

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Aiken County

R. Ferrell Cothran, Jr., Circuit Court Judge

RECEIVED

MAR - 7 2014

S.C. Supreme Court

TRAVIS MCKIE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-001490

APPENDIX

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STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

CIRCUIT COURT
2007-GS-02-1253 & 1254

STATE OF SOUTH CAROLINA,

-vs-

TRANSCRIPT OF RECORD

TRAVIS MCKIE,
Defendant.

Heard on Monday, June 15, 2009
Aiken, South Carolina

BEFORE:

THE HONORABLE DOYET A. EARLY, III

APPEARANCES:

Counsel on Behalf of the State:
David Miller, Esq.

Counsel on Behalf of the Defendant:
Michael Routzong, Esq.

Cheri L. Young, RPR
Circuit Court Reporter
P O Box 1154
Aiken, SC 29802-1154

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EXHIBIT INDEX

(NO EXHIBITS IDENTIFIED/INTRODUCED.)

1 ON MONDAY, JUNE 15, 2009 AT 12:06 P.M.:

2 MR. MILLER: Travis McKie.

3 (Defendant placed under oath.)

4 MR. MILLER: Your Honor, before the Court is
5 Travis Lee McKie. He is entering a plea today to two
6 indictments, indictment 2007-GS-02-1253 and indictment
7 2007-GS-02-1254.

8 This is a negotiated sentence by the State to a
9 cap of 15 years on the first indictment and on the second
10 indictment 20 years, suspended to five years of probation
11 to run consecutive to whatever active time he gets on the
12 first indictment.

13 THE COURT: All right. Where are the victims?

14 MR. MILLER: Your Honor, the victims have been
15 notified. In fact, they were under subpoena to be here.
16 This was a case that was for trial this week.

17 The victims were released from their subpoenas
18 after Mr. McKie indicated that he would plead. Well,
19 they're actually on standby. They haven't been released
20 from their subpoenas but they did not wish to be here.

21 THE COURT: What's the victims' opinions as to
22 the negotiations?

23 MR. MILLER: The victims were fine with the
24 negotiations, Your Honor. When we indicated he was going
25 to plead they didn't feel that it was important to show

1 up.

2 THE COURT: What kind of record does Mr. McKie
3 have?

4 MR. MILLER: Your Honor, in 1998 he has a grand
5 larceny and resisting arrest. He got 10 years suspended
6 to probation for two years.

7 March of '99, a CDV first.

8 June of '99, possession of a stolen vehicle for
9 which he received 10 years suspended to 30 days with the
10 balance suspended to five years of probation.

11 January of 2000, he has a soliciting
12 prostitution. September of 2000 resisting arrest. And
13 October of 2003, possession of a stolen vehicle for which
14 he was sentenced to a Youthful Offender Act, not to exceed
15 six years.

16 THE COURT: Substantial record but just sort of a
17 slap on the wrist?

18 MR. MILLER: Yes, Your Honor. No other violent
19 crimes.

20 THE COURT: Tell me a little bit about these
21 facts.

22 MR. MILLER: Your Honor, on October the 3rd of
23 2006 at approximately three p.m., there was a report of
24 shots fired in an area of Aiken, South Carolina called
25 Hahn Village. It's a residential area inside the City

1 limits of Aiken over by the Aiken High School.

2 Investigators got there and two people had been
3 shot. They were inside of a vehicle being driven by a
4 third person. That third person had left the area.

5 The investigators quickly started rounding up
6 witnesses that had seen and heard what happened. One of
7 the witnesses was able to positively identify Mr. McKie as
8 well as give police a partial license plate from his
9 vehicle which was a blue Chevrolet. It was a royal blue
10 or kind of electric blue Chevrolet.

11 Officers got -- took a photo lineup to the two
12 people who had been shot. They were both able to pick
13 Mr. McKie out of a photo lineup the next day. One was
14 shot in his left arm. The other was shot in his right
15 arm, and they were both back seat passengers in a car.

16 The forensics at the scene indicated that
17 Mr. McKie had started shooting a .40 caliber High Point
18 handgun as he was driving his car away and basically hit
19 the driver's side of the other car, and also hit the
20 passenger side of the other car.

21 There were several shell casings that were
22 recovered from the scene. Five, in fact. Five .40
23 caliber Smith and Wesson shell casings were recovered from
24 the scene.

25 About six hours later the car was found abandoned

1 about a half-mile away. And inside the car they found
2 three more .40 caliber Smith and Wesson shell casings
3 where the gun was ejected into the car. SLED confirmed
4 that all the shell casings were from the same -- fired
5 from the same weapon but the weapon was never recovered.

6 There were no independent reports of any other
7 gunshot. It wasn't like an exchange of gunfire. It was
8 basically one person shooting at the other people in that
9 car.

10 THE COURT: What was the reason?

11 MR. MILLER: Your Honor, frankly we'd never
12 gotten to the point of the reason why the shots started
13 getting fired in the first place.

14 THE COURT: Drug deal going bad? Robbery?

15 MR. MILLER: Not -- no, sir. The two vehicles
16 were parked facing in opposite directions, according to
17 the witness testimony. And, in fact, Mr. Stephen Pope and
18 Mr. Wallace Smith who were the victims were shot, said
19 they never met Mr. McKie before. They didn't know him.

20 THE COURT: Just cold-blooded shooting, no
21 reason, no rhyme, no nothing?

22 MR. MILLER: No, sir. We believe that there was
23 some confrontation between Mr. McKie and the driver of the
24 other vehicle, Mr. Iban Ali (phonetically). He has been
25 uncooperative with investigators from the beginning but he

1 wasn't the one that got shot. He was the one that got
2 shot at. Mr. Pope and Mr. Smith were much more
3 cooperative with our efforts.

4 THE COURT: Mr. Routzong, you represent Travis
5 McKie in these two indictments, 07-GS-02-1253 and 1254.
6 They're both indictments for assault and battery with
7 intent to kill. They, both indictments are classified as
8 most serious, carry up to 20 years in the State Department
9 of Corrections.

10 Have you advised your client of these charges,
11 the possible punishment, his right to trial by jury, the
12 classification of most serious and violent?

13 And this is an 85 percent?

14 MR. MILLER: It is, Your Honor.

15 THE COURT: 85 percent, no parole type sentence.
16 Constitutes his first strike. I would assume?

17 MR. MILLER: It is, Your Honor.

18 THE COURT: I would assume. Have you advised
19 your client of all of those conditions and facts
20 concerning this matter?

21 MR. ROUTZONG: Yes, sir.

22 THE COURT: And in your opinion does he
23 understand it?

24 MR. ROUTZONG: Yes, sir.

25 THE COURT: And how does he indicate to you he

1 wishes to plead?

2 MR. ROUTZONG: Guilty, Your Honor.

3 THE COURT: Do you agree with that?

4 MR. ROUTZONG: Yes, sir.

5 THE COURT: And you've heard the solicitor talk
6 about the negotiations. Is that in fact your
7 understanding of the negotiations?

8 MR. ROUTZONG: Yes, sir.

9 THE COURT: Mr. McKie, you stand before me on two
10 indictments. Both of them for, indictments for assault
11 and battery with intent to kill. Both of those
12 indictments carry up to -- Mr. Mert, just ask that young
13 man to step out. He can't listen to you ...

14 (Pause.)

15 Both of those indictments carry up to 20 years in
16 the State Department of Corrections. Do you understand
17 that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Both of them are classified as
20 violent which may have some effect on your incarceration.
21 Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Both of them are classified as most
24 serious which means that once you get out of being
25 incarcerated if you become involved in illegal activity

X

1 that's classified as most serious, that would be two
 2 strikes and you would be subjecting yourself to life in
 3 prison without the possibility of parole. Do you
 4 understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Likewise, if you become involved in
 7 criminal activity that is classified as serious on two
 8 more occasions with this most serious, that would be three
 9 strikes there and you would also be subjecting yourself to
 10 life in prison without the possibility of parole. Do you
 11 understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you further understand that this
 14 is what we call a no parole 85 percent sentence of
 15 whatever I give you, you will receive 85 percent?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: That when you're released from
 18 incarceration, you'll be released to a community
 19 supervision program. Do you understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you have any questions you want to
 22 ask me about that?

23 THE DEFENDANT: No, sir.

24 THE COURT: Do you further understand there have
 25 been negotiations between your lawyer and the State. The

1 State has told me that they have reached a negotiation.
2 with your lawyer that on one of these cases there will be
3 a cap of 15 years. I would not exceed 15 years.

4 And the other one is a 20-year sentence suspended
5 to five years of probation. And that would run
6 consecutive to the first sentence.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you understand what that means?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: So what it means is if I give you 15
11 years you'll do 85 percent of that. Once you finish that,
12 then you'll start the 20-year sentence which I'll suspend
13 and put you on probation for five years.

14 If you violate the terms of your probation then
15 you'll be looking at 20 additional years in the State
16 Department of Corrections. Do you understand all of
17 that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Now, understanding what you're
20 charged with, the possible punishments, the classification
21 of violent, classification of most serious, the fact that
22 it's a no-parole sentence and you'll do 85 percent,
23 understanding all of that -- and do you understand all of
24 that?

25 THE DEFENDANT: Yes, sir

1 THE COURT: Understanding all of that, sir, how
2 do you wish to plead, not guilty or guilty?

3 THE DEFENDANT: Guilty, sir.

4 THE COURT: And, Mr. McKie, when you plead guilty
5 you give up certain of your constitutional rights. The
6 first is your right to remain silent. You will have to
7 admit what is alleged in these indictments. Do you
8 understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: The second is your right to a trial
11 by jury. Obviously if you pled not guilty and demanded a
12 jury trial, the State would give you one. In fact,
13 they're ready, willing and able to start tomorrow
14 morning.

15 During that trial you would have the right to
16 confront and cross-examine everyone who testified against
17 you. You would have the right to present your own case,
18 your own defense by calling witnesses on your behalf,
19 introducing relevant exhibits, and testifying in your own
20 behalf if you chose to do so.

21 If you chose to exercise your constitutional
22 right to remain silent, then I would tell the jury they
23 could not hold the fact that you did not testify against
24 you in any manner whatsoever. In fact, I would instruct
25 them that they could not even consider the fact that you

X

1 did not testify when they deliberated your guilt or
2 innocence.

3 You would be presumed innocent throughout the
4 trial and the State of South Carolina would have the
5 burden of proving you guilty beyond a reasonable doubt to
6 a jury of 12 people.

7 And in order for that jury to convict you all 12
8 people would have to unanimously agree that you were in
9 fact guilty. And even if you were convicted, you would
10 still have the right to an appeal.

11 And do you understand your rights to trial by
12 jury?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Understanding your rights to trial by
15 jury, do you still wish to plead guilty or do you want me
16 to set this case for trial tomorrow?

17 THE DEFENDANT: Plead guilty, sir.

18 THE COURT: Plead guilty?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Other than the negotiations which
21 you've heard me mention and which you say you understand,
22 has anybody promised you anything, held out any hope of
23 reward or threatened you in any manner in order to make
24 you plead guilty?

25 THE DEFENDANT: No, sir.

1 THE COURT: You're represented by Mr. Routzong.
2 Are you satisfied with his representation?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: In your opinion has he had enough
5 time to spend with you so that he can investigate the
6 facts, research the law, and spend enough time with you so
7 that he can properly defend you here today?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Is there anything else you wish for
10 him to do for you today before we proceed other than speak
11 up on your behalf? *

12 THE DEFENDANT: No, sir.

13 THE COURT: And I ask you again: Are you totally
14 and completely satisfied with his legal advice and his
15 legal representation? *

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Sir, are you today under the
18 influence of any alcoholic beverages, drugs or
19 prescription medication?

20 THE DEFENDANT: No, sir.

21 THE COURT: Sir, are you today aware of any
22 mental, nervous or emotional condition which would keep
23 you from understanding my questions?

24 THE DEFENDANT: No, sir.

25 THE COURT: Have you understood everything I've

1 asked you?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Have you understood your
4 conversations with your lawyer?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you have any questions to this
7 point?

