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S.C. Supreme Court

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Sumter County

R. Ferrell Cothran, Jr., Circuit Court Judge

IKEEF BRAILSFORD,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000286

APPENDIX

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State of South Carolina

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County of Sumter

Ikeef L. Brailsford
Plaintiff

Guilty Plea
2010-GS-43-1183, 1184, 1185
2010-GS-43-1196

vs.

The State of South Carolina,
Defendants

March 1, 2011
Sumter, S.C.

BEFORE THE HONORABLE W. Jeffrey Young, Judge.

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

Mr. Charles David Barr,
Attorney for Plaintiff

Ms. Bronwyn McKnew,
Attorney for the State

Margaret T. Sullivan,
Court Reporter

1 THE COURT: Mr. Brailsford, we began this
2 trial. The jury has yet to hear the evidence.
3 And you have every right to allow this trial to go
4 forward, and let the jury do what they do, and let
5 your attorney do what he does and the State. And
6 if you plead guilty, then you understand that that
7 will stop at this point and time.

8 THE DEFENDANT: Yes, sir, I understand
9 what you are saying.

10 THE COURT: Again, the charge that you
11 have before you is distribution of crack cocaine.
12 And, Mr. Barr, have you had an opportunity to
13 explain the indictments, the possible punishment,
14 and the constitutional rights to Mr. Brailsford?

15 MR. BARR: Yes.

16 THE COURT: And do you think that he has
17 understood everything that you have told him?

18 MR. BARR: I believe he understands, Your
19 Honor.

20 THE COURT: Even after your fantastic
21 opening statement, do you think that he understood
22 what you said and he wants to plead guilty at this
23 point and time?

24 MR. BARR: Yes, sir, I believe he does.

25 THE COURT: And do you believe when you

1 consider all the facts and circumstances of this
2 case, that if he were to go on to trial, that
3 there would be a substantial likelihood that he
4 would be found guilty beyond a reasonable doubt?

5 MR. BARR: This is a substantial
6 likelihood that he could be found guilty.

7 THE COURT: Mr. Brailsford, I need to ask
8 you some questions to make sure you understand
9 that what we are doing here. Now the first
10 question is, are you under the influence of
11 alcohol or drugs?

12 THE DEFENDANT: No, sir, I am not.

13 THE COURT: Are you taking any medication
14 that would cloud your judgment today?

15 THE DEFENDANT: No, sir, I am not.

16 THE COURT: Are you aware of any physical,
17 emotional or nervous condition that would make it
18 so you don't understand what is going on in this
19 case.

20 THE DEFENDANT: No, sir, I am not.

21 THE COURT: Mr. Brailsford, my
22 understanding is that you want to plead guilty to
23 Count 3; that in Sumter County, South Carolina on
24 or about May 28, 2010, the Defendant, Ikeef
25 Lionel Brailsford, did manufacture, distribute,

1 dispense, deliver, purchase or did aid, attempt or
2 conspire to manufacture, distribute, dispense,
3 deliver or purchase or did possess with the intent
4 to distribute, dispense or deliver a controlled
5 substance. Or a controlled substance analogue to
6 wit: 1.59 grams of cocaine base in violation of
7 Section 44-53-375 of the South Carolina Code of
8 Laws as amended. Is what is stated in this
9 indictment the truth?

10 THE DEFENDANT: Yes, sir. That's what I
11 am pleading to.

12 THE COURT: Ms. Solicitor, give me facts.

13 MS. MCKNEW: Yes, sir. On May 28, 2010,
14 an undercover sheriff's office deputy working in
15 the direction and supervision of the Sumter County
16 Drug Unit, went to Sheffield Court here in Sumter
17 County and purchased a quantity of crack cocaine
18 from Mr. Fred China using \$100 in Sumter County
19 documented funds. And a quantity of marijuana for
20 \$60 in documented funds.

21 While this Mr. China, Mr. China advises the
22 undercover officers he doesn't have enough crack cocaine
23 for the \$100. He can get it from this guy. And after
24 making a phone call, the guy says he will come to the
25 location where he is. And after a short wait, Mr.

1 Brailsford arrived in a black truck. Goes to the back
2 of the residence and goes inside. The undercover
3 watches as the Mr. Brailsford hands Mr. China the crack
4 cocaine that Mr. China gives to the undercover officer.

5 THE COURT: Mr. Brailsford, is what was stated
6 by the Solicitor the truth, sir?

7 THE DEFENDANT: Yes, sir, Your Honor.

8 THE COURT: Are you in fact guilty?

9 THE DEFENDANT: I am guilty of the charges, sir.

10 THE COURT: Now you understand that this
11 sentence or the sentence that I can impose on you for
12 distribution of crack cocaine is a minimum of 10 years.
13 And a maximum of 30 years.

14 THE DEFENDANT: I am kind of cloudy on that, but
15 I am pleading on my guilt. But I am just curious to
16 know what offense would that be?

17 THE COURT: This is distribution of crack
18 cocaine.

19 THE DEFENDANT: I mean what?

20 THE COURT: Which offense?

21 MS. MCKNEW: Your Honor, we have down that it's
22 a third offense. On his local history it shows July
23 2005, two counts of distribution of cocaine. And then
24 in December of 2005, distribution of crack cocaine. I
25 don't know if he pleaded to all charges at once, but two

1 different incident dates. I am counting this as a
2 third.

3 THE COURT: This is a third. You are counting
4 this as a third.

5 MR. BARR: And, judge, and he is counting it as
6 second. He says he did it all---

7 THE COURT: Well you all need to resolve that
8 before we go any further, because it makes a big
9 difference as to what the sentence is.

10 MR. BARR: Your Honor, I don't think it would
11 make a difference as to what the sentence is. But for
12 purposes of the plea, the guilty plea, would be the
13 same.

14 THE COURT: Well I mean, but the guilty plea,
15 he's looking at the way I have got it down and the State
16 has it down, that he is looking at a minimum of 10
17 years. Now I think that is an pretty important
18 piece---

19 MR. BARR: Yes, sir.

20 THE COURT: ---of information.

21 MS. MCKNEW: Your Honor, we have July of 2005.
22 July 26th 2005, two distributions of crack cocaine for
23 which he received one year and four years probation.
24 And then we have a December of 2005, distribution of
25 cocaine for one year. Based on the fact that there are

1 two different incident dates, I was counting it as a
2 third. I don't know if he pleading to both at once. In
3 my mind this does not make a difference. This would be
4 a third.

5 THE COURT: This would still be a third.

6 THE DEFENDANT: I apologize. I had the 10
7 years.

8 THE COURT: You know, I am just going to wait
9 for a minute. You all need to determine what we have
10 here. This appears to me to be two separate things.
11 Whether they made a mistake over there. I mean, I have
12 two different pleas for distribution, and this is a
13 third one.

14 MS. MCKNEW: Your Honor, I think it's confusing.
15 Evidently he had a plea bargain on the last charges.
16 They were all pleaded as first offenses.

17 THE COURT: And that makes no difference.
18 The fact that you pled to first offense, first
19 offense, first offense, it has something to do
20 with what the judge can give you that day. But
21 later on it doesn't make any difference.

22 THE DEFENDANT: Yes, sir, I know.

23 THE COURT: Just like when you plead down to a
24 DUI first and it's really a second. The highway
25 department still counts it as a second.

1 THE DEFENDANT: Yes, sir.

2 THE COURT: So this is a distribution of crack
3 cocaine, third offense. You understand.

4 THE DEFENDANT: I understand what you are
5 saying.

6 THE COURT: Now and you understand with that,
7 that I can sentence you to a minimum of 10 years. You
8 don't have to be sentenced to 10 years. And you could
9 be sentenced to 30 years in jail.

10 THE DEFENDANT: Yes, sir. I understand what you
11 are saying, sir.

12 THE COURT: Do you understand the situation here
13 that this is a drug offense, and therefore, the enhanced
14 penalties provisions take over. And if you should get
15 caught again, you would have a higher minimum and a
16 higher maximum. Do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Knowing that, do you still want to
19 plead guilty?

20 THE DEFENDANT: Yes, sir. Yes, I am guilty,
21 sir.

22 THE COURT: Now and you understand that I can
23 also fine you up to \$50,000?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: So you fully understand the

1 charges contained in the indictment, and the
2 possible punishments that you face?

3 THE DEFENDANT: Yes, sir, I understand.

4 THE COURT: Now, you understand when you plead
5 guilty, you waive certain constitutional rights. Of
6 course you already understand you are waiving your right
7 to have a trial. We have got a jury drawn, and they
8 are ready to proceed with this case. And in that trial,
9 the State would still have to prove your guilt beyond a
10 reasonable doubt.

11 Do you still wish to waive your right to have a
12 trial?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And do you understand that when you
15 plead guilty, you waive your right against self
16 incrimination. We would never make you testify, because
17 of course when you plead guilty, you are in essence
18 doing that. You understand that?

19 THE DEFENDANT: Yes, sir. I understand, sir.

20 THE COURT: Now you want to waive your right
21 against self incrimination at this time?

22 THE DEFENDANT: Yes, sir. I am waiving all
23 that.

24 THE COURT: Now are you satisfied with the
25 services rendered to you by Mr. Barr?

1 THE DEFENDANT: Yes, sir. Mr. Barr was
2 excellent. He always was in contact with me, let me
3 know what was going on.

4 THE COURT: And do you need any more time to
5 speak with Mr. Barr? Are there any other little
6 technicalities you need to work out?

7 THE DEFENDANT: No, sir.

8 THE COURT: Now has anybody threatened you in
9 any way to get you to plead guilty?

10 THE DEFENDANT: No, sir.

11 THE COURT: Has anybody promised you anything to
12 get you to plead guilty?

13 THE DEFENDANT: No, sir.

14 THE COURT: Is the only reason that you are
15 pleading guilty is because you are in fact guilty of
16 distribution of crack cocaine? Sir?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Now, have you understood all of my
19 questions?

20 THE DEFENDANT: Yes, sir, I understand
21 everything you have explained.

22 THE COURT: Do you have any other questions for
23 the court?

24 THE DEFENDANT: No, sir.

25 THE COURT: And you understand as well, if you

1 change your mind about your decision to plead guilty, or
2 the sentence that I give you, that you only have 10 days
3 in which to file an appeal?

4 THE DEFENDANT: Yes, sir, I understand.

5 THE COURT: If you can't afford an attorney for
6 the appeal, one will be appointed for you.

7 THE DEFENDANT: I understand.

8 THE COURT: Under indictment 2010-GS-43-1196,
9 which would be Count 3, which is a distribution of crack
10 cocaine, third offense, how do you plead, guilty or not
11 guilty?

12 THE DEFENDANT: I am pleading guilty, sir.

13 THE COURT: I find a substantial factual basis
14 for the plea. I find that the defendant has entered
15 into it freely and voluntarily. I would accept the
16 plea.

17 MS. MCKNEW: Thank you.

18 THE COURT: What is his history, his full
19 history.

20 MS. MCKNEW: Your Honor, we have a shoplifting
21 from March of 1999. A petty larceny as well. A B & E
22 auto. Three B & E autos.

23 THE COURT: In 99? All that in 99?

24 MS. MCKNEW: Yes, sir. July of 2005, two counts
25 of distribution of crack cocaine. Or distribution of

1 cocaine, I'm sorry. December of 2005, distribution of
2 crack cocaine. March 2008, driving under suspension. A
3 petty larceny from 2004, Your Honor. A driving under
4 suspension from 2007. Failure to stop for a blue light
5 and resisting arrest in September of 2010. That is his
6 criminal history, Your Honor.

7 THE COURT: Mr. Brailsford, do you agree that
8 that is the correct rendition of your criminal history?

9 THE DEFENDANT: I agree with all except one
10 part, sir. A petty larceny in 04, I am not quite
11 familiar with that. But everything else---

12 THE COURT: Everything else is correct?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Mr. Barr.

15 MR. BARR: Your Honor, this is a plea agreement,
16 but it is subject to some consideration as far as other
17 interests. So I would defer a plea of mitigation until
18 the other matters are...

19 MS. MCKNEW: Yes, sir.

20 THE COURT: Do you all have some other ones? I
21 mean, I have taken the case, I can release the jury now.

22 MS. MCKNEW: Yes, sir. We have five other
23 cases with Mr. Brailsford.

24 THE COURT: Just like you did with Mr. China.

25 MS. MCKNEW: Yes, sir. Defer sentencing again,

1 Your Honor.

2 THE COURT: Well we will defer sentencing. If
3 you will take him in to custody at this point and time.

4 MS. MCKNEW: Your Honor, Mr. China is all signed
5 up, if we can get -- Mr. Brailsford does need to sign up
6 on the other ones. So he may need to be able to sign
7 and not go in to custody yet.

8 THE COURT: Bring the jury.

9 (Whereupon, the following takes place within the
10 presence of the jury.)

11 THE COURT: Mr. Brailsford.

12 MS. MCKNEW: Yes, sir. We are here on the
13 State of South Carolina versus Ikeef Brailsford.
14 And, Your Honor, has already accepted one plea
15 regarding Indictment 2010-GS-43-1196.
16 Distribution of crack cocaine third offense. The
17 other indictments 2010-GS-43-1183 distribution of
18 cocaine third offense. 2010-GS-43-1184
19 distribution of crack cocaine third offense.
20 2010-GS-43-1185 distribution of cocaine third
21 offense. And manufacturing of crack cocaine third
22 offense.

23 Mr. Brailsford is present, and represented
24 by attorney Charles David Barr. He has indicated
25 he wishes to plead guilty. The State is simply

1 recommending a concurrent sentence, Your Honor.

2 THE COURT: Mr. Brailsford, has already
3 plead under 1196; is that correct?

4 MS. MCKNEW: Yes, sir, Your Honor.

5 THE COURT: Make sure I got it all. Mr.
6 Barr, have you had an opportunity to go over
7 Indictment 2010-GS-43-1183, 1184, and 1185, with
8 Mr. Brailsford?

9 MR. BARR: Yes, sir.

10 THE COURT: And have you had the
11 opportunity to explain the charges contained in
12 the Indictments, the possible punishment and his
13 constitutional rights?

14 MR. BARR: Yes, sir.

15 THE COURT: And do you believe he has
16 understood everything?

17 MR. BARR: He understands, Judge.

18 THE COURT: Does your client wish to plead
19 guilty or not guilty?

20 MR. BARR: Yes, sir. He wishes to plead
21 guilty.

22 THE COURT: And do you agree with his
23 decision?

24 MR. BARR: Yes, sir.

25 THE COURT: And based upon your

1 investigation of the facts and circumstances, do
2 you believe that if his case were to go on to
3 trial, there would be a substantial likelihood
4 he'd be found guilty beyond a reasonable doubt?

5 MR. BARR: Unless they lost something.

6 MS. MCKNEW: Which we didn't.

7 THE COURT: Mr. Brailsford, I need to ask
8 you some questions concerning these Indictments to
9 make sure that you are entering into the plea
10 freely, voluntarily, knowingly and intelligently
11 of the charges contained in the indictment and the
12 possible punishments that you face.

13 But the first question I have is, are you
14 under the influence of alcohol or drugs?

15 THE DEFENDANT: No, sir.

16 THE COURT: Are you taking any medications
17 that would cloud your judgment?

18 THE DEFENDANT: No, sir, I am not.

19 THE COURT: Are you aware of any physical
20 or emotional condition that would keep you from
21 understanding what is happening in this courtroom
22 today?

23 THE DEFENDANT: No, sir, I am not.

24 THE COURT: It's my understanding that you
25 want to plead guilty under the three indictments

1 beginning with Indictment 2010-GS-43-1183, that in
2 Sumter County on or about February 17th 2010, the
3 Defendant Ikeef Lionel Brailsford did manufacture,
4 distribute, dispense, deliver, purchase, or did
5 aid, abet, attempt, or conspire to manufacture,
6 distribute, dispense, deliver or purchase or did
7 possess with intent distribute, dispense, deliver
8 a controlled substance or controlled substance
9 analogue to wit: Cocaine base in violation
10 Section 44-53-375 of the South Carolina Code of
11 Laws as amended. Is what is stated in this
12 Indictment the truth?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Ma'am, Solicitor, what are the
15 facts?

