best to, to give, to give it
21 to him to receive something. That's what he told me.

22 Q All right. Did you ask him to request a preliminary
23 hearing for you?

24 A Yes, sir.

25 Q Did he?

Charles Copeland - Direct examination
by Mr. Holland

1 A No, sir.

2 Q All right.

3 A I send my witness over to his office while I sat there
4 and waited.

5 Q So, you were at the preliminary hearing waiting on him?

6 A Yes, sir.

7 Q All right. And, of course, you listed denial of
8 discovery as well.

9 You're saying that you didn't get to go over any of the
10 discovery except for the weight of the drugs?

11 A Yes, sir.

12 Q And you asked him to look at the other discovery?

13 A At the beginning before it, before it ever got there.

14 Q Okay.

15 A But I didn't ask him no more after that.

16 Q You have any other complaints of Mr. Reckenbeil?

17 A No, sir.

18 MR. HOLLAND: All right. I have no few questions.

19 THE COURT: Ms. White.

20 MS. WHITE: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MS. WHITE:

23 Q Mr. Copeland, I know that your attorney told you I was
24 probably gonna go over with you some of the answers that you
25 gave at the guilty plea.

Charles Copeland - Cross-examination
by Ms. White

1 In fact, the judge went over with you the charges you
2 were facing and the minimum and maximum times that you could
3 face, isn't that right?

4 A Yes, ma'am.

5 Q Okay. So, you do recall the judge going over with you
6 the charge and the potential sentences?

7 A Yes, ma'am, but I -- my -- to my knowledge. I mean I
8 didn't understand what he was saying. I was just going by
9 Mr. Reckenbeil asking him.

10 Q Okay. So, when the judge went over and said Mr.
11 Copeland, I can sentence you to a full amount on these
12 charges, do you understand, and you said yes, sir, is that
13 what -- did you not understand the question or were you not
14 telling the truth?

15 A I understood the question then.

16 Q Okay. So, when he says for possession with intent to
17 distribute crack I could sentence you for 15 years and you
18 said yes, sir?

19 A Yes, ma'am.

20 Q So, you understood the sentence that you could face?

21 A Yes, ma'am.

22 Q Okay. The same for the distribution of crack, again, I
23 could sentence you to another 15 years?

24 A Yes, ma'am.

25 Q And you said yes, sir?

Charles Copeland - Cross-examination
by Ms. White

1 A Yes, ma'am.

2 Q And he even told you that you potentially faced 45
3 years --

4 A Yes, ma'am.

5 Q -- since they're not gonna drop those other charges, is
6 that right?

7 A Yes, ma'am.

8 Q So, at that point, he said, knowing that, do you want
9 to go forward with the plea, you still went ahead with the
10 plea, is that right?

11 A Yes, ma'am.

12 Q But you said your testimony today is that you really
13 thought that you were getting 18 months.

14 Did you not think that was the time to say I thought
15 I'm getting 18 months, what, you know, why 45 years are you
16 mentioning or --?

17 A Well, I was going just by what my attorney advised me.

18 Q Okay. But you were the one facing the time and hearing
19 the judge tell you those things and you were pleading guilty
20 that day, weren't you?

21 A Yes, ma'am.

22 Q Okay. And you were the one that was gonna get the time
23 that day, right?

24 A Well, I didn't think I was gonna get it with the help
25 of my attorney.

Charles Copeland - Cross-examination
by Ms. White

1 Q Right.

2 And the judge asked you if you're pleading freely and
3 voluntarily?

4 A Yes, ma'am.

5 Q And if you wanted to plead guilty instead of go to
6 trial, right?

7 A Yes, ma'am.

8 Q Okay. He also asked if you're satisfied with counsel
9 and you said you were?

10 A Yes, ma'am.

11 Q But at that, that time, wasn't that a time that you
12 already said he had not shown up for in the preliminary
13 hearing, had not returned phone calls, and had not shown you
14 discovery at that point?

15 A That's -- yes, ma'am.

16 Q But you still said you were satisfied with him at that
17 time?

18 A Well, thinking that I was still getting 18 months.

19 Q Okay. So, you were, you were satisfied you thought as
20 long as you got probation?

21 A Yes, ma'am.

22 Q Okay. And instead of getting 45 years, you got five
23 years and three years of probation, isn't that right?

24 A Yes, ma'am.

25 Q All right. And your attorney spoke on your behalf,

Charles Copeland - Cross-examination
by Ms. White

1 didn't he, to the judge?