8 THE DEFENDANT: No, sir.

9 THE COURT: It is alleged in indictment 254, both
10 of which have been true billed, and 253, that in Aiken
11 County on or about October 3 of the year 2006 that you
12 committed an assault and battery with malice aforethought
13 against one Wallace Smith and one Stephen Pope in that you
14 did shoot them with a handgun.

15 Is that what you're pleading guilty to?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Is that what you did?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: In doing that, you know you broke the
20 law?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Are you guilty of breaking the law?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And are you guilty of assault and
25 battery with intent to kill?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. Mr. McKie, I find your
3 decision to plead guilty to both indictments to be freely,
4 voluntarily and intelligently made. You've had the
5 representation of a competent lawyer, Mr. Michael
6 Routzong, with whom you tell me you're satisfied and I
7 will accept your plea.

8 If you disagree with my sentence today or these
9 proceedings, you have 10 days from today's date to file a
10 notice of intent to appeal. Do you understand that right
11 of appeal?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Anything else you need to add,
14 Mr. Miller?

15 MR. MILLER: Nothing, Your Honor.

16 THE COURT: Mr. Michael Routzong?

17 MR. ROUTZONG: May it please the Court. He's 29
18 years old, a resident of Aiken and he has two children,
19 Your Honor.

20 Not by way of arguing any kind of defense to
21 these actions but to put it in context, there are a couple
22 of things that are different from the account that the
23 solicitor gave you based on what Mr. McKie said happened.

24 And some of it has been verified, in fact. For
25 example, in the incident report there's no mention of a

1 fourth person in the car that Mr. McKie knew by the name
2 Oodie (phonetically). Mr. Miller verified with the
3 victims in fact there was fourth person that they never
4 told law enforcement about. Mr. McKie said that fourth
5 person presented a gun or at least made Mr. McKie aware
6 that there was a gun.

7 Mr. McKie said that these folks flagged him
8 down. He had gone to Hahn Village to visit his baby's
9 mama.

10 THE DEFENDANT: Yes, sir.

11 MR. ROUTZONG: And that was the only reason that
12 he was in the village. He wasn't looking for trouble
13 although he was armed and he shouldn't have been.

14 She wasn't home. He began to leave. As he's
15 leaving, these folks flag him down. He slows down, he
16 sees the gun produced by this gentleman named Oodie. I
17 think we've actually learned who that is, but -- Nathaniel
18 Stooks I believe is his name.

19 Mr. McKie starts driving away. Mr. McKie's
20 account is that Iban Ali puts the car in reverse and
21 begins to back up. At that point he believes he's going
22 to be fired upon because this person Oodie apparently has
23 some kind of dispute with him about a woman that he
24 thought Mr. McKie was seeing.

25 And that was the basis of the -- it's wrong. I'm

1 not trying to argue this as a defense, but there's a
2 context that's lacking. It's not cold blooded. It's, he
3 was going to take action before they, what he felt that
4 they had chance to do to him. That's his side of the
5 story, Your Honor.

6 Like I said, it's not a defense. But it is
7 curious that these folks did leave out the fourth person
8 who was in the car. And that has subsequently been
9 verified. So that does corroborate his side of the story,
10 Your Honor.

11 He knows this was -- it's awful. There's no
12 other word for it. It's stupid. It's awful. It's
13 reprehensible and it was dangerous. Someone else could
14 have been killed and he knows that. That's why he's here
15 today asking for mercy from the Court.

16 He's been in jail, Your Honor, for 611 days on
17 these charges. And I'd ask the Court to take that into
18 consideration. I don't think it was -- I don't think it
19 was just capricious. He had a reason. It was a bad one.
20 He was armed, he shouldn't have been armed.

21 In light of the fact he does have 611 days in,
22 I'd ask you to take that into consideration.

23 THE COURT: Thank you, Mr. Routzong. You've done
24 a good job in getting the negotiations that culminated in
25 this plea.

1 Mr. McKie, anything you want to tell me?

2 THE DEFENDANT: Yes, sir. Sir, I know what I did
3 was wrong, sir. I just -- I feel like my life was in
4 danger. I made bad a decision, sir, which I'm willing to
5 accept the consequences for, sir.

6 So, I'm at the mercy of the Court. I just want
7 to apologize to the families, to the victim, and my family
8 for all the pain and grief. I'm just at the mercy of the
9 Court, sir.

10 THE COURT: All right, sir. Thank you.

11 Well, you have a right substantial prior record.
12 You never really got punished a whole lot on it. Maybe if
13 you had you would have been a little more careful, a
14 little more thoughtful.

15 You're lucky you're not sitting here for murder
16 or you'd be going to jail for the rest of your life, you
17 could be.

18 MR. ROUTZONG: Your Honor, by the way, I
19 neglected to mention that his mother and father are here
20 in court in support of him as well.

21 THE COURT: Okay. Dad, where is his dad? Where
22 is his mom?

23 MR. ROUTZONG: She was in the court. She might
24 have had to step out.

25 THE COURT: Anything you want to tell me,

1 Father? Your name?

2 THE FATHER: My name's (inaudible), Jr., sir. I
3 can't talk. My son, he's a good child. And I know he's a
4 good child. I know he, what he did was wrong. And just
5 if you give him a chance, Your Honor, I know he can be a
6 better man. Thank you.

7 THE COURT: Thank you.

8 All right. Mr. McKie, SENTENCE OF THE COURT IN
9 INDICTMENT 07-GS-02-01254, AN INDICTMENT FOR ASSAULT AND
10 BATTERY WITH INTENT TO KILL, THE SENTENCE OF THIS COURT IS
11 YOU BE COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS
12 FOR A PERIOD OF 15 YEARS. YOU'LL BE GIVEN CREDIT FOR THE
13 TIME SERVED TO DATE.

14 AS TO INDICTMENT 07-GS-02-1253, THE SENTENCE OF
15 THIS COURT IS YOU BE COMMITTED TO THE STATE DEPARTMENT OF
16 CORRECTIONS FOR A PERIOD OF 20 YEARS.

17 I'LL SUSPEND THAT AND PLACE YOU ON PROBATION FOR
18 FIVE YEARS. THAT SENTENCE RUNS CONSECUTIVE TO 07-GS-02-
19 01254. THE CONDITIONS OF PROBATION ARE THAT YOU PAY THE
20 PUBLIC DEFENDER FEE, RANDOM ALCOHOL AND DRUG TESTING,
21 SUBSTANCE ABUSE COUNSELING, AND I WILL LIFT THE BENCH
22 WARRANT.

23 Good luck to you.

24 MR. ROUTZONG: Thank you, Your Honor.

25 MR. MILLER: Thank you, Your Honor.

1 END OF PROCEEDINGS: 12:53 P.M.

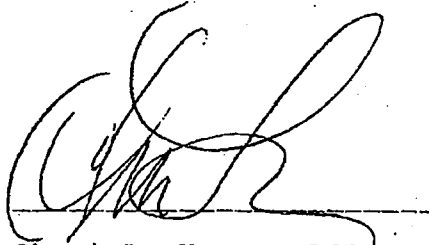
2 * * * *

3 CERTIFICATE OF REPORTER

4 I, Cheri L. Young, Registered Professional Reporter,
5 and Official Court Reporter for the State of South
6 Carolina, do hereby certify that the foregoing transcript
7 of proceedings heard on Monday, June 15, 2009, in Aiken,
8 South Carolina, was reported by me using machine shorthand
9 and realtime computer-aided translation and is a true,
10 accurate and complete transcript of the proceedings had
11 and evidence introduced in the hearing of the matter.

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

14 I have hereunto set my hand this Friday, the 11th day
15 of June, 2010.



16
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19 Cheri L. Young, RPR
20 Official Court Reporter
21
22
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I 089177
089178

2010-P-02-01256
2007-GS-02-1253-1254

STATE OF SOUTH CAROLINA

County of Aiken

In the Court of Common Pleas Aiken County 445
An Act of 10/10/09 4-011

Filed 5/27/2010
Deputy Clerk: [Signature]
Trial Judge: [Signature]
Trial Atty: [Signature]
Court Reporter: [Signature]
Sec. PCR Practitioner: [Signature]
General Sessions: [Signature]
Appointed Atty: [Signature]

Travis Lee McKie #296831
Full name and prison number (if any) of Applicant.

vs.

Attorney General office
Name of Respondent.

Respondents

**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 it clear to which question any such continued answer refers.

Since every application must be sworn to 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 applicant was convicted.

1. Place of detention McCormick Correctional 386 Redemption Way
McCormick, S.C. 29899
2. Name and location of Court which imposed sentence Aiken County Courthouse
Court of General Sessions
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) 2007-GS-02-1254
 - (b) 2007-GS-02-1253
 - (c) _____
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) June 15, 2009 (15) YEARS Consecutive Sentence;
 - (b) AND (20) YEARS SUSPENDED (5) YEARS PROBATION.
 - (c) _____

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Liz Godard, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this

JUN 18 2010

[Signature]
Clerk of Court
[Signature]
Deputy Clerk

5. Check whether a finding of guilty was made

(a) after a plea of guilty yes

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

N/A

7. If you answered "yes" to (6), list

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

i. N/A

ii. _____

iii. _____

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

i. N/A

ii. _____

iii. _____

(c) the date of each such result:

i. N/A

ii. _____

iii. _____

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

i. N/A

ii. _____

iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

(a) Counsel did ^{not} inform me that I had right appeal.

(b) _____

(c) _____

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

(a) Ineffective Assistance Counsel.

(b) _____

(c) _____

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

(a) see Attachment

(b) _____

(c) _____

11. Prior to this application have you filed with respect to this conviction

(a) any petition in a State Court under South Carolina Law? N/A

(b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? N/A

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? N/A

(d) any other petitions, motions or applications in this or any other Court? N/A

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. N/A

ii. _____

iii. _____

iv. _____

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

i. N/A

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. N/A

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. N/A

ii. _____

iii. _____

iv. _____

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

i. N/A

ii. _____

iii. _____

iv. _____

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

N/A

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. N/A
- ii. _____
- iii. _____

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

- i. N/A
- ii. _____
- iii. _____

15. If any ground set forth in (9) 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) N/A
- (b) _____
- (c) _____

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

- (a) your arraignment and plea? Yes
- (b) your trial, if any? _____
- (c) your sentencing? _____
- (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? _____

17. If you answered "yes" to one or more parts of (16), list:

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

- i. Michael D. Rutzong, esq. Defender Corporation of Aiken County 410 Barnwell Avenue N.W. Post Office Box 2247 Aiken SC 29802
- ii. _____
- iii. _____

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

- i. Guilty Plea
- ii. _____
- iii. _____

18. State clearly the relief you seek in filing this application.

Vacate sentence and have my sentence correct from consecutive (15) years to concurrent sentence.

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

N/A

STATE OF SOUTH CAROLINA

VERIFICATION

County of McCormick

I, Travis McKie, 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.

[Signature]

SWORN to and subscribed before me this 21

day of May, ~~19~~ 2016

[Signature] (L.S.)
Notary Public

My Commission Expires: Jul 28, 2018

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

I, Travis McKie, 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 therefor.

[Signature]
Applicant

SWORN or affirmed to and subscribed before me this

21 day of May, ~~19~~ 2016

[Signature]
Notary Public

My Commission Expires Jul 28, 2018

Travis Lee McKie # 296831
386 Redemption Way
McCormick Corr Inst
McCormick, S.C. 29899

Date MAR 20th 2010

CASE NOT

Dear Honorable Clerk of Court;
Liz Godard;

Please find the original copy of
Post-Conviction Relief Application
Request to be filed into the clerk
of Court Request a clocked-date
stamped copy, and returned a
certify copy to me at the above
address.

C.C: T.L.M;
C.C: A.G.O;
C.C: C.C.L.G;

Respectfully
submitted

Travis Lee McKie

Liz Godard
Clerk of Court
P.O. Box 583
Aiken, S.C. 29802-0583

Travis L McKie #296831
 386 Redemption Way
 McCormick Corr ~~inst~~
 McCormick, S.C. 29899

Date ~~MAY 24~~ ^{5/27} 2010

WARRANT Ticket K-065821 & K-065822

Dear Honorable Mr. Gaddard:

Please find my Request! could
 you please check your databased
 to see did the solicitor dismiss
 these case number with prejudice!
 If you will please submit to
 me a certified copy.

