

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Spartanburg County

R. Lawton McIntosh, Circuit Court Judge

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S.C. Supreme Court

WILLIAM H. REID,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-002412

APPENDIX

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Deputy Chief Appellate Defender

South Carolina Commission on Indigent
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INDEX

INDEX	i
GUILTY PLEA TRANSCRIPT DATED APRIL 11, 2011	1
APPLICATION FOR POST-CONVICTION RELIEF	19
RETURN	26
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED JUNE 25, 2013	32
COURT'S EXHIBIT # 1 (JURY NOTES)	96
APPLICANT'S EXHIBIT # 1 (SEARCH WARRANT)	100
APPLICANT'S EXHIBIT # 2 (MOTION TO DISMISS)	104
APPLICANT'S # 3 (EMAIL)	108
ORDER OF DISMISSAL	109
INDICTMENTS	119

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3 The State,)
4 -vs-) TRANSCRIPT OF RECORD
5 William Henry Reid, Jr.) 2008-GS-42-6337;-6338
6 Defendant.) April 11, 2011
7 Spartanburg, South Carolina

8
9
10 B E F O R E:

11 HONORABLE J. DERHAM COLE, JUDGE.
12
13

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

15 TRAVIS A. MOORE, ESQ.
16 Attorney for the State

17 STANLEY L. MYERS, ESQ.
18 CHRISTIAN "CHRISTOPHER" G. SPRADLEY, ESQ.
19 Attorneys for the Defendant
20
21
22

23 Margaret A. Woods
24 Circuit Court Reporter
25

COPY

1 MR. MOORE: Your Honor, standing before ya is Mr. William
2 Henry Reid, Jr. He's here on Indictment 2008-GS-42-6338 which
3 is a true billed indictment for trafficking in cocaine
4 twenty-eight (28) to a hundred (100) grams and Indictment
5 2008-GS--42-6337 which is a direct indictment that has been
6 true billed for possession with intent to distribute
7 methamphetamine. He's pleading bost -- to both of these
8 indictments without any recommendation or negotiations by the
9 State. May I approach, Your Honor?

10 THE COURT: (No verbal response.)

11 (Whereupon, counsel handed the document to the Court.)

12 MR. MOORE: He's represented by Mr. Stanley Myers and
13 Mr. Christopher Spradley of the Lexington bar. As part of the
14 plea negotiations, the State will be dismissing a related
15 marijuana charge related to this is -- incident and all
16 charges from the December 2008 incident which were two
17 trafficking charges and another PWID charge from a separate
18 incident.

19 THE COURT: And this is a first offense?

20 MR. MOORE: First offense, Your Honor.

21 THE COURT: Alright.

22 EXAMINATION BY THE COURT:

23 Q. Alright, you are William Henry Reid?

24 A. Yes, sir.

25 Q. Mr. Reid, you're here on two indictments, each charge you

1 with a separate and distinct offense for which you can receive
2 separate and distinct punishments or penalties. Indictment
3 2008-6337 charges you with possession with intent to
4 distribute methamphetamine. The State alleges that occurred
5 on June the 4th of 2008. They allege on that day that you
6 possessed some quantity of methamphetamine and that that at
7 the time you possessed it you intended to distribute, that is,
8 sell it or trade it or give it away but in some fashion you
9 intended to distribute. If I accept your plea of guilty, you
10 could receive a sentence of up to 15 years in jail and a fine
11 of \$25,000. You understand that charge and potential
12 punishment?

13 A. Yes.

14 Q. A second indictment 2008-6338 also charges you with a a
15 drug offense occurring on June the 4th of 2008 and they allege
16 that you did knowingly sell or manufacturer, cultivate,
17 deliver, purchase or bring into the State or you did knowingly
18 have in your actual or constructive possession or attempt to
19 become in actual or constructive possession of at least
20 twenty-eight (28) grams of cocaine, they allege more, for
21 which you could receive a sentence of not less than 7 years in
22 jail and a fine of 50 -- \$50,000 and you could receive up to
23 25 years in jail and trafficking in cocaine is classified as a
24 violent offense and a serious offense and a -- is a first
25 offense a no parole offense too?