2 A Yes, ma'am.

3 Q And he talked with the judge about how you had worked
4 in a steady job for years and you had just been laid off,
5 and, and he spoke to the judge on your behalf trying to get
6 the less, the least sentence he could for you, is that
7 right?

8 A Yes, ma'am.

9 Q Okay. And you did see some -- he did go over with you
10 some of the, the discovery you said about the weight of the
11 drugs?

12 A Yes, ma'am.

13 Q Okay. And you were aware that some of the arrests had
14 been because of the confidential informant buying drugs, is
15 that right?

16 A Yes, ma'am.

17 Q And you were aware that you were pleading guilty that
18 day?

19 A Yes, ma'am.

20 Q And you wanted to plead guilty that day, is that right?

21 A Yes, ma'am.

22 MS. WHITE: Okay. All right. That's all I have at
23 this time, Your Honor.

24 THE COURT: Mr. Holland, any other questions of the
25 witness?

Charles Copeland - Cross-examination
by Ms. White

1 MR. HOLLAND: No redirect, Your Honor.

2 THE COURT: You may step down.

3 MR. HOLLAND: Call Pamela Young.

4 THE COURT: Come forward, ma'am.

5 PAMELA YOUNG, having been first duly

6 sworn, testified as follows:

7 THE COURT: Have a seat.

8 (Witness complies.)

9 THE COURT: State your name please.

10 WITNESS: It's Pamela Young.

11 THE COURT: Mr. Holland.

12 WITNESS: Thank you, Your Honor.

13 THE COURT: Your, your witness.

14 MR. HOLLAND: Thank you, Your Honor.

15 DIRECT EXAMINATION

16 BY MR. HOLLAND:

17 Q Ms. Young, state your relationship with Mr. Copeland.

18 A He's my fiance.

19 Q All right. And how long have y'all been together?

20 A I say about 11 or 12 years.

21 Q Eleven to twelve years.

22 And were you present the day of his guilty plea?

23 A Yes.

24 Q Were you present before he went home to change?

25 A Yes.

Pamela Young - Direct examination
by Mr. Holland

1 Q Were you involved in conversations with the attorney?

2 A Yes.

3 Q All right. Did the attorney relay to you anything
4 about the sentencing or any deal that he'd come to with the
5 solicitor?

6 A No, only thing I remember is he said he would receive
7 18 months probation, and he asked him did he want to, did he
8 want to deal with the policemen.

9 Q But---

10 A And that's---

11 Q So, so, did you understand that he was gonna get 18
12 months?

13 A That's what I remember him saying.

14 Q All right. And in your, in your mind, did you
15 understand him to say that that was a definite thing?

16 A I just remember him saying that. He said well, when he
17 told him to come to court, then he just come to court this
18 morning.

19 Q All right. And, so, when y'all left that -- when your,
20 when your fiance went home to change, y'all were both under
21 the understanding that he was gonna get 18 months?

22 A Yes, we didn't -- I didn't think he was going to jail
23 because he never did tell us that he was gonna get any time
24 or going to jail---

25 Q Okay.

Pamela Young - Direct examination
by Mr. Holland

1 A ---that day.

2 Q Okay. So, were you surprised when he got jail time?

3 A Yes.

4 Q All right. And you heard that straight from Mr.
5 Reckenbeil's mouth?

6 A Yes, he did say it.

7 MR. HOLLAND: All right. No further questions.

8 THE COURT: Yes, ma'am.

9 MS. WHITE: The State has no questions for the witness,
10 Your Honor.

11 THE COURT: Ma'am, you may step down.

12 WITNESS: Thank you.

13 MR. HOLLAND: That's my case, Your Honor.

14 THE COURT: State may call any witnesses it chooses to
15 call.

16 MS. WHITE: Thank you, Your Honor.

17 We call John Reckenbeil to the stand.

18 THE COURT: Come forward, sir, and be sworn.

19 WITNESS: Yes, sir.

20 JOHN RECKENBEIL, having been first
21 duly sworn, testified as follows:

22 THE COURT: Have a seat.

23 (Witness complies.)