16 MS. MCKNEW: Starting with Indictment
17 1183, Your Honor?

18 THE COURT: Yes, ma'am.

19 MS. MCKNEW: On February 17th 2010, a
20 confidential informant working with the Sumter
21 County Drug Unit purchased \$20 of crack cocaine
22 from a subject known to be Ikeef Brailsford.
23 There was already an investigation ongoing; which
24 two of the charges are being nol-prossed. The
25 confidential informant was searched, and was

1 given \$20. The confidential informant arrived at
2 a residence on Amy Lane here in Sumter County, and
3 purchased crack cocaine from Mr. Brailsford. The
4 CI came back with the drugs and they were
5 submitted into evidence on April 6th 2010. The
6 drugs were tested and came back positive for .23
7 grams of cocaine base.

8 THE COURT: Mr. Brailsford, is what the
9 solicitor stated concerning the facts of this
10 case, correct?

11 THE DEFENDANT: Yes, sir, they are.

12 THE COURT: Are you in fact guilty?

13 THE DEFENDANT: Yes, sir, I am.

14 THE COURT: Under Indictment 2010-GS-43-
15 1184, the Indictment reads that in Sumter County,
16 South Carolina, on or about February 26th 2010,
17 the Defendant, Ikeef Lionel Brailsford, did
18 manufacture, dispense, distribute, deliver,
19 purchase, or did aid, abet, attempt or conspire to
20 manufacture, distribute, dispense, deliver or
21 purchase or did possess with the intent to
22 distribute, dispense, deliver a controlled
23 substance; to wit: Cocaine base, in violation of
24 Section 44-53-375 of the South Carolina Code of
25 Laws as amended.

1 Is what is stated in this Indictment the
2 truth?

3 THE DEFENDANT: Yes, sir, it is.

4 THE COURT: Thank you. What are the
5 facts?

6 MS. MCKNEW: On February 26th a
7 confidential informant, working with the Sumter
8 County Drug Unit was again searched. And given
9 \$20 in documented funds. I am sorry, \$40 in
10 documented funds. And a confidential informant
11 arrived at a residence on Amy Lane here in Sumter
12 County, where the person purchased crack cocaine
13 from Mr. Ikeef Brailsford. The drugs, the
14 confidential informant came back with the drugs.
15 The drug unit, the drugs were tested on April 6th,
16 2010, by Mitchell Hanson. He found .30 grams of
17 cocaine base.

18 THE COURT: Mr. Brailsford, is what is
19 stated by the solicitor the truth?

20 THE DEFENDANT: Yes, it is.

21 THE COURT: Are you in fact guilty of
22 distribution of cocaine first offense?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Now under Indictment
25 2010-GS-43-1185, the Indictment reads that in

1 Sumter County, South Carolina on or about March
2 2nd, 2010, the Defendant Ikeef Lionel Brailsford,
3 did unlawfully possess with intent to distribute,
4 dispense or deliver a quantity of cocaine, a
5 Schedule II narcotic drug, as defined by Section
6 44-53-110 of the South Carolina Code of Laws as
7 amended, in violation of the statutory laws of the
8 State of South Carolina.

9 Count 2, states that in Sumter County,
10 South Carolina on or about March 2nd 2010, the
11 Defendant Ikeef Lionel Brailsford did manufacture,
12 dispense, deliver, purchase, or did aid, abet,
13 attempt to conspire to manufacture, distribute,
14 dispense, deliver or purchase or did possess with
15 the intent to distribute or deliver a controlled
16 substance or substance analogue; to wit: did
17 manufacture cocaine base in violation of Section
18 44-53-375 of the South Carolina Code. Is what's
19 stated in this Indictment the truth?

20 THE DEFENDANT: Yes, it is.

21 THE COURT: Madam Solicitor, what are the
22 facts?

23 MS. MCKNEW: Yes, on March 2nd, 2010, a
24 confidential informant working under the direction
25 and supervision of the Sumter County Drug Unit,

1 went to Frierson Mobile Home Park here in Sumter
2 County, and purchased a \$160 worth of cocaine from
3 Mr. Ikeef Brailsford. The purchase was audio and
4 video recorded. While there, the confidential
5 informant also witnessed on videotape,
6 Mr. Brailsford making crack cocaine, which was
7 recorded obviously from a hidden surveillance
8 device. Your Honor, these drugs were tested on
9 April 13th 2010. And cocaine was found, 2.67
10 grams. The manufacturing occurred, it happened on
11 Amy Lane here in Sumter. I am sorry, I was
12 reading from here. It happened on Amy Lane.

13 THE COURT: Mr. Brailsford, is what was
14 stated by the solicitor concerning the facts
15 concerning that drug transaction the truth?

16 THE DEFENDANT: Yes, sir, Your Honor.

17 THE COURT: Are you in fact guilty?

18 THE DEFENDANT: I am guilty, sir.

19 THE COURT: Now, Mr. Brailsford, you
20 understand that on each of these counts of
21 distribution of cocaine base, third or fourth,
22 that I can sentence you, I have to sentence you to
23 at least 10 years in jail. And can sentence you
24 up to 30 years in jail.

25 THE DEFENDANT: Yes, sir, I understand.

1 THE COURT: You understand that I can
2 sentence you up to a 50,000 fine.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And you understand the State
5 has made a recommendation that I run all sentences
6 concurrent.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And you understand that I am
9 not required to do that. And if I decide to run
10 them consecutively, I can sentence you up to 150
11 years in jail. And fine you approximately
12 \$300,000.

13 THE DEFENDANT: Yes, sir, I understand
14 what you are saying.

15 THE COURT: Do you understand that drug
16 offenses as well, have an enhanced penalty
17 provisions; that if you should be convicted again,
18 there may be a higher minimum and a higher
19 maximum?

20 THE DEFENDANT: Yes, sir, I understand.

21 THE COURT: And you understand that you
22 will lose your driver's license.

23 THE DEFENDANT: Yes, sir, I understand
24 that.

25 THE COURT: Do you understand, Mr.

1 Brailsford, as I said earlier that when you plead
2 guilty, you waive certain constitutional rights.
3 The first right you waive is your right against
4 self-incrimination. You would never be required
5 to come in to court and testify against yourself.
6 However when you plead guilty, you are doing
7 exactly that. Do you understand that?

8 THE DEFENDANT: Yes, sir, I understand.

9 THE COURT: Do you to wish to waive your
10 right against self-incrimination at this time?

11 THE DEFENDANT: Yes, sir, I do.

12 THE COURT: Now, Mr. Brailsford, you also
13 understand that although that many of these
14 charges were not part of the trial that you were
15 going to experience, you still would have -- you
16 are waiving your right to a jury trial.

17 THE DEFENDANT: Yes, sir, I understand.

18 THE COURT: In that trial, Mr. Barr would
19 be able to artfully cross examine the witnesses
20 presented by the State. If he thought it was in
21 your best interest, he could put up witnesses in
22 your behalf. And he could challenge the way the
23 drugs were seized and possibly suppress them. Do
24 you understand that?

25 THE DEFENDANT: Yeah, I understand.

1 THE COURT: And do you understand as well
2 that when you plead guilty, the State has to prove
3 nothing. And you don't get to ask any questions.

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you wish to waive your
6 right to have a trial and confront the witnesses
7 against you?

8 THE DEFENDANT: Yes, sir, I do.

9 THE COURT: Now, Mr. Brailsford, has
10 anybody threatened you in any way to get you to
11 plead guilty?

12 THE DEFENDANT: No, sir, they haven't.

13 THE COURT: Has anybody promised you
14 anything to get you to plead guilty?

15 THE DEFENDANT: No, sir, they have not.

16 THE COURT: Is the only reason that you
17 are pleading guilty to these 5 counts of
18 distribution of crack cocaine third offense, is
19 because you in fact are guilty of 5 counts of
20 distribution of crack cocaine third offense?

21 THE DEFENDANT: Sir, I am -- I am not
22 guilty of the charges that you presented.

23 THE COURT: Just four.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Well the marijuana is that

1 showing up on one of these?

2 THE DEFENDANT: No, sir.

3 MS. MCKNEW: Your Honor, the distribution
4 of---

5 THE COURT: Did you all drop that one--

6 MS. MCKNEW: There are 2 distributions --
7 I'm sorry, 3 distributions of crack cocaine. One
8 distribution of cocaine and one distribution of
9 manufacturing crack cocaine. Your Honor, we are
10 dropping two of the indictments pursuant to a plea
11 agreement.

12 THE COURT: Okay. And those were the
13 marijuana charges. So those things he is
14 pleading---

15 MS. MCKNEW: One distribution of crack
16 cocaine and cocaine.

17 THE COURT: I will go through each one of
18 those again just to be sure. Now, Mr. Brailsford,
19 are you satisfied with the services rendered to
20 you by Mr. Barr?

21 THE DEFENDANT: Yes, sir, I am.

22 THE COURT: Has he done everything that
23 you've asked him to?

24 THE DEFENDANT: Yes, sir, he has.

25 THE COURT: Do you think he has had

1 enough time to review the facts and the
2 circumstances in order to properly represent you?

3 THE DEFENDANT: Yes, sir, he has.

4 THE COURT: And do you need any more time
5 to speak to Mr. Barr?

6 THE DEFENDANT: No, sir, I don't need it.
7 Not present at this moment.

8 THE COURT: Have you understood all my
9 questions today?

10 THE DEFENDANT: Yes, sir, I have.

11 THE COURT: And do you have any questions
12 for the court?

13 THE DEFENDANT: The Court meaning?

14 THE COURT: Do you have any questions for
15 me?

16 THE DEFENDANT: The court, no, sir, I
17 don't.

18 THE COURT: I assume you do not.

19 THE DEFENDANT: Yes, sir, I understand
20 what you are saying.

21 THE COURT: And you understand as well,
22 that if you change your mind about the decision to
23 plead guilty on all of these charges that you
24 could -- you still will only have 10 days in which
25 to file an appeal?

1 THE DEFENDANT: Yes, sir, I understand.

2 THE COURT: Under Indictment

3 2010-GS-43- 1183 charging you with distribution of
4 crack cocaine third offense, how do you plead,
5 guilty or not guilty?

6 THE DEFENDANT: Guilty, sir.

7 THE COURT: Under Indictment

8 2010-GS-43-1184 charging you with distribution of
9 crack cocaine third offense or subsequent offense,
10 how do you plead, guilty or not guilty?

11 THE DEFENDANT: Guilty, sir.

12 THE COURT: Under Indictment

13 2010-GS-43-1185 charging you with manufacturing
14 cocaine, how do you plead or not guilty?

15 THE DEFENDANT: Guilty, sir.

16 THE COURT: Under Indictment 2010-GS-43
17 1185 charging you with distribution of cocaine
18 base third offense, how do you plead, plead guilty
19 or not guilty?

20 THE DEFENDANT: Guilty, sir.

21 THE COURT: I find there is a substantial
22 factual basis for the plea. I find the defendant
23 has entered into it freely and voluntarily. He
24 has had the advice of counsel with whom he says he
25 is well pleased. What was his criminal history

1 again?

2 MS. MCKNEW: Your Honor, he has an August
3 2003, driving under suspension. December 2004,
4 leaving the scene of an accident. July 2005, two
5 counts of distribution of cocaine. November of
6 2005, one count of distribution of crack cocaine.
7 And March 2008, driving under suspension second
8 offense.

9 THE COURT: Is that a correct recitation
10 of your criminal history?

11 THE DEFENDANT: Yes, sir, it is.

12 THE COURT: And the charges and everything
13 that you -- everything she said you have actually
14 been charged and convicted of.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Mr. Barr.

17 MR. BARR: Just, Mr. Brailsford, he is
18 still a relatively young man. He's approximately
19 31, 32 years old. He is, I've only known him for
20 maybe about a year and a half. Your honor, he
21 certainly, when you look at his record, you can
22 see that perhaps there has been a pattern of
23 conduct that with this business of selling illegal
24 drugs that Mr. Brailsford has been engaged in.

25 But if you look at the time period, Your

1 Honor, it's not a substantial time period. I
2 think it just kind of started catching him in May
3 of 2009. And prior to that time, Your Honor, you
4 really don't see a lot of activity there other
5 than some minor scraps and things. But nothing
6 involving illegal drugs.

7 So, Your Honor, I have always, and, of
8 course, he has family like everybody else. Even
9 though I have to crawl up from under the bus there
10 with counsel a few minutes ago. But he does have
11 family that is concerned about him. And when I
12 got the call yesterday, I think I had anticipated
13 going to Georgetown. And then I got called late
14 yesterday afternoon to come over here. So we
15 wound up coming over here this morning, and not
16 going to Georgetown. And, of course, I was not
17 able to get all of Mr. Brailsford's family with
18 him. But, Judge, quite frankly, I don't like to
19 bring a whole lot of people to court, and come and
20 stand up and insult you, you know,---

21 THE COURT: I don't count how many people
22 they bring.

23 MR. BARR: Well aside from how many, you
24 know, what I find is difficult, is when you go to
25 a household and you have got somebody in there

1 selling illegal drugs and somehow nobody knows
2 about it until they get caught. And when they
3 come to court and then everybody comes to court
4 and says, oh, he is such a good person. Never did
5 any -- we just didn't know. Well, you know, give
6 me a break.

7 The fact of the matter is, Judge, there is
8 no excuse for selling illegal drugs. None. And
9 to sell them to somebody. You know that somebody
10 is going to -- they will harm somebody. So, you
11 know, I think but I must say on Mr. Brailsford's
12 behalf that he has, since I have known him, with
13 all the people that I have ever represented
14 involving drugs, I would bank my money on him.
15 And here's why, Judge. Within the most time
16 period, he has demonstrated to me that he can
17 function and function properly without selling
18 drugs.

19 Now he has done, he is about 50 hours away
20 from getting an associate degree. And I really
21 believe that education is the thing that enables
22 people, enables young people, and in particularly,
23 young black men, to say no to \$5 here, \$10 here
24 doing something illegal. And I am very proud of
25 what he has done. And was gainfully employed. He

1 was incarcerated for I think it was failure to
2 stop for a blue light. But he got out of jail
3 about 6 months ago. And, Judge, he has been on
4 key from that time.

5 So as I said, notwithstanding, what how he
6 appears today, If I had to put my money on
7 anybody, I would put it on him to be able to
8 function in society without selling illegal drugs.
9 And, Your Honor, as I said to his mother, she, I
10 know her very well now. And he has got people,
11 certainly even people here in law enforcement that
12 could come up and say something good about, but
13 you just simply can't ignore the bad.

14 Now, Your Honor, I would just -- I would
15 ask that you consider a minimum sentence. And,
16 Your Honor, that's why I am not telling you that
17 he didn't know what he was doing was wrong, and
18 nobody knew about it. Everybody knew about it.
19 That's just how it is. Now this business of
20 selling illegal drugs is a systemic thing. And I
21 don't know what I would be. I am glad I am not in
22 this generation. Of course, I don't believe
23 that -- this having been as prevalent during my
24 time, I think I would be able to say no. My
25 mother and father demonstrated and used some

1 little deterrent than they use now.

2 Aside from that, Your Honor, I genuinely
3 believe that if given another opportunity even
4 though he has had several. But given another
5 opportunity, Your Honor, I still think when you
6 look at where he is now, and where his mind set
7 is, Judge, I believe that he can be a constructive
8 person doing something other than selling drugs.

