

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Sumter County

Ralph F. Cothran, Circuit Court Judge

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JUN 19 2014

S.C. Supreme Court

ANTHONY TAYLOR,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000177

APPENDIX

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STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)
STATE,)

v.)

TRANSCRIPT OF RECORD
11-GS-43-464
11-GS-43-465

ANTHONY T. TAYLOR,)

DEFENDANT.)

November 7, 2011
Sumter, South Carolina

B E F O R E :

THE HONORABLE GEORGE C. JAMES, JR., JUDGE

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

BRONWYN MCELVEEN, ESQ.
Attorney for the State

TIMOTHY W. MURPHY, ESQ.
Attorney for Defendant

FRANCES BAKIS-RAY, RPR
Circuit Court Reporter
Typed for Margaret Sullivan

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1 MS. MCELVEEN: This is the State of South
2 Carolina versus Anthony Taylor. Indictment
3 2011-GS-43-0464. Mr. Taylor is charged with armed
4 robbery. And indictment 2011-GS-43-0465, again, Mr.
5 Taylor is charged with armed robberies. These armed
6 robberies happened within two days of each other. He is
7 present and represented by attorney Tim Murphy. He is on
8 the trial list, and has indicated he wishes to plead
9 guilty. The state in exchange for his plea, is merely
10 recommending a concurrent sentence And has taken the life
11 without parole notice off the table.

12 We are requesting the full 30 years, Your Honor.

13 (Whereupon, the defendant is sworn.)

14 THE COURT: How about Mr. Harold and Ms.
15 Singleton, have they been notified of the plea?

16 MS. MCELVEEN: Yes, sir. Well they have been
17 notified; yes, sir, about the trial and a possibility of
18 the plea. Mr. Harold did not wish to be present. We have
19 been in touch with him. Ms. Singleton, we have not been
20 able to contact despite subpoenas. She has gotten a
21 subpoena, but we cannot find working phone number for her,
22 Your Honor.

23 THE COURT: How about a criminal record?

24 MS. MCELVEEN: Yes, sir. From March 1998,
25 breaking and entering a motor vehicle. Four counts of

1 burglary second degree and a petty larceny. From March
2 1999, the shoplifting and a grand larceny. Giving false
3 information to police and possession of alcohol by a
4 minor. May 1999, failure to stop for a blue light. And
5 April 2000, armed robbery. And I believe those burglary
6 charges is the same. So, yes, sir, 2000 burglary.

7 THE COURT: Did he spend any time in prison on
8 the armed robbery?

9 MR. MURPHY: 10 years.

10 THE COURT: So everybody agrees these are both
11 most serious, I can check these boxes?

12 MS. MCELVEEN: Yes, sir, Your Honor.

13 THE COURT: And they are violent; right?

14 MS. MCELVEEN: Yes, sir. They are both serious
15 and violent.

16 THE COURT: Somebody checked nonviolent. So
17 they are definitely violent. Mr. Murphy, you do
18 represent Mr. Taylor?

19 MR. MURPHY: Yes, sir.

20 THE COURT: Does he understand the charges of
21 these two indictments, the punishment he faces, and all
22 his rights; including, his right to a jury trial?

23 MR. MURPHY: Yes, sir.

24 THE COURT: And based on your knowledge of the
25 facts, do you think a jury or juries whatever the case

1 might be, would find him guilty of both?

2 MR. MURPHY: Yes, sir.

3 THE COURT: Do you agree with his decision to
4 plead guilty?

5 MR. MURPHY: Yes, sir.

6 THE COURT: And you believe that he is
7 competent?

8 MR. MURPHY: Yes, sir.

9 THE COURT: Your name is Anthony Terrell Taylor?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Mr. Taylor, I will be asking you
12 some questions so I can be sure you are entering your plea
13 freely and voluntarily. As we go through this process
14 over the next few minutes, if you would like to stop and
15 talk to your lawyer, all you have to do is let me know.
16 DO you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Also, if somebody says something
19 that you don't understand, if you don't agree with it, let
20 him know, and he will bring that to my attention. Do you
21 understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You are 31 years old?

24 THE DEFENDANT: Yes, sir.

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

1 THE DEFENDANT: 10th grade.

2 THE COURT: And do you — or how long have
3 you been in jail?

4 THE DEFENDANT: Since May, may of this
5 year.

6 THE COURT: May of this year? On these
7 charges?

8 THE DEFENDANT: Well, on the—

9 MR. MURPHY: Your Honor, it's some pending
10 charges that he was arrested for.

11 THE COURT: What's going to happen to
12 those?

13 MS. MCELVEEN: Your Honor, Mr. Manning
14 represents the State on those matters. They're a
15 series of breaking, entering motor vehicles, grand
16 larceny I believe, and attempted murder?

17 THE COURT: That will still be pending
18 after today's plea?

19 MS. MCELVEEN: Yes, sir.

20 THE COURT: Is that correct?

21 MR. MURPHY: Yes, sir.

22 THE COURT: All right. What's been your
23 general line of work?

24 THE DEFENDANT: Well, when I had got out
25 of prison —

1 THE COURT: When was that?

2 THE DEFENDANT: 2009.

3 THE COURT: Okay.

4 THE DEFENDANT: 2009, I started working at
5 voc rehab and then, you know, once my time was up
6 there, you know, I couldn't get a job and then, you
7 know, I was living on the street and I was homeless
8 and you know, things got real tough for me.

9 THE COURT: Okay. Now have you ever been
10 treated for any mental problems? Have you ever been
11 treated for any mental problems?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Tell me about that.

14 THE DEFENDANT: It was in, like, in the
15 '90s for anxiety, depression.

16 THE COURT: Okay. Do you take medication?

17 THE DEFENDANT: No, sir.

18 THE COURT: Are you supposed to be?

19 THE DEFENDANT: No, sir. I used to but
20 not now.

21 THE COURT: Are you thinking clearly now?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Have you ever been treated for
24 drug or alcohol problems?

25 THE DEFENDANT: Yes, you know, I was

1 trying — you know, that's one of the things, you
2 know, when I got enrolled at voc rehab, you know,
3 for a drug problem that I had.

4 THE COURT: Okay. All right. But you're
5 clean today?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right, Mr. Murphy has told
8 me that you understand these two charges. Is he
9 correct about that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: The charge — well, the
12 indictment that ends at 464 says that on February
13 26th, 2011 in this county you did commit the crime
14 of armed robbery on one Fatima Singleton at the
15 Youngs Market or Youngs Store on Peach Orchard Road
16 by taking goods or monies from her while armed with
17 a deadly weapon or while armed with an object that
18 was apparently a deadly weapon. You understand that
19 charge?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: It carries a minimum of 10 and
22 up to 30 years in prison. You understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: The indictment that ends in
25 465 says that on the same day — the indictment

1 dates are the same?

2 MS. MCELVEEN: Yes, sir. The indictment
3 dates?

4 THE COURT: February 26th, 2011 is what's
5 — the same store?

6 MS. MCELVEEN: Same store but —

7 MR. MURPHY: The same store.

8 MS. MCELVEEN: —February 24th and
9 February the 26th.

10 THE COURT: February 24th.

11 MS. MCELVEEN: The 24th is the indictment
12 in the 464.

13 THE COURT: All right, let me stand
14 corrected. The indictment I just read concerning
15 Ms. Singleton happened on February 24th. You
16 understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. Any objection to
19 me making that change?

20 MS. MCELVEEN: No, sir.

21 MR. MURPHY: No, sir.

22 THE COURT: All right, the indictment that
23 ends in 465 says that you committed the crime of
24 armed robbery on February the 26th, 2011 and that
25 the store clerk at the same Youngs food store was

1 Brian Harold. You understand that charge and it
2 carries the same punishment?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you understand that these
5 are both what the state law calls most serious
6 offenses.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And you could be facing life
9 without parole because of your prior armed robbery.
10 Do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: If you get convicted in the
13 future of either a most serious offense or even a
14 serious offense you'll be again facing life without
15 parole. You understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: So basically you have two
18 strikes under the three strikes law and you're out
19 of strikes also on the two strikes law. You
20 understand?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And do you understand that
23 whatever period of time you receive regards a
24 sentence is concerned you'll have to do 85 percent
25 of it?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: You'll get credit for any time
3 you've served on these two charges. Do you
4 understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: When you plead — you're not
7 still on any supervision, are you?

8 THE DEFENDANT: No, sir.

9 THE COURT: When you plead guilty you give
10 up some rights that you have. I'm sure Mr. Murphy
11 has explained those to you. You give up your right
12 to remain silent and your right to a jury trial and
13 your right to confront witnesses. has he explained
14 all those rights?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Are you prepared when I ask
17 you this question in a few minutes to tell me what
18 you did?