1 MR. MOORE: My understanding is the 80 percent no parole,
2 yes, sir.

3 MR. MYERS: Yes, sir.

4 EXAMINATION BY THE COURT:

5 Q. Yeah. And also classified as a no parole offense. Do
6 you understand that charge and the potential sentence?

7 A. Yes.

8 Q. You still wanna plead guilty to 'em? You don't have to.
9 We got a jury down the hall if you'd rather have a jury trial.

10 A. Yes, sir, I plea.

11 Q. You want a jury trial?

12 A. No, sir, I plea.

13 Q. Well you seem sorta hesitant. Let me get the jury down
14 here.

15 A. I plea.

16 Q. You wanna plead guilty?

17 A. Yes.

18 Q. Have you had plenty a time to talk with your lawyers about
19 it?

20 A. Yes.

21 Q. And they've advised you about your case and advised you
22 about what the State has to prove before you could be found
23 guilty?

24 A. Yes.

25 Q. Did you tell 'em everything you know about the facts?

1 A. Yes, sir.

2 Q. Did ya'll discuss whether or not you have a defense to
3 either charge?

4 A. Yes.

5 Q. Do you know of any defense that you have to either
6 charge?

7 A. Do I know any defense, sir?

8 Q. Do you know of any defense that you might have to either
9 of these charges? In other words, ---

10 A. No.

11 Q. --- do you know of any reason either factual or
12 legal why ---

13 A. Yes.

14 Q. --- you should not be found guilty?

15 A. No.

16 Q. Well do ya understand if you do have a defense that when
17 you plead guilty you give up your right to assert it?

18 A. Yes.

19 Q. And you still wanna plead guilty?

20 A. Yes, sir.

21 Q. Did your lawyers explain to ya about the constitutional
22 rights you have to give up if you wanna plead guilty?

23 A. Yes.

24 Q. Do you understand you have the right to remain silent?

25 A. Yes, sir.

1 Q. That means you don't have to say anything: you don't have
2 to make a statement, you don't have to testify, you don't have
3 to answer any questions that relate to the charge, you don't
4 have to answer my questions right now unless you wanna plead
5 guilty.

6 A. Yes, I wanna ---

7 Q. And if ---

8 A. --- plead guilty.

9 Q. --- you wanna plead guilty you have to answer my
10 questions ---

11 A. Yes.

12 Q. --- because I have to determine whether or not your
13 decision is freely and voluntarily made and that you
14 understand the consequences of that decision.

15 A. It's free and voluntarily made.

16 Q. Okay. So you understand your right to remain silent?

17 A. Yes.

18 Q. And you wanna give that right up in order to plead
19 guilty?

20 A. Yes.

21 Q. Can you look up here at me while you're answering the
22 questions?

23 (Whereupon, the defendant complied.)

24 Do ya understand you have a right to confront any witness
25 that would offer evidence against you?

7
1 A. Yes.

2 Q. Do you understand you could require the State to bring
3 each of their witnesses into court, have 'em take the witness
4 stand and testify in your presence under oath so you can see
5 who they are, you can hear what they have to say and your
6 lawyer could examine those witnesses on that testimony in
7 order to test their credibility and the reliability of the
8 information they're providing?

9 A. Yes.

10 Q. Now when you plead guilty the witnesses don't testify;
11 even if they're in court they don't take the witness stand and
12 testify, they're not subject to cross-examination, did ya know
13 that?

14 A. Yes.

15 Q. Understanding that you have that right do you wish to
16 give it up in order to plead guilty?

17 A. Yes. Yes.

18 Q. You also have a right to have a jury trial, have a jury
19 decide if you're guilty or not. You understand about the jury
20 trial?

21 A. Yes.

22 Q. Your lawyers explain that to you?

23 A. Yes.

24 Q. If you elect to have a jury trial, you help pick the
25 jury: twelve are selected from a larger panel or pool of

1 jurors. Once they are selected they sit over there in that
2 (indicating) jury box and they would listen to all of the
3 testimony, they would consider all of the evidence, they will
4 decide what the facts are as it relates to these allegations;
5 in other words, what, if anything, occurred on June the 4th of
6 2008 as it relates to you and these allegations of you
7 trafficking in cocaine and/or possessing methamphetamine and
8 intending to distribute. Before you could be found guilty of
9 any crime the State claims you committed, all twelve jurors
10 would have to be convinced of your guilt beyond a reasonable
11 doubt ---

12 A. Yes.

13 Q. --- and the burden' on the State to prove your guilt;
14 it's not upon you to establish your innocence.

15 A. Yes.

16 Q. So you can have a jury trial and put the State to that
17 test but you still don't have to take the witness stand and
18 testify or answer any questions. Do you understand your right
19 to have a jury trial?