Respectfully
 submitted

Travis L. McKie

" P.S. Could you please " "
 submit to me Ms. Cheryl
 Young Cant Reporter
 address:

State of South Carolina | IN The Court of Common
County of Aiken | Pleas

TRAVIS McKie
Applicant

IN support of memorandum
of Law Post-Conviction
Relief

VS

State of South Carolina |
Respondent

CASE NOTE

2010-CP-02-01256

To Respondent:

Now comes the applicant's before this
Honorable Court under S.C. Code Ann § 17-27-10.

Statement of Facts

At A Court of General Sessions, convened
on July 23, 2007, the Grand Jurors of Aiken
County present upon their oath;

Applicant Pled guilty to (2) Count(s) of
ASSAULT AND BATTERY with intent to Kill
Docket Note 2007-GS-02-1254; And Docket
Note 2007-GS-02-1253; Applicant was sent
ence to (20) YRS negotiated ~~5~~ ¹⁵ YRS
consecutive on both charges:

Deputy Clerk

Argument: I

Counsel was ineffective assistance when he failed to file the notice for a direct appeal:

A criminal defendant has a constitutional right to be fully aware of the steps necessary to perfect an appeal. Moreover, in the absence of an intelligent waiver by the defendant to pursue an appeal in his behalf a belated appeal should be granted, in which the statute of limitation does not apply GARNER v state 636 S.E.2d 860 (2006).

The Fourth Circuit Court of Appeals was held that an attorney has a duty in all cases to advise of the right to appeal after a guilty plea. It has also recognize that extraordinary circumstances might establish that the ~~omission~~ omission of advice actually denied a defendant due process of law. Curry v Levelette 605 F2d 745 (4 Cir. 1979).

Furthermore, the United States Supreme Court provides better practice is for counsel rout-

inely to consult with defendant regarding of appeal. The Federal Constitution impose one general requirement; that counsel make objectively reasonable choices." The purpose of the effective assistance guarantee of the sixth Amendment is not to improve the quality of representation; ... but rather simply to ensure that criminal defendant receive their constitutional rights "Boe v Flores - 02-1029 120 Sct. 1029 (2002).

Therefore, when the issues that are presented in this application are examined in the light of the South Carolina Constitution and the Federal Constitution they will manifest that pursuant to these circumstance the applicant rights that is protected by the 14 amendment qualifies him for a belated appeal.

ISSUES II

Applicant was mentally incompetent at the time of the Assault and Battery with intent to kill in 2008, And at the time of the guilty plea in June 15, 2009, And was allowed to plead guilty in violation of South Carolina Constitution, United

States Constitution, and the Federal Constitution's fourteenth Amendment Due process clause. Incorporated into to Allegation is that Applicant was denied effective assistance of counsel and Due process of law At his 2009, Guilty Pled for Assault And Battery with intent to Kill, because he was mentally incompetent At the time of these [CRIMES in 2006 And At the 2009 Guilty Pled.

Due process (4) prohibits the conviction of a person who is mentally incompetent. Bishop v United States 350 U.S. 981, 76 Sct. 440, LEd 835 (1955) "This constitutional right cannot be waived by the incompetent by guilty Plea or otherwise ...," Carroll v Betts 421 F2d 1065, 1067 (5th Cir 1970)

While a guilty Plea may be only Attacked on the basis that it was not knowing and Voluntary, ~~It~~ is contradictory to Argue that and a defendant may be incompetent, 'waive his right [s]'. Pate v Robison 383 U.S. 375, 384, 86 S.Ct. 836

841 15 LE2d 815 1966). Pate v Robinson
383 U.S. 375 86 S.Ct. 836 15 L.E2d 815
1966), makes it clear that the conviction
of an accused person who is not
mentally competent to stand trial violates
due process. This constitutional right
cannot be waived by the incompetent by
guilty plea or otherwise - and thus it must
be protected by adequate state procedures.

xxx when a prisoner, either state
or federal, seeking post conviction relief,
asserts with substantial fact to back up
his allegation that at time of the guilty
plea he was not mentally competent to
stand trial, and that there was no res-
olution of that precise issue before he
was tried, convicted and sentenced, the
protection of the fourteenth Amendment
to the constitution requires that such
conviction and sentence be set aside
unless upon adequate hearing it is shown
that he was mentally competent to stand

trial" (386 F2d at 105) see Adams v Wainwright 764 F2d 1356 as a matter of procedural due process criminal defendant is entitled to an evidentiary hearing on claim of mental incompetency. If he present clear and convincing evidence to create a real, substantial and legitimate doubt as to his mental capacity to meaningfully participate and cooperate with counsel.

Petitioner's claims of incompetency to stand trial, insanity at time of act, and an unknowing and involuntary guilty plea were not barred by the procedural default rule of Wainwright v Sykes cited at Horace v Wainwright 781 F2d 1558 11th Cir, 1986.

The petitioner's alleges his counsel was ineffective for failing to request a mental examination which may have formed the basis of an insanity defense or a determination that he was not competent to stand trial cite at Setzer v State cite as 417 S.E.2d 594 (S.C., 1992).

ISSUES Three

Pleas was involuntarily made and without full knowledge of the consequences he faced.

In order for defendant to knowingly and voluntarily Plead guilty, defendant must have full understanding of consequences of his Plea and the charges against him. Dove v state 405 S.E2d 391 (S.C. 1991).

Moreover, Applicant rely entirely on the claim that his plea was "involuntary" as a result of the erroneous information concerning the consequences of the alleged time he will be incarcerated.

It is necessary, to focus on the "Plea Statement" (sentencing sheet) in this case. The statement is a standardized form to be completed by defense counsel, in consultation with his client, and then submitted to the court for con-

30

sideration. The form call for the insertion of specific information by the court in appropriate spaces. Therefore, there is no room for misidentification as to who committed the error.

Pursuant to S.C. Code Ann § 24-13-150, in which mandates that all crimes that carries a sentence of twenty (20) years or more must serve eighty-five percent (85%) of the actual term of imprisonment imposed.

However, Applicant's sentencing sheets indicates that he was sentenced to twenty (20) years and upon the service of fifteen (15) years the balance is suspended with probation for (5) years.

The trial Judge has a duty to make sure the defendant has a full understanding of what the cannotes and of its consequences, and without doing so it cannot be said that the was voluntarily made. Boykin v Alabama, 395 U.S. 238 (1964).

395 U.S. 283 (1964).

Furthermore, to find that a guilty Plea is Voluntary and knowingly entered into, the record must establish the fact that the defendant had full understanding of the consequences of his Plea and the charges against him. Stalk v State 652 SE2d 402 (S.C. 2007).

Due to S.C. Code of Law Ann § 17-25-50
Considering closely connected offense as one offense.

Applicant in this case commit both these charges on the same day October 3, 2006, for two (2) counts of Assault and Battery with intent to Kill, And the trial Judge during this guilty Plea order that (2) counts of Assault and Battery with intent to Kill, be Consecutive (15) years sentence each.

The General Assembly adopted in the case of habitual offender Boyd's thesis that where a conviction on two or more counts arising out of acts committed in the course of a single incident has been entered, the conviction should count as only one for the purpose of sentence-

ng, in a subsequent separate conviction
S.C. Code 17-25-50, (1976) provides

In determining the number offenses
for the purpose of imposition of sent-
ence the court shall treat as one offense
any number of offense which have been
committed at times so closely connected
in point of time that they may be con-
sidered as one offense not withstanding
under the law they constitute separate
and distinct offense cite *State v Boyd*
341 SE2d 144 S.C. App (1986).

ISSUES: FOUR

Counsel was ineffective assistance failing
to interview victim witness Stephen
Pope regarding Assault and Battery
with intent to Kill charge.

Applicant's admit that if Counsel
had interview victim witness in this
case, he would not Pled guilty and would
went trial because there was evidence
state by the victim witness that the

defendant did not committ these crimes:

cite Holmes v South Carolina 574 U.S. (2006), The rule applied in this case is no more logical than its converse would be, i.e., a rule barring the prosecution from introducing evidence of a defendant's guilt if the defendant is able to proffer, at a pretrial hearing, evidence that, if believed, strongly supports a verdict of not guilty. In the present case, for example, the petitioner proffered evidence that, if believed, squarely proved that white, not petitioner, was the perpetrator. It would make no sense, however, to hold that this proffer precluded the prosecution from introducing its evidence, including the forensic evidence that, if credited, provided strong proof of the petitioner's guilt.

cite Strickland v Washington 466 U.S. 668, 104 S.Ct. 2052, 80 LEd2d 674 (1984) Applicable to guilty Plea under Hill v Lockhart 474 U.S. 52 106 S.Ct. 366, 88 both deficient performance and prejudice to of counsel claim:

Conclusion

Wherefore the applicant 14th Amendment
in violation of Due process, and Amen-
dment of ineffective assistance counsel
under standard Strickland v. Washington
And A Evidentiary hearing should be
held.

Date JUNE, 23 2010

[Signature]

SWORN OR AFFIRMED TO AND SUBSCRIBED BEFORE ME THIS

23 DAY OF June 2010

[Signature]
(NOTARY PUBLIC)

MY COMMISSION EXPIRES Feb 28, 2018

6-28-10
[Stamp/Signature]

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS

2010-CP-02-1256

Travis McKie, #296831,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

RETURN
(Appointment of Counsel Requested)

The Respondent, making its Return to the application for post conviction relief (PCR) filed May 27, 2010, 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 Aiken County Clerk of Court. The Applicant was indicted for two counts of Assault and Battery with Intent to Kill ("ABWIK") (2007-GS-02-1253 & 1254). Applicant was represented by Michael Routzong, Esquire. On June 15, 2009, the Applicant pled guilty before the Honorable Doyet A. Early, III. Applicant was sentenced to one term of twenty (20) years (2007-GS-02-1253) and a consecutive term of fifteen (15) years (2007-GS-02-1254). Applicant did not appeal his conviction and sentence.

Attached herewith and incorporated herein are the records of the Aiken County Clerk of Court regarding the subject conviction, 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.¹

Applicant has failed to set forth any facts in support thereof. S.C. Code §17-27-50. Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCP.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his 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).

¹ Applicant fails to set forth specific grounds in his application. The application says "see attachment," but no attachment states any facts in support of his allegation.

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.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

V.

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

[Signature on next page.]

Respectfully submitted,

HENRY D. McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MARY S. WILLIAMS
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Nov. 17, 2010

STATE OF SOUTH CAROLINA)
)
 COUNTY OF AIKEN)
)
)
)
 TRAVIS MCKIE, 296831)
)
 Applicant,)
)
 vs)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS

2010-CP-02-01256

AFFIDAVIT OF SERVICE BY MAIL

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

Joan E. Smith, Esquire
The Law Offices of Mirshak & Smith
1210 Wachovia Bldg.
699 Broad St.
Augusta, GA 30901-1561

DATED this 17th day of November, 2010.

Lauren Meara
 Lauren Meara, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

IN THE SECOND JUDICIAL CIRCUIT
COURT OF COMMON PLEAS
CASE NO. 2010-CP-02-0256-01254

TRAVIS LEE MCKIE,)

Applicant,)

v.)

STATE OF SOUTH CAROLINA,)

Respondent.)

COPY
ORIGINAL FILED
JUL 11 2011 *Bob Oak*

AIKEN COUNTY
CLERK OF COURT

**AMENDMENT TO PETITION FOR
POST CONVICTION RELIEF**

NOW COMES the Applicant, Travis Lee McKie, and amends his Application for Post Conviction Relief as follows:

1. The Applicant filed his Application for Post Conviction Relief on June 18, 2010, a copy of which application is attached hereto as Exhibit "A."
2. The hearing on the Applicant's Petition is presently set for Thursday, July 14, 2011.
3. The Applicant entered into a plea agreement and is alleging that he would not have entered the plea agreement if his counsel had interviewed his witness, namely: Stephen Pope. Mr. Pope is presently incarcerated in the Manning Correctional Institute. Mr. Pope's SCDC ID # is 00337199 and his SID # is SC 01544284.
4. The Applicant alleges that Mr. Pope had crucial information concerning the allegations against the Applicant.