9 And, Your Honor, I would ask the court to
10 give him an opportunity to do that. I think the
11 minimum punishment, Your Honor, for what he has
12 done is, I believe it's enough. And, Your Honor,
13 I would just ask you to in your heart, as it
14 relates to punishment and what we believe
15 punishment is supposed to do, that you consider
16 that. As I said, I don't offer, or ask you to
17 excuse what he has done. But a minimum sentence.
18 Judge, it's a no parole offense, and he is looking
19 at substantial time jail. Thank you, Judge.

20 THE COURT: Would you like to say
21 anything?

22 THE DEFENDANT: Yes, sir. Like state
23 again my name, Ikeef Lionel Brailsford. Mr. Barr,
24 I am 29 -- I currently 29 years old. I will be 30
25 in October. And like he said before, sir, I

1 would just like to go back and just to sort of
2 build character on myself. I am high school
3 graduate. I graduated in the top 10 percent of my
4 high school class. My mother and father, they
5 have always been an integral part of my life. But
6 it's a void I have already, sir. I can't have a
7 life except the one I got. So I don't take that
8 to offense, but both of them still play an
9 integral part of my life. My father was there
10 when I played football from last school. He was
11 there for me. He helped support me in every game.
12 My mother was there. Also she worked for the
13 school district. A lot of people are familiar
14 with her. She's a pretty familiar person within
15 dealing with kids, sir.

16 So after high school, I went on to
17 college. I received a football scholarship. I
18 went on to college at Newberry College. I am
19 thinking that's where I sort of kind, not making
20 no excuse for what I did, because every person has
21 free will as part of your birth rights. Free
22 will. One of them free will. But that seemed
23 like the time when being off from home, not in
24 that structured environment, when I started to
25 have slips in life. And I started basically

1 getting introduced to drugs, cocaine. And I
2 started to deal with people that was with cocaine.
3 Started using myself. And just started, you know,
4 familiar with it out in school.

5 And during that time, I started, I
6 developed a habit. After developing a habit, that
7 something's my mother, my father, I don't know no
8 person who would support another person's habit,
9 especially of that nature. And so I started
10 trying to find means of getting it in on my own.
11 And the person that -- the people that I was
12 associated with, with the drugs, they were
13 introduced later to me. You do this for me, and I
14 can give you this right here. And things of that
15 nature. So it kind of snow balled into the effect
16 of me trying to get in the scene of dealing drugs.

17 And so as is stated in my record, I was
18 arrested for it back in 05. Within the same
19 nature of the charge that I was currently going
20 on. I was arrested for dealing drugs. Just
21 being a -- trying to get to a free whatever I can,
22 benefit from the situation by doing it or whatever
23 the case may be. It really wasn't much. So after
24 that time, I was blessed by the lord. I had
25 proper representation by Mr. Ken Young. He got me

1 a pretty lenient sentence of 4 years probation. I
2 received 4 years probation. When I received that
3 probation for the drug charges back in 06, it kind
4 of -- it tightened me up. I got on the track
5 where I was doing things right. I started -- I
6 was going to school. Going -- I enrolled back in
7 college, because I wasn't smart. But I did -- I
8 was 80 percent of my class. I enrolled back in
9 college. Got my, started to get back in school.
10 Started making good grades.

11 And then I got to a point where I started
12 having kids. I guess later on, I started to have
13 kids. And it started getting more restraining on
14 me, working. I mean, yeah, I was working. I was
15 working lawn service at the time, sir. And it
16 started putting more restrain on me. So I went
17 back and I did something I shouldn't have did. I
18 went -- I resorted back to something that I put
19 behind me. And I resorted back to it, to try to
20 find a way to make a way for myself. And it
21 really wasn't making a way. It was introducing me
22 back to the drugs I was trying to get away from.
23 I had straightened my life up before I started
24 back using.

25 I started back using drugs at first,

1 mostly at parties. Using drugs. Smoking lace
2 blunts. And then it escalated. That the
3 person -- the people buy, you do this for me.
4 I'll give you this. And I just support my habit.
5 Not thinking of the long term effect of the trench
6 I was dealing for myself. Or the effects of what
7 I was doing. Just to get high part of it, sir.
8 And that's what led me back to that part, just
9 transport. If you do this for me, I can give you
10 \$30. I can give you a 40 smoke. You put in.

11 And that was tempting me at the time. So
12 just dealing with the family, and this situation
13 with family, I started back and started back
14 engaging it and making arrangements, wondering why
15 I shouldn't have did it. And so when I was
16 arrested for the charges back in July, well right
17 before the 5th of July, I made a run for a person
18 that wasn't a good person, and I was robbed at the
19 time. So it kind of put a reality check on me
20 that what I was engaging in. The people that,
21 this is what you are in.

22 So I went back to my family. And then I
23 was arrested probably a couple of weeks after
24 that, of the charges that I was currently facing
25 with. But it really did put a spin on me life.

1 I did have a previous failure to stop for blue
2 light. But that was pending on me at the time
3 when I arrested. So when I was arrested, that
4 kind of put a hold on me. But I already been
5 charged, so there ain't no use in putting this
6 criminal back out on the street to do more things
7 to get a record. So that put a hold on me.

8 And so with the resisting arrest and
9 failure to stop, I see I caught a plea of 6
10 months. Or I was sentenced over to the Department
11 of Corrections. And I served my time.

12 Introduced. It just kind of put a reality in me
13 like while this thing is like it is, you are here
14 a long time. I met some people who had sentences
15 from 1972, that are still there. And it just
16 really put a reality check on me. I just pray to
17 God about it and do the best I can. And try to
18 get back out and be constructive in life. And
19 finish out school. Get gainful employment.

20 So when I -- as far as me getting back out
21 and I started going to church, being around my
22 father. My father, he is a retired military
23 veteran of the Army. A VietNam veteran. My
24 mother actually she works for the school district.
25 So started introducing the lord back to us. And

1 I started back going to church. And they was
2 talking. And the people seen my character and
3 seen my growth one Sunday, and seen I was such a
4 good person.

5 There was a woman that was at the church
6 that she had -- she was a supervisor at the
7 Logan's Steak on Broad Street. So she said she
8 would give me a try, just to see and prove my
9 work. And it would always be good. Just in case,
10 I mean, you still got charges you got to face
11 which I know that. But it attracted a base you
12 can start on. And so since then I was employed.
13 I was working great work. They loved me. I can
14 come on. Not necessarily to the lead cook, but
15 I am scheduled for 47 hours a week. I get one
16 day off. My day off usually is Wednesday.

17 I get one day. I am scheduled. I'm doing
18 everything. They are counting on me. And then
19 process the food. They are trying to do a better
20 check of myself. And part of them because of my
21 background and well because of education in
22 business manager, and I am so close to a business
23 manager, that they do all the promotion for
24 management when they can. So they wanted to give
25 me a try to see how that would work.

1 So since then too, like I say, I would
2 like to tell a little more about my character.
3 But under those circumstances, I was caught, I was
4 supposed to be going to work. But this right came
5 about. And so I did need to attend. So I came.
6 I wasn't really able to get my mother. She's at
7 school. My father he had a visit at the V.A.
8 hospital. So I wasn't really able to get my
9 family to support me as I would want to. But I am
10 here, and I admitting to what I did. I apologize
11 for having you all in this situation. To see me
12 in front of you like this.

13 But as the police department, because and
14 I am glad that they to do their job. They stopped
15 for -- it was a snow ball effect that I ended up
16 getting. I appreciate the solicitor's office. I
17 appreciate my lawyer. And I am blessed to say
18 that the lord is in my life. And I know that I
19 will be able to get through this situation, sir.
20 I apologize for speaking so long, but that's all I
21 have.

22 THE COURT: Anything further, Mr. Barr?

23 MR. BARR: No, sir.

24 THE COURT: Anything further from the
25 State?

1 MS. MCKNEW: One thing I omitted on his
2 criminal history, a March 1999, shoplifting. And
3 a November 1999, 3 counts of B & E auto and a
4 petty larceny.

5 THE COURT: Now, Mr. Brailsford, you also
6 understand, I didn't ask you earlier. You are
7 going have to serve 85 percent of whatever I
8 sentence I give to you. Do you understand that?

9 THE DEFENDANT: Yes, sir, I understand.

10 THE COURT: Is that correct, solicitor?

11 MS. MCKNEW: Yes, sir.

12 THE COURT: Mr. Brailsford, you sing a
13 good song. I just don't see where you have
14 actually lived it. I hope you have turned your
15 life around. But I think what stopped you from
16 dealing drugs is the fact that you were arrested.
17 And I think you would have continued to deal. I
18 don't know how long you would have. But I am
19 trying to establish a sentence with that sends a
20 message; as well as, the legislature determines
21 that I have to give you at least 10 years. But
22 that's beyond my control.

23 All the Indictments 1185 the two charges
24 there, under Indictment 1184, and 1183, the
25 Sentence of the Court is that you be committed to

1 the State Department of Corrections for a period
2 of 10 years. And that is suspended.

3 On Indictment 2010-GS-43-1196 on the
4 charge of distribution of crack cocaine, the
5 Sentence of the Court is that you be committed to
6 the State Department of Corrections for a period
7 of 15 years, suspended upon the service of 12
8 years. Good luck sir.

9 ----End of Requested Transcript of Record----

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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 General Sessions Court on March 1, 2011, in Sumter County, Sumter, South Carolina.

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

5-4-12
DATE

Margaret T. Sullivan

COURT REPORTER

My Commission expires: 9/7/2021

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

IKEEF L. BRAILSFORD #264172

Full name and prison number (if any) of Applicant

v.

State of South Carolina

2012 JAN 26 PM 12:23

IN THE COURT OF COMMON PLEAS

CERTIFIED TRUE COPY

OF ORIGINAL FILE

2012-CP-43-142

DEPUTY CLERK OF COURT

SUMTER COUNTY, SOUTH CAROLINA

APPLICATION FOR
POST-CONVICTION RELIEF**INSTRUCTIONS - READ CAREFULLY**

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

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

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

1. Place of detention Kirkland Correctional Institution, 4344 Broad River Road, Columbia, SC 29210
2. Name and location of Court which imposed sentence Sumter County Court of General Sessions, Sumter County Court House, 141 N. Main Street, Sumter, SC 29150.
3. Name(s) of co-defendant(s) (if any) Fred China, III on 2010-GS-43-1196.
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2010-GS-43-1196 - Distribution of Crack Cocaine - M441820
 - (b) 2010-GS-43-1185 - Manufacturing Cocaine - M441821
 - (c) 2010-GS-43-1185 - Distribution Cocaine Base, 3rd offense - M441823
 - (d) 2010-GS-43-1184 - Dist. Crack Cocaine, 3rd of subseq - M441770

- (e) 2010-GS-43-1184 - Distribution Crack Cocaine, 3rd - M441769
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) March 1, 2011 - 15 years concurrent
 - (b) March 1, 2011 - 10 years concurrent
 - (c) March 1, 2011 - 10 years concurrent
 - (d) March 1, 2011 - 10 years concurrent
 - (e) March 1, 2011 - 10 years concurrent
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty X
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
 - i. _____
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. _____
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. _____
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. _____
 - ii. _____
 - iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) _____
 - (b) _____
 - (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
 - (a) Ineffective assistance of counsel
 - (b) involuntary guilty plea
 - (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
 - (a) _____
 - (b) _____
 - (c) _____
12. Prior to this application have you filed with respect to this conviction:
 - (a) any petition in a State Court under South Carolina Law? no
 - (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no
 - (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no
 - (d) any other petitions, motions or applications in this or any other Court? no
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
 - (a) the specific nature thereof:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
 - (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

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

No

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

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or

Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) _____
- (b) _____
- (c) _____

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

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

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

- (a) the name and address of each attorney who represented you:
 - i. Charles D. Barr, Esq., Barr & Barr, PA, P.O. Box 83, Kingtree, SC 29556
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. plea and sentencing
 - ii. _____
 - iii. _____

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

New trial

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

No

STATE OF SOUTH CAROLINA)

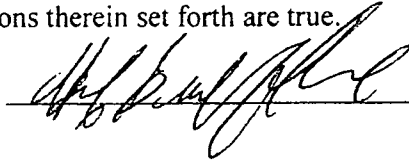
)

VERIFICATION

County of Richland)

)

I, Ikeef L. Brailsford, 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.



SWORN to and subscribed before me this 20th
day of January, 2012.

 (L.S.)
Notary Public

My Commission Expires:
October 8, 2014

My Commission Expires: _____

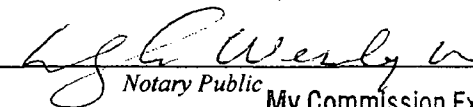
**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

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

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.


Applicant

SWORN or affirmed to and subscribed before me this
20th day of January, 2012.


Notary Public

My Commission Expires

My Commission Expires: October 8, 2014

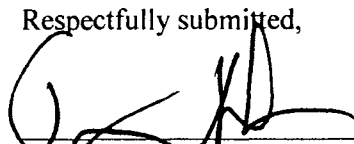
STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF SUMTER	)	DOCKET NO.: 2012-CP-43-142
	)	
Ikeef Brailsford #264172,	)	
	)	
Applicant,	)	
v.	)	AMENDMENT TO APPLICATION
	)	FOR POST CONVICTION RELIEF
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent,	)	
	)	

The Applicant by and through his attorney, Tommy A. Thomas would respectfully amend and supplement his original application for Post Conviction Relief filed January 26, 2012, by adding the following:

1. That the Applicant specifically realleges his claim of ineffective assistance of counsel.
2. That the Applicant also alleges that his guilty plea was involuntary and that counsel was ineffective in allowing him to plea to a third related drug offense when he had only been convicted of one prior offense.
3. That the Applicant plead to a Distribution of Crack Cocaine 3rd, Warrant No.: M441769, and Distribution of Crack Cocaine Base 3rd, Warrant No.: M441823 and Distribution of Crack Cocaine 3rd or Subseq., Warrant No.: M441770 on March 1, 2011.
4. That Mr. Brailsford prior drug offense consisted of Warrant No. H977129, Drugs/Man, Dist, etc of Meth or Cocaine Base 1st, Warrant No. A87257, Manuft, Possess other Sub Sch I, II, III WITD – 1st and Warrant No.: H907612, MDF, Drugs Sch I, B,C, LSD and Sch II, Cocaine 1st. He plead to these three charges June 8, 2006.

5. That as a result, the Applicant's plea should not have been to a third offense and that his charges were improperly enhanced.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tommy A. Thomas', written over a horizontal line.

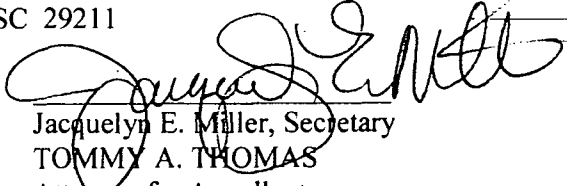
Tommy A. Thomas
Attorney for the Applicant
Post Office Box 88
Irmo, South Carolina 29063
(803) 732-5507

June 25, 2012
Irmo, SC

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF SUMTER	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
Ikeef Brailsford	)	
Applicant,	)	Docket No.:2012-CP-43-142
	)	
v.	)	
	)	CERTIFICATE OF SERVICE
State of South Carolina,	)	
Respondent.	)	
	)	

I, Jacquelyn E. Miller, secretary to Tommy A. Thomas, Attorney for Appellant in the above action, hereby certify that I placed in the United States Mail, a copy of an Amendment to Application for Post-Conviction Relief with postage prepaid, and the return address clearly shown on said envelope to Megan Harringan, Esq. at:

Megan Harringan, Esq.
 Assistant Attorney General
 P.O. Box 11549
 Columbia, SC 29211


 Jacquelyn E. Miller, Secretary
 TOMMY A. THOMAS
 Attorney for Appellant
 P.O. Box 88
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Irmo, South Carolina
 June 25, 2012

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

2012-CP-43-142

Ikeef L. Brailsford, #264172,

Applicant,

v.

RETURN

State of South Carolina,

Respondent.