19 THE DEFENDANT: Excuse me, sir?

20 THE COURT: Are you going to be prepared
21 to tell me what you did?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. Your right to a
24 jury trial is your right to have twelve citizens of
25 this county sit in judgment — in this courtroom

1 they'd sit over here in that box. Down the hall
2 there's a different jury box obviously. They'd
3 receive evidence and they would have to be
4 unanimously convinced by the prosecutor that you
5 were guilty beyond a reasonable doubt. Do you
6 understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And do you understand that you
9 don't have to prove or disprove anything during a
10 jury trial?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And do you understand that if
13 you plead guilty you will not get a jury trial on
14 either one of these charges?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Your third right that I
17 mentioned a moment ago that you must give up if you
18 want to plead guilty is your right to confront
19 witnesses. Obviously the store clerk would be
20 witnesses in your trials. You would have the right
21 to see them, listen to them, and then through your
22 lawyer cross-examine them. That applies to any
23 other witnesses who might be called to testify. You
24 understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: If you plead guilty they're
2 not gonna testify. Nobody else is gonna testify.
3 In fact, the prosecutor is just going to tell me
4 what these folks would say. Do you understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Now do you understand that
7 when you plead guilty you give up all your defenses?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And the right to challenge any
10 evidence?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right, sir. Are you
13 guilty or not guilty of armed robbery with regard to
14 the 24th offense, the victim being Fatima (ph)
15 Singleton?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And on this indictment 465 —
18 excuse me, 464. Indictment 465, are you guilty or
19 not guilty of armed robbery?

20 THE DEFENDANT: Guilty.

21 THE COURT: Did you — what were you armed
22 with on those occasions?

23 THE DEFENDANT: Well, Your Honor, you
24 know, I was intoxicated at the time —

25 THE COURT: I didn't ask you that.

1 THE DEFENDANT: Okay.

2 THE COURT: Do you know what you were
3 armed with?

4 THE DEFENDANT: Not at — I don't remember
5 at the time, Your Honor, 'cause I was highly
6 intoxicated. I don't remember.

7 THE COURT: Did you take money from them?

8 THE DEFENDANT: Sir?

9 THE COURT: Did you take money from them?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All right. What was he armed
12 with?

13 MS. MCELVEEN: He was armed with a
14 handgun, a silver pistol, Your Honor.

15 THE COURT: That was recovered?

16 MS. MCELVEEN: No, sir.

17 THE COURT: Were you armed with a pistol?

18 THE DEFENDANT: Possibly, sir.

19 THE COURT: All right, Mr. Murphy, is he
20 splitting hairs here, I mean.

21 MR. MURPHY: No, no, I mean, he —

22 THE COURT: Has he seen the tape?

23 MR. MURPHY: Yeah. He understand the
24 evidence they have; he's satisfied. But he was
25 sincerely high and there are bits and pieces he

1 doesn't remember.

2 THE COURT: Are you truly guilty of both
3 offenses?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And you — or has anybody
6 promised you anything to get you to plead guilty?

7 THE DEFENDANT: No, sir.

8 THE COURT: Other than a recommendation of
9 a concurrent sentence?

10 THE DEFENDANT: No, sir.

11 THE COURT: Has anybody used any pressure,
12 threat, or force?

13 THE DEFENDANT: No, sir.

14 THE COURT: Have you had enough time to
15 make up your mind?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And are you pleading guilty of
18 your own free will?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And are you pleading guilty
21 because you are guilty?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Are you satisfied with the
24 services provided to you by Mr. Murphy?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Is he making you plead guilty?

2 THE DEFENDANT: No, sir.

3 THE COURT: Have you talked to him long
4 enough and often enough?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Is there anything else in the
7 world that you want him to do that he has not done?

8 THE DEFENDANT: No, sir.

9 THE COURT: And do you think he's done
10 everything within reason to represent you properly?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. Have you
13 understood all of my questions?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And do you understand that you
16 have ten days from today for you or Mr. Murphy to
17 file a notice of appeal if you want to appeal?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right.

20 MS. MCELVEEN: Mr. indictment being 464,
21 on February 24th, 2011, the victim Fatima Singleton,
22 a clerk at Youngs Market Number 737 located at 2264
23 Peach Orchard Road here in Sumter County reported to
24 the Sheriff's Office that a black gentleman came
25 inside the store, got an 18 pack of Bud Lite from

1 the cooler, approached the counter. While at the
2 counter pulled out a silver in color handgun and
3 demanded money. The suspect told her to put the
4 money inside of the bag and she complied. The
5 suspect left the store and drove away in what she
6 thought was a white car with a white tag with orange
7 letters or numbers. She said he took approximately
8 72-dollars in cash.

9 On March 3rd, 2011, Investigator Gardner
10 received a written statement from Teddy Getty
11 stating that on February 23rd he was at Taylor's
12 Aunt's house in Wedgefield having drinks. When
13 Taylor showed up about 6 or 7 p.m. Mr. Taylor asked
14 him for a ride to the motel and that Taylor went to
15 pick someone up first. Getty says he lives in
16 Summerton and that he told Taylor that he wanted him
17 to drive because he had been drinking. Getty said
18 he wanted Taylor to get a hotel room in Summerton
19 because the motel was close to where he lives and
20 that he would drive on home from the motel. They
21 left Wedgefield and Mr. Getty got in the back seat
22 while Mr. Taylor drove to pick up the person he was
23 taking to the motel. He fell asleep and about 4
24 a.m. he woke up and they were at a motel in
25 Summerton. Mr. Taylor was there and had an 18 pack

1 of Bud Lite inside of the car. The officer showed
2 Investigator Gardner showed Mr. Getty pictures from
3 store surveillance video camera took during the
4 robbery at Youngs Market at approximately 1 a.m.
5 And Mr. Getty said this was the same clothing that
6 Mr. Taylor was wearing the night that he drove his
7 car. He also identified the person in the video as
8 Mr. Taylor. And Your Honor, please, if I can pass
9 up these still frames.

10 THE COURT: All right.

11 MS. MCELVEEN: This is the February 24th
12 two still frames. And then regarding the indictment
13 ending in 465, two days later, February 26th, victim
14 Brian Harold, another clerk at the same Youngs
15 Market here in Sumter County reported that a black
16 male came inside the store at approximately 3:39
17 a.m., got an 18 pack of Bud Lite beer from the
18 cooler and approached the counter. While at the
19 counter he pulled out a silver colored handgun and
20 again demanded money. He took an undetermined
21 amount of money from the cash register, the store
22 clerk did, and gave it to the suspect. The suspect
23 got into the rear passenger side of the green Honda
24 Accord and left the store. There was a black female
25 driving the car and was holding what appeared to be

1 a 20-dollar bills. The car left the scene and went
2 toward Highway 76 west. Harold said the car had a
3 red paper tag with white letters.

4 Approximately ten minutes before the
5 robbery Deputy Hoffer was checking the Youngs Market
6 on another side of town and saw the same vehicle
7 pull in to the Youngs Market, walk to the front
8 door, and the doors were locked. The gentleman got
9 into the vehicle and got in the back seat and left.
10 Therefore, they knew that this was the same vehicle
11 that had pulled the first Youngs Market that pulled
12 into the second Youngs Market and committed the
13 robbery. At about 6 p.m. the next, that same day
14 but obviously much later in the day, cop — Deputies
15 Boster, Bauldin, Hoffer saw a vehicle matching
16 description of the suspect's vehicle located on
17 Peach Orchard Road. They contacted the owner. She
18 agreed to speak with law enforcement and stated that
19 she was highly intoxicated the night this happened
20 and that her friend Monica Butler, who was driving
21 the car, had told her what happened.

22 On March 3rd Investigator Gardner met with
23 Monica Butler and she stated that she and
24 Mr. Cureton the vehicle — the owner of the vehicle,
25 and Mr. Taylor went to Roy's, I guess a bar, left

1 and then Mr. Taylor wanted to go to 441 to see a
2 girl. Really after they got on the road and said he
3 wanted to go to a store. The driver did not want to
4 go to this vehicle -- to the store. She got angry
5 but took him to the Youngs Market. And she saw him
6 go to the store, go to the cooler, put the beer on
7 the counter and act like he paid. And when he got
8 back in the car she said, you told me you'd pay for
9 gas, where's my gas money. They fought about it for
10 a little bit and then he handed her the money; thus,
11 the 20-dollars the driver was holding when she was
12 driving away. The passengers had no idea this was
13 going on.

14 And Your Honor, if it pleases the Court
15 I'd like to pass up another still frame from two
16 days. You'll notice that the attire is the same,
17 same person, same beer, same gun, same store. Your
18 Honor --

19 THE COURT: That's you in these pictures?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Okay.

22 MS. MCELVEEN: We're asking for the full
23 thirty years because Mr. Taylor had an armed robbery
24 before, ten years. He didn't learn his lesson. He
25 came back out and committed two armed robberies in

1 three days, the same store. And grant it, it was
2 just over Bud Lite; but the way that the State sees
3 it, Your Honor, if he would do this for Bud Lite
4 what would he do for a gold necklace or a diamond
5 ring or for someone who makes him angry. He'll do
6 an — if he'll commit an armed robbery just for Bud
7 Lite I would hesitate to ask what he would do if
8 there's something more serious involved. Therefore,
9 we would ask for the full thirty years.

10 THE COURT: Okay. I've already heard his
11 record and I'll accept both pleas that are entered
12 freely, voluntarily, knowingly and intelligently.
13 He's represented by a lawyer with whom he's
14 satisfied and there's a substantial factual basis to
15 both.

16 Mr. Murphy, I'll be glad to hear anything
17 you have to say.

18 MR. MURPHY: My client is 31 years old.
19 He began using cocaine when he was about 17 years
20 old. He described to me that he'd use it
21 occasionally at first and then over time pretty much
22 every other day or every day if he can get it.
23 The — you know, and that use of cocaine and his
24 dependence on it is reflective to some degree in the
25 types of crime he was involved in prior to the armed

1 robbery he received in the year 2000. Grand
2 larceny, some burglary, BE auto, those are the types
3 of crime typical individuals who are craving cocaine
4 who are having drug problems and he had a drug
5 problem and he has a drug problem.