20 A. Yes.

21 Q. Do you understand that the jury's decision has to be
22 unanimous: all twelve have to be in agreement?

23 A. Yes.

24 Q. And if one has a doubt about it or can't decide it, the
25 verdict can't be returned. All twelve have to be in agreement

1 before any decision can be reached. Ya understand that?

2 A. Yes.

3 Q. Understanding your right to have a jury trial, do you
4 wish to have one or give that right up?

5 A. Give it up.

6 Q. Has anybody promised you anything that caused you to
7 arrive at that decision?

8 A. No, sir.

9 Q. Has anybody threatened you, ---

10 A. No, sir.

11 Q. --- put any pressure on you?

12 A. No, sir.

13 Q. Are you pleading guilty freely and voluntarily?

14 A. Yes.

15 Q. Do ya understand that if anything was done that was
16 unlawful or illegal that resulted in evidence being obtained
17 that would be used against you to try to establish your guilt
18 as to these charges, if that evidence was obtained unlawfully
19 you give up your right to contest it or challenge that any
20 illegality. Ya understand that?

21 A. Yes.

22 Q. And you've talked to your lawyers about that?

23 A. Yes.

24 Q. And is that what you wish to do?

25 A. Yes.

1 Q. And this is a decision you've reached of your own free
2 will and accord?

3 A. Yes.

4 Q. You've had plenty of time to think it over?

5 A. Yes, sir.

6 Q. Is this your mother over here (indicating)?

7 A. Yes.

8 Q. Did you talk to her about it?

9 A. Yes.

10 Q. She in agreement with you?

11 A. Yes.

12 Q. Did you tell her what you did or didn't do?

13 A. Yes.

14 Q. Did you tell her you were guilty of these charges?

15 A. Yes, sir, I told her.

16 Q. You're 43-years-old?

17 A. Yes.

18 Q. How fardya go in school?

19 A. Got my GED.

20 Q. Are you married?

21 A. No, my wife deceased.

22 Q. Do ya have children?

23 A. Yes, I have five ---

24 Q. How many?

25 A. --- daughters.

- 1 Q. How many?
- 2 A. Five daughters and three live with me.
- 3 Q. And what kinda work have you done?
- 4 A. I work at Sears and I do landscapin'.
- 5 Q. Do ya have any previous criminal history?
- 6 A. Just a -- I did. I had a federal charge about ten --
- 7 '91.
- 8 Q. What was that for?
- 9 A. Gun charge.
- 10 Q. And have ya ever been treated for any type of substance
- 11 abuse?
- 12 A. Yes.
- 13 Q. When and where?
- 14 A. Back in '90 durin' my first conviction.
- 15 Q. And have you had any problem with substance abuse or
- 16 addiction since that time?
- 17 A. No, sir.
- 18 Q. Have you consumed any alcohol or drugs within the past
- 19 seventy-two hours?
- 20 A. No, sir.
- 21 Q. Have you ever been treated for any type of mental illness
- 22 or emotional disturbance?
- 23 A. No, sir.
- 24 Q. Alright, listen to what the solicitor tells me about the
- 25 facts that relate to these cases.

1 MR. MOORE: Your Honor, this incident occurred on June
2 4th 2008. An informant working for the sheriff's office went
3 to 223 Sequoia Drive here in Spartanburg County with the
4 defendant, the defendant obviously did not know he was an
5 informant, took him to his house, his residence, showed him
6 what the informant believed to be cocaine and ecstasy pills,
7 that informant contacted Spartanburg County Sheriff's Office
8 narcotics officer and informed him on what he had seen. At
9 that time the informant and the defendant left the residence,
10 got into the defendant's vehicle, a deputy with the sheriff's
11 office pulled the vehicle over to try to stop the defendant.
12 The narcotics division got a search warrant based off the
13 information they had got from the informant of what he had
14 seen. They went to 223 Sequoia Drive here in Spartanburg
15 County, executed that search warrant which was the defendant's
16 residence. Upon execution of that search warrant, they did
17 find what later tested out to be 34.64 grams of cocaine and
18 approximately 5 grams the ecstasy pills actually tested out to
19 be 5 grams of methamphetamine, those are the basis for the
20 charges here, Your Honor.