5. The Applicant alleges that had his counsel interviewed Stephen Pope that this information would have bolstered his case and provided an alibi, and that the Applicant would not have pled guilty.

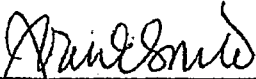
6. The Applicant alleges that he requested his counsel to interview Mr. Pope and that counsel did not do so.

7. The Applicant shows that he intends to call Mr. Stephen Pope as a witness so that Mr. Pope may testify as to the knowledge he had concerning this matter.

WHEREFORE, the Applicant prays:

- a. that Applicant's Petition for Post Conviction Relief be amended as set out herein; and
- b. for such other and further relief as is just and proper.

This, the 6 day of July, 2011.



 JOAN E. SMITH
 SC Bar No. 4008
 Attorney for Applicant

LAW OFFICES OF MIRSHAK & SMITH
 1210 Wells Fargo Building
 699 Broad Street
 Augusta, GA 30901
 Tel. (706) 722-1551

I 089177
089178

2010-10-01 01256
2007-02-12 1253, 1254

Filed 6/18/10

STATE OF SOUTH CAROLINA

County of Aiken

In the Court of Common Pleas and General Sessions
Aiken County, S.C.
Deputy Clerk: [Signature]
Trial Judge: [Signature]
Trial Atty: [Signature]
Court Reporter: [Signature]
Sec: PCR, Petitioner, [Signature]
General Sessions, Atty. Gen.
Appointed Auxy, [Signature]

Travis Lee McKie #296831
Full name and prison number (if any) of Applicant.

vs.

Attorney General Office
Name of Respondent.

Respondents

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 it clear to which question any such continued answer refers.

Since every application must be sworn to 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.

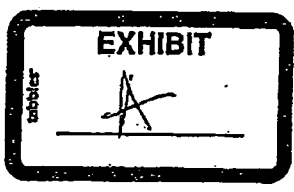
If the application is taken *in forma pauperis*, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to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

- Place of detention McCormick Corr Inst 386 Redemption Way McCormick, S.C. 29899
- Name and location of Court which imposed sentence Aiken County Courthouse Court of General Sessions
- The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - 2007-GS-02-1254
 - 2007-GS-02-1253
 -
- The date upon which sentence was imposed and the terms of the sentence:
 - June 15, 2009 (15) YEARS Consecutive Sentence
 - AND (20) YEARS SUSPENDED (5) YEARS PROBATION
 -

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Liz Godard, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this

JUN 18 2010

[Signature]
Clerk of Court, Aiken County, S.C.
[Signature]
Deputy Clerk



- 5. Check whether a finding of guilty was made
 - (a) after a plea of guilty YES
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere _____

6. Did you appeal from the judgment of conviction or the imposition of sentence?
N/A

- 7. If you answered "yes" to (6), list
 - (a) the name of each Court to which you appealed:
 - i. N/A
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. N/A
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. N/A
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. N/A
 - ii. _____
 - iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:
 (a) Counsel did ^{not} inform me that I had right appeal.
 (b) _____
 (c) _____

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
 (a) Ineffective Assistance Counsel.
 (b) _____
 (c) _____

10. State concisely and in the same order the facts which support each of the grounds set out in (9):
 (a) see Attachment
 (b) _____
 (c) _____

11. Prior to this application have you filed with respect to this conviction
- (a) any petition in a State Court under South Carolina Law? N/A
 - (b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? N/A
 - (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? N/A
 - (d) any other petitions, motions or applications in this or any other Court? N/A

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
 - i. N/A
 - ii. _____
 - iii. _____
 - iv. _____
 - (b) the name and location of the Court in which each was filed:
 - i. N/A
 - ii. _____
 - iii. _____
 - iv. _____
 - (c) the disposition thereof:
 - i. N/A
 - ii. _____
 - iii. _____
 - iv. _____
 - (d) the date of each such disposition:
 - i. N/A
 - ii. _____
 - iii. _____
 - iv. _____
 - (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
 - i. N/A
 - ii. _____
 - iii. _____
 - iv. _____

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

N/A

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. N/A
- ii. _____
- iii. _____

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

- i. N/A
- ii. _____
- iii. _____

15. If any ground set forth in (9) 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) N/A
- (b) _____
- (c) _____

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

- (a) your arraignment and plea? Yes
- (b) your trial, if any? _____
- (c) your sentencing? _____
- (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? _____

17. If you answered "yes" to one or more parts of (16), list:

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

- i. Michael D. Rautzong, esq. Defender Corporation of Aiken County 410 Barnwell Avenue N.W. Post Office Box 2247 Aiken SC, 29802.
- ii. _____
- iii. _____

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

- i. Guilty Plea
- ii. _____
- iii. _____

18. State clearly the relief you seek in filing this application.

Vacate sentence and have my sentence correct from consecutive (15) years to concurrent sentence.

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

N/A

STATE OF SOUTH CAROLINA

VERIFICATION

County of McCormick

I, Travis McKie, 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.

[Signature]

SWORN to and subscribed before me this 21

day of May, 192010

[Signature] (L.S.)
Notary Public

My Commission Expires: July 28, 2018

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

I, Travis McKie, 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 therefor.

[Signature]
Applicant

SWORN or affirmed to and subscribed before me this

21 day of May, 2010

[Signature]
Notary Public

My Commission Expires July 28, 2018

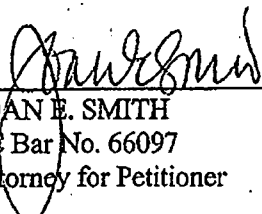
CERTIFICATE OF SERVICE

This is to certify that I have, prior to filing, served a copy of the within and foregoing Amendment to Petition for Post Conviction Relief on the following:

Mary S. Williams, Esq.
 Assistant Attorney General
 Office of the Attorney General of South Carolina
 P. O. Box 11549
 Columbia, SC 29211-1549

by depositing a conformed copy of same in the United States Mail with the proper postage affixed thereto, to insure the proper delivery thereof.

This, the 6 day of July, 2011.



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1 STATE OF SOUTH CAROLINA
2 COUNTY OF AIKEN

CIRCUIT COURT
2010-CP-02-01256

4 TRAVIS McKIE,
5 Applicant,

6 -vs-

TRANSCRIPT OF RECORD

7 STATE OF SOUTH CAROLINA,
8 Respondent.

10 Post-Conviction Relief Hearing
11 Heard on Thursday, July 14, 2011
12 Aiken, South Carolina

13 BEFORE:

14 THE HONORABLE JAMES R. BARBER, II

17 APPEARANCES:

18 Counsel on Behalf of the Applicant:
19 Joan E. Smith, Esq.

20 Counsel on Behalf of the Respondent, State of SC:
21 Rob D. Corney, Esq.
22 Brian Petrano, Esq.

23 Cheri L. Young, RPR
24 Circuit Court Reporter
25 P O Box 5232
Aiken, SC 29803-5232

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(NO EXHIBITS IDENTIFIED/INTRODUCED.)

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1 ON THURSDAY, JULY 14, 2011 AT 10:42 A.M.:

2 THE COURT: All right. Y'all ready to go forward?
3 Are you, Ms. Smith?

4 MS. SMITH: Yes, sir.

5 THE COURT: Nice to see you. Are you appointed,
6 Ms. Smith?

7 MS. SMITH: Yes, sir.

8 (Off-the-record discussion.)

9 THE COURT: All right. We got Mr -- are you
10 Mr. McKie?

11 THE APPLICANT: Yes, sir.

12 THE COURT: Where are you from? North Augusta?

13 THE APPLICANT: Aiken, sir.

14 THE COURT: Aiken?

15 THE APPLICANT: Yes, sir.

16 THE COURT: A lot of McKies in this county, aren't
17 there?

18 THE APPLICANT: Yes, sir.

19 THE COURT: Tell me what we got here, Mr. Attorney
20 General.

21 MR. CORNEY: Yes, sir, Your Honor.

22 This is Travis McKie, Case 2010-CP-02-1256. Mr. McKie
23 was indicted July 2007 in Aiken County for two counts of
24 assault and battery with intent to kill.

25 He pled guilty before Judge Early on June 15th, 2009.

1 Judge Early accepted the negotiations for a 15-year cap on
2 one of the assault and battery with intent to kill
3 charges, and got a 20-year sentence suspended to service
4 of five -- or, suspended to five years probation, excuse
5 me, and the second assault and battery with intent to kill
6 charge to run consecutive.

7 THE COURT: Wait a minute now. The return says he was
8 sentenced to one 20-year term and a consecutive term of 15
9 years.

10 MR. CORNEY: Your Honor, that's in there. That's
11 incorrect, I believe.

12 THE COURT: So he was given 15 years suspended upon
13 some probation on the second sentence; is that correct?

14 MR. CORNEY: Yes, sir.

15 THE COURT: Got one active sentence.

16 MS. SMITH: Yes.

17 THE COURT: And that's a 20-year sentence?

18 MS. SMITH: Fifteen.

19 THE COURT: I mean, 15.

20 MR. CORNEY: Yes, sir. And then five years probation
21 to run after.

22 THE COURT: It says 20 years.

23 MR. CORNEY: It was 20 years suspended to five years
24 probation, I believe is what the transcript says, Your
25 Honor.

1 THE COURT: So the 15-year sentence is -- wait. You
2 got an erroneous return?

3 MR. CORNEY: Yes, sir, Your Honor.

4 THE COURT: Subject number two in the seminar; correct
5 return?

6 MR. PETRANO: If I may. We sometimes do the return
7 before we've gotten all the information, so we do the best
8 we can.

9 MS. SMITH: If there is such a thing, I make a motion
10 that the return be struck.

11 MR. CORNEY: Just to my defense, Your Honor, I've
12 taken over for Mary Williams. I don't know if she wrote
13 it or someone else did, but I should have corrected it and
14 I apologize. It should not have been in there.

15 THE COURT: So this is the old --

16 MR. CORNEY: I'm taking accountability.

17 THE COURT: -- when there's nobody there to point to;
18 huh?

19 MR. CORNEY: I'm not going to point the finger. I
20 shouldn't have brought that up.

21 THE COURT: That's given me faith. You're giving me,
22 hey somebody else did it, I didn't.

23 MR. CORNEY: That's right. It's part of my packet and
24 I should have easily seen that. I apologize.

25 THE COURT: Tell me what we got. What do you want to

STEPHEN MARCEL POPE - DIRECT

1 tell me here? You got to call a witness, Ms. Smith?

2 MS. SMITH: Your Honor, do you have my amendment that
3 I filed? We filed an amendment because his application
4 was somewhat general alleging ineffective assistance of
5 counsel. And I filed an amendment stating that --

6 THE COURT: I see no amendment.

7 MS. SMITH: I have a copy.

8 THE COURT: I've got it now.

9 MS. SMITH: Thank you.

10 THE COURT: The clerk has been kind enough to --

11 MS. SMITH: Thank you.

12 It alleges that there was a witness that my client
13 asked his counsel to call or to interview and that counsel
14 did not interview that witness.

15 I've located the witness and that is Mr. Pope and he
16 is with us today.

17 THE COURT: All right.

18 MS. SMITH: I'd like to call Mr. Pope first, if I may.

19 THE COURT: All right.

20 MS. SMITH: Stephen Pope, with a P-H.

21 STEPHEN MARCEL POPE, having been duly sworn, was
22 examined and testified as follows:

23 THE CLERK: Please have a seat on the witness box and
24 state your full name for the Court.

25 THE WITNESS: My name's Stephen Marcel Pope.

STEPHEN MARCEL POPE - DIRECT

1 MS. SMITH: Your Honor, may I remain at my counsel
2 table?

3 THE COURT: You may.

4 DIRECT EXAMINATION

5 BY MS. SMITH:

6 Q. Mr. Pope, do you understand that my client, Travis
7 McKie, is incarcerated for shooting you?

8 A. I do.

9 Q. Did my client shoot you?

10 A. Well, when I was taken to MCG the officer from Aiken
11 came over there and they told me that's who shot me. But
12 I really didn't see him, so I really can't say that's who
13 shot me.