24 THE COURT: State your name please.

25 WITNESS: John Reckenbeil.

John Reckenbeil - Direct examination
by Ms. White

1 THE COURT: Your witness, Ms. White.

2 MS. WHITE: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MS. WHITE:

5 Q Mr. Reckenbeil, when you took on this case, you were
6 retained to represent Mr. Copeland?

7 A That's correct.

8 Q All right. Did you review with him the charges that he
9 was facing at the time?

10 A I did.

11 Q And talked with him about the potential sentences that
12 he could face?

13 A Yes, with everything that he was looking at, it was
14 approximately I think somewhere between 60 and 70 years.

15 Q And he was -- he pled guilty to I believe it was three
16 charges, but he was facing more than that originally, is
17 that right?

18 A Yeah, that's correct.

19 Q Okay. Now, in your discussion with him, did you ever
20 share discovery?

21 Did y'all ever meet and talk about what you, what the
22 State had against him?

23 A Sure. We talked about the fact that there was a
24 confidential informant that he did a controlled sale to.
25 Not a controlled sale. He sold to a confidential informant.

John Reckenbell - Direct examination
by Ms. White

1 on a couple of occasions and then obviously one time was
2 pulled over by the police after a confidential informant did
3 a buy and was obviously apprehended by the police and
4 cocaine was pulled from his person and then a search warrant
5 of his house was done and they found other, other drugs.

6 Q Okay. He mentioned that -- he mentioned to you an
7 illegal search and seizure as an issue.

8 was that something -- were y'all gonna proceed to trial
9 and try to attack these charges?

10 A I, I didn't see the reason why to do that when the
11 confidential informant was reliable, the information that I
12 saw put him in a predicament where he went to trial then
13 the, the opportunity of those other two charges being
14 dismissed would, that wouldn't exist anymore, and him going
15 to trial I would say most certainly he would be convicted.

16 Q Okay. And you shared that with Mr. Copeland?

17 A I, I can't tell you if I did or I didn't, but by
18 looking at this evidence, and by talking and hearing him
19 talk today, I have no independent recollection of it, but
20 I'm sure I probably did.

21 Q Okay. And in, from all understanding that Mr. Copeland
22 wanted to plead guilty to these charges to, for a lesser
23 sentence, is that your understanding?

24 A Yes, that's true.

25 Q Okay. Now, did you negotiate with the State on his

John Reckenbell - Direct examination
by Ms. White

1 behalf?

2 A I tried.

3 Q Okay. And what were the offers or did you receive
4 multiple offers, only one?

5 A It was very very little. Solicitor, Assistant
6 Solicitor Hunter, I used the phrase dead in the water,
7 pretty much had Mr. Copeland. And, so, therefore, there was
8 very little negotiation. He was willing to dismiss two of
9 the charges, let him plead to the, the three and then that
10 was pretty much it. There was no recommendation or
11 negotiation after that.

12 Q Now, in your discussion with Mr. Copeland, and talking
13 about the potential sentence he would receive, obviously
14 we've heard testimony that he alleges you told him he would
15 receive 18 months.

16 Do you recall conversations with him about the
17 potential sentence he could receive?

18 A Sure, yeah. And in a situation like this, we were able
19 to get it to a possibility that probation was available. It
20 was a zero to fifteen year situation. And, so, in my
21 discussions with him I said yeah, I said, in my opinion, I
22 said you could get probation, but understand that without
23 any recommendation or negotiation, it's gonna be up to the
24 judge. And, so, then the question then came to me, well, if
25 I get probation, how much is it gonna be. Well, my

John Reckenbell - Direct examination
by Ms. White

1 experience with something like this, with the fact that you
2 were working, you were doing pretty good, and that your rap
3 sheet had a pretty big gap in it, that you've lost your job,
4 and that you were pretty crime free for a while, I said
5 yeah, I said 18 months possibly would be probation.

6 Q So, you did tell him that was a possibility, but did
7 you ever promise that to him?

8 A I would be a fool to say that because the fact that I'm
9 not the one that sits there in a decision making capacity to
10 say this is exactly what. Unless you have a signed plea
11 negotiation or a signed settlement, any sort agreement, then
12 I can't do that. But there's no question that I did say to
13 him that, in my opinion, that could be something that he
14 could get.