6 He went to prison and he indicates to me
7 even in prison he was able to get cocaine, not as
8 much as he obviously he can get on the street but he
9 was able to use cocaine a couple of times when he
10 was in prison. When he got out in 2009, as he
11 indicated to you he went to voc rehab and signed up
12 and tried to get some treatment at voc rehab 'cause
13 he realized and realizes he has this addiction to
14 cocaine. It — and he also signed up for adult ed.
15 Things were going okay and then his time in voc
16 rehab ended and there was no real transition to a
17 job at all, and he lost the place where he was
18 staying and he started living on the street. And he
19 advises me he would sleep wherever he could. A
20 couple of times he slept in parks. He would sleep
21 in parking lots, find fields to sleep in. He would
22 meet people, and they would allow him sometimes to
23 sleep in cars, their cars or on porches, cars. A
24 lot of these individuals he'd meet were themselves
25 drug addicts and they started sharing their drugs

1 with him and he started using cocaine again and the
2 addictions came back. Now this is in mitigation.
3 This is not to be viewed as an excuse for any of his
4 conduct. He's here today taking responsibility for
5 what he did. And you know that there is some truth
6 in saying he should have known better; he's been
7 through it before. But I would submit to the Court,
8 in talking to Mr. Taylor he can tell you himself and
9 he will address you in a few minutes that, you know,
10 it's easy to say, well, he didn't learn his lesson.
11 But when you're an addict and you're — you're not
12 in your right mind and really you're not thinking
13 about consequences. You're thinking about where's
14 the next hit I can get.

15 He doesn't dispute these incidents. He's
16 being honest with you when he says they're episodic.
17 He doesn't remember everything. Those individuals
18 who are witnesses were actually with him getting
19 high snorting cocaine prior to those incidences.
20 And I would submit to the Court if you look at the
21 incidences themselves, if he was in his right mind
22 and he was a diligent bank or a diligent armed
23 robber, you don't go back to the same store that
24 robbed two days before, I mean, and basically do the
25 same thing. I mean, I think that, the nature of the

1 crime itself indicates an individual who it's
2 typical of a person who's living in the moment,
3 trying to get some money for a purpose other than
4 getting money for a living. That doesn't — again,
5 that's not an excuse, but it gives the armed
6 robberies some contest.

7 Your Honor, as I indicated before he was
8 high during this incident. Again, that's not an
9 excuse. He was high, quite frankly, he advises me a
10 lot during this time frame and he does have a
11 serious drug problem. Your Honor, he realizes he
12 needs to go to prison, and we're asking the Court
13 and what we would submit to the Court is a
14 reasonable sentence is 15 years and that's what
15 we're requesting and that's what I'm requesting on
16 behalf of my client. The nature of the crimes
17 themselves and his long addiction, we would suggest
18 tot he Court that time frame rather than the
19 maximum, is a reasonable time frame given the nature
20 of the crimes, and the, balanced with the addiction
21 that Mr. Taylor has.

22 Your Honor, again, there are individuals
23 who don't commit armed robberies and have drug
24 problems too. And there are individuals that commit
25 a lot of crime, but once their drug problem is fixed

1 don't commit crimes anymore. I mean, obviously
2 Mr. Taylor had a weapon and performed these crimes
3 so there is a serious consequence that needs to be
4 undertaken here but we would suggest that 15 years
5 is sufficient. Mr. Taylor would like to make a few
6 statements or answer questions you may have.

7 THE COURT: All right, Mr. Taylor.

8 THE DEFENDANT: Yes, sir, Your Honor. You
9 know, I realize that what I did was wrong. I was you
10 know, intoxicated at the time so I want to, you
11 know, apologize to society for my actions. And you
12 know, with my prison sentence I'm gonna try to get
13 the best of it that I can.

14 THE COURT: All right. Anything else?

15 MR. MURPHY: No, Your Honor.

16 THE COURT: Anything else?

17 MS. MCELVEEN: No, sir.

18 THE COURT: All right, Mr. Taylor, I've
19 probably said this before. I don't know of anything
20 in life that's more terrorizing or could be more
21 terrorizing than looking down the wrong end of a
22 gun. You've done this before previously and been
23 out of prison for two years or less by the time you
24 committed these other two acts. I don't think a
25 15-year sentence is appropriate at all. I'm going

1 to commit you to the Department of Corrections on
2 both of these indictments currently. That means
3 you'll serve these sentences at the same time, a
4 period of 26 years.

5

6 * * * End of Requested Transcript of Record * * *

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

I, FRANCES BAKIS-RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Twelfth Judicial Circuit, do hereby certify that the foregoing proceeding was typed for Margaret Sullivan, by a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina,
this 16th day of February, 2013.


FRANCES BAKIS-RAY, RPR

2012 NOV -9 PM 3:26

STATE OF SOUTH CAROLINA

County of Sumter

RECEIVED TRUE COPY
CLERK OF COURT in the Court of Common Pleas
SUMTER COUNTY, S.C.
DEPUTY CLERK OF COURT
SUMTER
SOUTH CAROLINA 2012-CP-43-2188

Anthony T. Taylor 287163

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

vs.

State of South Carolina

Name of Respondent.

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 Lee C.I. 990 Wiscaky Highway Bishopville S.C. 29010
2. Name and location of Court which imposed sentence Sumter County Court House
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) #2011-65-43-0463 Armed Robbery
 - (b) #2011-65-43-0464 Armed Robbery
 - (c) _____
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 11/7/11 - 26 Years
 - (b) _____
 - (c) _____

5. Check whether a finding of guilty was made
- (a) after a plea of guilty ☒ _____
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
6. Did you appeal from the judgment of conviction or the imposition of sentence?
No
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) My Attorney Did Not Advise Me That I Could Appeal.
- (b) _____
- (c) _____
9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective of Assistance Counsel
- (b) Prosecutor Misconduct
- (c) _____
10. State concisely and in the same order the facts which support each of the grounds set out in (9):
- (a) My Attorney Did Not Object To Solicitor Making Untrue statements.
- (b) Solicitor Lied Under Oath By Telling The Judge I Had A Attempted Murder Charge By That
- (c) The Judge Increased My Sentence.

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? Yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

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. Timothy Murphy, Sumter County Public Defender, 107 N. Main Street, Sumter, S.C. 29150

ii. _____

iii. _____

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

i. Plea Arraignment

ii. _____

iii. _____

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

Guilty Plea To Be Vacated, Start Over.

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

N/A

Why My Attorney Been Ineffective.

1. My Attorney Didn't Advise Me That I Could Direct Appeal On My Charges.
2. My Attorney Didn't Object When The Solicitor Lied Under Oath That I Had A Pending Charge Of Attempted Murder.
3. My Lawyer Informed Me That If I Didn't Plead Guilty I Could Get 60 Years If I Went To Trial.
4. My Lawyer Never Took The Time To Go Over Any Type Of Defense Strategy Before My Court Appearance.
5. My Lawyer Never Explained To Me The Outcome Of Pleading Guilty To My Charges.
6. My Attorney And Me Was Suppose To Get In Touch With Witnesses On My Behalf But We Never Did.

Anthony J. Taylor

STATE OF SOUTH CAROLINA

VERIFICATION

County of Sumter

I, Anthony T. Taylor, 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.

Anthony T. Taylor
Anthony T. Taylor

SWORN to and subscribed before me this 6day of Nov.2012

Debra Sures (L.S.)
 Notary Public

My Commission Expires: 11-4-2015

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

I, Anthony T. Taylor, 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.

Anthony T. Taylor
 Applicant

SWORN or affirmed to and subscribed before me this

6 day of Nov. 2012

Debra Sures
 Notary Public

My Commission Expires 11-4-2015

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Anthony T. Taylor, #287163,

Case No. 2012-CP-43-2188

Applicant,

v.

RETURN

State of South Carolina,

Respondent.

The Respondent, making its Return to the application for post-conviction relief, filed November 9, 2012, 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 Sumter County Clerk of Court. The Applicant was true bill indicted at the March 2011 term of the Sumter County Grand Jury for two counts of Armed Robbery (2011-GS-43-0464, -0465). Timothy Murphy, Esquire, represented him. On November 7, 2011, the Applicant pled guilty before the Honorable George C. James, Jr. He was sentenced to twenty six years imprisonment for each Armed Robbery charge; with the sentences to be served concurrently. The Applicant did not appeal his conviction and sentence.

Attached herewith and incorporated herein are the records of the Sumter County Clerk of Court regarding the subject convictions and Applicant's records from the South Carolina Department of Corrections, and the guilty plea hearing 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; and
 - a. "My attorney did not object to solicitor making untrue statements."
 - b. "My attorney didn't advise me that I could direct appeal on my charges."
 - c. "My attorney didn't object when the solicitor lied under oath that I had a pending charge of attempted murder."
 - d. "My lawyer informed me that if I didn't plead guilty I could get 60 years if I went to trial."
 - e. "My lawyer never took the time to go over any type of defense strategy before my court appearance."
 - f. "My lawyer never explained to me the outcome of pleading guilty to my charges."
 - g. "My attorney and me was suppose to get in touch with witnesses on my behalf but we never did."
2. Prosecutor misconduct.
 - a. "Solicitor lied under oath by telling the Judge I had a attempted murder charge. By that the Judge inhanced by sentence."

Any claims not specifically enumerated in the post-conviction 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. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRPC.

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).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

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

IV.