21 THE COURT: Okay. You heard what the solicitor told me

22 THE DEFENDANT: Yes.

23 THE COURT: Do you agree with that or disagree with it?

24 THE DEFENDANT: I agree with it.

25 THE COURT: You still wanna plead guilty?

1 THE DEFENDANT: Yes.

2 THE COURT: Alright, I'll accept your plea and hear from
3 you and your lawyers.

4 MR. MYERS: Thank Your Honor, may it please the court.
5 Your Honor, in the courtroom with Mr. Reid today you've seen
6 his mother Frances Reid, his father William Reid, Sr. is also
7 in the courtroom and behind him is a cast of his family
8 members including his fiance Ms. ---

9 THE DEFENDANT: Adrian Middleton.

10 MR. MYERS: --- Ms. Adrian Middleton. Your Honor, as
11 Mr. Reid stated he is 43-years-old, he in fact runs a tree
12 cutting business here in town. When he was released off of
13 probation which I'll go into momentarily, he owned the
14 business, he was doing very well and he picked that business
15 up when he was -- when he returned. To give the Court a
16 little bit of a background as to what occurred, this -- on the
17 day in question Mr. Reid was working in the tree cutting
18 business and the confidential informant, or it is alleged,
19 went with Mr. Reid to his home at 223 Sequoia Drive. When
20 they initially got there, another individual by the name of
21 Josh Sanders was there babysitting. Law enforcement searched
22 the home, they found what Mr. Moore stated to the Court the
23 drugs, they also contacted Ms. Reids, Mr. Reid's wife, Deidre.
24 She came to the residence and they charged Ms. Ms. Reid,
25 Mr. Sanders and Mr. Reid with all the exact same charges.

1 Unfortunately, Mr. Reid lost his wife, Deidre, in a childbirth
2 incident in October of 2008. He has now been responsible for
3 taking care of his five children, he has done a yeoman's job
4 of doing so. We will add to the Court that when he was out on
5 bond for the June charges, the December 2008 charges came
6 along. He and his attorney at that time Mr. "Bozzie" Boggs
7 appeared before the Court because the State moved to revoke
8 his bond. The Court did in fact revoke his bond but by the
9 time bond was revoked he had gone back to the federal prison
10 to serve out the remainder of his probation sentence on the
11 gun charge. Your Honor, he got out in October of last year,
12 we believe that that was approximately two and a half years
13 worth a time that he spent that he can't get back. In talking
14 with the State, the State initially made an offer of 10 years.
15 We have gone back and forth and we basically talked about some
16 of the legal arguments and some of the concern that we all had
17 and they came back and they are allowing us to plead guilty
18 with a sentencing range to be somewhere between 7 to 25 years.
19 We would ask Your Honor that even though we don't believe the
20 Court can give a time served or -- time served sentence
21 because the two and a half years was spent on a federal
22 probation case that the Court takes into account that he did
23 give up two and a half years of his time and sentences him to
24 the absolute lowest sentence here today which will be
25 7 years. Your Honor, we know that the jails are certainly

1 overcrowded. In talking to the solicitor here in this county
2 and several around the State, it's \$65 to to to care for an
3 inmate on a daily basis. We believe that as opposed to
4 putting him in jail for the maximum amount or any time beyond
5 7 years we would ask that the Court consider all of those
6 factors, that we, that we give him the 7 years, he's pleading
7 guilty, we -- he obviously ought to -- and, Judge, we're
8 asking the Court to take into account that he's accepting
9 guilt, it's an emotional time, it certainly has been an
10 emotional time for everyone that's involved. We came here
11 prepared to try this case, we talked with the State, offers
12 that were made, rejected and now this offer on the table so
13 any hesitancy, Your Honor, we believe is because of the
14 emotional state of my client and of his family members.
15 Certainly any day in jail would cause anyone pa -- anyone
16 pause and anyone concern so again, Your Honor, we believe that
17 any type of hesitancy is for that reason and not because he is
18 not here to accept guilt. In talking with his mom, she wishes
19 to make just a very short statement, Your Honor, and we would
20 ask that she keeps it as brief as possible.