15 Q Okay. Did you ever talk with him about working with
16 the state or working with the police as a PI?

17 Do you recall any conversations regarding that or---

18 A Do I need to answer that question?

19 Q You can -- I can withdraw that, Your Honor.

20 THE COURT: You may withdraw it.

21 A Thank you.

22 Q And in regards to, in regards to the discovery, was
23 there anything else that, that you have that you did not
24 share with the applicant?

25 A The only thing would be is, is that the policy of the

John Reckenbeil - Direct examination
by Ms. White

1 solicitor's Office and the policy of some of our, our
2 standard practices is that if I was to go with my client to
3 view the videotapes, then all deals are off. It's a ten day
4 policy where you go over there, you view them, and you make
5 sure oh, yeah, that's your client on the video, on the video
6 with the confidential informant. So, if, in fact, we were
7 to view it together, then everything would be out the window
8 and we'd be -- we would be going to trial.

9 Q And, in fact, he did receive a suspended sentence of
10 five years and three years probation opposed to the
11 potential of up to 60 something years, is that right?

12 A That's true.

13 Q Okay. And at that point did you feel satisfied or did
14 you feel like he was satisfied?

15 I mean obviously probably no one's satisfied when they
16 get jail time---

17 A No.

18 Q ---but --.

19 A Yeah, I, I don't want to see any of my clients go to
20 jail especially Mr. Copeland, who I feel with the stretch of
21 time in which he committed crimes in the past to this, I, I
22 truly believed him that it was a situation where he lost his
23 job and this was an alternative that he turned to.

24 Is it right?

25 No.

John Reckenbeil - Direct examination
by Ms. White

1 But I felt in my heart that I don't think that this man
2 was a candidate for jail, but I don't get to make that
3 decision.

4 Q And you did share that mitigation and attempt to
5 mitigate his sentence with the judge that day?

6 A Pretty vehemently I remember, yes.

7 Q Okay. Thank you.

8 That's all the questions I have at this time, Your
9 Honor.

10 THE COURT: Mr. Holland, you may cross-examine.

11 MR. HOLLAND: Thank you.

12 CROSS-EXAMINATION

13 BY MR. HOLLAND:

14 Q Mr. Reckenbeil, you've stated that you have no
15 independent recollection of going over whether or not he
16 would be convicted if it went to trial, isn't that correct?

17 A Oh, yeah, sure. Absolutely.

18 Q And, and that's something that you ought to talk to a
19 client of yours about, right?

20 A Right. Absolutely. Just reading the police reports
21 here this morning, again, and late yesterday, if this man
22 didn't go to jail because of the fact that he was pulled
23 over with a search warrant that the police had that was a
24 proper search warrant and they actually found drugs on him
25 within the proximity of Park Hills Elementary School, then

John Reckenbell - Cross-examination
by Mr. Holland

1 when they went and searched the house as a result of the
2 arrest that they had a search warrant for, if, if he didn't
3 go to jail, then, you know, I would say that the jury wasn't
4 paying attention.

5 So, in my opinion, that reading with him and knowing
6 the fact that he's the one that was driving the car, got
7 pulled over by the police, and if he didn't have the
8 understanding of what he did and what he did was wrong, and
9 when he said to me John, I did this because of the fact that
10 I, I didn't have work, I had to make some money so that, I
11 don't think, would fly with the jury. So, I don't have any
12 independent recollection of saying that if you went to trial
13 you would be convicted, but in light of the circumstances
14 I'd say it's an absolute certainty.

15 Q And you do have recollection of talking to him about
16 the possibility of 18 months probation?

17 A Sure. Sure.

18 Q All right. And you're, you're aware that Mr. Copeland
19 I believe has a ninth grade education?

20 A I'll take your word for it.

21 Q All right. You were aware that he didn't graduate high
22 school, is that correct?

23 A I'm sure that I think that's in the transcript of what
24 the judge I think is McEntire or McIntosh asked him, yes,
25 sir.

John Reckenbell - Cross-examination
by Mr. Holland

1 Q All right. But you reference that -- you don't deny
2 you referenced that in your mitigation---

3 A Sure.

4 Q ---defense?

5 A Correct.

6 Q And knowing that, did you not feel the need to go into
7 it in a little more depth with him to make sure that he
8 fully understood?