14 Q. Okay. Were you ever interviewed by my client's
15 attorney?

16 A. I don't recall.

17 Q. Did you get the chance to tell anyone in court that
18 Mr. McKie did or did not shoot you?

19 A. No, ma'am.

20 Q. And it's your testimony today that you don't believe
21 Mr. McKie shot you?

22 A. No, ma'am.

23 MR. CORNEY: Your Honor, I think he testified just a
24 minute ago he couldn't say for sure whether or not he had
25 shot him. So I feel like she -- never mind.

STEPHEN MARCEL POPE - CROSS

1 MS. SMITH: I'll clear that up.

2 BY MS. SMITH:

3 Q. Do you believe Mr. McKie shot you?

4 A. No, ma'am.

5 Q. Why do you believe that if you don't know who shot
6 you?

7 A. Because I know him. My father and his father were
8 good friends. I know him, his brother. I don't think
9 he'd do nothing like that. And if he did, I think he
10 would have come to me and talked about it because me and
11 him never had no problems. So I don't know why he would
12 have wanted to shoot me anyway.

13 Q. Mr. Pope, you are incarcerated --

14 A. Yes, ma'am.

15 Q. -- is that right? When, when did the situation arise
16 for which you are incarcerated, what year?

17 A. 2008.

18 Q. Was that after the shooting incident?

19 A. Yes, ma'am.

20 MS. SMITH: That's all I have of this witness, Your
21 Honor.

22 THE COURT: All right.

23

24

25

STEPHEN MARCEL POPE - CROSS

CROSS-EXAMINATION

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BY MR. CORNEY:

Q. Mr. Pope, October 3rd, 2006, you and Mr. Wallace Smith were both shot in the car; right?

A. Yes, sir.

Q. And that's how these charges arise from what you understand?

A. (Nods head.)

THE COURT: You need to answer.

THE WITNESS: Yes, sir.

BY MR. CORNEY:

Q. There was a third person in the car with the two of you, correct, Iben Ali (phonetically), I believe?

A. Yes, sir.

Q. And he wasn't very involved in your discussions with the police; was he?

A. I don't think so.

Q. And but you and Wallace Smith were pretty involved with the police on this case; right? You had discussions with the police?

A. Yes, sir.

Q. And you cooperated with the police and tried to help find the shooter in this case; right?

A. Yes, sir.

Q. When you spoke to the police about the incident you

STEPHEN MARCEL POPE - CROSS

1 told them you had never met Mr. McKie before the shooting;
2 right?

3 A. No.

4 Q. You didn't tell them that?

5 A. No.

6 Q. You didn't say that you didn't know who he was prior
7 to that night?

8 A. No.

9 Q. Do you recall the solicitor saying that during the
10 plea hearing, that you and Mr. Smith had no idea who
11 Mr. McKie was before the night of the shooting?

12 A. The plea hearing.

13 Q. I guess you're right. I apologize. I withdraw that.
14 You picked Mr. McKie out of a photo lineup that the
15 police gave you, though, right, as the shooter?

16 A. No.

17 Q. You didn't?

18 A. They showed me a picture of him at the hospital and
19 told me that's who shot me.

20 Q. And that was the day after the shooting?

21 A. That was the day of the shooting. They came to the
22 hospital.

23 Q. And you said you didn't pick him out of that lineup?

24 A. No, sir.

25 Q. To your knowledge, did Mr. Smith pick him out of that

STEPHEN MARCEL POPE - CROSS

1 lineup?

2 MS. SMITH: Objection, Your Honor. Calls for
3 speculation.

4 THE COURT: Overruled. If he has knowledge of it.

5 THE WITNESS: Mr. Smith?

6 BY MR. CORNEY:

7 Q. Wallace Smith who was shot in the car with you that
8 night?

9 A. Oh, I don't -- I don't know.

10 Q. Mr. Pope, you were originally under subpoena to be
11 present at Mr. McKie's case or trial if it had gone
12 forward; right?

13 A. Yes, sir.

14 Q. And you were released from that subpoena when he
15 decided to enter a guilty plea?

16 A. Yes, sir.

17 Q. And you were given notice that he was going to enter
18 this guilty plea by the solicitor; right?

19 A. Yes, sir.

20 Q. And at the time the solicitor agreed to release you
21 from the subpoena you didn't attend the plea hearing?

22 A. No, sir.

23 Q. When the solicitor spoke with you about Mr. McKie
24 taking this plea, did he tell you any of the details of
25 the plea?

STEPHEN MARCEL POPE - CROSS

- 1 A. He probably did but I, I don't remember.
- 2 Q. Okay. Do you recall if he told you that he was going
3 to be getting a 15-year cap sentence?
- 4 A. Oh yeah. I remember that; yes, sir.
- 5 Q. And you agreed with the solicitor offering him this
6 plea; right?
- 7 A. I mean, if that's who they said shot me. I mean...
- 8 Q. And, again, you said you didn't show up for the plea
9 hearing; right?
- 10 A. No, sir.
- 11 Q. So you're saying today that you knew Mr. McKie wasn't
12 the one who shot you but you agreed to have the solicitor
13 send him to jail?
- 14 A. I don't believe that's the one who shot me.
- 15 Q. But you don't know for certain if he was or if he
16 wasn't.
- 17 A. No.
- 18 Q. But you agreed to this plea deal, not knowing whether
19 or not he was the shooter; right?
- 20 A. That's who they told me shot me.
- 21 Q. Okay. If Mr. McKie wasn't the shooter, do you know
22 who shot you then?
- 23 A. No, sir.
- 24 Q. All right. Where are you currently housed in SCDC,
25 Mr. Pope?

STEPHEN MARCEL POPE - REDIRECT

1 A. At Manning Correctional Institution.

2 Q. Have you had discussions with (sic) this case with
3 anyone else from SCDC while you've been in there?

4 A. No, sir.

5 Q. No else involved that knows Mr. McKie?

6 A. No, sir.

7 MR. CORNEY: I believe that's all I have, Your Honor.

8 THE COURT: All right. Anything?

9 MS. SMITH: Just one, Your Honor.

10 REDIRECT EXAMINATION

11 BY MS. SMITH:

12 Q. He was asking you if you agreed to this plea deal. In
13 fact, didn't the solicitor ask if you objected to whether
14 or not Mr. McKie pled guilty or had a trial?

15 A. I talked to someone, like once, about the whole
16 situation. I was called down there and at that time they
17 told me that they was going to give him 15 years and they
18 didn't need me -- well, he was pleading to 15 and they
19 didn't need me to come to court.

20 Really, that's all I was told about the whole
21 situation. Really.

22 MS. SMITH: Thank you, Your Honor.

23 THE COURT: Thank you. You may step down.

24 MS. SMITH: Your Honor, I call Mr --

25 THE COURT: Hold on.

MICHAEL ROUTZONG - DIRECT

1 MS. SMITH: Sorry.

2 THE COURT: Anybody have any objection to Mr. Pope
3 being excused?

4 MR. CORNEY: I think we'd like to keep him around just
5 briefly. I don't know how long this is going to take, but
6 we'd like him to stay if that's...

7 THE COURT: All right.

8 MS. SMITH: Your Honor, I'd like to call Mr. Michael
9 Routzong.

10 MICHAEL ROUTZONG, having been duly sworn, was examined
11 and testified as follows:

12 THE CLERK: Please have a seat in the box and state
13 your full name for the Court.

14 DIRECT EXAMINATION

15 BY MS. SMITH:

16 Q. Mr. Routzong, you represented Mr. McKie at trial; is
17 that right?

18 A. Yes, ma'am.

19 Q. And you know that Mr. Pope who just testified was one
20 of the victims; is that right?

21 A. Yes, ma'am.

22 Q. Did you interview Mr. Pope?

23 A. No, ma'am.

24 Q. Did an investigator or anyone else from your office
25 speak to Mr. Pope on Mr. McKie's behalf?

MICHAEL ROUTZONG - CROSS

1 A. I'm not aware of anyone speaking with Mr. Pope from
2 our office.

3 Q. Okay. Do you agree that if you had or if somebody,
4 your investigator, had interviewed Mr. Pope and Mr. Pope
5 told you that he didn't know if Mr. McKie shot him, that
6 would have been important; isn't that right?

7 A. Yes, ma'am.

8 Q. Do you agree that if you or someone from your office
9 had interviewed Mr. Pope and Mr. Pope said, they showed,
10 the police showed me a picture and said this is who shot
11 me, that would have been important; isn't that right?

12 A. That's correct.

13 Q. And do you believe that if you had had that
14 information and conveyed that to Mr. McKie, that he may
15 have not accepted a plea agreement; do you agree that's a
16 possibility?

17 A. Yes, ma'am. I agree that's possible.

18 MS. SMITH: That's all I have of this witness, Your
19 Honor.

20 THE COURT: Mr. Corney, anything?

21 MR. CORNEY: Yes, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. CORNEY:

24 Q. All right. Mr. Routzong, based on your discussions
25 with Mr. McKie, was it your understanding that he was the

MICHAEL ROUTZONG - CROSS

1 shooter in this case?

2 A. Yes, sir.

3 Q. And that he had shot Mr. Pope?

4 A. Yes, sir.

5 Q. Okay. Let's see. Did he ever -- did he ever make an
6 indication to you that maybe somebody else was the
7 shooter, that maybe Mr. Pope had gotten shot from somebody
8 else?

9 A. No, sir.

10 Q. Mr. Pope was under a subpoena by the solicitor for
11 trial, right, in this case?

12 A. That's correct.

13 Q. So you were aware and Mr. McKie was aware that he was
14 going to testify at trial if it had gone forward or he was
15 at least on the list to testify?

16 A. Yes, sir.

17 Q. And you had tried to set the table for him to get a
18 lesser sentence by cooperating with the police; right?

19 A. That is correct.

20 Q. And finding, I think, a firearm in this case, that he
21 cooperated and tried to help find a gun in this case; is
22 that correct?

23 A. That's correct. Once we decided that we were going to
24 accept the plea bargain, it was a cap of 15, I suggested
25 to Mr. McKie that since the firearm had not been recovered

MICHAEL ROUTZONG - CROSS.

1 that we maybe go out and see if we could recover it since
2 he knew approximately where he threw it.

3 And Aiken Public Safety along with the solicitor,
4 David Miller, and the solicitor's investigator and
5 Mr. McKie and myself and another Aiken City police officer
6 went out there. And that may be not all the people. I
7 can't recall. It may have been one of the detectives as
8 well. My recollection is there was one of the
9 detectives. There was several of us that combed through
10 the woods trying to find the gun and we didn't get any
11 results in that, though.

12 But my object in that was to try to have something to
13 tell the Judge: Your Honor, it's a cap of 15; he tried to
14 cooperate; he was worried about maybe a child finding the
15 gun. Something like that.

16 Q. Okay. And I know me and you have briefly discussed
17 this, but do you recall a video confession of any sort or
18 him stating something on videotape?

19 A. I thought there -- it's my recollection that there was
20 an in-car video and I'm not sure if I was in it. It seems
21 like I probably was. That's what they normally do and I
22 was standing there.

23 But I, since talking to Mr. Miller, the solicitor, he
24 doesn't recall whether there was a video. I have not
25 received, as far as I'm aware, a copy of the video.

MICHAEL ROUTZONG - CROSS

1 So I hesitate to say that there was in fact a video
2 for sure but it's my recollection that there was.

3 Mr. McKie was interviewed by one of the detectives from
4 Aiken Public Safety and they used a dash cam.

5 Q. And during that interview, he had given a confession
6 of the shooting?

7 A. I really can't remember. I just remember -- I hate to
8 say or speculate because I didn't have any notes on it and
9 I don't recall exactly. But I know all of us were out
10 there looking for a gun. And it's my recollection there
11 was a video.

12 I do not recall what the questions -- or the content
13 of that statement, if there was a statement. But it seems
14 to me I do recall that we did that.

15 Q. Okay. You heard Mr. Pope testify a minute ago that he
16 believes Mr. McKie had no reason to shoot him. But during
17 the plea hearing the solicitor stated that they didn't
18 know of any reason for Mr. Pope -- for the shooting to
19 take place anyway, for Mr. Pope to have gotten shot;
20 right?