The Respondent, making its Return to the application for post-conviction relief, filed January 26, 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 indicted during the September 2010 term of the Sumter Grand Jury for distribution of cocaine base (2010-GS-43-1184), and under a two count indictment (2010-GS-43-1185) for (1) drugs/MDP, narcotic drugs in Sch. 1(b) &(c), LSD, and Sched. II, Drug /Manuf. Cocaine base. Additionally, during the October 2010 term of the Sumter county grand Jury, the Applicant was indicted for two counts of drugs manufacture, distribution, etc. of cocaine base, drugs/manufacture, distribution, etc. of marijuana (2010-GS-43-1196). Charles D. Barr, Esquire, represented the Applicant. On March 1, 2011, the Applicant entered a guilty plea to all charges as indicted. The Honorable W. Jeffrey Young sentenced Applicant to confinement for a period of fifteen (15) years imprisonment suspended upon the service of twelve (12) years imprisonment, ten (10) years imprisonment for manufacturing cocaine, and ten (10) years for distributing crack

cocaine. All sentences to run concurrent. The Applicant did not appeal his conviction or sentence.

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

II.

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

1. Ineffective assistance of counsel
2. Involuntary guilty plea

Any claims not specifically enumerated in the post-conviction relief 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.

Respondent submits that the Applicant's allegation that his guilty plea was involuntary is without merit. In PCR cases, a defendant asserting a constitutional violation must frame the

issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Respondent submits that the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact which is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper v. State, 305 S.E.2d 247.

V.

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

VI.

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

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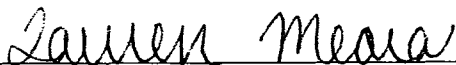
May 31, 2012

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER	)	
	)	
	)	2012-CP-43-142
	)	
IKEEF L. BRAILSFORD, 264172,	)	
	)	
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:

Tommy Thomas, Esquire
Post Office Box 88
Irmo, SC 29063

DATED this 15th day of June, 2012.


 Lauren Meara, Legal Assistant
 For Respondent

State of South Carolina)
)
County of Sumter)
)

Ikeef Brailsford,
Plaintiff

vs.

The State of South Carolina,
Defendants

BEFORE THE HONORABLE R. Ferrell Cothran, Judge.

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

Mr. Tommy Thomas,
Attorney for Plaintiff

Mr. Daniel Gourley,
Attorney for Defendants

Margaret T. Sullivan,
Court Reporter

1	Witnesses	Direct	Cross	Redirect	Recross
2	Ikeef Brailsford				
3	by Mr. Thomas	14		47	
4	by Mr. Gourley		43		
5	Charles D. Barr				
6	by Mr. Gourley	48		58	
7	by Mr. Thomas		54		
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1 MR. GOURLEY: Your Honor, the next case is
2 Ikeef Brailsford. This is the State of South
3 Carolina docket No. 2012-CP-43-142. He was
4 indicted during the September 2010 term of the
5 Sumter County Grand Jury, for distribution of
6 cocaine base, and manufacturing of cocaine base.

7 Additionally, during the 2010 term of the
8 Sumter County Grand Jury, he was indicted for two
9 counts of distribution of cocaine base.

10 Mr. Charles D. Barr represented him on all
11 charges. On March 1st 2011, he pled guilty as
12 indicted to all charges, before the Honorable W.
13 Jeffrey Young. He sentenced him to a confinement
14 for a period of 15 years imprisonment. Suspended
15 upon the service of 12 years imprisonment. And
16 10 years imprisonment for manufacturing cocaine.
17 And 10 years for distribution -- distributing
18 crack cocaine. All sentences are to run
19 concurrent. He did not appeal his conviction of
20 sentence.

21 He filed a timely application for
22 post-conviction on January 26th 2012, alleging
23 ineffective assistance of counsel and involuntary
24 guilty plea. The state made it's return on May
25 29th 2012. And thereafter, his PCR counsel Tommy

1 Thomas, amended his application to include the
2 following allegations. The applicant's guilty
3 plea was involuntary and counsel was ineffective
4 allowing applicant to pled to a third drug related
5 offense, when he had only been convicted of one
6 prior offense. And he's represented here today by
7 Mr. Tommy Thomas.

8 THE COURT: Okay.

9 MR. THOMAS: Your Honor, if it Please the
10 Court, we intend to go forward on those issues
11 today, basically ineffective assistance of counsel
12 and involuntary guilty plea. The issue about the
13 enhancement, just in summary basically revolves
14 around those cases of Gordon. And then I think is
15 Bryant that comes along and also the case of
16 Robinson, which we have copies of, Your Honor.
17 And what happened is that at the time he pled, he
18 has basically two appearances in court. He
19 appears one time back in -- when did you plead the
20 first time? When did you go to court the first
21 time?

22 THE APPLICANT: 2006.

23 MR. THOMAS: 2006, Your Honor. What
24 happens is that, he goes in and Gordon is the law
25 at the time; in which, if you have a number of

1 different drug charges and you to plea to all of
2 them on the same day, they count as one
3 occurrence. That's been of course subsequently
4 changed. And what happened is that when he
5 initially pled to his prior, he two drug offenses
6 that happened on different dates. And then when
7 he comes and he pleads to these charges, he is
8 enhanced to a third. But Law enforcement during
9 that period of time has changed to say that you
10 can plead to a first and a second on the same day,
11 as long as they're continuing the course of
12 conduct. And those are the issues that we intend
13 to raise before the court today. Effecting his
14 plea.

15 THE COURT: Well what's the state's
16 position on that? I mean it seems to be more of
17 legal issue than ineffective assistance of
18 counsel. I mean, do you agree with what counsel
19 just told me?

20 MR. GOURLEY: Your Honor, there was a long
21 colloquy in the guilty plea with Judge Young and
22 Mr. Barr and the solicitor discussing this. And
23 our state's position is that it was worked out as
24 a guilty plea. And that he was correctly charged.

25 MR. THOMAS: And that's why, Your Honor, I

1 think it falls back to the issue of ineffective
2 assistance. And also probably more likely to
3 whether or not the plea was freely and voluntarily
4 given, Your Honor. Based upon advice of counsel;
5 in that, he believed that he was pleading to a
6 second offense. It is raised in the trial court
7 at the plea. They did discuss it. But he has
8 been contended ever since I've known him, that he
9 thought that it was improperly enhanced and that
10 it was a second offense. And that's what he based
11 plea upon.

12 THE COURT: Okay. Well if it was a second
13 offense----

14 MR. GOURLEY: Yes, sir.

15 THE COURT: ---truly a second offense, was
16 it a second offense that was qualified, well I
17 guess it's not an 85 percent. How is the
18 Department of Corrections treating it? Are they
19 treating it as an 85 percent or non-85 percent?

20 MR. GOURLEY: Judge, it's says his
21 projected parole is 12/27/2013.

22 MR. THOMAS: Actually they are treating it
23 as 85 percent, Your Honor. He was scheduled for a
24 parole date. We were thinking that maybe somehow
25 or another, he was falling within the new category

1 of the new ominous crime bill. They have
2 subsequently within probably a month of so ago,
3 notified him that he is ineligible for parole and
4 he is 85 percent. He would come out of course on
5 community supervision, which they consider part of
6 the parole program, Your Honor.

7 THE COURT: Was his sentence -- was he
8 sentenced prior to them changing the law that took
9 second out of 85 percent?

10 MR. THOMAS: No.

11 THE COURT: And was his priors put him in
12 an 85 percent on the third?

13 MR. THOMAS: The priors---

14 THE COURT: Are they possessions or
15 distribution?

16 MR. THOMAS: They're distribution charges,
17 Your Honor.

18 THE COURT: Okay. So we don't, so it
19 would put him in the 85 percent on the third.

20 MR. THOMAS: It would, Your Honor. And
21 the thing is that, what we were hoping is that he
22 would be parole eligible because they have made
23 some of those drug charges 85 percent, but parole
24 eligible, and he is not. When we last looked at
25 the statute, if he had a previous convictions for

1 controlled substances, which would be prescription
2 drugs---

3 THE COURT: Right.

4 MR. THOMAS: ---then he would be eligible,
5 but he has the prior distribution charges which
6 makes him ineligible under the statute.

7 THE COURT: But if it was a second offense
8 he was be eligible, right?

9 MR. THOMAS: Yes, sir. Yes, sir, he
10 would. And the problem that we have; is that, he
11 thought that he was -- that he should be at the
12 time pleading to a second. And it's a kind of, to
13 me it's a little bit gray, I guess. Because at
14 the time he plead initially to two counts, Gordon
15 was in effect, so it would be one. But when he
16 gets arrested and pleads again, then of course
17 Gordon have been overturned. And the court has
18 said you can use those multiple pleas to enhance.
19 And so that puts him it in the situation where he
20 is today, Your Honor.

21 THE COURT: Okay. So of course, if I
22 grant your relief then he starts over.

23 MR. THOMAS: Yes, sir.

24 THE COURT: And is that what he really
25 wants to do.

1 MR. THOMAS: I have talked to him about
2 that, Your Honor. And that's what he says he
3 wishes to do.

4 THE COURT: Okay. But on March 1st of
5 2011, when he pled to the distribution of crack,
6 now did that say second on the thing? But what
7 has he got, he has got CDR code of third.

8 MR. THOMAS: Yes, sir. And the solicitor
9 wrote in, you know, 10 to the third, punishment
10 10 to 30.

11 MR. THOMAS: Yes, sir.

12 THE COURT: \$50,000 fine. So in fact if
13 you looked at his prior record, is the state's
14 position it was in fact a third at that time? And
15 his sentence is correct?

16 MR. THOMAS: Yes, sir, Your Honor. He
17 has -- let me look at, I've got it right here,
18 Your Honor. On his sled report he has, which to
19 me is unusual, because a lot of times, you know,
20 on drug charges you see just lots of drug charges.
21 He has one prior appearance in Court, but he pled
22 to two counts. And one of them, the offense date
23 is 7/26 of 05. And then he has an offense date of
24 it looks like it says an offense date of
25 January 9th of 06. And the court date for both of

1 these is 6/8 of 2006. So he has two counts, and
2 they are 7, 8, 9, 10, 11, 12, about six months
3 apart. And he pleads to them in June of 06.

4 At that point and time, what the solicitor
5 does is take under the change in the law and say
6 they are not one course of conduct, because they
7 are separated.

8 THE COURT: Right.

9 MR. THOMAS: So they are two. So even
10 though you pled to them on the same day, they are
11 a first and a second. And you are here today on a
12 third.

13 THE COURT: Right. So you take the
14 position the solicitor is wrong on that?

15 MR. THOMAS: No, sir, I don't. I think
16 the solicitor is correct actually. I had first
17 thought that the solicitor was wrong, and that's
18 kind of how this case got started. And then the
19 more I did into the research into it, I discovered
20 that the law had been changed, and the dates
21 coincide with his plea. What he had told me all
22 along was that he entered into a plea, based upon
23 the fact that he thought he was going to be
24 sentenced as a second, because he thought it was a
25 second drug offense.

1 And what he's going to testify to, Your
2 Honor, is that the judge, he says that the judge
3 will try to get the transcript but couldn't.
4 The judge told him when he was initially was in
5 court, you understand that this is enhancement.
6 And if you come before the court on another drug
7 charge, you are going to have a second offense.
8 So he's saying that---

9 THE COURT: That's what the judge told him
10 on his first plea.

11 MR. THOMAS: Oh, his first one, yes, sir.

12 THE COURT: Right.

13 MR. THOMAS: And that was correct.

14 THE COURT: And that was correct on his
15 first plea.

16 MR. THOMAS: Right.

17 THE COURT: But what did the judge tell
18 him in the last plea. That's what really is
19 important.

20 MR. THOMAS: What happened in the second
21 plea, Your Honor, and it is on the transcript on
22 page 5. There is a colloquy where back on the
23 bottom of the page on line 21, it says that local
24 history it shows July 05, two counts of
25 distribution of cocaine. And then December of 05,

1 distribution of crack cocaine. And then it goes
2 on to talk about whether or not this is a third.
3 Mr. Barr says on the next page on page 6, and
4 Judge, and he is counting it as a second. So
5 that's where the confusion. Counsel conveys to
6 court that my client, Mr. Brailsford, thinks that
7 this is a second offense. Judge says well this
8 needs to be corrected. And then basically the
9 conclusion is come to that because of the change
10 in the law that this would be a third.

11 THE COURT: Okay.

12 MR. THOMAS: And unfortunately I know
13 Mr. Brailsford wants to present that on the stand.
14 I believe that, of course, it did change. So that
15 probably is correct. What we intend to go forward
16 today is just based upon what his understanding
17 about whether his plea was freely, voluntarily,
18 knowingly and intelligently entered, Your Honor.
19 Based upon the advice of counsel.

20 THE COURT: Okay.

21 MR. GOURLEY: Your Honor, on page 8 Judge
22 Young tells him, this is a distribution of crack
23 cocaine third offense, do you understand. Then in
24 response, I understand what you are saying.

25 THE COURT: Okay. And I understand that.

1 You know, when you first started out I thought
2 this was really a legal opinion as to what it
3 really was. But at least now I think at least
4 from what you are telling me, the judge sentenced
5 him properly as to what it really was. Now what
6 his perception of that may be an issue in this.
7 Because if the prosecutor had gotten it wrong and
8 it was a second, then we could fix that.

9 MR. GOURLEY: Yes, sir.

10 MR. THOMAS: And that's what I thought,
11 Your Honor. At first when I got this case, I
12 actually thought that was the situation; that it
13 was improperly enhanced. And my client
14 Mr. Brailsford, still thinks it's improperly
15 enhanced. But what I have been able to find with
16 the changes in the case; is that, I think it
17 probably was. And he also believes that it was
18 continuous course of conduct that he is going to
19 testify to, because he thinks that this was a drug
20 problem that was ongoing. And I'd have to leave
21 that up to the court to make the determination as
22 to whether or not that is correct. But it is
23 separate by a number of months.

24 THE COURT: Okay.

25 MR. THOMAS: Yes, sir.

Ikeef Brailsford-direct by Thomas

1 THE COURT: Thank you. Having said that,
2 you can call your first witness.

3 MR. THOMAS: Your Honor, if it please the
4 court, we would call Mr. Brailsford.

5 Ikeef Brailsford, Being first
6 duly sworn, testified as follows:

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

9 A My name is Ikeef Brailsford.
10 B-R-A-I-L-S-F-O-R-D.

11 MR. THOMAS: And, Your Honor, I apologize.
12 I still -- I have a cold and I'm still just kind
13 of recovering from this. I'm all stopped up.

14 DIRECT EXAMINATION BY MR. THOMAS:

15 Q Mr. Brailsford, you are currently serving
16 time in the Department of Corrections.

17 A Yes, sir, I am.

18 Q And what are you serving time for?

19 A I'm serving time for distribution of crack
20 cocaine third offense.

21 Q And what type of sentence did you receive?

22 A I received a 15-year suspended to 12-year
23 sentence upon completion of 85 percent of the
24 sentence.

25 Q And when is your max out date?

Ikeef Brailsford-direct by Thomas

1 A My max out date is February 28th 2021.

2 Q And what was your plea date?

3 A My plea date was March 1st, 2011.

4 Q And do you have a prior record?

5 A Yes, sir, I do.

6 Q And you have a prior drug conviction; is
7 that correct?

8 A Yes, sir, I do.

9 Q And do you remember when your were
10 convicted on those crimes?

11 A Yes, sir, I do.

12 Q And when was that?

13 A I was convicted on them charges June the
14 8th 2006.

15 Q And that was for two counts?

16 A Yes, sir.

17 Q And were both of those counts treated as a
18 first?

19 A Yes, sir.

20 Q The two first offense---

21 A Yes, sir.

22 Q ---distribution charges.

23 A Yes, sir. I signed my sentencing sheet
24 saying that they were first offense. I was
25 understood at the time of the plea agreement that

Ikeef Brailsford-direct by Thomas

1 my charges would be consolidated into one
2 conviction, and they would be a first offense
3 conviction.