9 A Sure. And I think I'm pretty confident in saying is
10 that when, when I sit in my office with a client, I usually
11 saw you know what you did. So, you tell me. I have a habit
12 of doing that. So, if that's the situation of where if the
13 client has amnesia or they don't understand what they did of
14 getting busted with drugs, then fine. But realistically,
15 sitting there with a client, if he didn't understand what he
16 did on February the 2nd, February the 8th, February the
17 10th of all 2010 getting caught three consecutive times
18 in, within a week, then I'm deficient in doing my job.

19 Q And do you deny telling Mr. Copeland to observe other
20 people taking guilty pleas to learn how the process works,
21 to learn what to say?

22 A Absolutely. I tell that to all my clients that when
23 you're sitting in there, it's a very, it's a nervous
24 situation. So, when you're sitting there, you want to make
25 sure that you listen to what the judge is saying because

John Reckenbell - Cross-examination
by Mr. Holland

1 normally those questions are gonna be the same thing, hear
2 what's being said, and then obviously answer what the judge
3 has to say truthfully.

4 Q Okay. And, so, knowing his education, if you, if you,
5 if you accept his education, accept that he thinks it's an
6 18 month probation deal, and you take it that he's been told
7 to observe someone else to learn how to do a guilty plea, do
8 you see how he could of misunderstood?

9 A It's possible. Sure.

10 MR. HOLLAND: All right. No further questions.

11 THE COURT: Ms. White.

12 MS. WHITE: Nothing further, Your Honor.

13 THE COURT: You may step down.

14 WITNESS: Thank you, judge.

15 THE COURT: State has no other witnesses.

16 THE COURT: Applicant wish to call any other witnesses?

17 MR. HOLLAND: No, Your Honor.

18 THE COURT: I'll hear from you, Mr. Holland.

19 MR. HOLLAND: Argument?

20 THE COURT: If you'd like.

21 MR. HOLLAND: Thank you, Your Honor.

22 May it please the Court.

23 Our position is that Mr., Mr. Copeland was under the
24 impression that he's getting 18 months probation. That's
25 what he thought his position is. He was told that. It's

1 corroborated by his fiance. Testimony suggests that he was
2 told to observe another defendant give a guilty plea, and
3 that's why or that's the information that he took to answer
4 the judge's questions. The entire time he was under the
5 impression he's getting 18 months.

6 Based on that, and, and his lawyer not explaining it
7 properly, we'd argue that it was indeed ineffective
8 assistance of counsel and we'd ask for a new trial.

9 THE COURT: Ms. White.

10 MS. WHITE: Thank you, Your Honor.

11 The State would argue that Mr. Reckenbeil is a very
12 experienced attorney. It's clear that he reviewed with his
13 client the charges, the potential sentences, as well as the
14 Court reviewed those with him. Mr. Copeland testified on
15 the stand that he did hear that and understand that.
16 Unfortunately he did not get the deal perhaps that he was
17 hoping for. But I believe it's clear that it was reviewed
18 with him that that was in the judge's discretion, and that
19 it was up to him to be honest and tell the judge truthfully,
20 and that he pled freely and voluntarily knowing that was his
21 options in that case.

22 THE COURT: All right. I've reviewed the record and
23 listened to the testimony. Application's denied.

24 If you'll prepare an order.

25 MS. WHITE: Thank you, Your Honor.

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THE COURT: Thank you very much.

* * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh 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 Common Pleas Nonjury for Spartanburg County, South Carolina, on the 15th day of June, 2011.

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

February 2nd, 2012

Pamela E. Green

PAMELA E. GREEN, Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

Charles E. Copeland, #214518,
Applicant,

2010-CP-42-5406

v.

ORDER OF DISMISSAL

State of South Carolina,
Respondent.