21 THE COURT: Alright, tell me your name please, ma'am.

22 MS. REID: Frances Reid.

23 THE COURT: Alright, Ms. Reid, what would you like to
24 tell me?

25 MS. REID: Judge Cole, I'm hopin' and prayin' to the Lord

1 that you just look down on my son just a little bit and and
2 help him because he's been tryin' so hard. He got those
3 girls, he have worked. He'll go to the work in the mornin' on
4 one job, he got offa that job at twelve, one o'clock and then
5 he'd go on to the other one and he worked there until night,
6 until it's night. He come in his head in fact hurt. I know
7 if he do wrong I know you have to sentence him but I'm just
8 asking you to have mercy on him please and because his girls
9 they need him. His father is almost 80, I'm 75. He have his
10 sisters and they have their children and we do everything in
11 our power to try to help, ya know, him but those girls they
12 really need him, they need their father so I just ask you in
13 the name of Jesus please help us. We need your help. Tank
14 you.

15 THE COURT: Okay. Thank you, ma'am.

16 MR. MYERS: And, Your Honor, I believe that is -- that
17 concludes our presentation. The only thing I will add to the
18 Court is that I believe you can look at Mr. Reid, he is
19 contrite which I believe is one of the other factors the Court
20 looks at when considering sentence, he is sorry to put his
21 family through this, he's sorry to put the system through
22 this. So again, Your Honor, in talking with him I've known
23 Mr. Reid for about a year now, he did absolutely everything I
24 asked of him to do, he was always forthcoming, made every
25 appointment and did absolutely everything I asked him to do

1 and throughout this entire matter, Your Honor, he ha -- he has
2 appeared remorseful and contrite and again, Your Honor, his
3 wife is gone, he is now here to raise his daughters. Thank
4 the Court for listening to us.

5 THE COURT: Alright, Mr. Reid, anything you wanna add to
6 what your lawyers told me?

7 THE DEFENDANT: Yes, I just hope you have consideration
8 'cuz, you know, ever since I've been home that's all I've been
9 doin' is takin' care of my daughters and workin', that's all
10 I've been doin'.

11 THE COURT: Is -- am I correct these offenses occurred
12 while he was under federal supervision?

13 MR. MYERS: I believe so yes, sir.

14 THE COURT: Alright, that's what I don't get. Alright,
15 anything else anybody needs to tell me?

16 MR. MYERS: No sir, Your Honor.

17 (Pause.)

18 THE COURT: Alright, on Indictments 2008-630 -- 6337 and
19 6338 and as to each of them, the sentence of the Court is you,
20 William Henry Reid, Jr, be confined to the South Carolina
21 Department of Corrections for a period of 8 years.

22 MR. MYERS: Thank Your Honor.

23 MR. SPRADLEY: Thank Your Honor.

24

25

1
2
3 CERTIFICATE OF REPORTER
4

5 I, Margaret A. Woods, Court Reporter in and for the State
6 of South Carolina at Large, hereby certify that I reported the
7 preceding case on April 11, 2011 at the time and place
8 heretofore set forth; and that the foregoing pages numbered
9 from 2 through 17, inclusive, constitute a true and accurate
10 transcription of my stenographic notes of the said proceeding.

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

15 May 10, 2011
16

17 Margaret A. Woods 2/13/12

18 Margaret A. Woods, Court Reporter
19 in and for the State of South Carolina at Large.
20
21
22
23
24
25

FORM 5

STATE OF SOUTH CAROLINA

County of Spartanburg

William H. Reid Jr. 345611
Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2011-CP-42-5038

APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legally 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 Walden Correctional Institution
2. Name and location of Court which imposed sentence Spartanburg County Court House 180 Magnolia ST
3. Name(s) of co-defendant(s) (if any) Deidre Reid, Josh Sanders
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2008 GS 426337
 - (b) 2008 GS 426338

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- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) April 11, 2011
- (b) 8 years
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ✓
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- 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) My Attorney Stated the he was going To Appeal But he Did Not
- (b) _____

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- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Ineffective Assistance of Plea Counsel

(b) ~~My Plea Was Involuntary~~

(c) Involuntary Plea of Guilt.

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

(a) Plea Counsel Was Ineffective For Failure To Properly Prepare
the Drug have Not Been Tested And My Attorney -
stated that the charges will be dropped if I Plea.