4 Q In your rap sheet it says that one of
5 those was committed on 7/26th of 05; is that
6 correct?

7 A Yes, sir, it is.

8 Q And the other offense date was June 9 of
9 '06?

10 A That's the conviction date. The offense,
11 I'm thinking, yeah, I am thinking for sure the
12 offense date is December 8th 2005.

13 Q December the 8th?

14 A Yes, sir.

15 Q Okay. So 7/26 of 05. And then 12/8 of
16 05?

17 A Yes, sir.

18 Q 7, 8, 9, 10, 11, 12. So that's about what
19 about 4 months apart?

20 A Yes, sir.

21 Q Mr. Brailsford, do you understand that you
22 have exposure today? You and I have talked about
23 that?

24 A Yes, sir. Yes, sir, we have.

25 Q And if the court grants your relief that

Ikeef Brailsford-direct by Thomas

1 you could go back and actually be retried?

2 A Yes, sir, I understand.

3 Q And in post-conviction the only relief
4 that you can ask for is a new trial?

5 A Yes, sir, I understand that.

6 Q And that's what you are asking for today.

7 A Yes, sir, I do.

8 Q And understanding that exposure, do you
9 still wish to go forward today?

10 A Yes, sir, I do.

11 Q Mr. Brailsford you were arrested in July
12 of what, 2010?

13 A Yes, sir. July of 2010.

14 Q And did you hire an attorney?

15 A Yes, sir. I hired an attorney. Well I
16 initially -- I was arrested July, I think July
17 22nd or 23rd of 2010.

18 Q Okay. And were you appointed counsel, or
19 you hired somebody?

20 A No, I hired an attorney, sir.

21 Q And did you get out on bond?

22 A Yes, sir, I did end up getting out on
23 bond.

24 Q And how long were you out on bond?

25 A I was out on bond exactly four months. I

Ikeef Brailsford-direct by Thomas

1 was released October 31st 2010, and went to court
2 March 1st 2011.

3 Q And you hired Mr. Barr.

4 A Yes, I did hire Mr. Barr.

5 Q And when you met with Mr. Barr, or let me
6 ask you this question. How many times did you
7 meet with Mr. Barr?

8 A I met with Mr. Barr three times while I
9 was still in the county where I was -- I had a
10 pending charge at that time that had to have been
11 handled before I could I go forward to be bonded
12 out on my current charges. So I met with --
13 Mr. Barr came to see me three times. I reached
14 out to him to hire him as my attorney. And so he
15 came to see me about three times. And then after
16 that, once I got off on bond, I met him in his
17 office November 18th 2010. One time.

18 Q One time. So you met with him how many
19 times total?

20 A Four times total.

21 Q And when you talked to him, you spoke
22 about your charges of course.

23 A Yes, sir. Yes, sir, I did.

24 Q And how did you prepare this case? What
25 did you and he do to prepare your case for trial

Ikeef Brailsford-direct by Thomas

1 or a plea or?

2 A To be honest, sir, we didn't do anything.
3 When I was released on October 31st, out on bond
4 for my charges, I was sent my motion of discovery
5 by him. He sent my motion of discovery. I got my
6 motion of discovery. Approximately about a week
7 or so after that, he sent me a letter. I would
8 say it was afternoon November 8th, 9th of 2010.
9 He sent me a letter saying that my case has been
10 scheduled for the court appearance that next week,
11 the week of November 15th. And that I needed to
12 met with him in his office.

13 Q Let me stop you there. A court
14 appearance. Was this for like a roll call?

15 A No, it was on the docket. My case was on
16 the docket.

17 Q On the docket for trial.

18 A Yeah, it was on the docket for trial for
19 the week of November 15th. And well---

20 Q Go ahead.

21 A And so he told me that the contact in his
22 office had scheduled appointments with him. So I
23 contacted his office and they scheduled my
24 appointment for that Thursday of the week that my
25 case was on the docket to go to court for the

Ikeef Brailsford-direct by Thomas

1 Thursday of that week. And so I went in and I am
2 thinking that the week started November 15th, and
3 I came to him that November 18th on that Thursday.
4 And so when I got to his office, I meet with
5 Mr. Barr in his office.

6 In his office, he asked me, he said, have
7 you had you had time to look over your motion and
8 the discovery that you did. And I told that I
9 did all the motions of discovery, sir. And at
10 that time, he told me, well I haven't had time to.
11 He said, I am, deeply engaged in a murder trial
12 that I have pending that is on the docket. And I
13 called Judge King who was, I think the chief judge
14 over the circuit at that time. I called Judge
15 King and asked that the case be continued.

16 Q Now at that time talk about your --
17 actually you went to trial; didn't you?

18 A Yeah, I started to trial.

19 Q Started to trial.

20 A Yes, sir.

21 Q And you talk about his theory of events,
22 how he was going to defend you at trial?

23 A No, sir. At that time, he told me, he
24 said, I will get back in touch with you
25 whenever -- I am sorry. The preparation for this

Ikeef Brailsford-direct by Thomas

1 case right now, but right now I am preparing for a
2 murder trial that I have next month. So he said
3 have a nice holiday.

4 Q When did he start preparing this case?

5 A To be honest, sir, I am not sure. I got a
6 call. Well Mr. Barr, he contacted my mother
7 February 28th 2011. And in fact, I'm thinking he
8 was trying to get in touch with me. But I think
9 my cell phone was out of service at the time. So
10 I had, for emergency contact I had my mother's
11 number on the list. And so he contacted my mother
12 and told my mother that he was trying to get in
13 contact with me; that it was in urgent that I get
14 in touch with him.

15 So I called him, I want to say around
16 about 7:00 o'clock that afternoon on February
17 28th. And he told me that, because I had a
18 co-defendant on one of my distribution charges.
19 He said, I was accused of giving my co-defendant
20 drugs that he sold to the informant. But he told
21 me that I co-defendant was about to -- that next
22 day was supposed to plea from a plea to the
23 distribution of crack cocaine. And that possibly,
24 not guarantee but quite possibly that charge would
25 be dismissed. So he said wanted me to met him in

Ikeef Brailsford-direct by Thomas

1 front of the courtroom in the parking lot, which
2 is where we are at now, in the parking lot. But
3 the other courtroom. He said meet him there that
4 next morning around 8:30.

5 And so I asked like what are we going to
6 court or something. At that time he was like,
7 nah, nine times out of ten your charges will be --
8 the charges I have connected there will be
9 dismissed. It's the only charges of your charges,
10 that they have on the docket at the time. So you
11 won't be going to court at that time.

12 So that next morning, well my mother, she
13 came to see me thinking I had to court. I tell
14 her, nah, my lawyer he didn't want me to be in the
15 courtroom. My charges would be dropped probably.
16 He didn't guarantee it. Well he said probably my
17 charges would be dropped.

18 Q Let me stop you. So in other words, you
19 met with your attorney on a Thursday. And you
20 are talking about you went to court the next week.

21 A I met with him November 18th. That's when
22 we met me in person. He called February 28th.
23 That was about 3 months later.

24 Q Three months later.

25 A Yes, sir.

Ikeef Brailsford-direct by Thomas

1 Q So you went to court thinking that you
2 were going to go to have charges dropped.

3 A Charges dropped, yes, sir. Uh-huh.
4 (Affirmative.)

5 Q And what happened when you went to court?

6 A Okay. I met with him that morning in the
7 parking lot, and he asked me, he told me to walk
8 with him up those stairs to the courtroom. So I
9 walked him upstairs to the courtroom. We went
10 inside the courtroom and he told me to sit down
11 inside the courtroom. And he went to the back and
12 I think it was to talk to the solicitor about my
13 situation. I think it was I would say 20 or 30
14 minutes or so. So he came, actually he came to
15 near to where the judge's bench was. And he
16 called me to come back to where he was. Come back
17 to where he was.

18 So I went back to the back room where he
19 was, and at that time we were in a meeting room.
20 And at that time he told me that the solicitor is
21 not agreeing to drop your case. She wants to take
22 you forward a trial. It sounds like she want to
23 take me forward to trial. And then he was like
24 yes, sir. I mean when does she want to do that.
25 And he was like right now within the next 10

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1 minutes. And then so I was looking at him like
2 the next 10 minutes. It caught me off guard. I
3 was flabbergasted about the idea of just having to
4 go to court, not expecting to go to the court at
5 that time. So he said the next 10 minutes.

6 And do we had a little discussion. I was
7 asking him like, what is going on. I was like,
8 we're trying to get clarification on what was
9 going on. Everything was coming so fast. So we
10 asked him, at that time, I did ask him, I said, so
11 what kind of plea are they offering me or
12 whatever. He said they are offering you, well she
13 wants it -- she said if you take a plea, you plea
14 to a third offense, which carries 10 to 30, and
15 she will you give you a cap at 20 years. I was
16 like cap of 20. I was like third offense. I was
17 like third offense, this ain't my third offense,
18 this is my second offense. Because when I was
19 initially charged and I initially got my warrants,
20 my warrants said second offense.

21 Q What's the difference between the second
22 and third offense?

23 A Well the minimum sentence, a second
24 offense minimum, which was on my warrant is a, a
25 second offense carries from 5 to 25. Or 5 to 30.

Ikeef Brailsford-direct by Thomas

1 And a third offense carries from 10 to 30. It
2 was a minimum of 10.

3 Q So there's a 5-year difference in the
4 minimum sentence.

5 A Yes, sir.

6 Q Now did you talk to Mr. Barr about your
7 understanding and your thought this was a second
8 offense?

9 A Yes, sir. I understand. I'm like talking
10 to him, like third offense. This is my second
11 offense. And he was like, it looks like she want
12 to enhance it to third offense.

13 Q Did you talk to him about the enhancement?
14 Did he explain to you how this was going to be
15 enhanced?

16 A No, sir. He was kind of giving me the
17 impression that he was on my side and it should
18 have been a second offense. And he was like, well
19 we'll have to bring that issue up in front of the
20 judge. But e came and wanted to start a jury
21 selection for the trial. So we were only in the
22 room probably a maximum of 10 minutes we discussed
23 it. It was mostly -- I was more so trying to take
24 a grasp of everything that was going on. And so
25 we were ushered out of that room, and brought

Ikeef Brailsford-direct by Thomas

1 forth to the room where the jury was seated, where
2 a jury would be picked, getting ready to start a
3 trial.

4 So me and him, we went to the
5 plaintiff's -- the defendant's desk. And the
6 solicitor was sitting at the prosecutor's desk or
7 whatever the case was. So they started the jury
8 selection. So during the time of jury selection,
9 me personally, I was, the whole situation being
10 opposed to me so sudden, had me really just
11 thinking about what was going on. Trying to get a
12 grasp of what was going on at the time. Like I
13 told you before, I wasn't expected before the
14 court. I had no expectation at all that I would
15 be going to trial.

16 So my lawyer Mr. Barr and the solicitor
17 did the jury selection. They seated the jury.
18 And at that time Mr. Barr, he made a statement to
19 the judge that he didn't have time -- he didn't
20 see the video that was connected to that charge of
21 mine that was being presented that day. And so
22 he didn't see the video. So at that time, the
23 judge recessed the court. He recessed the jury
24 for 15 minutes. And he told the solicitor and
25 Mr. Barr that they were allowed to go to the back

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1 to view the video.

2 Well at that time, I asked that Mr. Barr,
3 I was like, could I get in touch with his family.
4 Because I had my fiancée and my child waiting in
5 the parking lot in the car. And so I wanted to
6 let you know what is going on. I let my mother
7 and father know that I am about to go to trial
8 right now. And so he never told me yes or nothing
9 like that. But he started and he really, he
10 didn't really respond too much when they started
11 to the back to go through the video. So at that
12 time I took it that I probably could go. So I
13 went to go walk to go outside the door.

14 And at the time when I went to go walk
15 outside the door, Judge Young was like, where are
16 you going, sir. And I said I am going to try to
17 get -- let my family know I am about to start a
18 trial. He said, no, sir, you can't walk out this
19 courtroom. Your trial is starting. The jury has
20 already been drawn. As a matter of fact, his
21 bond is being revoked on this charge now. Take
22 him into custody.

23 Well he didn't -- I am not sure if he said
24 take him into custody. But He told the bailiff
25 to get a hand on me. And so I walked by the door

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1 where the bailiff was, and he sat back down in the
2 seat where I was sitting.

3 Q Okay. Now when you talked to your
4 attorney about this, he -- you said that he was
5 under the impression that it was a second offense.
6 And he told you that he thought it was a second
7 offense?

8 A Yes, sir. He, yes, sir.

9 MR. THOMAS: Your Honor, may I approach?

10 THE COURT: Yes, sir.

11 MR. THOMAS: Your Honor, I am going to
12 refer to the transcript, and ask him some
13 questions about pages 5 and 6.

14 THE COURT: Okay.

15 Q Ikeef, I would like you to look at this
16 transcript.

17 A Yes, sir.

18 Q And you can start at the bottom and go to
19 the next page. I just want you to read that to
20 refresh your memory.

21 A Yes, sir. To start with---

22 Q Just read it to yourself.

23 A Yes, sir. I am diligently studying this
24 transcript. Correct, yes, sir.

25 Q You indicated to the court that you

Ikeef Brailsford-direct by Thomas

1 thought this was a second offense.

2 A Yes, sir. When the judge at the time, he
3 asked me he said, you understand that, well he
4 asked was I pleading guilty. Did I plead guilty,
5 because I was guilty of the charge. and I
6 admitted, I told him yes, sir. He said do you
7 understand the charges before. I said, yes, sir.
8 He said, distribution to crack cocaine. You have
9 a minimum of 10 years and maximum of 30 years.
10 And at that time I said to the judge that I was
11 kind of cloudy in that area, but I pleading on my
12 guilt.

13 And I asked the judge, exactly which
14 offense am I pleading to. Then the judge said
15 distribution of crack cocaine. Then I said,
16 which offense. And at that time the solicitor
17 stepped in and she started explaining her position
18 that in July of 2005, that I had the cocaine
19 distribution arrest. And in December of 2005, the
20 crack cocaine distribution arrest. She said then
21 that it may have been that I plead to both of
22 those charges or that the jury can hear both of
23 those charges at the same time, but it doesn't
24 matter to me because I got towards second offense,
25 so she counted it as a third offense.

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1 Q Had you ever heard that before that
2 process of saying as to why this would be a third
3 offense?

4 A No, sir, I never heard that.

5 Q Did you and Mr. Barr talk about why it
6 could potentially be enhanced to a third offense?

7 A No, sir. We never had a discussion.

8 Q Now you've actually done a lot of legal
9 research on this issue since you have been
10 incarcerated?

11 A Yes, sir.

12 Q And you aware of those cases of Gordon and
13 the other ones that we have spoken about.

14 A Yes, sir. I am quite aware of Gordon and
15 Robinson. And the defense of Gordon and Bryant
16 and Gordon on the aspect of the judicial
17 interpretation of it the intent of 17-25-50
18 applies to 17-25-45.

19 Q And at the time that you pled, the first
20 time that you pled, you were actually -- Gordon
21 was still good law.

22 A Yes, sir. Gordon at the time, and it
23 wasn't brought up in my 2006 plea agreement, but
24 it was sort of like based on my understanding that
25 I guess from the -- because I'm not knowledged in

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1 the law, sir, so I guess from my attorney and the
2 solicitor they had based on my understanding, that
3 my charges could be consolidated, even though they
4 had separate offenses, it could be consolidated
5 into one offense as a part for a conviction in a
6 plea agreement.

7 Q Did you understand that at the time?

8 A Yes, sir. Because as a matter of fact, at
9 the time in 2006, I was guilty. I was for sure
10 guilty of the cocaine distribution at the time.
11 But I disputed the -- I disputed the crack cocaine
12 distribution I was arrested for In December. I
13 had some more pending charges at the time, and I
14 had some pending charges over leaving the scene of
15 an accident. And I think a PWID marijuana charge.