The Respondent submits that Applicant's claim of "Prosecutorial Misconduct" should be summarily dismissed for failure to state a claim cognizable under the Post-Conviction Procedure Act, S.C. Code Ann. § 17-27-10 to -160 (2003). An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy.... S.C. Code Ann. § 17-27-20 (1976).

Even if the facts alleged by the Applicant are true, these facts do not support a cognizable claim for post-conviction relief under any of the statutory grounds. The allegations presented by Applicant raises direct appeal issues that are procedurally barred by S.C. Code Ann. § 17-27-20(b) (1985). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). The Applicant could have raised this issue at trial or on appeal. His failure to do so has waived these allegations as grounds for relief. Therefore, the Court should summarily

dismiss this allegation.

V.

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.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

MEGAN E. HARRIGAN
Assistant Attorney General

By: Megan E. Harrigan
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-3737

March 14, 2013.

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

IN THE COURT OF COMMON PLEAS

2012-CP-43-2188

ANTHONY T. TAYLOR, 287163,
Applicant,

vs

AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA,
Respondent.

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

S. Wayne Gamble, III, Esquire
Post Office Box 2468
Sumter, SC 29151

DATED this 14th day of March, 2013.

Lauren Meara
Lauren Meara, Legal Assistant
For Respondent

1 State of South Carolina

2 County of Sumter

3

4 Anthony Taylor,
Plaintiff

PCR
2012-CP-43-02188

5

6 vs.

7 The State of South Carolina, December 20, 2013
Defendants Sumter, S.C.

8

9

10 Before The Honorable R. Ferrell Cothran, Judge.

11

12

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

14 Mr. Charles T. Brooks,
Attorney for Plaintiff

15

16 Mr. Daniel Gourley,
Attorney for Defendant

17

18 Margaret T. Sullivan,
Court Reporter

19

20

21

22

23

24

25

	<u>Witnesses</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
1	Anthony Taylor				
2	by Mr. Brooks	7			
3	by Mr. Gourley		12		
4	Timothy Murphy				
5	by Mr. Gourley	18			
6	by Mr. Brooks		25		
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1 MR. GOURLEY: This is Anthony Taylor versus the
2 State of South Carolina. Docket No. 2012-CP-43-2188.
3 Presently confined pursuant to order of commitment from
4 Clerk of Court for Sumter County. He was true billed
5 indicted during the March 2011 term under Sumter County
6 Grand Jury for two counts of armed robbery. He was
7 represented here by Mr. Timothy Murphy.

8 On November 7th 2011, he appeared before
9 the Honorable George C. James, Jr. and plead
10 guilty as indicted. Judge James sentenced the
11 applicant to 26 years imprisonment for each count,
12 with the sentences to be served concurrently. He
13 did not appeal his guilty plea or conviction. He
14 subsequently filed an application for post
15 conviction on September 13th 2012. Allegedly he
16 was being held in custody unlawfully, based on
17 ineffective assistance of counsel, involuntary
18 guilty plea, and prosecutorial misconduct.

19 The state's made it's return on March 14th
20 2013. He's represented here today by Mr. Charles
21 Brooks. He has a motion before you, Your Honor.

22 THE COURT: All right.

23 MR. BROOKS: My client has come in and
24 says he wants to address the court about retaining
25 another attorney.

1 THE COURT: Okay.

2 THE APPLICANT: To you, Your Honor, the
3 clerk and other court personnel, my current
4 counsel didn't spoke to the state and their staff
5 and as well as other persons today, witnesses
6 here. At the very outset, I would like it to be
7 duly noted that I would appeal to employee some
8 help preparing this brief statement, because I am
9 the best student. And mostly because today is the
10 very first day that Mr. Brooks has ever had a face
11 to face conversation. I cannot and will not, you
12 know, sit here like a zombie and allow him to
13 serve, you know, while I am yet another
14 participant of this court. And I am certain that
15 a polygraph would prove that he's maybe skimmed,
16 read over my case. Therefore, knowing nothing
17 about my case issues.

18 And I declare that today I will be added
19 to participants for being responsible for
20 disclosing his unethical behavior and unequivocal
21 practices. And I don't feel comfortable with
22 Mr. Brooks.

23 THE COURT: Wait a minute, you need to
24 talk to me, because my Court Reporter can't
25 understand you are saying.

1 THE APPLICANT: I don't feel comfortable
2 with Mr. Brooks.

3 THE COURT: Why?

4 THE APPLICANT: You know, it just -- you
5 know, I don't have nothing against Mr. Brooks.
6 But I don't feel like I will be properly
7 represented by Mr. Brooks.

8 THE COURT: Why not?

9 THE APPLICANT: That's the feeling I got,
10 Your Honor. You know, I just don't feel
11 comfortable with Mr. Brooks my lawyer.

12 THE COURT: You don't get to pick your
13 lawyer, he was appointed.

14 THE DEFENDANT: I know that. That's why
15 I am addressing it to you now, that I don't want
16 feel -- I don't want continue with Mr. Brooks as
17 my lawyer.

18 THE COURT: What's the state's position?

19 MR. GOURLEY: Your Honor, we would object.
20 Mr. Brooks has handles multiple PCR cases
21 throughout this time. He's an excellent defense
22 attorney. He has been here long. Your Honor,
23 Mr. Taylor had another previous attorney,
24 Mr. Gamble. And Mr. Brooks was substituted on.
25 We're here today. Mr Murphy is here today. And

1 we're ready to go forward.

2 THE COURT: Okay. Is that right?

3 THE APPLICANT: Well, Your Honor, I don't
4 want to go forward with Mr. Brooks.

5 THE COURT: Well I mean are you telling me
6 the only reason you don't want to go forward with
7 Mr. Brooks is because you have a -- you don't feel
8 good about it.

9 THE DEFENDANT: I don't feel comfortable
10 with him. I don't have nothing against him. I
11 just don't feel comfortable with him being my
12 lawyer.

13 THE COURT: Well that is not a valid
14 reason. I mean, Mr. Brooks has been a lawyer a
15 long time. He's been involved in a lot of
16 criminal cases. The fact you don't feel
17 comfortable about him is not -- doesn't give me a
18 valid reason.

19 THE APPLICANT: I'm aware of that, Your
20 Honor. I just don't feel---

21 THE COURT: Okay.

22 THE APPLICANT: ---I will be properly
23 represented with him.

24 THE COURT: I understand your motion. And
25 I going to deny it, and we will go forward.

Anthony Taylor-direct by Brooks

1 Mr. Brooks.

2 MR. BROOKS: Be that as it may, we will
3 call Mr. Taylor to the stand.

4 THE COURT: Come on, Mr. Taylor.

5 Anthony Taylor, Being first duly
6 sworn, testified as follows:

7 THE BAILIFF: Please state your full name
8 and spell your last name for the record.

9 A Anthony Taylor. T-A-Y-L-O-R.

10 Direct Examination by Mr. Brooks:

11 Q Mr. Taylor, how old are you?

12 A 33.

13 Q And you filed an application for post
14 conviction relief; is that correct?

15 A Yes, sir.

16 Q And you and I have talked. And I've sent
17 you letters. As a matter of fact, I sent you a
18 little survey for you to narrow down your issues
19 about your PCR. And in it says that you wanted a
20 new trial; is that correct?

21 A Yes, sir.

22 Q And you had Timothy Murphy as your lawyer.
23 He was court appointed; is that correct?

24 A Yes, sir.

25 Q And one of the reason that you said that

Anthony Taylor-direct by Brooks

1 you pled was because you thought you were getting
2 10 to 15 years; is that correct?

3 A No, no. Mr. Murphy came to me the
4 solicitor was offering 15 years.

5 Q But what I'm saying is, you thought that
6 that's what you were going to get.

7 A Yeah.

8 Q That's the only reason you plead; is that
9 right?

10 A Yes, sir.

11 Q Okay. So now you felt like you were duped
12 and coerced into pleading guilty; right?

13 A Yes, sir.

14 Q You were tricked and bamboozled.

15 A Yes, sir.

16 Q And that's why you want Judge Cothran to
17 grant your PCR.

18 A Yes, sir.

19 Q And give you a new trial, so that you can
20 have your opportunity to present your case.

21 A Yes, sir.

22 Q To the people of Sumter County, and
23 perhaps be acquitted.

24 A And another thing I want to present to the
25 court, you know, the solicitor, you know, my

Anthony Taylor-direct by Brooks

1 lawyer and the solicitor, you know, told the judge
2 that I had pending charge attempted murder. Even
3 though I didn't. And I think that hindered my
4 hearing.

5 Q You think that -- okay, I got you. So
6 what you are saying is you think the solicitor
7 saying that, actually informs the judge and got
8 the judge riled up to give you more time than you
9 should have gotten.

10 A Yes, sir.

11 Q And that's the one of the things that you
12 were telling me about; right?

13 A Yes, sir.

14 Q And when you also did your plea, you said
15 to me that you were on medication; is that right?
16 Zoloft.

17 A Yes, sir.

18 Q So you're saying that you didn't really
19 understand what you were doing when you talking to
20 Judge James and doing the plea.

21 A No.

22 Q And your lawyer should have known that; is
23 that right?

24 A Yeah. We discussed that.

25 Q Now I will tell you this. I have to ask

Anthony Taylor-direct by Brooks

1 you this, Mr. Taylor. I want to make sure we are
2 doing what you want to get done. And that if we
3 convince Judge Cothran, we talked about this. If
4 we convince Judge Cothran to give you a new trial,
5 you understand is what is at risk.