12. Prior to this application have you filed with respect to this conviction: NO

- (a) any petition in a State Court under South Carolina Law? _____
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
- (d) any other petitions, motions or applications in this or any other Court? _____

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. _____

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18

(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. _____

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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: NO

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

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

(a) your arraignment and plea? Slur
 (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?
NO

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. Stanley L. Myers P.O. Box 5709 W. Columbia SC 29171

ii. _____

iii. _____

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

i. Sentencing

ii. _____

iii. _____

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

^{with} ~~Dismissal~~ Dismissal/or Reduction or Trial

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

No

STATE OF SOUTH CAROLINA)

County of Spartanburg)

VERIFICATION

I, William H. Reed Jr. 345611, 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.

William H. Reed Jr.

SWORN to and subscribed before me this 15th
day of December, 2011.

[Signature] (L.S.)
Notary Public

My Commission Expires: 11 May 2015

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 DEC 19 AM 11:14
M. HOPE BLACKLEY

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

I, William H. Reid Jr 345611, 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.

William H. Reid Jr.
Applicant

SWORN or affirmed to and subscribed before me this
15th day of December, 2011.

[Signature]
Notary Public

My Commission Expires: 11 May 2015

FILED
CLERK OF COURT
2011 DEC 19 AM 11:14
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE SEVENTH CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	2011-CP-42-5638
William H. Reid, Jr., #345611,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

In response to the post-conviction relief application filed on December 19, 2011, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Spartanburg County Grand Jury indicted the Applicant at the October 2008 term of General Sessions for possession with intent to distribute (PWID) crack cocaine (08-GS-42-6337) and trafficking in cocaine (08-GS-42-6338). The Applicant was represented by Stanley L. Myers, Esquire. On April 11, 2011, the Applicant pled guilty as indicted. The Honorable J. Derham Cole, sentenced the Applicant to confinement, for a period of eight (8) years, for both charges, to run concurrent. The Applicant did not appeal his guilty plea or sentence.

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

II.

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

1. Ineffective assistance of counsel; in that,
 - a. "Plea Counsel was ineffective for failure to properly prepare and investigate," and
2. Involuntary guilty plea; in that,
 - a. "The drugs have not been tested and my attorney stated that the charges will be dropped if I plea."¹

III.

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

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient.

¹ Respondent notes that the transcript of the guilty plea reflects that "[a]s part of the plea negotiations, the State will be dismissing a related marijuana charge . . . and all charges from the December 2008 incident which were two trafficking

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). Further, Respondent submits that "[f]ailure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result." Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998).

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

charges and another PWID charge from a separate incident." (April 11, 2011 Guilty Plea, pg. 1).

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.

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

VI.

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

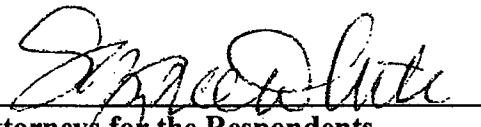
Respectfully submitted,

ALAN WILSON
Attorney General

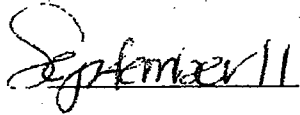
JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

SUZANNE WHITE
Assistant Attorney General

By: 
Attorneys for the Respondents

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

 2012

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

) IN THE COURT OF COMMON PLEAS
) SEVENTH JUDICIAL CIRCUIT

William H. Reid, Jr.,

2011-CP-42-5638

Applicant,

v.

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

M. Terry Haselden, Esquire
P.O. Box 727
Spartanburg, South Carolina 29304-0727


Anne A. Mueller
Legal Assistant for the Respondent

DATED this 11th day of September, 2012.

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG } GENERAL SESSIONS COURT

WILLIAM H. REID, JR.)
345611)

STATE,)

v.)

TRANSCRIPT OF RECORD
11-CP-42-5638

STATE OF SOUTH CAROLINA,)

DEFENDANT.)