16 And so the solicitor at that time, I think
17 her name was Ms. Bronwyn McKnew or something like
18 that. Something of that nature. But she was
19 insisting that she said, if I plea to the
20 distribution charges, she will allow me to plea to
21 those as a first offense and drop my other
22 pending charges. I asked my lawyer and my lawyer
23 was Ken Young at the time. And I asked him to
24 plea to distribution charge. So I am like, I am
25 not even guilty to crack cocaine. They haven't

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1 proven it or corroborated being guilty or not.
2 And he was like well, she wants you to plead to
3 the crack distribution as well. It's just a
4 matter for statistical purposes just to get the --
5 I am guessing just to -- something to do with
6 government funding or something. That's the only
7 thing I can take from the situation.

8 Q But the judge asked you on the plea that
9 you did for the crime that you are currently
10 serving.

11 A Yes, sir.

12 Q The judge asked you did you understand
13 that you were pleading to a third offense that
14 day?

15 A Well when I said that, I was kind of
16 cloudy on page 5. Like you said, it was a
17 political that place where a week, it was a
18 discussion as to whether it was second or third
19 offense. And I like I said earlier that I was
20 flabbergasted about the whole situation, just
21 about how my circumstances was just coming upon me
22 so fast.

23 And so When the judge in his assessment
24 of the situation, which was at hand, said that
25 didn't think it would a third offense. I was kind

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1 of at a the point where I understood that I was at
2 the mercy. I was putting myself at the mercy of
3 the court at that time. I admit my guilt for
4 doing wrong for the drugs that I sale. But I
5 really want to put myself at the mercy of the
6 court, more so the mercy of the judge.

7 MR. THOMAS: Your Honor may approach?

8 THE COURT: Yes.

9 Q I have just got two more questions on this
10 line, Your Honor. I want to show you page 7.
11 This line 14 through 16.

12 A Yes, sir.

13 Q And the solicitor -- 14 through 16. And
14 the solicitor informs the court that what you pled
15 to were two first offense charges?

16 A Yes, sir.

17 Q And then on page 8, the court asked you
18 beginning at lines 2 through 5.

19 A Yes, sir.

20 Q It says, do you understand you are pleading
21 to a third offense.

22 A Yes, sir. Because like I was saying,
23 after the colloquy that took; that dialogue had
24 took place at the time, I wanted to put myself at
25 the mercy of the judge. And I understand that I

Ikeef Brailsford-direct by Thomas

1 was guilty of selling drugs. So I went ahead and
2 I felt as if my spirit interfered. I was about to
3 walk out the courtroom that day, and that wasn't
4 my intention. And so I wanted to just get
5 everything out of the way. And hopefully put
6 myself at the mercy of the judge.

7 Q Let me ask you on 4 and 5 you say, I
8 understand what you are saying.

9 A Yes, sir.

10 Q Now you say that you understand what the
11 court is saying, did you still believe that you
12 were guilty of the second?

13 A No, sir. I really didn't believe but -- I
14 really didn't believe, to be honest. I really
15 wasn't -- I really don't believe that I was
16 guilty of a third offense at the time.

17 Q Now, your plea, which I am sure that you
18 are aware. You know, that your plea has to be
19 freely and voluntarily given.

20 A Yes, sir.

21 Q And it has to be knowingly and
22 intelligently given.

23 A Yes, sir.

24 Q And the judge would ask you questions to
25 make sure that you were in fact pleading freely

Ikeef Brailsford-direct by Thomas

1 and voluntarily, and knowingly intelligently.

2 A Yes, sir.

3 Q Now do you believe that your plea was
4 freely and voluntarily given?

5 A My understanding still, it's not up
6 hindsight. You know hindsight always wins. I
7 really don't feel as if my plea was voluntarily
8 given. I feel like I was imposed upon by the
9 judge sitting on the throne. To me, like I said,
10 I didn't want to offend the judge, because I
11 understood that if he wasn't saying like, yeah,
12 okay, all right, you are right, it should be a
13 second offense. But a second offense sentence
14 still carries up to 30 years. So and me pleaing
15 at the time, knowing that I was guilty of selling
16 drugs that he could say, okay, well I will let you
17 plea to second offense, but give me 30 years.

18 So I was really kind of in a position of
19 whereas---

20 Q Do you feel like you were properly advised
21 by your attorney Mr. Barr?

22 A To be honest, sir, no, sir. I'll be
23 honest. In some ways that he would -- in some
24 ways and not taken up for Mr. Barr, because my
25 intention on hiring him was that he had a

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1 reputation. He's got a reputation for being a
2 really good lawyer, especially pertaining to
3 drugs. He did some good legal work for some
4 friends that I have. And he gave me insight on a
5 lot of things. But he was agreeing as far as I
6 was, that this should have been my second offense.

7 Q And that's kind of the basis of your plea;
8 in that, you thought that you would be pleading to
9 a second offense.

10 A Yes, sir.

11 Q Now, Mr. Brailsford, you and I have
12 talked about this, and I was going to ask you a
13 question. And you understand that I may have left
14 something out, but you've waited a long time to
15 be in court today.

16 A Yes, sir, I have.

17 Q Is there anything that I have missed?
18 Anything that I have forgotten to bring to the
19 attention the judge?

20 A No, sir. There is nothing that you have
21 forgotten to bring to the attention of the judge.

22 Q Anything that you like to add to what I
23 have said.

24 A Yes, sir. If it please the court, I
25 apologize if I stumble over my speech, because I

Ikeef Brailsford-direct by Thomas

1 am nervous at the time. But I would like to
2 string together my argument in defense as to why I
3 feel as if -- why I stand on the allegations that
4 I did in my PCR application. Yes, sir. I have
5 okay, structure my thoughts.

6 Q You need to be concise, okay.

7 A Yes, sir. On the ineffective, on the
8 issue of ineffective counsel, where the judge made
9 the statement on page 6 of my plea hearing
10 transcript, the judge -- Mr. Barr made a statement
11 that when I said that -- well I was thinking that
12 should have been my second offense, he said that
13 it didn't matter whether it was second or third
14 offense. I asked him what the plea agreement was.
15 And Judge Young at the time corrected me and said
16 it does, it makes a big difference as to whether
17 we are going for that second or third offense.

18 I think that shows ineffective on his
19 behalf in his saying that it doesn't matter.
20 Because my life was on the line. My life was on
21 the line. And also I think Judge Young made an
22 improper assessment as to my situation, my current
23 situation. And when he was making his assessment
24 on page 7 of the transcript, he was kind of
25 thinking like I was charged with second offense.

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1 And from my understanding of what he said,
2 he was thinking I was charged in second offense.
3 Or pled down to a first offense. Because he kind
4 of compared it to when you had a driving under
5 suspension, right. And you plead it all down as a
6 first offense when you plead down to it. I think
7 he made an improper assessment of that. And from
8 my study of the case law, State v. Rosen said that
9 it is the counsel's job to correct the judge's
10 exception. So I think that my counsel was
11 ineffective when he corrected the judge's
12 exception.

13 Also as far as involuntariness, like I
14 said, the plea agreement, I mean the transcript
15 supports that. It wasn't necessarily a voluntary
16 plea, because when the judge asked me did I
17 understand, I told him I was kind of cloudy at
18 that time. On page 5 of the transcript. Because
19 I really didn't understand what all the things of
20 the third offense.

21 As far as the offense plea, initially it
22 was a string, you know, for me to mark and string
23 together.

24 Q Are you talking about---

25 A As far as why I still feel as if it should

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1 have been a second offense plea. But the courts
2 have had much discussion as to how they understand
3 legislative intent when it comes to reserving
4 sentencing. And in State vs. Benjamin which was
5 decided in 2003, the judge decided that he should
6 have been -- he should have had provision of
7 17-25-45 apply to him. And he gave his reasons.
8 But well the dissent of that -- the dissent
9 opinion of that case, Justice Waller, he
10 dissented, and he started talking about the
11 purpose of reserving sentencing. And how South
12 Carolina adopted their case law from California
13 and things of that nature.

14 Well later on in State vs. Gordon, which
15 was decided a little bit after that, the majority
16 make a rule that Gordon shouldn't have had the
17 enhanced penalty provision applied to him. And
18 the language that the majority used gave from the
19 dissent opinion of Justice Waller in the
20 State vs. Benjamin case. And also in
21 State vs. Gordon it starts on course of conduct
22 and things that they said. And they say the
23 appeal and also what sticks out they said the
24 sentence of Gordon was to be applied retroactive.
25 So that kind of leads me alone to State vs.

Ikeef Brailsford-direct by Thomas

1 Bryant. You kind of slack to the judge, that the
2 State vs. Bryant, did overrule Gordon as far as,
3 what Gordon the majority find that the legislative
4 intent was to the application of 17-25-50 to
5 17-25-45.

6 They agree with Gordon that 17-25-45 to
7 17-25-50 should be applied together. But they
8 disagreed with Gordon as to how Gordon inferred
9 that 17-25-50 should apply; which is the one
10 offense provision.

11 Q So you're talking about -- and that's what
12 you're talking about is whether or not it is a
13 single course conduct.

14 A Yeah, a single course conduct.

15 Q And you're also wanting the judge to
16 consider as to whether or not your two cases could
17 have been a single course of conduct.

18 A Yeah, single.

19 Q And that that could have effected the
20 advice you received from Mr. Barr.

21 A Yes, sir. And what sticks out in the
22 State vs. Bryant case; is that, what sticks out to
23 me is that the majority, like I said, they will
24 overrule Gordon as far as 17-25-50. But the
25 majority it was on page 3 of the case law that I

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1 had of Bryant. But a majority made a statement in
2 paragraph where it starts out, we emphasize. The
3 majority made a statement that a defendant is
4 adjudicated guilty; disposing of all charges at
5 the same time would avoid application of the
6 sentence at hand. This is so even if the offense
7 is adjudicating separately would otherwise require
8 the enhancement.

9 And I think that that statement to say
10 think that adjudicating a charge at one time,
11 consolidation of charges at one time, goes quite
12 along with other jurisdiction as to how they
13 applied or served their sentence. And in specific
14 the U.S. government. I found the case of U.S.
15 government. The U.S. vs. Hayes of 2008, whereas
16 the defendant Hayes was, he was sentenced with the
17 career offender enhancement. What the Appellate
18 Court of U.S. District resented Hayes, and said
19 that he shouldn't have had the enforcement applied
20 to him.

21 The judge in that appeal that she used,
22 the United States sentencing guide, 481.2, which
23 states that prior sentencing imposed in related
24 cases are to be treated as one sentence. And
25 later on in that statute it says that if a

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1 defendant's prior probation is constituted or
2 related cases within its meaning, it will not be
3 treated separately for career offender purposes.
4 And then further it said, it says prior sentences
5 are created or related if it resulted from
6 offenses that were consolidated for trial and
7 sentencing.

8 So I think that right there goes quite
9 well with Gordon. What the Bryant majority said
10 that if you are adjudicated at one time, those
11 sentences are consolidating the one, and they
12 don't effect it as Gordon condition.

13 Q Now, Mr. Brailsford, I know the court is
14 well aware of all these cases.

15 A Yes, sir.

16 Q Now what you are saying is that you feel
17 that your counsel was deficient in advising in
18 regards to these issues. And that that affected
19 your plea.

20 A Yes, sir.

21 Q Is that what you are saying?

22 A And also THAT Bryant does support my
23 position that my charges should -- this charge
24 right here should be a second offense.

25 MR. THOMAS: Your Honor, Thank you very

Ikeef Brailsford-Cross by Gourley

1 much.

2 THE COURT: Thank you, sir.

3 CROSS EXAMINATION by Mr. Gourley:

4 Q Mr. Brailsford.

5 A Yes, sir.

6 Q Mr. Brailsford, do you recall how many
7 times you met with your lawyer prior to your
8 guilty plea?

9 A Yes, sir. About four times, sir.

10 Q Four times. Do you know if you all went
11 over any discovery or anything like that?

12 A He sent me my motion of discovery in
13 November. The first week of November. And we
14 actually never went over it. We never went over
15 it together, sir.

16 Q But you we over it yourself?

17 A Yes, I did went over it some.

18 Q Did you all discuss about any -- discuss
19 any possible defenses or anything?

20 A No, sir, we didn't.

21 Q Did you give him any type of leads or
22 witnesses to investigate?

23 A Yes, sir. My co-defendant in the case,
24 was on the docket at the time. My co-defendant
25 said to me he was ready to testify that I didn't

Ikeef Brailsford-Cross by Gourley

1 give him the drugs that they say I give him; that
2 this was informant. And I did inform my counsel,
3 Mr. Barr, and Mr. Barr was kind of taking it as,
4 which it looked like that my co-defendant set me
5 up that type of thing.

6 Q Okay. Now you told Judge Young that you
7 were satisfied with Mr. Barr's representation;
8 right?

9 A Yes, sir, I did.

10 Q And you also told Judge Young that you had
11 enough time to talk to him, to Mr. Barr?

12 A Yes, sir, I did say that.

13 Q And you told Judge Young that Mr. Barr was
14 an excellent, and he was always in contact with
15 you and he let you know what was going on; right?

16 A Yeah, he told me what was going on. And
17 just, yes, sir. Yes, sir, I did say that. Yes,
18 sir.

19 Q Now your allegation right now is that
20 Mr. Barr was ineffective for allowing you to plea
21 to guilty to distribution third offense?

22 A Yes, sir.

23 Q But you agree with Judge Young regarding
24 your prior record; that you had a prior
25 distribution back in July and then in December as

Ikeef Brailsford-Cross by Gourley

1 well of 2006?

2 A Yes, sir.

3 Q 2005, I apologize. And you plead to those
4 offenses on the same day; right?

5 A Yes, sir. June 8th of 2006.

6 Q These were two separate incidences;
7 correct?

8 A Yes, sir.

9 Q And they were separated about 5 months?

10 A Yes, sir. About 4 or 5 months; yes, sir.

11 Q Four or five months. Now do you recall
12 the solicitor and Judge Young and your attorney
13 discussing whether or not this was a second
14 offense or a third offense?

15 A No, sir. I in no way had a discussion.

16 Q You don't recall in the trial trans -- or
17 the guilty plea?

18 A Oh, yeah, yeah. Because I brought the
19 issue to the defense on page 5 when the judge
20 asked me.

21 Q So you were aware prior to pleading
22 guilty, that the judge was going to -- that you
23 were charged with a third offense.

24 A Yeah, the judge made that clear on me, but
25 like I said, I was pushing myself. And I didn't

Ikeef Brailsford-Cross by Gourley

1 want to oppose the judge and say, yeah, this is a
2 second offense. Because he still could give me 30
3 years. So...

4 Q Right. And this was a plea deal; right?

5 A Yes, sir.

6 Q And the state recommended a certain
7 sentence?

8 A The only thing they recommend that my
9 charges run concurrent.

10 Q Okay. And they were run concurrent;
11 right?

12 A Yes, sir.

13 Q And you were scared that you would lose
14 out on that plea deal if you spoke up?

15 A Not necessarily lose out on that plea
16 deal, because the solicitor really didn't act like
17 she wanted to give me a plea deal at all anyway.
18 So that didn't scare me. It was more so that I
19 was putting myself at the mercy of the judge. And
20 in doing so, the judge had to file this sentence
21 within the guidelines with the other charge.

22 Q Do you recall waiving your constitutional
23 rights at your guilty plea?

24 A Yes, sir.

25 Q And you want a new trial on these

Ikeef Brailsford-Redirect by Thomas

1 charges?