6 A Yes, sir.

7 Q And for the record, that's basically a
8 life sentence.

9 A Yes, sir.

10 Q You understand.

11 A Yes.

12 Q And having totally understood that, it is
13 still your desire to get this new trial.

14 A Yes, sir.

15 Q Is that right?

16 A Yes, sir.

17 Q Now you felt that I wouldn't represent
18 you properly.

19 A In a way, but I just don't feel
20 comfortable.

21 Q I know.

22 A They gave me one lawyer and now, you know,
23 you just recently told me that you are my lawyer
24 now. I just found that out.

25 Q But now didn't we get out everything you

Anthony Taylor-direct by Brooks

1 wanted?

2 A Yes.

3 Q Is there anything else that we need to
4 tell the judge that we hadn't told him about why
5 you should get a new trial?

6 A Not as I can possibly think of.

7 Q Think it again. Today is your day.

8 A I know it.

9 Q Today is your day that you complained
10 about that man right there. You're saying he
11 ain't represent you properly.

12 A Because, you know, it was another thing,
13 another issue when the judge asked the solicitor,
14 you know, about the pending charges of attempted
15 murder, if that was correct. She said, yes. He
16 asked my and my lawyer said yes too.

17 Q Okay.

18 A But I don't have the pending charge.

19 Q So you felt that that was ineffective
20 assistance of counsel.

21 A Yes, sir.

22 Q And having said that, is there anything
23 else that you want to tell Judge Cothran about
24 Mr. Murphy's representation of you, and why you
25 should get a new trial. Today is the day.

Anthony Taylor-cross by Gourley

1 A Yeah, you know, like I said, when
2 Mr. Murphy, came to me, first came to me, he was
3 like the solicitor offered 15.

4 Q Okay.

5 A Either he plea to that or take it to
6 trial. I told him would I would plea.

7 Q Okay. Anything else you want to say?

8 A That's it.

9 Q Are you sure?

10 A Positive.

11 MR. BROOKS: Answer any questions of the
12 attorney general.

13 Cross Examination by Mr. Gourley:

14 Q Mr. Taylor, how many times did you met
15 with your counsel prior to your guilty plea?

16 A I think once for like about 10, 15
17 minutes.

18 Q Did you all go over any kind of discovery
19 material or any evidence in your case during that
20 meeting?

21 A No, not really.

22 Q Did you all discuss any possible defenses?

23 A Defenses?

24 Q Yeah.

25 A Basically the only thing we really

Anthony Taylor-cross by Gourley

1 discussed, you know, like when he told me, he came
2 and told me the solicitor is offering 15. They
3 added 15 onto it. And that's why I plea, because
4 they told me I could either plead or go to trial.

5 Q Did you give your counsel any leads or
6 witnesses to investigate?

7 A Excuse me?

8 Q Did you give them any witnesses or leads
9 to investigate on your behalf?

10 A Well we were supposed to -- we talked
11 about it once. We were supposed to go over some,
12 you know, get a list of some witnesses, but we
13 never did.

14 Q Okay. So you didn't give them any? So
15 you didn't give them any?

16 A No, I didn't want to give them any if we
17 didn't have, you know, schedule a day to discuss
18 about giving the names.

19 Q Okay.

20 A The names of the witnesses and stuff.

21 Q Do you recall the judge going over your
22 constitutional rights? Your right to a jury trial
23 and present witnesses and cross examine and so
24 forth?

25 A Say that again.

• Anthony Taylor-cross by Gourley

1 Q Do you recall the judge going over your
2 constitutional rights with you during your guilty
3 plea?

4 A Yes.

5 Q And do you recall telling the plea judge
6 that you were satisfied with your counsel's
7 services?

8 A Well, nah. You know, I was just going
9 basically on what my lawyer said.

10 Q Right.

11 A You know, I was thinking I was getting one
12 sentence, and got another one. Because I took my
13 lawyer's word for it.

14 Q And you thought you were going to get a
15 15-year plea deal?

16 A Yes, sir.

17 MR. GOURLEY: One second, Your Honor.
18 Court's indulgence.

19 Q But you recall the court telling you that
20 were facing life without parole?

21 A Excuse me?

22 Q Do you recall the court telling you that
23 you were facing life without parole?

24 A You know, when I had got out on bond, you
25 know, when I had went up, you know, I had a court

Anthony Taylor-cross by Gourley

1 hearing, I was told that it was in the talks of
2 life without parole.

3 Q Okay.

4 A Talking about life without parole.

5 Q Because you already had a prior armed
6 robbery, they could potentially notice you for
7 life without parole charge. You understood that.

8 A Yeah, I understand that. You know, that
9 as -- I was serving my time for that.

10 Q Do you recall telling the plea judge that
11 you had enough time to speak with your attorney?

12 A Excuse me?

13 Q Do you recall the plea judge telling -- do
14 you recall telling the plea judge that you had
15 enough time to speak with your attorney?

16 A That I had enough time?

17 Q Yeah.

18 A You know the day, the only time, you know,
19 I really did talk to him, you know, it was like
20 when he told me the solicitor was offering 15.

21 Q Okay.

22 A And that was a short conversation. Either
23 you take the 15 or go to trial.

24 Q Okay. Do you recall telling the plea
25 judge that you were guilty of these charges?

Anthony Taylor-cross by Gourley

1 A Yes, sir.

2 Q So you are in fact guilty of these
3 charges?

4 A Excuse me?

5 Q So you are in fact guilty of these
6 charges?

7 A Well just like when, you know, I told the
8 judge, I was highly intoxicated at the time. You
9 know that was everyone was saying. So....

10 Q Okay.

11 A I don't have no recalls of it.

12 Q But you admitted your guilt.

13 A Yes, sir.

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

16 THE COURT: Okay.

17 MR. BROOKS: No other questions, Judge.

18 THE COURT: Have you read your transcript?

19 A Yes, sir.

20 THE COURT: And in here you told the Judge
21 that you weren't taking any. At the time of the
22 plea, you are not taking any medicine.

23 A No, you know, not at the time. When I did
24 plead, I wasn't taking any.

25 THE COURT: Okay.

Anthony Taylor-cross by Gourley

1 A In the past.

2 THE COURT: Right, and I think in the past
3 you mentioned you had anxiety issues. But at the
4 time of the plea you hadn't had any Zoloft.

5 A No, sir.

6 THE COURT: What page did the solicitor
7 say that you had pending against you murder
8 charges?

9 A I don't know. I don't know where that
10 came from. It was a shock to me.

11 THE COURT: Can you show me in the
12 transcript where she said that?

13 A Can I show you that?

14 THE COURT: Yes.

15 A Yes, sir.

16 THE COURT: What page is it?

17 A I don't know exactly what page---

18 MR. GOURLEY: Judge,---

19 A ---it's on.

20 MR. GOURLEY: ---it's on page 6 lines 13
21 through 16.

22 THE COURT: Okay.

23 MR. BROOKS: That's the applicant's case.

24 THE COURT: Okay.

25 MR. GOURLEY: Your Honor, we would call

Timothy Murphy-direct by Gourley

1 Mr. Murphy to the stand.

2 THE COURT: Come around, please,

3 Mr. Murphy.

4 Timothy Ward Murphy, Being first duly
5 sworn, testified as follows:

6 THE BAILIFF: Please state your full and
7 spell your last name for the record.

8 A Timothy Ward Murphy. M-U-R-P-H-Y.

9 DIRECT EXAMINATION by Mr. Gourley:

10 Q Mr. Murphy, how long have you been
11 practicing criminal law?

12 A Well over 25 years.

13 Q Do you recall whether you were appointed
14 or retained in this case?

15 A I was appointed.

16 Q Do you recall when?

17 A I was originally appointed on, excuse me,
18 through the public defender office. I was
19 originally appointed on March 9th 2011. I
20 represented Mr. Taylor until April 4th 2011. I'm
21 sorry, April 14th 2011. At that point, we had a
22 reorganization of certain files in the public
23 defender office. And Mr. Wilder was -- Mr.
24 Taylor's case was transferred to Mr. Wilder. And
25 then I was -- and then Mr. Wilder retired. And

Timothy Murphy-direct by Gourley

1 the August 2011 time frame, and since I had spoken
2 to Mr. Taylor before the reorganization, Ms.
3 Stevens asked me If I would take her case back and
4 I agreed to.

5 Q Do you recall how many times you met with
6 the applicant prior to his guilty plea?

7 A During the total time of my representation
8 of Mr. Taylor, I met with him personally probably
9 four times. And I also spoke to him on the phone
10 a couple of times.

11 Q Did you file any Rule 5 or Brady Motions?

12 A Yes, I did. I also filed an alibi defense
13 notice.

14 Q Did you review the discovery with the
15 applicant?

16 A We reviewed the discovery in detail in my
17 office when he was out on bond. That would have
18 been in the -- before I turned in the file. That
19 was on April 4th 2011. But that includes the
20 video and pictures that came on the video. And
21 then after I was told that this was case coming up
22 for trial, he had -- he was in jail because he had
23 a bunch of pending charges. I went back out with
24 him. We went over the case again. And, you know,
25 I met with him twice then April 4th -- I'm sorry,

Timothy Murphy-direct by Gourley

1 November 4th 2011, and then November 7th 2011. So
2 both of those, was talked about the case in
3 detail.

4 Q And did you all discuss the possible
5 defenses?

6 A We spoke about the alibi defense. He
7 indicated to me initially that during this
8 incident he was at home with his mom. I noticed
9 the solicitor of that defense. And I also called
10 his mother on the telephone to confirm that. You
11 know, to be honest with you, the guy in the video
12 sure looked like him. But you know, he indicated,
13 you know, I thought it was something that he
14 needed to do since he had told me initially that
15 it wasn't him.