June 25, 2013
Spartanburg, South Carolina

BEFORE :

THE HONORABLE R. LAWTON MCINTOSH, JUDGE

APPEARANCES:

M. TERRY HASELDEN, ESQ.
Attorney for Applicant

SUZANNE H. WHITE, ESQ.
Attorney for the State

FRANCES BAKIS-RAY, RPR
Circuit Court Reporter
Typed for Margaref A. Woods

INDEX

	Page
William H. Reid, Jr.:	
Direct examination	9
Cross-examination	23
Stanley L. Myers:	
Direct examination	30
Cross-examination	40
Christian Spradley:	
Direct examination	52
Cross-examination	55
Ruling of the Court	59

EXHIBITS**APPLICANT'S:**

No.	Description	I.D./EVD.
1	Search warrant	6/6
2	Motion to dismiss or in the alternative suppress	6/6
3	Email dated 4/6/11	6/6

COURT'S:

1	Applicant's notes (3 pages)	30
---	-----------------------------	----

1 MS. WHITE: This is the case of William
2 Reid versus the State. It's case number
3 2011-CP-42-5638. He's represented today by Mr.
4 Terry Haselden. Mr. Reid was indicted October of
5 2008 for possession with intent to distribute meth,
6 I believe, and trafficking in crack — in cocaine
7 excuse me, 28 to 100 grams. There were also charges
8 from June and December that were dismissed. He
9 agreed to plead and pled on April 11th, 2011, and
10 received a sentence of eight years concurrent on
11 both charges. He has filed this application
12 alleging ineffective assistance of counsel for
13 failure to prepare and investigate an involuntary
14 guilty plea. He stated the drugs had not been
15 tested and that he thought other charges would be
16 dropped if he pled. And at this time I'll turn it
17 over to Mr. Terry Haselden.

18 THE COURT: Mr. Haselden, good morning.

19 MR. HASELDEN: Good morning, Judge.
20 Judge, just a very, very brief background. I mean,
21 this case arose out of a situation where the
22 defendant allegedly took a confidential informant to
23 a house owned by his estranged wife and supposedly
24 showed him some drugs that he offered to sell. Then
25 for some reason they left there to go do something

1 else — I can't recall exactly what it was — and
2 while they were out the police were monitoring the
3 situation the entire time because of the informant.
4 There was a traffic stop; he was detained. In the
5 meantime a search warrant was obtained to search the
6 premises, and the search warrant is a big part of
7 this case. You know, he pled as she said April of
8 2011. The arrest was on June 4th of 2008. He and
9 his wife who he was separated from at the time this
10 happened, were both charged with the same thing.
11 She died, I think, maybe four months after the
12 arrest.

13 Now it is the defendant's contention that
14 Mr. Stanley Myers, his attorney at trial who was
15 retained, provided him with ineffective assistance
16 of counsel. If I understand the gist of his
17 argument he's arguing that Mr. Myers essentially
18 induced him to plead guilty by telling him two
19 things: Number one, there was a motion to suppress
20 that had been prepared by Mr. Myers that I'm going
21 to submit, that was prepared and never filed.
22 According to Mr. Reid, you know, he was told that it
23 had, in fact, been filed and been ruled on and had
24 been denied. But again, it's my knowledge it was
25 never filed. Mr. Reid contends that Mr. Myers

1 induced him to plead by telling him, number one,
2 that the motion to suppress, the results of that
3 search had been denied, that the drugs were going to
4 come in, you know, because of that. And also, his
5 second contention is that he was also induced to
6 plead because Mr. Myers told him that because his
7 wife had died, she was the co-defendant and it was
8 her house, he was left holding the bag, that those
9 were, you know, being considered his drugs even
10 though he didn't live there.

11 You know, basically his argument is that
12 his plea was involuntary due to his attorney's
13 actions as I've outlined. He's also alleging that
14 Mr. Myers failed to investigate the case in terms of
15 talking to witnesses, that had he talked to
16 witnesses that he had or would have provided that he
17 could have proved that he did not live in the house,
18 that he had witnesses available to prove that he did
19 not live in the house; and therefore, the drugs
20 could not have been attached to him on that basis.

21 I'm gonna -- if we can do it right now
22 it'd probably save some time. I'd like to submit
23 the search warrant, the affidavit, and return
24 attached.

25 MS. WHITE: No objection.

1 MR. HASELDEN: Okay. And also I would
2 like to submit a copy of the motion to — I don't
3 know if you've got that. A copy of the motion to
4 dismiss or in the alternative motion to suppress.

5 THE COURT: Do you object to either one of
6 those?

7 MS. WHITE: No, Your Honor, to either one
8 of those.

9 THE COURT: All right, admitted without
10 objection.

11 (WHEREUPON, Applicant Exhibits Nos. 1, 2,
12 and 3 were marked for identification and
13 received into evidence.)