2 A Yes, sir.

3 THE COURT: Anything further?

4 MR. THOMAS: Your Honor, just a few
5 questions.

6 Redirect Examination by Mr. Thomas:

7 Q Mr. Brailsford, you said that you
8 understood the judge was asking you the questions
9 about pleading to the third?

10 A Yes, sir.

11 Q But you were afraid to confront the judge.

12 A And dispute him as to why I feel it should
13 be a second.

14 Q Because even under a second it still
15 carried 30 years.

16 A Yes, ma'am.

17 MR. THOMAS: No further questions, Your
18 Honor.

19 THE COURT: Thank you. You can step down.

20 MR. THOMAS: If it please the court,
21 that's the Applicant's case.

22 MR. GOURLEY: Your Honor, we would call
23 Charles David Barr to the stand.

24 THE COURT: All right.

25 Charles David Barr, Being first duly

Charles Barr-direct by Gourley

1 sworn, testified as follows:

2 THE BAILIFF: State your full name and
3 spell your last name for the record.

4 A Charles David Barr. B-A-R-R.

5 Direct Examination by Mr. Gourley:

6 Q Mr. Barr, how long have you been
7 practicing law?

8 A 35 years.

9 Q And what percentage of that would be
10 criminal defense?

11 A Probably about 30 percent.

12 Q And were you appointed or retained to
13 represent---

14 A Retained.

15 Q Do you recall the date or approximate
16 date?

17 A No, sir, I don't.

18 Q Now have you had the opportunity to review
19 your file from your representation prior to today?

20 A I looked over it.

21 Q Do you recall the number of meetings you
22 met with Mr. Brailsford?

23 A No, sir, but I don't disagree with what he
24 said. I can't -- I know we had a preliminary
25 hearing. I don't remember exactly whether he was

Charles Barr-direct by Gourley

1 there or not. But I do remember, I didn't hear
2 him mention anything about the preliminary
3 hearing. I know we met before the preliminary
4 hearing. I know we met after the preliminary
5 hearing, but I just know that wasn't mentioned.

6 Q Okay.

7 A But I don't disagree with his accounting.
8 I just don't....

9 Q Okay. Mr. Brailsford was out on bond
10 during the time that you represented him; correct?

11 A He was out on bond part of the time. When
12 I was initially retained, he was still in jail.
13 And he was able to get out. And my representation
14 proceeded from there.

15 Q Did you advise him of the elements of the
16 charges that he was facing?

17 A We had, we had a preliminary hearing on
18 record. On the 25th of October 2013. At that
19 time there were, 1, 2, 3, 4, 5, 6, 7 different
20 drug charges.

21 Q Right.

22 A They were all, that we had at that
23 hearing. We discussed after the preliminary
24 hearing, we discussed the elements of the offenses
25 that he was charged with, the issues surrounding

Charles Barr-direct by Gourley

1 those offenses. The people that the prosecution
2 is going to use to convict him or try to convict
3 him. I think he was thoroughly aware of what the
4 elements of all the offenses were.

5 Q Okay. Did you advise him of the potential
6 sentences that he could receive?

7 A I don't recall specifically telling him
8 that you can get 100 years.

9 Q Right.

10 A But with the drug charges that he had, I
11 am sure it was probably something closer to 200
12 years.

13 Q Yes, sir. Did you explain to him why the
14 state was classifying these drug offenses as a
15 third offense?

16 A We have. We talked about it at the time
17 that he did the guilty plea. We discussed it with
18 the solicitor prior to the guilty plea. There was
19 a deal on the table for a 12-year-cap.

20 Q Correct.

21 A And with what Mr. Brailsford was looking
22 at, the prosecution and really, I think it was
23 probably through some other people that were
24 helpful in getting him to agree to the 12 years.

25 Q Right.

Charles Barr-direct by Gourley

1 A But in my opinion as the trial lawyer, and
2 when I said -- I think he mentioned and I said,
3 well it doesn't make a difference whether it's
4 second or third. But the point is, the plea offer
5 was a good one. And that's why I recommended that
6 he take it. We did discuss the second versus
7 third aspect of it. In fact we put it in the
8 record.

9 Q So you had an opportunity to review his
10 charges in July of 2005 and December of 2005?

11 A Absolutely. We discussed it before. I
12 didn't force him to plead, and I don't even today.
13 I mean, if he wants a new trial. I think that he
14 deal he got was, I don't think he will get
15 anything any better than that.

16 Q Did you discuss his version of the facts
17 of the case?

18 A There was a number of cases and that's the
19 thing about it. Not only this case, I can't
20 remember if they were all indicted or there was
21 some unindicted. But as I said, I know we had at
22 the preliminary hearing we had -- we covered 7 of
23 the different drug distribution warrants.

24 Q Yes, sir.

25 A And I know we talked about all of them.

Charles Barr-direct by Gourley

1 But I just can't if they were all indicted or
2 unindicted at that time the preliminary. But we
3 did have the preliminary hearing on the 25th, on
4 the 7.

5 Q Did he ever deny his involvement of guilt?

6 A Well from the standpoint of, I don't think
7 Mr. Brailsford, I think he was honest with me
8 about what was his involvement was in the drug
9 trade. And he did have a substantial involvement.
10 I think his family was aware of it. Because there
11 were certain people even in law enforcement who
12 were also aware of the level that he was at.

13 Q Right.

14 A And what he was doing.

15 Q Uh-huh. (Affirmative.)

16 A And as I said I think even those people
17 thought at the time that a deal he got was
18 beneficial to him.

19 Q Do you recall receiving Mr. Brailsford's
20 discovery file?

21 A I don't specifically remember getting it.
22 I am sure that ordinarily whenever the prosecution
23 responds to a Rule 5 motion, somebody sends the
24 material out to the client along with an
25 appointment letter for them to come in and discuss

Charles Barr-direct by Gourley

1 the contents of the Rule 5 response. And I do
2 agree with Mr. Brailsford. I am sure we sent it
3 to him, along with that letter we send
4 customarily.

5 Q Do you feel you spent enough sufficient
6 time preparing for this case?

7 A I know I did.

8 Q You were prepared to go to trial if it
9 went to trial?

10 A If we had gone to trial, we we're going to
11 trial on all of them.

12 Q Right.

13 A Just on the one I thought prepared for
14 that one.

15 Q Now you mentioned briefly about---

16 A And the co-defendant was probably was
17 going to testify against him, because that's the
18 man that set him up.

19 Q And you had mentioned just briefly about
20 the plea negotiations. Can you elaborate on that
21 a little bit?

22 A The -- if you look in the record, you will
23 see that there are -- that the deal is part first
24 with the cases that were in front of the court.
25 But then there were other charges. And I think

Charles Barr-cross by Thomas

1 there is a reference in there, because I told the
2 judge that there was another part of it that had
3 to be addressed. And it was a global situation.
4 And it's all dealt with in the record.

5 Q Right. You think you gave him adequate
6 advice and information to make an informed,
7 intelligent decision whether to plea?

8 A I think I gave him adequate advice, and I
9 think he made an informed decision. I think he
10 made a good one.

11 Q And ultimately whose decision was it to
12 plead guilty, Mr. Barr?

13 A It was upon my recommendation and his
14 decision.

15 MR. GOURLEY: Thank you, very much.

16 MR. THOMAS: Your Honor, please the court.
17 Just a couple of minutes.

18 Cross Examination by Mr. Thomas:

19 Q Counsel, did you talk with Mr. Brailsford
20 about the distinction between the second and third
21 offense?

22 A About what now?

23 Q The distinction between this being a
24 second drug offense or a third drug offense?

25 A I don't remember any specific conversation

Charles Barr-cross by Thomas

1 about the second and third. The issue really --
2 the issue developed when we were trying to work
3 out the plea.

4 Q Yes, sir.

5 A And then that's when we decided that we
6 would bring Judge Young in on the question of
7 whether or not it was a second or third. And
8 that's why we went on the record. That's why we
9 came back on the record.

10 Q And I think it was your opinion, because
11 you explained the comment in the transcript about
12 it didn't matter whether it was a second or third,
13 because---

14 A I would have taken a fourth to get deal
15 that they had on the record.

16 Q Because of the 12 years.

17 A Yes, sir.

18 Q Because you thought that was a---

19 A When I said that, it wasn't so much that I
20 didn't think it mattered as far a distinction in
21 the law. Because clearly in the right situation
22 that would have been something that you would have
23 seriously considered as something to make the deal
24 more attractive. But in this particular
25 situation, as I said, even if was before, you had

Charles Barr-cross by Thomas

1 decided if you are drug dealer and you decide to
2 stop dealing dope, you've got another day to live.

3 Q Yes, sir.

4 A Under this plea arrangement.

5 Q Now did you think about at all whether he
6 would be parole eligible? Did that come in to it
7 at all?

8 A Not with the cap. I didn't even -- I
9 don't usually get into it, because it's been my
10 experience that I am not sure what the Department
11 of Corrections is doing in terms of how they
12 calculate things. Sometimes I agree with them.
13 Sometimes I disagree. But I believe when you
14 consider what he was pleading to and the fact that
15 it was going to be a cap of 12 years. When you
16 looked at the other end of what he had to look at
17 with all these other charges, and of course, Judge
18 Young is not necessarily noted for his generosity
19 when it comes to handing a sentence. But and
20 under the circumstances, I still believe he did
21 the right thing.

22 Q Yes, sir. And so your focus was not
23 necessarily whether or not it was a second or
24 third. Your focus was really more on the cap.

25 A I still is.

Charles Barr-cross by Thomas

1 Q Yes, sir.

2 A And I think any defense lawyer that had
3 handled this case even if he gets a new trial, and
4 he comes back it's going to happen. When you
5 consider what he's looking at.

6 Q Yes, sir.

7 A It's going to be a compelling reason or a
8 compelling consideration in dealing with his issue
9 whether it's treated as a second or a third. Now
10 from a standpoint of parole eligibility, that's
11 one thing. But the solicitor can change that with
12 the stroke of a pen. All they got to do is just
13 insist on one more charge. It's any number things
14 they could do to change the whole outcome.

15 Q Yes, sir. So you wouldn't know today or
16 at the time, whether or not been parole eligible
17 if it had been a second or a third---

18 A No, sir.

19 Q ---under the omnibus crime bill?

20 A I did not know.

21 MR. THOMAS: Your Honor, I ask for the
22 court's indulgence just for a second.

23 THE COURT: Okay.

24 MR. THOMAS: Your Honor, just a few
25 further questions.

Charles Barr-redirect by Gourley

1 Q Counsel, did you think it was a second or
2 did you think it was a third?

3 A Under the interpretation of the -- I have
4 to agree with the solicitor's interpretation at
5 the time. I think they had the correct
6 interpretation. But I'm not going to -- as a
7 defense lawyer, I mean, I am not going to ignore
8 the other side of it.

9 Q Yes, sir.

10 A But I think that was correct
11 interpretation under the existing law.

12 MR. THOMAS: Your Honor, I have no further
13 questions.

14 THE COURT: Okay.

15 Redirect Examination by Mr. Gourley:

16 Q Mr. Barr, did you advise Mr. Brailsford of
17 any ramifications of his guilty plea on his parole
18 eligibility?

19 A No, sir, I don't ever do that.

20 MR. GOURLEY: No further questions, Your
21 Honor.

22 THE COURT: Okay. You can step down thank
23 you.

24 MR. GOURLEY: Your Honor, we would have no
25 other witnesses.

Charles Barr-redirect by Gourley

1 THE COURT: Okay.

2 THE COURT: Anything else for me to
3 decide?

4 MR. THOMAS: Nothing further, Your Honor.

5 THE COURT: Okay. I will review this
6 record and let you all know.

7 MR. THOMAS: Thank you, Your Honor.

8 MR. GOURLEY: Thank you, Judge.

9 THE COURT: The parole eligibility
10 statute, that law was amended and changed after
11 this plea. 44-53-370 was amended. At the time of
12 this plea, the second offense had the same parole
13 eligibility as third offense; isn't that correct?

14 MR. THOMAS: Your Honor, I was just trying
15 to think the omnibus crime bill was 2010.

16 THE COURT: Right. But then they amended
17 it I thought. That last amendment -- maybe it
18 didn't June 2nd 2010, is when most of it went into
19 effect.

20 MR. THOMAS: Yes, sir.

21 THE COURT: But I thought they amended and
22 changed the second offense to make it, get it out
23 on 85 percent and that was done after that.

24 MR. THOMAS: Your Honor, I don't know off
25 hand.

1 THE COURT: Hold on a minute. Let me see.
2 I was under the impression it was changed -- that
3 that motion changed in 2012. June 18th 2012. I
4 was check---

5 MR. THOMAS: Yes, sir.

6 THE COURT: ---further. And a lot of it
7 took effect June 2nd in 2010. Then in 2012 they
8 cleaned it up.

9 MR. THOMAS: Yes, sir.

10 THE COURT: And I thought that was the
11 date they changed the parole eligibility from
12 second. It knocked the second out of 85 percent.
13 But before that any crime that carried 20 years or
14 more was automatically 85 percent. And then the
15 distribution second, they put a couple of lines in
16 there, that a lot of people didn't catch that made
17 it parole eligible and made it suspendible. But
18 I'll check with that date.

19 MR. THOMAS: And I could be wrong, Your
20 Honor, that law is so convoluted. But it appears
21 that I believe that he would be eligible as a
22 second even now. And it potentially could have
23 been eligible as a third had there been a
24 controlled substance prior convictions, Your
25 Honor.

1 THE COURT: Well and at the time of the
2 plea, I don't think he was eligible. And if he
3 wasn't eligible, therefore the judge and or
4 attorneys, you know, at that time it was an
5 85 percent.

6 MR. THOMAS: Yes, sir.

7 THE COURT: Now when they changed that
8 law, and I am wondering when they changed it they
9 made it take it out of the 85 percent, whether the
10 Department of Corrections went back retroactive
11 and relooked at everybody they had and changed
12 their 85 percents down. And usually if they do
13 that, it's kind of an economic issue and, you
14 know, and clean up.

15 I don't know whether they have in fact
16 they have done that or not. But if it was, you
17 know, at the time he pled, it didn't matter but
18 now it does matter, whether they go back and
19 change those 85 percent people that came in second
20 to a parolable offense, I don't know.

21 MR. THOMAS: And we assumed, Your Honor,
22 because he got notice of no parole eligibility
23 that they were applying the new statute to him,
24 and that he wasn't eligible. Because at some
25 point and time they realized or, you know, when

1 they checked, they realized that the priors were
2 paroled.

3 THE COURT: Right. Okay. I will look at
4 it. Thank you.

5 MR. THOMAS: Thank you, Judge.

6 --End of Requested Transcript of Record--

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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 for Sumter County on December 20, 2013, in Sumter, South Carolina.

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

5/19/14
DATE

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

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER
STATE VS.Ikeef Lionel BrailsfordAKA: _____
Race: Black Sex: Male Age: 24
DOB: [REDACTED] SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: Dalzell SC 29040
DL# _____ SID# _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2005 -GS- 43 - 0890A/W#: H907612Date of Offense: 03/03/2005S.C. Code §: 44-53-0370(b)(1)CDR Code #: 0 / 1 / 8 / 3☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Distribution of cocaine - 1st offensein violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 0, 1, 8, 3☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☒ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Stephen G. Espinoza
SolicitorIkeef Brailsford
DefendantJames C. Campbell
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 10 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 1 day/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 4months/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: 05-02-43-392☐ 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.☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ 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	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§33.7, 1B TP (Drug Court Surcharge)	\$100	\$ 100.00
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$ 6.75
TOTAL		\$ 231.75

James C. Campbell
Clerk of Court/Deputy ClerkCourt Reporter: Margaret Sullivan

SPECIAL CONDITIONS:

PTUP

15 days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

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

pmts. of \$ _____ beginning

\$ _____ paid to Public Defender Fund

Other:

Attend only counseling
no need to pay by probation☐ Appointed PD or appointed other counsel, §35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

6/8/06

WITNESSES

SHERIFF'S OFFICE

Brown

DOCKET NO. 2005-GS-43-890

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

JANUARY TERM 2006

THE STATE

vs.