21 A. That's my recollection.

22 Q. And I think Judge Early even used the words, this was
23 a cold-blooded shooting, no rhyme or reason during the
24 plea transcript; right?

25 A. Except for the fact that Mr. McKie alleged that there

TRAVIS LEE McKIE - DIRECT

1 was a fourth person in the car. Mr. McKie only knew the
2 person's street name. I think it was Oodie (phonetically)
3 if I recall correctly who Mr. McKie believed pulled a gun
4 on him first.

5 And, so, to a certain extent I think in his mind he
6 thought he was defending himself.

7 Q. But Mr. McKie told you when this Oodie character
8 pulled a gun Mr. McKie did open fire?

9 A. Yes, sir.

10 MR. CORNEY: That's all I have, Your Honor.

11 MS. SMITH: Nothing further from this witness, Your
12 Honor.

13 THE COURT: All right. Thank you. You may step down.

14 THE WITNESS: Thank you, Your Honor.

15 MS. SMITH: Your Honor, I call Travis Lee McKie.

16 TRAVIS LEE McKIE, having been duly sworn, was examined
17 and testified as follows:

18 THE CLERK: Please have a seat in the box and state
19 your full name for the Court.

20 THE APPLICANT: Travis Lee McKie.

21 DIRECT EXAMINATION

22 BY MS. SMITH:

23 Q. Mr. McKie, did you ask your attorney or his
24 investigator to speak with Stephen Pope?

25 A. Yes, ma'am; I did. Several times.

TRAVIS LEE McKIE - DIRECT

1 Q. And, Mr. McKie, you have a sentence of 15 years; is
2 that right?

3 A. Yes, ma'am.

4 Q. And we've discussed that in the event you prevailed at
5 PCR, we've discussed that you would be risking a longer
6 sentence if you were convicted at trial; isn't that right?

7 A. Yes, ma'am.

8 Q. And how long did I tell you you might be looking at?

9 A. Eighty-five years to life.

10 Q. Right. Because there might be other indictments and
11 the solicitor might try to seek two strikes. We've talked
12 about that; didn't we?

13 A. Yes, ma'am.

14 Q. And you wish to -- do you still wish for the Judge to
15 grant your post-conviction relief application?

16 A. Yes, ma'am; I do.

17 Q. Why would you take this risk? Why do you want the
18 Judge to grant your application?

19 A. Because I'm not sure -- I mean, had my lawyer did his
20 work and investigated, interviewed the witness-victim,
21 Stephen Pope, I would have went to trial. I sat 20 months
22 in the county jail insisting on going to trial.

23 Q. Okay. Why did you tell Judge Early that you were
24 guilty?

25 A. Because the way the evidence was shaped up was like I

TRAVIS LEE MCKIE - CROSS

1 was going to be framed for the shooting. My lawyer didn't
2 do no investigative work. He didn't interview none of the
3 witness on my behalf. So I felt like I was going to get
4 framed. I felt like I couldn't win, so I pled out.

5 Q. Is there anything else that you wish for the Court to
6 know about your application, Mr. McKie?

7 A. No, ma'am. That's it.

8 MS. SMITH: Okay. That's all I have, Your Honor.

9 MR. CORNEY: Just briefly.

10 CROSS-EXAMINATION

11 BY MR. CORNEY:

12 Q. Mr. McKie, do you recall meeting with Mr. Routzong to
13 discuss this case with him?

14 A. Yes, sir.

15 Q. And did you tell him during that time when you were
16 discussing your version of the facts that you had in fact
17 pulled the trigger of the gun, you shot --

18 A. No, sir. I was there. I told Mr. Routzong to
19 interview Stephen Pope and Wallace Smith. He told me it
20 wasn't really necessary because those guys pointed me out
21 of a picture lineup. So he was adamant on not
22 interviewing the victim-witnesses.

23 Q. You never told him that you had shot during this --

24 A. No, sir.

25 Q. -- altercation?

TRAVIS LEE MCKIE - CROSS

1 A. I was there but I wasn't the shooter, sir.

2 Q. Just talking about the other car pulling up and
3 someone pulling a gun out and you firing in self-defense
4 was completely fabricated?

5 A. I was there but I wasn't the shooter, sir.

6 Q. You went out and investigated some of the facts that
7 y'all had discussed, like that there was a fourth person
8 in the car named Oodie; right?

9 A. Yes, sir.

10 Q. And he had investigated that there may be more to this
11 shooting than just a cold-blooded shooting, perhaps it was
12 some kind of issue between the parties during the
13 shooting; right?

14 A. He -- there was -- yes, sir.

15 Q. Okay. But you admitted your guilt to Judge Early at
16 the plea hearing; right?

17 A. Yes, sir. Well, like I told Ms. Smith just now, I
18 pled guilty because I felt like I was trapped. Like I
19 had -- it was no other way out.

20 Q. Okay. And you were under oath that day. You told him
21 that you thought you were guilty or that you admitted that
22 you were guilty?

23 A. Yes, sir.

24 Q. And you're under oath here today?

25 A. Yes, sir.

TRAVIS LEE MCKIE - CROSS

1 Q. Can you tell me a little bit about trying to help the
2 police find the gun after you were arrested? Were you
3 just leading them on a wild goose chase if you never had
4 anything to do with this?

5 A. Yes, sir. I mean, it was -- I'm going to say -- like
6 I said, I was there. I wasn't the shooter. So I guess it
7 was a wild goose chase.

8 Obviously they didn't recover the gun so I didn't know
9 where the gun was at. I never confessed to shooting at
10 somebody because I never shot.

11 Q. But you were cooperating, hoping to get a good
12 sentence for your plea; right?

13 A. Yes, sir.

14 Q. So you had intended to enter this plea deal long
15 before you actually went in and entered it before Judge
16 Early?

17 A. Sir, again?

18 Q. You had intended to enter this plea deal long before
19 the actual date of the plea hearing; hadn't you?

20 A. No, sir. I was insisting on going to trial. Like I
21 said, I sat in county jail 20 months. I was out on bond
22 10 months. So I was insisting on going to trial the whole
23 time, sir.

24 Q. Do you have a prior criminal record, Mr. McKie?

25 A. Yes, sir.

1 Q. You got grand larceny, resisting arrest, two charges
2 of resisting arrest on your record; is that correct?

3 A. Yes, sir.

4 Q. Possession of a stolen vehicle in 2003; is that right?

5 A. That was a probation violation.

6 Q. Okay. Criminal domestic violence first, is that on
7 your record?

8 A. Yes.

9 Q. 1999?

10 A. Yes, sir.

11 MR. CORNEY: I believe that's all I have, Your Honor.

12 THE COURT: All right. Anything?

13 MS. SMITH: Nothing further, Your Honor.

14 THE COURT: All right. Thank you. You may step down.

15 THE APPLICANT: Thank you.

16 THE COURT: Anything further from the Applicant?

17 MS. SMITH: Nothing except a brief closing, Your
18 Honor.

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

20 MR. CORNEY: Nothing further from the State, Your
21 Honor.

22 THE COURT: All right. What do you want to tell me?

23 MS. SMITH: Well, Your Honor, we've alleged that there
24 was a witness. The defense attorney has said he did not
25 interview him. I produced the witness today who has given

1 the testimony he would have given. And so we think that
2 we've shown under Porter versus State the difference the
3 testimony would have made, Your Honor, and that my client
4 would not have pled guilty if this additional information
5 had been investigated. Thank you, Your Honor.

6 THE COURT: All right. Mr. Corney, anything?

7 MR. CORNEY: I just believe that even if he had failed
8 to investigate Mr. Pope, there's no prejudice been shown.
9 Mr. Pope stood up there and said himself he can't say for
10 sure whether Mr. McKie shot him or not. He was ready and
11 willing to testify at trial if they called him up there as
12 well.

13 And I believe the credibility of Mr. McKie is coming
14 into question here when he got there and he admitted he
15 lied, admitting guilt at the plea hearing to Judge Early.
16 So I think his testimony probably isn't as credible but
17 more so than that, I don't think there's been any
18 prejudice shown, Your Honor.

19 I'm sorry. Could I have a moment, Your Honor? I
20 apologize.

21 THE COURT: You want another moment?

22 MR. CORNEY: Yes, sir. (Conferring with Mr. Petrano.)

23 And, additionally. He came in to Mr. Routzong, in his
24 representation, admitting that he had been the shooter,
25 told him why he shot and the circumstances of it. So from

1 that point of view it was mostly Mr. Routzong trying to
2 work out a good plea deal after that point, after he had
3 already admitted his guilt in this shooting so...

4 THE COURT: All right. Thank y'all.

5 MS. SMITH: Thank you, Judge.

6 END OF CASE: 11:10 A.M.

7 * * * *

8 CERTIFICATE OF REPORTER

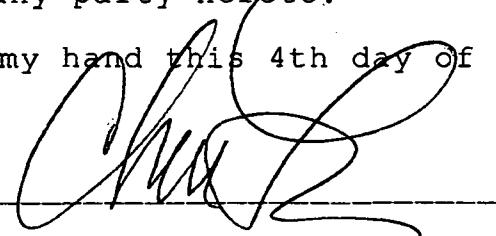
9
10 STATE OF SOUTH CAROLINA)

11 COUNTY OF AIKEN)

12
13 I, Cheri L. Young, Registered Professional Reporter
14 and Official Court Reporter for the State of South
15 Carolina, Second Circuit-At Large, do hereby certify that
16 the foregoing proceedings were written stenographically by
17 me using computer-aided translation; further, that the
18 foregoing is a true, accurate and complete record, to the
19 best of my skill and ability, of all the proceedings had
20 and evidence introduced in the hearing of the captioned
21 case, relative to appeal, in the Court of Common Pleas for
22 Aiken County, on the 14th day of July, 2011.

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

25 I have hereunder set my hand this 4th day of October,
2013.


Cheri L. Young, RPR
Official Court Reporter

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

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

Travis McKie, # 296831)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

2010-CP-02-1256

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, the Clerk of Court of Common Pleas for the Second Judicial Circuit for Aiken County, South Carolina do hereby certify that the foregoing copy is a true and correct copy of the original document which have been filed in my office this

ORDER OF DISMISSAL
AUG 27 2011

J. Ireland
CLERK, S.C.A. Aiken County, SC
Dorcas J. Galt
Deputy Clerk

PROCEDURAL HISTORY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed May 27, 2010. The Respondent made its Return on November 17, 2010. An evidentiary hearing into the matter was convened on Thursday, July 14, 2011, at the Aiken County Courthouse. The Applicant was present at the hearing and was represented by Joan E. Smith, Esquire. The Respondent was represented by Robert D. Corney of the South Carolina Attorney General's Office.

At the hearing, the Applicant testified on his own behalf. Also testifying was Applicant's trial counsel, Michael Routzong, Esquire ("counsel"). This Court also had before it a copy of the transcript of the proceedings against the Applicant, the records of the Aiken County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections.

The records before this Court indicate that the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Aiken County Clerk of Court. The Applicant was indicted for two counts of Assault and Battery with Intent to Kill ("ABWIK") (2007-GS-02-1253 & 1254). Applicant was represented by Michael

Michael Routzong
CLERK OF COURT
AUG 27 2011

Routzong

Routzong, Esquire. On June 15, 2009, the Applicant pled guilty before the Honorable Doyet A. Early, III. Applicant was sentenced to fifteen (15) years on one ABWIK and twenty (20) years suspended to five (5) years probation to run consecutive. Applicant did not appeal his conviction and sentence.

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

1. Ineffective assistance of counsel.¹

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 at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 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

¹ Applicant fails to set forth specific grounds in his application. The application says "see attachment," but no attachment states any facts in support of his allegation.

rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Buller, 286 S.C. 441, 334 S.E.2d 813 (1985). The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 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.

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. In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the

plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Ineffective Assistance of Counsel

At the hearing, Applicant alleged counsel provided ineffective assistance of counsel in failing to investigate Applicant's innocence. More specifically, Applicant alleges that the victim of the shooting, Stephen Pope ("Pope"), would have testified at trial that Applicant was not the person that shot him.