This matter comes before the Court by way of an Application for Post-Conviction Relief filed October 8, 2010. The Respondent made its Return on or about April 27, 2011. An evidentiary hearing into the matter was convened on June 15, 2011, at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by John R. Holland, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. Also testifying was Pamela Young, Applicant's fiancé, and John G. Reckenbeil, Esquire. This Court also had before a copy of the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, and the State's Return

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SPARTANBURG COUNTY
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M. HOPE BLANKLEY

PROCEDURAL HISTORY

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Spartanburg County Grand Jury indicted the Applicant at the July 2010 term of General Sessions for possession with intent to distribute methamphetamine or cocaine base (10-GS-42-3917), two counts of distribution of cocaine base and/or crack cocaine (10-GS-42-3918, -3919), and two

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counts of distribution of crack cocaine within one half mile of school (10-GS-42-3920, -3921) . John G. Reckenbeil, Esquire, represented the Applicant. On July 26, 2010, the Applicant pled guilty to all charges with the exception of the two proximity charges, which were *nolle prossed* as a result of Applicant's agreement to plead guilty. The Honorable R. Lawton McIntosh sentenced the Applicant to concurrent sentences of ten years suspended to five years and three years of probation on each charge. The Applicant did not appeal his conviction or sentence.

ALLEGATIONS

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

- 1. Ineffective assistance of counsel, in that;
 - a. Counsel failed to show up for the preliminary hearing,
 - b. Counsel refused to return phone calls,
 - c. Counsel informed Applicant that in order to receive discovery materials, Applicant would have to go to trial,
 - d. Counsel failed to properly investigate,
- 2. Illegal search and seizure, in that;
 - a. Police conducted a warrantless stop and search of Applicant's automobile based on information provided by confidential informant, and
- 3. Denial of preliminary hearing; and
- 4. Denial of Discovery (Rule 5, Brady), in that;
 - a. Prosecution failed to disclose exculpatory information.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard 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 their 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).

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Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCF). 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, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 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. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland).

This Court finds that the Applicant has failed to meet his burden of proof as to the

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allegations that Counsel was ineffective for failing to properly investigate the case, communicate with Applicant, and share discovery materials with the Applicant. This Court finds Counsel's testimony to be more credible than Applicant's testimony. Applicant testified that Counsel promised Applicant that he would receive a sentence of eighteen months of probation. Applicant testified that Counsel never shared discovery materials with him, except for the weight of the drugs found on the day of Applicant's guilty plea. Applicant testified that he asked Counsel once to see the discovery materials. Applicant also testified that Counsel never returned Applicant's phone calls and did not show up to represent the Applicant at Applicant's preliminary hearing. Applicant testified that he did not answer the Court's questions truthfully at his guilty plea because he answered how Counsel advised him to. Ms. Young testified that Counsel told Applicant that he would receive a sentence of eighteen months and he could work with the police.

Counsel testified that the Applicant was facing a potential sentence of sixty-five years for all of the charges. Counsel testified that the Applicant was arrested after he sold drugs to two confidential informants and then was pulled over in his vehicle and searched pursuant to a search warrant. Counsel testified that the Applicant never discussed the desire of going to trial so Counsel tried to negotiate with the State and they were willing to dismiss two of the charges. Counsel testified that he informed the Applicant that probation could be a possibility because the charges were only 0-15 and non-violent, but he did not promise an eighteen month probationary sentence. Counsel also testified that he talked about the discovery with the Applicant, but did not show it to him so as not to lose the deal.

As to Applicant's other claims that the search and seizure were illegal, that he was denied his right to a preliminary hearing, and the prosecution failed to disclose exculpatory information,

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this Court finds that these claims should be denied and dismissed. First, because the Applicant's plea waives any non-jurisdictional defects and defenses, including challenges to the sufficiency of the evidence. "Where a defendant voluntarily, intelligently, and understandingly enters a plea of guilt, this makes it unnecessary for the State to offer evidence to prove the offense charged in the warrant or indictment." State v. Allen, 261 S.C. 448, 200 S.E.2d 684, 686 (1973). This is because the guilty plea "admits all matter of fact averments of the accusation." Id. Second, the Applicant failed to present any evidence or testimony in support of these claims at the hearing. Therefore, the Applicant failed to meet his burden of proof and these claims are denied and dismissed.

Summary

This Court finds in regards to the allegation of ineffective assistance of counsel, the Applicant's testimony and Ms. Young's testimony are not credible, while also finding plea counsel's testimony is credible. This Court further finds plea counsel adequately conferred with the Applicant, conducted a proper investigation, was thoroughly competent in his representation, and that plea counsel's conduct does not fall below the objective standard of reasonableness.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test - that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that plea counsel committed either errors or omissions in his representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland - that he was prejudiced by plea counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier supra. Therefore, this allegation is denied.