IKEEF LIONEL BRAILSFORD

ARREST WARRANT NUMBER

H907612

D/A: 7/27/05

ACTION OF GRAND JURY

per Bill

William D. Braxton
Foreperson of Grand Jury
Date: 01/05/2006

VERDICT

Indictment for

DISTRIBUTION OF COCAINE

Foreperson of Petit Jury

Date:

122

C. KELLY JACKSON, SOLICITOR

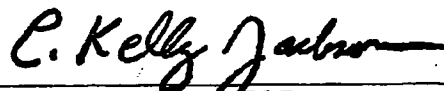
STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

INDICTMENT FOR
DISTRIBUTION OF COCAINE

At a Court of General Sessions, convened on January 5, 2006, the Grand Jurors
of SUMTER County present upon their oath:

That IKEEP LIONEL BRAILSFORD did in Sumter County on or about March 3, 2005, distribute to a confidential informant working with the Sumter County Drug Unit, a quantity of cocaine, a controlled substance under the provisions of Act No. 445, Acts of 1971, General Assembly of South Carolina, as amended (Section 44-53-370 et. seq., 1976 Code of Laws of South Carolina, as amended), such distribution not having been authorized by law.

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



SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF SUMTERSTATE VS.Ikeef Lionel Brailsford

AKA:

Race: Black Sex: Male Age: 24DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip Darrell SC 29040DL# [REDACTED] SID# [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2006 -GS- 43 - 0392A/W#: H977129Date of Offense: 09/15/2005S.C. Code §: 44-53-0375(B)(1)CDR Code #: 0 / 1 / 1 / 2☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Distribution of crack cocaine - 1st offense (crack base)in violation of § 44-53-375 of the S.C. Code of Laws, bearing CDR Code # 310114☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☒ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Stacy G. Espartero
SoliditorIkeef Brailsford
DefendantTherese A. [Signature]
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 1 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.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ 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	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§33.7, 1B TP (Drug Court Surcharge)	\$100	\$ 100.00
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$ 2.75
TOTAL		\$ 231.75

PTUP

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

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

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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

PRESIDING JUDGE

Judge Code: _____

Sentence Date: 6/18/06

Clerk of Court/ Deputy Clerk

Court Reporter: Margaret Sullivan

25

WITNESSES

SHERIFF'S OFFICE

DuBose

DOCKET NO. 2006-GS-43- 393

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

APRIL TERM 2006

THE STATE
vs.

IKEEF LIONEL BRAILSFORD

ARREST WARRANT NUMBER

H977129

D/A: 12/9/05

ACTION OF GRAND JURY

True Bill

Edward H. Brailford
Foreperson of Grand Jury
Date: *04/04/2006*

VERDICT

Indictment for

DISTRIBUTION OF COCAINE BASE

Foreperson of Petit Jury
Date:

C. KELLY JACKSON, SOLICITOR

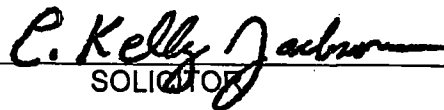
STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

INDICTMENT FOR
DISTRIBUTION OF COCAINE BASE

At a Court of General Sessions, convened on April 6, 2006, the Grand Jurors of SUMTER County present upon their oath:

That IKEEF LIONEL BRAILSFORD did in Sumter County on or about September 15, 2005, distribute to a confidential informant working with the Sumter County Drug Unit, a quantity of cocaine base, a controlled substance under the provisions of Act No. 445, Acts of 1971, General Assembly of South Carolina, as amended (Section 44-53-375 et. seq., 1976 Code of Laws of South Carolina, as amended), such distribution not having been authorized by law.

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


SOLICITOR

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

RECORDED

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

2014 JAN 21 AM 10:40

Ikeef Brailsford, #264172,

JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

Case No. 2012-CP-43-0142

CERTIFIED TRUE COPY
OF ORIGINAL FILED

Applicant,

v.

State of South Carolina,

Respondent.

DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

ORDER OF DISMISSAL

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on January 26, 2012. Respondent made its return on May 29, 2012. 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 Tommy Thomas, 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 in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. The Applicant was indicted during the September 2010 term of the Sumter County Grand Jury for distribution of cocaine base and manufacturing of cocaine base. Additionally during the October 2010 term of the Sumter County Grand Jury, the Applicant was indicted for two counts of distribution of cocaine base. Charles D. Barr, Esquire, represented the Applicant on all charges. On March 1, 2011, the Applicant pled guilty as indicted to all charges before the Honorable W. Jeffrey Young, who sentenced Applicant to confinement for a period of

fifteen years imprisonment suspended upon the service of twelve years imprisonment, an additional ten years imprisonment for manufacturing cocaine, and ten years for distribution crack cocaine. All sentences were to run concurrent. The Applicant did not appeal his conviction or sentence.

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 trial counsel.
2. Involuntary guilty plea.

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf. The State presented testimony from plea counsel, Charles D. Barr, 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.

During the evidentiary hearing, Applicant stated he was arrested on July 22 or 23 of 2010 and hired Counsel. Applicant stated he was out on bond approximately four months after his arrest. Applicant stated he met with Counsel approximately four times prior to his guilty plea. Applicant stated he reviewed the discovery material with Counsel. Applicant stated he never discussed any possible defenses with Counsel. Applicant stated he received an emergency phone call from Counsel informing him that his Co-Defendant had been arrested, was pleading guilty, and would most likely testify against him.

Applicant stated he went to court with Counsel and the solicitor offered him a plea deal with a cap of twenty years. Applicant stated he was being charged under a third offense.

Applicant explained he pled guilty on the same day to two separate drug charges from July 2005 and December 2005. Applicant stated he discussed with Counsel as to why it was a third offense versus a second offense. Applicant stated he does not believe that he is guilty of a third offense. Applicant stated he did not plead freely and voluntarily. However, Applicant stated he agreed during the plea proceeding that he was pleading guilty to a third or subsequent offense for distribution of crack cocaine. Applicant stated it was his decision to plead guilty. Applicant stated he did waive his constitutional rights. Applicant stated he told the plea judge on two separate occasions that he was satisfied with Counsel's services. Applicant stated he told the plea judge that he had enough time to discuss his case with Counsel. Applicant stated he told the plea judge "Mr. Barr was excellent, he was always in contact with me, let me know what was going on." (Tr. p. 10 lines 1-3).

Following Applicant's testimony, Counsel was called to testify by the State. Counsel stated he has been practicing law for approximately thirty five years. Counsel stated he was retained. Counsel could not recall when he was retained. Counsel stated he had the opportunity to review his file from his representation prior to the date of the PCR hearing. Counsel stated he met with Applicant approximately three to four times. Counsel stated Applicant was out on bond during majority of his representation. Counsel stated he went over the indictments, elements of the charges, and potential sentences. Counsel stated he explained to Applicant why he was being charged with a third offense versus a second offense. Counsel stated they had previous discussions about the issue prior to Applicant pleading guilty. Counsel further stated that the deal was for Applicant to receive twelve years so regardless of whether Applicant was charged with third or second offense, Applicant would still receive the same amount of time. Counsel stated he discussed Applicant's version of the facts. Counsel stated Applicant had a number of

drug cases. Counsel could not recall when he received discovery, but it is his practice to file for and send the discovery material to his clients. Counsel stated he had a sufficient amount of time to prepare and investigate Applicant's case. Counsel recalled that the plea negotiations included a cap of twelve years and that Applicant would receive the maximum on the other charges. In Counsel's opinion he gave Applicant adequate advice and information to make an informed and intelligent decision whether to plea. Counsel stated it was ultimately Applicant's decision to enter a guilty plea.

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

Counsel was ineffective for failing to challenge whether Applicant was correctly charged as third offense versus a second offense.

This Court finds Applicant's allegation that he was denied effective assistance of counsel for failing to adequately investigate and prepare a defense for trial is without merit. This Court finds plea counsel had numerous meetings with Applicant prior to his plea and that they reviewed the discovery materials. Applicant argues he should have been charged as a second offense because he pled to two prior drug offenses on the same day.¹ However, Applicant can enter a plea of guilty to a first and second drug offense during the same proceeding. See State v. Robinson, 387 S.C. 568, 693 S.E.2d 402 (2010) (finding, trial counsel did not render ineffective

¹ Applicant was charged in July and December 2005 for two separate drug offenses. Applicant ultimately pled guilty on the same day to both offenses and was sentenced as a first offense for both offenses.

assistance by failing to challenge defendant's conviction for trafficking in crack cocaine as third offense for purposes of recidivist sentencing; defendant was properly sentenced for third drug offense, in that defendant had two prior drug convictions); See State v. Patterson, 272 S.C. 2, 248 S.E.2d 770 (1978) (holding, in a case where defendant pleaded guilty during the same proceeding to a first and second drug offense that occurred on the same date, trial judge properly treated the charges as first and second offenses given at the time of the imposition of the sentence of the second offense the appellant stood convicted by way of a guilty plea of a first offense). The Court notes that there was a lengthy discussion between the plea judge, solicitor, and Counsel regarding whether Applicant was correctly charged as a third offense versus a second offense. This Court finds that Counsel was not ineffective for failing to challenge Applicant's guilty plea for distribution of crack cocaine third or subsequent offense. This Court finds Applicant was properly charged as a third or subsequent offense based off of his two prior drug convictions dating back to July 2005 and December 2005. Furthermore, this Court finds Applicant was fully informed that he was entering a guilty plea to a third or subsequent offense prior to entering his guilty plea. Therefore, this Court finds this allegation should be denied and dismissed with prejudice.

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. 11). 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. 23). This Court finds that the Applicant had a full understanding of the consequences of his plea and the charges against him. Specifically, this Court notes Applicant stated he was guilty of distribution of crack cocaine third offense or subsequent offense. (T.26). Applicant testified This Court finds that the plea judge correctly found that the Applicant's plea was freely, voluntarily, and intelligently made. (T. 26).

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. This 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. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

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

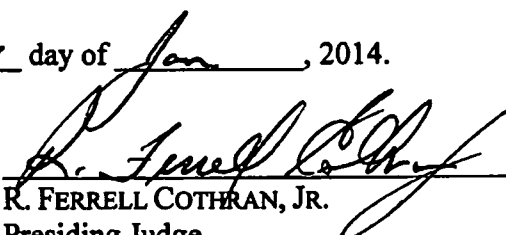
with prejudice.

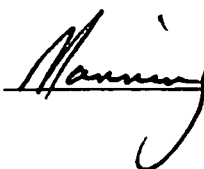
This Court notes that that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right 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 COTHAN, JR.
 Presiding Judge
 Third Judicial Circuit


 _____, South Carolina

WITNESSES

R. Skinner Sumter County Sheriff

DOCKET NO. 2010-GS-43-1184

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2010

THE STATE

vs.

IKEEF LIONEL BRAILSFORD

ARREST WARRANT NUMBER

M441770

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date: 8-2-10

VERDICT

Indictment for

Drugs / manufacture, distribution, etc. of cocaine base

C. KELLY JACKSON, SOLICITOR

Coreperson of Petit Jury

Date:

1

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

INDICTMENT FOR

Drugs / manufacture, distribution, etc. of cocaine base

At a Court of General Sessions, convened on September 2, 2010 the Grand Jurors of

SUMTER County present upon their oath:

CERTIFIED TRUE COPY
OF ORIGINAL FILE
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

COUNT ONE

That in Sumter County, South Carolina, on or about February 26, 2010, the Defendant, Ikeef Lionel Brailsford, did manufacture, distribute, dispense, deliver, purchase; or did aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase; or did possess with the intent to distribute, dispense, deliver a controlled substance or a controlled substance analogue, to wit: Cocaine Base; in violation of 44-53-375 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.

P. Kelly Jackson

SOLICITOR

WITNESSES

D. Vickers Sumter County Sheriff

DOCKET NO. 2010-GS-43-1185

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2010

THE STATE

v.B.

IKEEF LIONEL BRAILSFORD

ARREST WARRANT NUMBER

M441821 M441823

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date: 9-2-10

VERDICT

Indictment for

Drugs /MDP, Narcotic drugs in Sch. I(b) & (c), LSD, and
Sched. II

Drugs/Manuf. Cocaine Base

C. KELLY JACKSON, SOLICITOR

STATE OF SOUTH CAROLINA)

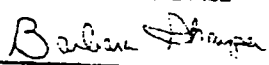
INDICTMENT FOR

COUNTY OF SUMTER)

Drugs /MDP, Narcotic drugs in Sch. I(b) & (c), LSD, and Sched. II
Drugs/Manuf. Cocaine Base

At a Court of General Sessions, convened on September 2, 2010 the Grand Jurors of

SUMTER County present upon their oath:

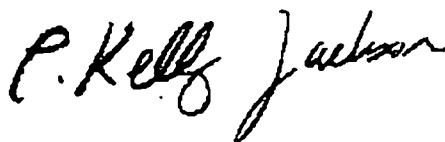
CERTIFIED TRUE COPY
OF ORIGINAL FILE

DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINACOUNT ONE

That in Sumter County, South Carolina, on or about March 2, 2010, the Defendant, Ikeef Lionel Brailsford, unlawfully did possess with intent to distribute, dispense, or deliver a quantity of Cocaine, a schedule II narcotic drug as defined by Section 44-53-110, et seq; Code of Laws of South Carolina (1976), as amended, all in violation of Section 44-53-370, Code of Laws of South Carolina (1976), as amended.

COUNT TWO

That in Sumter County, South Carolina, on or about March 2, 2010, the Defendant, Ikeef Lionel Brailsford, did manufacture, distribute, dispense, deliver, purchase; or did aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase; or did possess with the intent to distribute, dispense, deliver a controlled substance or a controlled substance analogue, to wit: did manufacture Cocaine Base; in violation of 44-53-375 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

WITNESSES

D. Vickers Sumter County Sheriff

DOCKET NO. 2010-GS-43-1196

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

OCTOBER TERM 2010

THE STATE

VS.

FRED CHINA III

ARREST WARRANT NUMBER

M441817 M441934 M441820

IKEEF LIONEL BRAILSFORD

ACTION OF GRAND JURY

True Bill

Indictment for

Drugs / manufacture, distribution, etc. of cocaine base
(2 cnts)

Drugs / manufacture, distribution, etc. of marijuana

VERDICT

Forfeiture of Grand Jury
Date: 10-28-10

C. KELLY JACKSON, SOLICITOR

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF SUMTER)

Drugs / manufacture, distribution, etc. of cocaine base (2 cnts)
Drugs / manufacture, distribution, etc. of marijuana

At a Court of General Sessions, convened on October 28, 2010 the Grand Jurors of

SUMTER County present upon their oath:

CERTIFIED TRUE COPY
OFFICIAL
Barbara S. ...
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

COUNT ONE

That in Sumter County, South Carolina, on or about May 28, 2010, the Defendant, FRED CHINA III, did manufacture, distribute, dispense, deliver, purchase; or did aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase; or did possess with the intent to distribute, dispense or deliver a controlled substance or a controlled substance analogue, to wit: 1.59 gram(s) Cocaine Base; in violation of 44-53-375 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO

That in Sumter County, South Carolina, on or about May 28, 2010, the Defendant, FRED CHINA III, unlawfully did manufacture, distribute, dispense, or deliver a quantity of marijuana, a controlled substance under provisions of Section 44-53-110, et seq., Code of Laws of South Carolina (1976), as amended, or did otherwise aid, abet, attempt, or conspire to manufacture, distribute, dispense, or deliver marijuana, all in violation of Section 44-53-370, Code of Laws of South Carolina (1976), as amended.

COUNT THREE

That in Sumter County, South Carolina, on or about May 28, 2010, the Defendant, IKEEF LIONEL BRAILSFORD, did manufacture, distribute, dispense, deliver, purchase; or did aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase; or did possess with the intent to distribute, dispense or deliver a controlled substance or a controlled substance analogue, to wit: 1.59 gram(s) Cocaine Base; in violation of 44-53-375 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