16 Then if -- really a couple of days later
17 when I went back and talked to him again, he had
18 admitted to me that it was him in that video. So
19 obviously at that point, we didn't -- it was
20 inference.

21 Q And can you briefly describe the state's
22 evidence in this case?

23 A Well the primary evidence obviously is the
24 video. And there were two armed robberies. They
25 occurred within a couple of days of each other.

Timothy Murphy-direct by Gourley

1 They were of the same store, the Young's Market.
2 The first one occurred; that the evidence was
3 primarily the clerk, Tina Singleton. And then the
4 testimony of an individual who was in a car with
5 Mr. Taylor, who identified Mr. Taylor as wearing
6 the same clothes as the individual in the video.
7 And also he spoke about he was in the car sleeping
8 in the back seat. And at some point Mr. Taylor
9 woke him up. And there was a carton of beer in
10 the car that matched the carton of beer that was
11 stolen from the -- stolen from the store. And the
12 carton of beer is in the video.

13 The second one was a similar situation
14 where a couple of people identified Mr. Taylor as
15 going into the store. And in addition, it was in
16 the video. Mr. Taylor did not give a statement.

17 Q Would you characterize this evidence as
18 overwhelming?

19 A I would characterize it as strong.

20 Q Did you get -- did Mr. Taylor ever give
21 you any leads or witnesses to investigate other
22 than his mother?

23 A No.

24 Q Did you review his constitutional rights?

25 A I reviewed everything with on it.

Timothy Murphy-direct by Gourley

1 Q Did you enter plea negotiations on his
2 behalf?

3 A The -- he was noticed for life in prison
4 in March of 2011. And the sole plea negotiation
5 was if he pleads to the two armed robberies, we'll
6 take life off the table.

7 Q So there was no 15-year offer?

8 A No.

9 Q Whose decision was it to plead guilty?

10 A Mr. Taylor's.

11 Q Did you ever put any pressure on him to
12 plead guilty?

13 A No. I mean I told that I thought it was
14 in his interest. I mean he's facing life in
15 prison.

16 Q Right.

17 A And I told him I thought we would lose the
18 case.

19 Q Right.

20 A But as far as pressure, coercion type
21 pressure, no.

22 Q And in regards to the solicitor stating
23 that Mr. Taylor was facing an attempted murder
24 charge, can you explain that just a little bit?

25 A I do recall that, and we were going

Timothy Murphy-direct by Gourley

1 through the record. And there -- it doesn't show,
2 I actually do remember this. She said,
3 Ms. McElveen was going through his record. He
4 was facing a number of pending charges. And
5 Ms. McElveen was not the solicitor on these
6 charges. Mr. Manning was. And when she going
7 through the pending -- she went through a couple
8 of these pending charges. And then the last one
9 when she said, an attempted murder, she like
10 looked at me and there was a question. An
11 attempted murder. And so in the context it was
12 not, it wasn't a statement, she was like looking
13 for feed back from me. And I looked at my notes
14 real quick and then I looked at her. And, you
15 know, I looked at, I probably should have gone on
16 the record and told the judge he wasn't facing
17 that. But I didn't even view it. By then Judge
18 James had gone forward and keep on asking
19 questions. In all honesty in context, I just
20 didn't view it as a big deal.

21 Q Now if you have viewed it as a big deal,
22 would have objected it or corrected it?

23 A Yes.

24 Q And just for clarification, Mr. Murphy,
25 did you ask for 15 years in your mitigation?

Timothy Murphy-direct by Gourley

1 A Yes, I did. You know, when I would talk
2 to him and I said, look, you know, facing life in
3 prison. He told me, you know, he robbed these
4 stores; that he had a long history of drug abuse;
5 that he was intoxicated during these two
6 incidents. And that, you know, and so we said,
7 okay. And then he said what can we ask for. And
8 I said well look the state -- I told him the state
9 is going to ask for the max. I mean, he had a
10 prior armed robbery. But I said, we can ask for
11 whatever we want to, we are free. We can ask for
12 whatever we want to. And, you know, at first he
13 wanted me to ask for, you know, 10.

14 And, you know, we had discussions about
15 asking for what a credible sentence would be. And
16 I advised him that I didn't think 10 was all that
17 credible given that he had served a prior -- since
18 had a prior armed robbery. And I suggested in the
19 neighborhood of around 20, as I recall. And we
20 kind of agreed to 15. But that back and forth is
21 between me and Mr. Taylor as to what I had asked
22 for if anything specific, as opposed to anything
23 from the state. I mean at no point, he cannot be
24 under any sort of allusion as to what the
25 negotiations from the state were. There were no

Timothy Murphy-cross by Brooks

1 negotiations from the state except taking life off
2 the table. I mean that was it, and he was clear
3 on that.

4 MR. GOURLEY: Thank you, Mr. Taylor. (sic)
5 No further questions, Your Honor.

6 THE COURT: Okay.

7 CROSS EXAMINATION by Mr. Brooks:

8 Q Mr. Murphy.

9 A Mr. Brooks.

10 Q Ms. McElveen was the prosecutor.

11 A Yes, sir.

12 Q And you're saying is, she did not say
13 anything about 15 years?

14 A Absolutely not.

15 Q And you're pretty sure of that.

16 A I am positive.

17 Q Was there any discussion about going to
18 trial?

19 A Initially. That's why I filed the alibi.
20 I mean it's -- you know, the video, it's not like
21 it was high def., okay. And, you know, mom is
22 willing to come in and say it's not him. And the
23 other witnesses don't actually see him, you know,
24 with a gun. Or robbing, at least, they didn't say
25 that in their statements. Now having said that

Timothy Murphy-cross by Brooks

1 the other witnesses place him at the store at the
2 general time that the robberies occurred. And
3 that he's wearing the exact same clothes that the
4 man in the video is wearing. So I kind of
5 presented those alternates to Mr. Taylor. And at
6 that point, you know, he said well, yeah, we
7 agreed that the state had made their case. And he
8 told me that was him.

9 Q Did the -- was their identification by the
10 clerk?

11 A I believe there was. No. And I would
12 have to take a look at the file again. But as I
13 recall in the discovery, I am not sure if the
14 clerks specifically identified. But I do recall
15 one of the individuals looking at the video. And
16 I think it was the guy who was asleep in the car
17 during one of the robberies, identified him from
18 the video. And said, yeah, that's Mr. Taylor.

19 Q The guy who was asleep?

20 A Yeah, he had gone and taken the -- and
21 robbed the store. And there was another guy in
22 the car who was sleeping in the back seat. And he
23 was questioned by the police. And the police
24 showed him the video. And he said, yeah, that's
25 Anthony Taylor. And those are the clothes he was

Timothy Murphy-cross by Brooks

1 wearing when he was driving me home.

2 Q And that's the guy that the state had also
3 talked about drinking that night too.

4 A Right. And he said he give Mr. Taylor --
5 he asked Mr. Taylor to drive him home because
6 Mr. Taylor was sober.

7 Q Okay.

8 A Which is a little inconsistent with what
9 Mr. Taylor said about being highly intoxicated
10 when he robbed the store.

11 Q But obviously their star witness---

12 A Well they -- there had -- there is two
13 armed robberies now. But in one armed robbery,
14 you know, like I said, I mean in one armed robbery
15 you had the clerk. You have the guy in the back
16 seat. You have the clothes. The police recovered
17 the clothes. You have a video that looked like
18 Mr. Taylor. The individual has the same, you
19 know, size. It certainly looked like him.

20 Q Now that's on one armed robbery.

21 A Yeah, that's on one.

22 Q That's one. All of what you said, that
23 was for one incident.

24 A That was the one we were getting ready to
25 go trial on.

Timothy Murphy-cross by Brooks

1 Q Okay. But then there's another one?

2 A A couple of days later.

3 Q Now in your estimation was the state's
4 case stronger on the other one or weaker on the
5 other one?

6 A No, on the other one he was stronger.
7 Because in the other one they had a police officer
8 in video from the store clerk where Mr. Taylor is
9 seen going up to the door, and checking the door
10 and it was locked. And they have a witness who is
11 sober and awake in the car the whole time. And
12 then what happens is the clerk then comes back.
13 And a police officer happened to be sitting in the
14 parking lot and saw Mr. Taylor walk up to the
15 store. And then I guess the police officer was on
16 rounds or whatever, and drove away. Well then
17 Mr. Taylor and this young lady were waiting there.
18 Mr. Taylor goes back up the store. And by then
19 the clerk is in there. Goes in there, and unknown
20 to at least the young lady, my understanding she
21 was never arrested. Went in and robbed the store.
22 Leaves, and then she drives him away. So and
23 that's all on video. And that was the second one.
24 That was not the one we were preparing for trial
25 on.

Timothy Murphy-cross by Brooks

1 I did view that one probably as a little
2 stronger. Because was a police officer was
3 involved as an objective witness. And the young
4 lady, although I didn't talk to the young lady
5 directly, I mean, she was sober.