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CONCLUSION


Based on all the foregoing, 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. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCR, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 1st day of November, 2011.



 Roger L. Couch
 Presiding Judge

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 M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

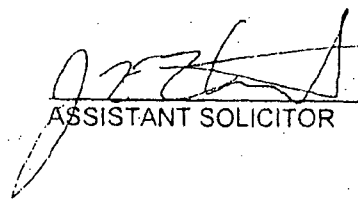
INDICTMENT

At a Court of General Sessions, convened on JUL 2 - 2010 the
Grand Jurors of Spartanburg County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE

That Charles Edward Copeland Jr. did in Spartanburg County on or
about February 15, 2010 manufacture, distribute, dispense, deliver,
purchase, or otherwise aid, abet, attempt or conspire to manufacture,
distribute, dispense, deliver or purchase, or possess with intent to
~~manufacture, distribute, dispense, deliver, or purchase a quantity of~~
Methamphetamine or Cocaine Base, a schedule II controlled substance
under provisions of § 44-53-375, *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

WITNESSES

PTBG CITY PUBLIC SAFETY

[Handwritten signature]

1. SENTENCE MADE

2. REPORT ENDED **COMPLETED**

3. CARD W/ARREST WARRANT NUMBER

4. INDEXED

5. CHECKED WARRANTS

1421702 CHECKED SIGNATURE

7. ASSESSMENT AND FINE CARD MADE **COMPLETED**

8. TRAFFIC VIOLATION CASES

ACTION OF GRAND JURY

[Handwritten signature]

Foreperson of Grand Jury

Date: 7/22/10

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO.

10-GS-42-3917

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

FILED
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2010 JUL 26 PM 5:18

M. HOPE BLACKLEY

COURT OF GENERAL SESSIONS

JUL 25 2010

TERM

THE STATE

vs.

CHARLES EDWARD COPELAND

Indictment for

POSSESSION WITH INTENT TO DISTRIBUTE
METHAMPHETAMINE OR COCAINE BASE

SC Code: 44-53-375

CDR Code:

Class MIS/A

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

JUL 24 2010

At a Court of General Sessions, convened on _____ the
 Grand Jurors of Spartanburg County present upon their oath:

DISTRIBUTION OF COCAINE BASE AND/OR CRACK COCAINE

That Charles Edward Copeland did in Spartanburg County on or about February 3, 2010, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, ~~distribute, dispense, deliver, or purchase a quantity of Cocaine Base and/or~~ Crack Cocaine, a schedule II controlled substance under provisions of § 44-53-375, *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

WITNESSES

SPTBG CITY PUBLIC SAFETY

[Handwritten signature]

1. SENTENCE MADE

2. REPORT ENDED

3. CARD FILLED

4. INDEXED

5. CHECKED WARRANT NUMBER

6. CHECKED SIGNATURE

7. ASSESSMENT FINE CARD MADE
M421703

8. TRAFFIC VIOLATION COPY

ACTION OF GRAND JURY

[Handwritten signature]

Foreperson of Grand Jury
Date: *7/22/10*

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO.

10-GS-42-3918
The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUL 25 2010

TERM

THE STATE
VS.

CHARLES EDWARD COPELAND

Indictment for

DISTRIBUTION OF COCAINE BASE AND/OR
CRACK COCAINE

SC Code: 44-53-375

FILED
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2010 JUL 26 PM 5:18
M. HOPE BLACKLEY

WITNESSES

PTBG CITY PUBLIC SAFETY

[Handwritten signature]

1. SENTENCE MADE

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

ARREST WARRANT NUMBER

7. ASSESSMENT

FINE CARD

4421705 3. TRAFFIC VIOLATION COPY

ACTION OF GRAND JURY

[Handwritten signature]

Foreperson of Grand Jury

Date: 7-22-10

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO

10-GS-42-3919

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUL 25 2010

TERM

THE STATE
VS.