At the PCR hearing, Applicant testified that he did not shoot the victims in this case and had counsel investigated the case, he would have learned of Applicant's innocence. Applicant stated he spoke with counsel several times during the preparation of his case during which he asked counsel to interview Pope, but that counsel never did so. Applicant went on to state that he never admitted his guilt to the plea judge during his plea hearing, but that he entered this plea because he "was trapped" and felt like he could not win at trial. Finally, Applicant stated he was in fact present at the scene of this shooting when it occurred, but that he was not the shooter.

Pope was also present and testified at the PCR hearing. Pope began his testimony by stating the he was the victim of this shooting, but didn't see who shot him during the incident. He stated he couldn't say for sure that Applicant was in fact the person who pulled the trigger and went on to say he did not know Applicant prior to this incident and knew of no reason why Applicant would want to shoot him. Pope said that he never identified Applicant as the shooter for police, but that he had cooperated during the investigation and was listed on the State's witness list in preparation for trial. Pope stated he was released from subpoena after being

advised Applicant was going to enter a guilty plea, but at no time did he ever tell the solicitor's office or police that he did not believe Applicant was the shooter.

Counsel testified that although he never interviewed Pope as requested by Applicant, he knew Applicant was in fact the shooter in this case as Applicant admitted to counsel he had shot the victims. Counsel went on to state that he discussed Applicant's version of the facts with him, during which Applicant stated that he did shoot the victims after they had pulled a gun first. Counsel testified that once Applicant decided to accept the fifteen year cap sentence, Applicant decided to cooperate with law enforcement in attempting to find the gun he had hidden after the shooting in an attempt to get a more lenient sentence, but the gun was never recovered. Counsel finished by stating that it was ultimately Applicant's decision to plead guilty to these charges and that, had Applicant insisted on proceeding to trial, he would have gone to trial with him.

Based on the facts and evidence presented at the hearing, this court finds counsel's testimony to be credible and Applicant's testimony to not be credible. Counsel advised Applicant of all relevant issues regarding the charges he was facing, including his constitutional rights, the facts giving rise to the charges, and the potential sentences he was facing, as well as sufficiently investigated the facts leading to these charges. The testimony offered by the victim was vague and not sufficient to begin to prove that Applicant was not the shooter in this case. Further, counsel's failure to interview Pope in no way affected his representation of Applicant, as Pope offered no testimony at the PCR hearing to show Applicant was not the shooter and Applicant had admitted his guilt to counsel early on in his representation. Counsel gave Applicant all the information and advice to make an intelligent and voluntary decision on whether to enter this plea, and therefore his guilty plea was entered knowingly and voluntarily

after being fully and adequately advised by competent counsel acting within the range of competence demanded of attorneys in criminal cases.

As discussed above, the Applicant has failed to carry his burden in this action. Therefore, this Court finds that the application must be denied and dismissed in its entirety.

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.

Except as discussed above, this Court finds that the Applicant failed to raise all additional allegations raised in his application at the hearing and has, thereby, waived them. 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. BML, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issue 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.

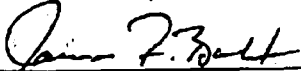
This Court advises Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the

denial of PCR. Rule 71.1(g), SCRCP, 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 17 day of August, 2011.


James R. Barber, III
Presiding Judge
Second Judicial Circuit

Columbia, South Carolina.

- (b) 15 years consecutive, 20 years suspended, 5 years probation
- (c) _____
- 6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty X
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere _____
- 7. Did you appeal from the judgment of conviction or the imposition of sentence?
N/A
- 8. If you answered "yes" to (7), list:
 - (a) the name of each Court to which you appealed:
 - i. N/A
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. N/A
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. N/A
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. N/A
 - ii. _____
 - iii. _____
- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) Plea - N/A
 - (b) PCR dismissal - I wanted to appeal and my PCR counsel did not file the appeal.
 - (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 pursuant to Austin v. State, 305 SC 453 (1991), and other applicable law.

(b) _____

(c) _____

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

(a) No appeal was filed although I asked for an appeal.

(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? Yes

(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. PCR: 2010-CP-02-1256

ii. _____

iii. _____

iv. _____

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

i. Aiken County Court of Common Pleas

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. Order of Dismissal entered August 29, 2011, a copy of which order is attached hereto

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. August 29, 2011

ii. _____

iii. _____

iv. _____

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

i. Order of Dismissal entered August 29, 2011

ii. _____

iii. _____

iv. _____

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

No; I am alleging ineffective assistance of my PCR counsel.

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

(a) which grounds have been presented:

i. N/A

ii. _____

iii. _____

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

i. N/A

ii. _____

iii. _____

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

(a) N/A

(b) _____

(c) _____

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

- (a) your arraignment and plea? x
- (b) your trial, if any?
- (c) your sentencing?
- (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? x

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. Plea: Michael Routzong, Esq., Aiken County Public Defender
- ii. PCR: Joan E. Smith, Esq., MIRSHAK & SMITH, LLC, 1210 Wells Fargo Building, 699 Broad Street, Augusta, GA 30901

iii.

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

- i. Plea: 2007-GS-02-01253 and 2007-GS-02-01254
- ii. PCR: Final Hearing, July 14, 2011, Order of Dismissal attached

iii.

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

My PCR counsel did not file an appeal for me of the denial of my PCR application in time. I want to appeal.

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

No.

STATE OF SOUTH CAROLINA)

VERIFICATION

County of Aiken)

I, TRAVIS McKIE, 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.

Travis McKie
TRAVIS McKIE

SWORN to and subscribed before me this 24
day of Sept 2012

[Signature] (L.S.)
Notary Public

My Commission Expires: 5/18/14

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

I, TRAVIS McKIE, 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.

Travis McKie
Applicant

SWORN or affirmed to and subscribed before me this
24 day of July, 2012

[Signature]
Notary Public

My Commission Expires: 5/18/14

STATE OF SOUTH CAROLINA)
 COUNTY OF AIKEN)
)
 Travis Lee McKie, #296831,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE SECOND JUDICIAL CIRCUIT

2012-CP-02-01881

**RETURN AND MOTION TO
 DISMISS ALL CLAIMS EXCEPT
 AUSTIN REVIEW**

In response to the post-conviction relief application filed July 30, 2012, the Respondent would show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Aiken County. The Applicant was true bill indicted during the July 2007 term of the Aiken County Grand Jury for two counts of Assault and Battery with Intent to Kill (2007-GS-02-1253 & -1254). Applicant was represented by Michael Routzong, Esquire. On June 15, 2009, the Applicant pled guilty before the Honorable Doyet A. Early, III. Applicant was sentenced to one term of twenty years (2007-GS-02-1253) and a consecutive term of fifteen years (2007-GS-02-1254). Applicant did not appeal his conviction and sentence.

Applicant filed his first application for post-conviction relief on May 27, 2010 (C.A. No. 2010-CP-02-1256), alleging ineffective assistance of counsel. The State made its Return on November 17, 2010. Counsel for the applicant submitted an Amendment to the post-conviction relief application on July 6, 2011. An evidentiary hearing was convened into the matter on July

14, 2011, at which Applicant was present and represented by Joan E. Smith, Esquire. The application was denied and dismissed with prejudice by the Honorable James R. Barber, III by order dated August 17, 2011, and entered August 29, 2011. No notice of appeal was filed.

II.

In his current 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 pursuant to *Austin v. State*, 305 SC 453 (1991).
 - a. "No appeal was filed although I asked for an appeal."

Attached herewith and incorporated herein by reference are the records of the Aiken County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, and the relevant records from the Applicant's prior post-conviction relief proceeding. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

Except for Applicant's claim that he was denied an appeal from his first post-conviction relief application, the Court should summarily dismiss any additional allegations brought forth herein or at an evidentiary hearing because they would be successive to the previous application for post-conviction relief. Successive applications for post-conviction relief are disfavored. *Land v. State*, 274 S.C. 243, 262 S.E.2d 735 (1980). S.C. Code Ann. § 17-27-90 (1985) states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence, or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which, for sufficient reason, was not asserted or

was inadequately raised in the original, supplemental or amended application.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." [Emphasis in original]. Id., 305 S.C. at 450, 409 S.E.2d at 394. If the Applicant could have raised the allegations in a previous application, then the Applicant may not raise those grounds in successive applications. Id. The Applicant bears the burden of showing that the allegations could not have been raised previously. Land, 274 S.C. 243, 262 S.E.2d 735 (1980). Accordingly, Respondent will move for a summary dismissal of any additional grounds brought forth by Applicant at an evidentiary hearing because they would be successive in nature.

IV.

There is no constitutional right to appointed counsel for collateral review of a conviction. Pennsylvania v. Finley, 481 U.S. 551, 107 S.Ct. 1990, 95 L.Ed.2d 539 (1987). The Sixth Amendment right to effective assistance of counsel does not extend to state post-conviction relief actions. Coleman v. Thompson, 501 U.S. 722, 111 S.Ct. 2546, 115 L.Ed.2d 640 (1991). Therefore, "the contention that prior PCR counsel was ineffective is not *per se* a 'sufficient reason' warranting a successive PCR application under § 17-27-90." Aice, 305 S.C. at 451, 409 S.E.2d at 394.

The only recognized exception to the rule barring claims of ineffective assistance of post-conviction relief counsel is found in Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991). Austin recognizes a general exception to this rule where prior post-conviction relief counsel fails to

appeal the denial of the application. Id. Austin "is limited to its particular factual situation" Aice, 305 S.C. at 452, 409 S.E.2d at 394. Pursuant to Austin, a post-conviction relief applicant may petition the South Carolina Supreme Court for discretionary review of the dismissal of their application. Respondent requests an evidentiary hearing solely on the matter of the Applicant's entitlement to an Austin Review.

V.

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

VI.

WHEREFORE, Respondent requests an evidentiary hearing solely on the matter of the Applicant's entitlement to an Austin Review.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY ELLIOTT
Senior Assistant Deputy Attorney General

MEGAN E. HARRIGAN
Assistant Attorney General

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

By: Megan E. Harrigan
Attorneys for the Respondents

Columbia, South Carolina

October 8, 2012.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF AIKEN)
)
)
)
 Travis Lee McKie, 296831,)
)
 Applicant,)
)
 vs)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS

2012-CP-02-01881

AFFIDAVIT OF SERVICE BY MAIL

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

Jason Price, Esquire
Clyburn Pope and Price, LLC
Post Office Box Q
Aiken, SC 29802

DATED this 8th day of October, 2012.

Lauren Meara
 Lauren Meara, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF AIKEN)	
TRAVIS LEE McKIE (#296831))	2012-CP-02-01881
)	2007-CS-02-01253, 01254
v.)	
)	
STATE OF SOUTH CAROLINA)	

AFFIDAVIT OF PRIOR PCR COUNSEL

NOW COMES Joan E. Smith and files this, her Affidavit in support of the Applicant, Travis Lee McKie, and having been duly sworn states as follows:

1. I am a member in good standing of the Supreme Courts of South Carolina, Georgia and Arkansas, and the United States District Court for the State of South Carolina.
2. I was appointed to represent the applicant, Mr. McKie, in his action for post-conviction relief. The trial court entered a Final Order on August 29, 2011, following a hearing on the merits. That order denied relief to Mr. McKie and dismissed the action.
3. Mr. McKie verbally requested that I appeal the Court's decision to deny him relief. I missed the deadline for filing the Notice of Appeal. I notified Mr. McKie of his right to file a petition for Post-Conviction Relief alleging ineffective assistance of counsel against me for my failure to file a timely Notice of Appeal. Mr. McKie filed the current petition pro se, with my assistance.
4. I believe my former client should be allowed to file a belated appeal of the Final Order entered August 29, 2011, since I failed to file a Notice of Appeal on behalf of Mr. McKie.
5. It is my understanding that the Attorney General's Office will consent upon the filing of my Affidavit.

FURTHER AFFIANT SAIETH NAUGHT.

This, the 15 day of April, 2013.

Joane E. Smith

(L.S.)