6 Q Now Mr. Taylor, he never saw these videos.
7 You saw them, and and then reported back to him
8 what you saw.

9 A I don't know. I can't recall. Something
10 tells me we viewed them together. But I maybe
11 wrong on that.

12 Q Okay.

13 A Because we reviewed most -- we reviewed
14 the bulk of the evidence before I turned in my
15 file for the reorganization. That's when -- and
16 it wasn't right before the trial was called. It
17 was months before. And it was in my office.
18 Mr. Taylor was out on bond. I think we reviewed
19 the videos together at that point. And then he
20 said that's not me in that video.

21 Q He said, that's not him.

22 A Yeah, initially. I would have never filed
23 an alibi defense if a guy tells me did it up
24 front. He says that is not me in the video. And
25 he really have an explanation for all these other

Timothy Murphy-cross by Brooks

1 people that are saying that he's walking in the
2 store at the time these robberies are occurring.
3 And so he said that wasn't him. And then later
4 on he said, he had an alibi. And I ended up
5 filing it after I got the case back. And
6 Mr. Wilder had not filed the alibi defense.

7 Q Now you didn't happen to employ an
8 investigator to assist you in this case; did you?

9 A No. And again, I only represented -- I
10 represented him for about maybe a month and then I
11 took the file. And when I got back, it was, you
12 know, it was August time frame, I just didn't.
13 And then the -- by then he had been noticed for
14 life. He got picked up on these other charges.
15 He had multiple B & E autos. Burglaries. There
16 were a couple of burglaries in there. I mean
17 there multiple cases, so.

18 Q But all of these got basically nol-prossed
19 after this.

20 A Yes, but not as a part of these
21 negotiations.

22 Q Okay.

23 A Mr. Manning was handling those cases. He
24 never -- Mr. Manning made no representations to me
25 that they were going to do that but, you know.

Timothy Murphy-cross by Brooks

1 Q But they were subsequently being
2 nol-prossed.

3 A They were supposed to be, yeah. I'd have
4 to check. I mean they were supposed to be.
5 Nobody has been knocking on my door asking to have
6 these charges tried, so I assume they have.

7 MR. BROOKS: I beg the court's indulgence,
8 Your Honor.

9 THE COURT: Okay.

10 Q Mr. Murphy, the police officer on that
11 particular armed robbery that you were referring
12 to. That officer never actually identified
13 Mr. Taylor. That officer only just gave a
14 description of what he saw; isn't that correct?

15 A I don't recall. That maybe true. I don't
16 recall. Like I said, the focus on that case, that
17 was coming down the pike. You know, really, I
18 mean look, when I got involved in that, and we got
19 notice for trial, the focus was, if we lose this
20 case, he's going away for life. So most of my
21 discussions with Mr. Taylor at some point we're
22 just talking about, all right, what do you want
23 to do. Life. You know, do you want to go -- you
24 know, it's his risk. What do you want to do. And
25 he thought about it. I give him the opportunity

Timothy Murphy-cross by Brooks

1 the same store, you know, twice in two days.
2 Twice in two days. And so that was the focus, was
3 trying to put an issue. Because based on what he
4 was telling me, I thought he was rather a
5 sympathetic character. The third thing was, these
6 armed robberies, I mean, he basically got beer.
7 So it was that factor, you know, it's not like he
8 knocked off a bank or something. You know, he
9 basically stole two cases of beer. I think that
10 was some money. He may have gotten \$70.

11 MR. BROOKS: No other questions, Judge.

12 MR. GOURLEY: No further, questions, Your
13 Honor.

14 THE COURT: You can step down. Anything
15 else?

16 MR. GOURLEY: Nothing from the state, Your
17 Honor.

18 MR. BROOKS: Nothing from the applicant.

19 THE COURT: I'll read the record and let
20 you all know. Thank you.

21 MR. GOURLEY: Thank you, Judge.

22 ---End of Requested Transcript of
23 Record---

24

25

C-E-R-T-I-F-I-C-A-T-E

I, Margaret T. Sullivan, Court Reporter, for the Third Judicial Circuit of the State of South Carolina, do hereby Certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the Common Pleas Nonjury Court on December 20, 2013, in Sumter County, Sumter, South Carolina.

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

5.3.14
DATE

Margaret T. Sullivan
COURT REPORTER
My Commission expires: 9/7/21

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

Anthony Taylor, #287163,

Applicant,

v.

State of South Carolina,

Respondent.

RECORDED

2014 JAN 21 10:14 AM
IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

JAMES C. CAMPBELL
CLERK OF COURT Case No. 2012-CP-43-2188
SUMTER COUNTY, S.C.

ORDER OF DISMISSAL

CERTIFIED TRUE COPY
OF ORIGINAL FILED:

[Signature]
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on September 13, 2012. Respondent made its Return on March 14, 2013. An evidentiary hearing into the matter was convened on December 20, 2013, at the Sumter County Courthouse. Applicant was present at the hearing and was represented by Charles T. Brooks, III, Esquire. Respondent was represented by Assistant Attorney General Daniel Gourley of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

The records before this Court indicate The Applicant is presently confined pursuant to orders of commitment of the Clerk of Court for Sumter County. The Applicant was true indicted during the March 2011 term of the Sumter County Grand Jury for two counts of Armed Robbery. Applicant was represented by Timothy Murphy. November 7, 2011, the Applicant appeared before the Honorable George C. James, Jr. and pled guilty as indicted. Judge James sentenced Applicant to twenty six years imprisonment for each count with the sentences to be served concurrently. Applicant did not appeal his guilty plea or conviction

ALLEGATIONS

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on the following allegations:

1. Ineffective Assistance of Counsel.
 - a. Failing to object to solicitor's comments.
 - b. Failing to review possible defense strategies.
 - c. Failing to get in touch with witnesses.
2. Involuntary guilty plea.
3. Prosecutorial misconduct.

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf. The State presented testimony from plea counsel, Timothy Murphy, Esquire (Counsel). This Court also had before it a copy of guilty plea hearing, the Sumter County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, and the return.

At the start of the hearing, Applicant made a motion for a continuance based on the fact that he needed more time to prepare, meet with PCR Counsel, and investigate his case. This Court questioned Applicant regarding his reasons for needing a continuance and ultimately denied his motion.

During the evidentiary hearing, Applicant stated the solicitor had previously offered a deal for fifteen years and he was under the impression that he would be sentenced to fifteen years. Applicant stated Counsel never tried to enforce the fifteen year plea deal. Applicant stated he gave Counsel several witnesses to investigate including his mom. Applicant stated when he entered the court room he did not see the witnesses there and felt he had no other option but to plead guilty. Applicant stated counsel was ineffective for failing to correct the solicitor's statement that Applicant had a pending attempted murder charge. Applicant stated he recalled

the plea court reviewing his constitutional rights. Applicant stated he told the plea judge that he was satisfied with Counsel's services and that he had enough time to speak with Counsel. Applicant stated he told the plea judge that he was guilty of the crime and subsequently admitted his guilt during the PCR hearing.

Following Applicant's testimony, Counsel was called to testify by the State. Counsel testified he has been practicing law for over twenty six years. Counsel stated he was appointed to represent Applicant in this case. Counsel stated he filed for and reviewed all Brady material with Applicant. Counsel stated he discussed Applicant's version of the facts. Counsel stated he discussed the possibility of an Alibi defense. Counsel stated he filed an Alibi notice. Counsel stated the main witness was Applicant's mother. Counsel stated Applicant's mother was not credible. Counsel stated Applicant admitted to him that he committed the crime. Counsel stated the primary evidence against Applicant was a video. Counsel stated there were two separate armed robberies of the same store. Counsel stated various stolen items were found on Applicant's persons. Counsel stated Applicant gave him no additional leads or witnesses to investigate other than the Alibi witnesses. Counsel stated he did hire an investigator in the case. Counsel stated he reviewed his constitutional rights with Applicant.

Furthermore, Counsel stated the solicitor was not implying that Applicant was facing an attempted murder charge, but was asking Counsel whether he was facing the charge. Counsel stated he probably should have corrected the solicitor, given the way the question was posed, he did not deem it necessary to respond. Counsel stated he asked for a fifteen year sentence during mitigation. Counsel further explained that Applicant was only willing to take ten years, but Counsel felt a twenty year sentence would be the most likely sentence. Counsel explained that

he and Applicant agreed to ask for a fifteen year sentence, however there was never a fifteen year plea deal offered. Counsel stated Applicant was noticed for life without parole in March of 2011. Counsel stated the sole plea negotiation was to take life without parole of the table.

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. Specifically, this Court finds that Counsel's testimony is very credible while Applicant's testimony is less credible. 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), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). 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. Hill v. Lockhart, 474 U.S. 52 (1985). Below are this Court's findings in regards to each of Applicant's allegations of ineffective assistance of counsel.

INEFFECTIVE ASSISTANCE OF COUNSEL

Appointed trial counsel failed to render adequate legal representation.

This Court finds Applicant's allegation that he was denied effective assistance of counsel for failing to render adequate legal representation is without merit. This Court finds plea counsel had numerous meetings with Applicant prior to his guilty plea and that they reviewed the discovery materials and the tape recording. The Court notes that Counsel stated he reviewed the possibility of an Alibi defense with Applicant. This Court finds the Applicant failed to articulate what more Counsel should have done to investigate and change the outcome of his proceedings. See Jackson v. State, 329 S.C. 345, 495 S.E.2d 768 (1998) (finding the failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result); Davis v. State, 326 S.C. 283, 486 S.E.2d 747 (1997) (denying relief where applicant failed to present witnesses or specific

testimony establishing he would have had a defense with additional time to prepare for trial). Therefore, this Court finds this allegation should be denied and dismissed with prejudice.