CHARLES EDWARD COPELAND

Indictment for

DISTRIBUTION OF COCAINE BASE AND/OR
CRACK COCAINE

SC Code: 44-53-375

FILED
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2010 JUL 26 PH 5:18

M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

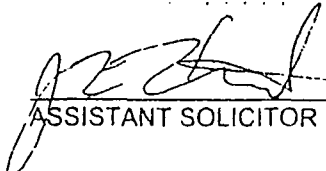
INDICTMENT

At a Court of General Sessions, convened on III 22 2010 the
 Grand Jurors of Spartanburg County present upon their oath:

DISTRIBUTION OF COCAINE BASE AND/OR CRACK COCAINE

That Charles Edward Copeland did in Spartanburg County on or about February 8, 2010, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, ~~distribute, dispense, deliver, or purchase a quantity of Cocaine Base and/or~~ Crack Cocaine, a schedule II controlled substance under provisions of § 44-53-375, *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)

INDICTMENT

COUNTY OF)

At a Court of General Sessions, convened on JUL 22 2010, the

Grand Jurors of County present upon their oath:

DISTRIBUTION OF CRACK COCAINE
WITHIN ONE-HALF MILE

That Charles Edward Copeland did in Spartanburg County on or about February 8, 2010, distribute, sell, purchase, manufacture, or unlawfully possess with intent to distribute, a quantity of Crack Cocaine, a schedule II controlled substance, while in, on, or within a one-half mile radius of the grounds of a public or private elementary, middle or secondary school, a public playground or park; a public vocational or trade school or a technical educational center; or a public or private college or university, to wit: Park Hills Elementary School, under provisions of §44-53-445 of *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended, such possession not having been authorized by law.

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


ASSISTANT SOLICITOR

WITNESSES

SPARTANBURG CITY PUBLIC SAFETY

[Signature]

SENTENCE MADE

2. REPORT ENTERED

3. CARD PULLED

Computer

ARREST WARRANT NUMBER

1421706

5. CHIEF CLERK SIGNATURE

7. ASSESSMENT AND FINE CARD MADE

8. TRAFFIC VIOLATIONS COPY

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: *7-22-10*

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO.

10-GS-42-320

The State of South Carolina

County of

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUL 26 2010

TERM

THE STATE
VS.

CHARLES EDWARD COPELAND

*7/26/10 - Nolle Proas - Spld
to other charges*

Judy D. Moore

Indictment for

DISTRIBUTION OF CRACK COCAINE
WITHIN ONE-HALF MILE OF SCHOOL
SC Code: 44-53-445

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2010 JUL 27 AM 9:21

M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF)

INDICTMENT


JUL 27 2010

At a Court of General Sessions, convened on _____, the
 Grand Jurors of County present upon their oath:

DISTRIBUTION OF CRACK COCAINE
WITHIN ONE-HALF MILE

That Charles Edward Copeland did in Spartanburg County on or about February 3, 2010, distribute, sell, purchase, manufacture, or unlawfully possess with intent to distribute, a quantity of Crack Cocaine, a schedule II controlled substance, while in, on, or within a one-half mile radius of the grounds of a public or private elementary, middle or secondary school, a public playground or park; a public vocational or trade school or a technical educational center; or a public or private college or university, to wit: Park Hills Elementary School, under provisions of §44-53-445 of *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended, such possession not having been authorized by law.

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


 ASSISTANT SOLICITOR

WITNESSES

PTBG CITY PUBLIC SAFETY

[Handwritten signature]

SENTENCE VERDICT

REPORT ENTERED

CARD PULLED

ARREST WARRANT NUMBER *Computer*

421707

6. CHECKED SIGNATURE

7. ASSESSMENT AND FINE

GRADE

8. TRAFFIC VIOLATIONS COPY

ACTION OF GRAND JURY

Have Bill

[Handwritten signature]

Representative of Grand Jury
Date: 7/22/10

VERDICT

Representative of Petit Jury
Date:

DOCKET NO. 10-53-42-3921

The State of South Carolina

County of

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

July 28 2010

TERM

THE STATE
vs.

CHARLES EDWARD COPELAND

7/26/10 - Nolle Proas

Spliced to other charges

Gary D. Moore

Indictment for

DISTRIBUTION OF CRACK COCAINE
WITHIN ONE-HALF MILE OF SCHOOL
SC Code: 44-53-445

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010 JUL 27 AM 9:21
M. HOPE BLACKLEY