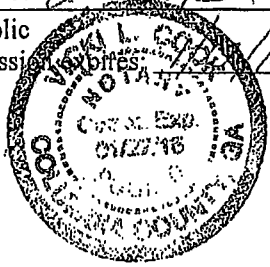
JOANE E. SMITH

SWORN to and subscribed before me
this 15th day of April, 2013.

Wicki L. Cook

Notary Public

My commission expires



STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)
TRAVIS LEE McKIE (#296831))
)
)
)
VS.)
)
STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
OF THE SECOND JUDICIAL CIRCUIT

Docket No.: ~~2012-CP-02-01881~~

2010-CP-02-01256

CONSENT ORDER FILING
BELATED NOTICE OF APPEAL

RECEIVED

JUL -9 2013

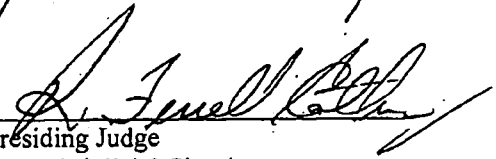
S.C. Supreme Court

The Applicant, Travis Lee McKie, filed an application for Post Conviction Relief, alleging ineffective assistance of counsel against his previous appointed counsel, Joan E. Smith. The Applicant alleges that Ms. Smith failed to file a timely Notice of Appeal after the Applicant verbally requested Ms. Smith to file an appeal from the trial court's Final Order in his previous Post Conviction Relief case (2010-CP-02-01256).

Ms. Smith has written an affidavit, which supports the Applicant's allegations and supports the Applicant's desire to file a belated Notice of Appeal from the Final Order that was entered on August 29, 2011.

Based on the consent of the State, this Court finds that the Applicant shall be entitled to Post Conviction Relief from the actions of his previous appointed counsel, Ms. Smith. **THEREFORE**, the Applicant is entitled to file a belated Notice of Appeal from the Final Order in 2010-CP-02-01256.


IT IS SO ORDERED this 11 day of June, 2013, at Washington, S.C.
South Carolina.

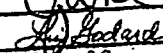
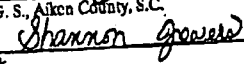

Presiding Judge
Second Judicial Circuit

I SO MOVE:


Jason M. Price
Attorney for Applicant

I SO CONSENT:


David Spencer
Assistant Deputy Attorney General

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Liz Ordard, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this 17 day of June 2013.

C.C.C.P. & G. S., Aiken County, S.C.

Deputy Clerk

1-089177

STATE OF SOUTH CAROLINA

County/ Municipality of
City of Aiken

07-10686 THE STATE
against

Travis Lee Mckie

Address: 361
AIKEN, SC 29801-

Phone: _____ SSN: _____
Sex: M Race: B Height: 5 11 Weight: 160
DL State: SC DL #: _____
DCB: _____ Agency ORI #: SC0020100

Prosecuting Agency: AIKEN PUBLIC SAFETY
Prosecuting Officer: Anthony K Glover
Offense: ASSAULT & BATTERY WITH INTENT TO K
Offense Code: 0914
Code/Ordinance Sec: 16-03-0620

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

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

Signature of Judge (L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant _____
on 02-17-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
Aiken Public Safety
251 Laurens St, Nw
Aiken, SC 29801

ORIGINAL

AFFIDAVIT

S.C. Attorney General
Apr 21, 2001
DCCA 918

County/ Municipality of
City of Aiken

Personally appeared before me the affiant Anthony K Glover who
being duly sworn deposes and says that defendant Travis Lee Mckie
did within this county and state on 10/03/2006 violate the criminal laws of the
State of South Carolina (or ordinance of County/ Municipality of City of Aiken)
in the following particulars:

DESCRIPTION OF OFFENSE: ASSAULT & BATTERY WITH INTENT TO KILL

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

Upon information and belief the above named defendant Travis McKie did on 10/3/06 shoot Wallace Smith with a .40
caliber handgun striking him in the right arm causing physical injury. This offense occurred at Maurice and Freiday
Lane within the city limits of Aiken and is in violation of the SC Code of Laws as amended.

Signature of Affiant _____

STATE OF SOUTH CAROLINA
 County/ Municipality of
City of Aiken

Affiant's Address: 251 LAURENS ST NW
AIKEN, SC 29801-
Affiant's Telephone: (803)642-7620 x 0900

ARREST WARRANT

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

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

on 10/03/2006 defendant Travis Lee Mckie
did violate the criminal laws of the State of South Carolina (or ordinance of
 County/ Municipality of City of Aiken) as set forth below:

DESCRIPTION OF OFFENSE: ASSAULT & BATTERY WITH INTENT TO KILL

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

Sworn to and subscribed before me
on 10/04/2006

Signature of Issuing Judge (L.S.)

Judge's Address: 251 Laurens St NW
Aiken, SC 29801
Judge's Telephone: (803)293-7864

Judge's Code: 6761

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

FILED
2007
Deputy Clerk

FILED
2007
Deputy Clerk

Judge J. L. Kynard
on 03-18-07
Type and Amount: \$25,000
Name of Surety: _____

Name: _____
Address: _____
Telephone: _____

PRELIMINARY HEARING held by

Judge J. L. Kynard Jr.
on 6-6-07
Defendant Attorney: Kelly Brown
Decision: Bound Over

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Disposition: _____
Sentence: _____

JURORS

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

clm/bkg

WITNESSES

A.K. Glover, A.D.P.S.

FILED

July 12 2007

Pauline Lindsey
C.C.P. & G.S.
Deputy Clerk

ARREST WARRANT NUMBER

I-089177

ACTION OF GRAND JURY

True Bill

Jean W. Dannelly
Foreperson of Grand Jury
Date: July 12, 2007

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2007-GS-02-1253

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

JULY 23, TERM 2007

THE STATE
vs.

TRAVIS LEE MCKIE

Indictment for

**ASSAULT AND BATTERY WITH
INTENT TO KILL**

SC Code: 16-3-620
CDR Code: 014
Class FEL-C(V)

STATE OF SOUTH CAROLINA

COUNTY OF Aiken VS. STATE

AKA: Travis McKie

Race: B Sex: M Age: 28

DOB: SS#:

Address: AIKEN, SC 29801

DL#: SID#: 01119912

IN THE COURT OF GENERAL SESSIONS

2

INDICTMENT/CASE#: 2007GS0201253

A/W#: 1089177

Date of Offense: 10/3/2006

S.C. Code § 16-03-0620

CDR Code #: 0014

SENTENCE SHEET ≤ 20 years

negotiated 20 yrs as 5 yrs. Prob. Consec.

In disposition of the said indictment comes now the Defendant who was TO: Assault / Assault and battery with Intent to Kill (ABWIK)

CONVICTED OF or PLEADS to 07-1254

in violation of § 16-03-0620 of the S.C. Code of Laws, bearing CDR Code # 0014

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

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

ATTEST:

David W. Moss Solicitor

1953 SC Bar#

Travis McKie Defendant

Attorney for Defendant SC Bar# 71861

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 20 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable; the balance is suspended with probation for 5 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: 07-65-02-01254

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

set by SCDPPPS

Recipient:

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge), § 14-1-211(A)(2) (DUI Surcharge), § 56-5-2995 (DUI Assessment), § 56-1-286 (DUI Breath Test), § 35.13 (Public Def/Prob), § 73.3, 1B TP (Law Enforce. Funding), § 33.7, 1B TP (Drug Court Surcharge), § 50-21-114(BUI Breath Test Fee), § 56-5-2942(J) (Vehicle Assessment), 3% to County (if paid in installments), § 90.11 TP (SCCJA Surcharge), and TOTAL \$648.90.

TOTAL

Ann Sanders Clerk of Court/ Deputy Clerk

Court Reporter: Cheri Young

17 (03/2009)

Obtain GED days/hours Public Service Employment

Attend Voc. Rehab. or Job Corp. May serve W/E beginning

Substance Abuse Counseling Random Drug/Alcohol testing Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

Appointed PD or appointed other counsel, \$35.13 TP Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: 0130

Sentence Date: June 15, 2007

ARREST WARRANT

I-089178

STATE OF SOUTH CAROLINA

County/ Municipality of

City of Aiken

07-10098 THE STATE against

Travis Lee Mckie

Address: AIKEN, SC 29801-

Phone: SSN: Sex: M Race: B Height: 5 11 Weight: 160

DL State: SC DL #: DOB: Agency ORI #: SC0020100

Prosecuting Agency: AIKEN PUBLIC SAFETY

Prosecuting Officer: Anthony K Glover

Offense: ASSAULT & BATTERY WITH INTENT TO K

Offense Code: 0014

Code/Ordinance Sec: 16-03-0620

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

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on 02-17-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Aiken Public Safety 251 Laurens St., Nw Aiken, SC 29801

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

City of Aiken

Personally appeared before me the affiant Anthony K Glover who

being duly sworn deposes and says that defendant Travis Lee Mckie

did within this county and state on 10/03/2006 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of City of Aiken)

in the following particulars:

DESCRIPTION OF OFFENSE: ASSAULT & BATTERY WITH INTENT TO KILL

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

Upon information and belief the above named defendant Travis McKie did on 10/3/06 shoot Stephen Pope with a .40 caliber handgun striking him in the left arm causing physical injury. This offense occurred at Maurice and Friday Lane within the city limits of Aiken and is in violation of the SC Code of Laws as amended.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

City of Aiken

Affiant's Address 251 LAURENS ST NW

AIKEN, SC 29801-

Affiant's Telephone (803)642-7620 x 0000

ARREST WARRANT

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

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

on 10/03/2006 defendant Travis Lee Mckie

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of City of Aiken as set forth below

DESCRIPTION OF OFFENSE: ASSAULT & BATTERY WITH INTENT TO KILL

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

Sworn to and subscribed before me

on 10/04/2006

Signature of Issuing Judge

Signature of Issuing Judge

Judge Code: 6761

Judge's Address 251 Laurens St Nw

Aiken, SC 29801-

Judge's Telephone (803)293-7864

Issuing Court. Magistrate Municipal Circuit

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 918

AFFIDAVIT

2007-65-02-1254

FILED 2007 251 Laurens St Nw Aiken, SC 29801 Deputy Clerk

cmblag

WITNESSES

A.K. Glover, A.D.P.S.

FILED

July 12 2007

Jim Godard
S.C.P. & C.S.
Pauline Finney
Deputy Clerk

ARREST WARRANT NUMBER

I-089178

ACTION OF GRAND JURY

True Bill

Joan W. Donnelly
Foreperson of Grand Jury
Date: July 12, 2007

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2007-GS-02-1254

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

JULY 23, TERM 2007

THE STATE

vs.

TRAVIS LEE MCKIE

Indictment for

**ASSAULT AND BATTERY WITH
INTENT TO KILL**

SC Code: 16-3-620

CDR Code: 014

Class FEL-C(V)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Aiken
STATE VS.
Travis Mckie
Race: B Sex: M Age: 28
DOB:
Address:
DL#: SID#: 01119912

INDICTMENT/CASE#: 2007GS0201254
A/W#: 1089178
Date of Offense: 10/3/2006
S.C. Code §: 16-03-0620
CDR Code #: 0014

SENTENCE SHEET 20 yrs.
negotiated Cap 15 yrs.

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Assault / Assault and battery with Intent to Kill (ABWIK)

in violation of § 16-03-0620 of the S.C. Code of Laws, bearing CDR Code # 0014
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

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

ATTEST:
David W. M... Solicitor SC Bar# 19553
Travis Mckie Defendant
Attorney for Defendant 71861 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

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

SPECIAL CONDITIONS:
RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

Total: \$ plus 20% fee: \$
Payment Terms:
days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, § 35.13 (Public Def/Prob) \$500, § 73.3, 1B TP (Law Enforce. Funding) \$25, § 33.7, 1B TP (Drug Court Surcharge) \$100, § 50-21-114(BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments) \$ 3.90, § 90.11 TP (SCCJA Surcharge) \$5, TOTAL \$ 133.90

Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Appointed PD or appointed other counsel \$35.13 TP
Requires \$500 be paid to Clerk during probation.

Sherry Dangley
Clerk of Court/ Deputy Clerk

Court Reporter: Cheri Young

PRESIDING JUDGE
Judge Code: 0150
Sentence Date: June 15, 2009