Ineffective for failing to correct Solicitor's comment that Applicant was facing an attempted murder charge.

This Court finds Applicant's allegation that he was denied effective assistance of counsel for failing to correct the solicitor's comment that Applicant was facing an attempted murder charge is without merit. The Applicant testified Counsel should have corrected the Solicitor's statement to the plea judge that he was facing an attempted murder charge. Counsel stated the Solicitor was not implying that Applicant was facing an attempted murder charge, but was instead asking Counsel whether he was facing such a charge. Counsel stated he probably should have corrected the solicitor, but at the time he did not feel there was a need correct the solicitor due to the way the question was posed. This Court finds Counsel's actions reasonable under professional norms. Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Furthermore, this Court finds Applicant has failed to allege sufficient evidence to meet his burden of proving that he was prejudiced by Counsel's alleged ineffectiveness.

Involuntary Guilty Plea

This Court finds that the Applicant's guilty plea was entered freely and voluntarily. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969). Defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000)

(citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977)). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347 (4th Cir.1975).

This Court finds that this allegation is without merit and the Applicant has failed to carry his burden of proving that his guilty plea was involuntarily made. This Court finds that the Applicant's testimony was entered freely and voluntarily. The Applicant testified at the evidentiary hearing that he was pleading guilty freely and voluntarily. This Court finds further that the record reflects the Applicant was thoroughly advised of the waiver of his constitutional rights by both counsel and the plea judge. The record reflects the Applicant at his plea proceeding told the court that he wished to plead guilty. (T. 13). The record also reflects that the Applicant told the court that he had not been promised or threatened by anyone to get him to plead guilty. (T. 15). This Court finds that the Applicant had a full understanding of the consequences of his plea and the charges against him. This Court finds that the plea judge correctly found that the Applicant's plea was freely, voluntarily, and intelligently made. (T. 21).

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence

that plea counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by plea counsel's performance.

The Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. The Court also concludes the Applicant has failed to meet his burden of proving his guilty plea was not knowing and voluntary. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

ALL OTHER ALLEGATIONS

Except as discussed above, this Court finds that the Applicant affirmatively waived the remaining allegations set forth in his application at the hearing. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BML, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

CONCLUSION

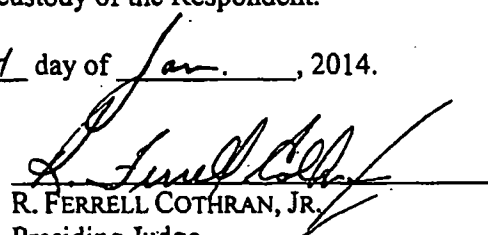
Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

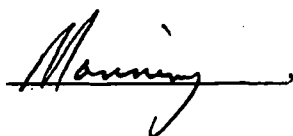
This Court notes that that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant 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 14 day of Jan., 2014.


R. FERRELL COTHRAN, JR.
Presiding Judge
Third Judicial Circuit

, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Sumter

VS.

Anthony Tyrell Taylor

AKA:

Race:

Sex: M

Age:

31

DOB:

SS#: 2

0

Address:

City, State, Zip: Wedgefield, SC 29168

DL#:

SID#:

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

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

TO: Armed Robbery

in violation of § 16-11-330 (A) of the S.C. Code of Laws, bearing CDR Code #

0139

NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC ☐ §17-25-45

w/minor 1st or Lewd Act)

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

ATTEST:

POA. McElwain

74057

Anthony T. Taylor

74057

McElwain, Bronwyn K

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 26 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

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

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

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

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

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

SPECIAL CONDITIONS:

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

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)	\$	\$ 2.90
TOTAL		\$ 133.90

Clerk of Court/ Deputy Clerk James C. Campbell

Court Reporter: Margaret D. Sullivan

SCCA/217 (06/2010)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011-GS-43-0464

A/W#: M442946

Date of Offense: 2/24/2011

S.C. Code § 16-11-330(A)

CDR Code #: 0139

DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA☐ CONVICTED OF or ☒ PLEADS

mm 10 - 30 yrs

rec: Concurrence

§ 17-25-45

(defendant's initials)

☒ Recommendation by the State.

74057

Attorney for Defendant

☐ County Detention Center,

under the Youthful Offender Act not to exceed _____ years

days/months/years and/or payment

plus costs and assessments as applicable*; the balance is suspended with probation for _____

South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

other plea today

§ 24-13-40 to be calculated and applied

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

SPECIAL CONDITIONS:

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

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)	\$	\$ 2.90
TOTAL		\$ 133.90

Presiding Judge

Judge Code: 2143

Sentence Date: 11/7/2011

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF SUMTER)

Robbery / Armed Robbery, robbery while armed or allegedly
armed with a deadly weapon
CERTIFIED TRUE COPY
OF ORIGINAL FILEBarbara Hager
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

At a Court of General Sessions, convened on March 31, 2011 the Grand Jurors

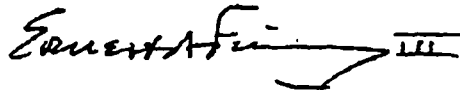
SUMTER County present upon their oath:

Amended by court 11/7/11
COUNT ONE

That on or about February 24, 2011, in Sumter County, South Carolina, the Defendant, Anthony Tyrell Taylor, at Young's #637, 2264 Peach Orchard Road, Sumter, South Carolina, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or other object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of store clerk, Fatima Singleton, with the intent to permanently deprive the victim of possession thereof, in violation of Section 16-11-330(A) of the South Carolina Code of Laws, 1976, as amended.

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

Solicitor



ARRO2.DOT

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Sumter
 STATE VS.
Anthony Tyrell Taylor
 AKA:
 Race: Sex: M Age: 31
 DOB: SS#: [REDACTED]
 Address:
 City, State, Zip: Wedgefield, SC 29168
 DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
 In disposition of the said indictment comes now the Defendant who was
 TO: Armed Robbery

in violation of § 16-11-330 (A) of the S.C. Code of Laws, bearing CDR Code # 0139
☒ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (SC §17-25-45 w/minor 1st or Lower Act)

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

ATTEST: BK. McElven 76589 x Anthony T. Taylor 74557
McElven SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☒ County Detention Center,
 for a determinate term of 36 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: other plea heard
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

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

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

SPECIAL CONDITIONS:

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

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-3-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

Clerk of Court/ Deputy Clerk James C. Campbell

Court Reporter: Margaret D. Sullivan

SCCA/217 (06/2010)

INDICTMENT/CASE#: 2011-GS-43-0465

A/W#: M442945

Date of Offense: 2/26/2011

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

CERTIFIED TRUE COPY
 OF ORIGINAL FILE MM 10-30ys
 SENTENCE SHEET
Balena Thayer rec.
 DEPUTY CLERK OF COURT
 SUMTER COUNTY
 SOUTH CAROLINA
☐ CONVICTED OF ☐ APPEALS convicted

CDR Code # 0139

☐ Mandatory GPS (SC §17-25-45 w/minor 1st or Lower Act)

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

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

ATTEST: BK. McElven 76589 x Anthony T. Taylor 74557
McElven SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☒ County Detention Center,
 for a determinate term of 36 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: other plea heard
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

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

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

SPECIAL CONDITIONS:

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

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)
 § 14-1-211(A)(1) (Conv. Surcharge) \$100
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 § 56-5-2995 (DUI Assessment) \$12
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 § 14-1-213 (Drug Court Surcharge) \$150
 § 50-21-114 (BUI Breath Test Fee) \$50
 § 56-3-2942(J) (Vehicle Assessment) \$40/ea
 Proviso 90.5 (SCCJA Surcharge) \$5
 § 44-53-450(C) (Conditional Discharge) \$350
 3% to County (if paid in installments)
 TOTAL \$ 133.90

Clerk of Court/ Deputy Clerk James C. Campbell

Court Reporter: Margaret D. Sullivan

SCCA/217 (06/2010)

INDICTMENT/CASE#: 2011-GS-43-0465

A/W#: M442945

Date of Offense: 2/26/2011

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

CERTIFIED TRUE COPY
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 SENTENCE SHEET
Balena Thayer rec.
 DEPUTY CLERK OF COURT
 SUMTER COUNTY
 SOUTH CAROLINA
☐ CONVICTED OF ☐ APPEALS convicted

CDR Code # 0139

☐ Mandatory GPS (SC §17-25-45 w/minor 1st or Lower Act)

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

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

ATTEST: BK. McElven 76589 x Anthony T. Taylor 74557
McElven SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☒ County Detention Center,
 for a determinate term of 36 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: other plea heard
☒ 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.

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF SUMTER)

Robbery / Armed Robbery, robbery while armed or allegedly
armed with a deadly weaponTRUE COPY
OF ORIGINAL FILE*Barbara Shaper*
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

At a Court of General Sessions, convened on March 31, 2011 the Grand Jurors of

SUMTER County present upon their oath:

COUNT ONE

That on or about February 26, 2011, in Sumter County, South Carolina, the Defendant, Anthony Tyrell Taylor, at Young's #637, 2264 Peach Orchard Road, Sumter, South Carolina, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or other object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of store clerk, Brian Harrell, with the intent to permanently deprive the victim of possession thereof, in violation of Section 16-11-330(A) of the South Carolina Code of Laws, 1976, as amended.

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

Solicitor

Edward A. Finney III