14 MR. HASELDEN: Your Honor, the search
15 warrant and the attached affidavit, return, and —
16 well, two pages of the return have been marked as
17 Applicant's 1. Motion to dismiss or in the
18 alternative to suppress has been marked as
19 Applicant's 2. And I think my client has something
20 else he may want me to submit.

21 (Mr. Haselden and his client confer.)

22 MR. HASELDEN: And Your Honor — bear
23 with me just a moment.

24 (Attorneys confer.)

25 MR. HASELDEN: Your Honor, they're

1 reviewing another document. It's actually emailed
2 correspondence back and forth between the attorney
3 Mr. Myers and Travis Moore who was with the
4 Solicitor's Office at that time.

5 MS. WHITE: No objection. And Your Honor,
6 we may have a cleaned copy. I know there's some
7 highlighted marks on that one.

8 MR. HASELDEN: Yeah, and I realized that
9 after I went to hand this up. It's —

10 MS. WHITE: And this is actually the —

11 MR. HASELDEN: Yeah.

12 MS. WHITE: You can look. This is
13 actually the email where he's got this stuff
14 underlined. It doesn't have all the extraneous
15 stuff.

16 MR. HASELDEN: Okay, all right. I have no
17 problem with submitting this. Your Honor, this
18 email from Travis Moore to Stanley Myers dated
19 April 6th, 2011 is marked as Applicant's 3, and as
20 she was marking these I discovered that I accidentally
21 gave her one that I had highlighted on for —

22 THE COURT: You just want to substitute
23 that —

24 MR. HASELDEN: Yeah, for Applicant's 1.
25 Let me see if I've got a copy of that. I'm

1 substituting that for Applicant's 1. Okay, I think
2 we're good.

3 All right, Your Honor, just very briefly
4 to touch on the search warrant, Mr. Myers wrote an
5 excellent motion to suppress that covers this more
6 artfully than I'd probably be able to; but the
7 problem with the search warrant were that there's no
8 real indicia of reliability on the part of the
9 informant. There's no corroboration of any kind of
10 the testimony of the informant, really no proof of
11 how he allegedly even knew that these were drugs.
12 It says on its face that he saw and he recognized
13 them, knows what drugs are, but there's no indicia
14 as to why or how he knew any of that. But again,
15 Mr. Meyers' brief covers that part better than I
16 could in just a few words. And Your Honor, that's
17 my opening statement. I'm prepared to call Mr.
18 Reid.

19 THE COURT: Please call him, call
20 Mr. Reid. So you say no indicia or reliability of
21 the CI or search warrant, or there were drugs at the
22 location; is that correct?

23 MR. HASELDEN: Excuse me, Judge?

24 THE COURT: Just to make sure I got your
25 issue, no indicia as to reliability, search warrant

AW - W. REID - DIRECT

1 as to the CI, or that there were drugs actually
2 present or ---

3 MR. HASELDEN: Well, no corroboration that
4 other than the bald statement.

5 THE COURT: All right.

6 WHEREUPON,

7 **WILLIAM H. REID, JR.,**

8 having been duly sworn by the Clerk of Court,
9 testified as follows:

10 MR. HASELDEN: No corroboration other than
11 the bald statement in the warrant this guy is a
12 reliable informant. And you know, in the — let me
13 just hand you up the warrants and the motion and
14 maybe you'll see more of what we're talking about.

15 **DIRECT EXAMINATION**

16 BY MR. HASELDEN:

17 Q All right. Mr. Reid, would you state your full
18 name for the record please.

19 A William H. Reid, Jr.

20 Q And Mr. Reid, how old are you?

21 A I'm 45.

22 Q Are you married?

23 A No, I'm a widow.

24 Q Okay. What was your wife's name?

25 A Diedre Guess Reid.

AW - W. REID - DIRECT

1 Q She was your co-defendant in this case?

2 A Yes.

3 Q And I think that you were arrested in June of
4 2008; is that correct?

5 A Yes.

6 Q When did she pass away?

7 A October the 7th.

8 Q Okay. And both of y'all —

9 A Two thousand—

10 Q And both of y'all were charged with the exact
11 same charges?

12 A Yes.

13 Q Possession with intent to distribute meth and the
14 trafficking in cocaine?

15 A Yes.

16 Q Okay, all right. And where are you housed —

17 A Excuse me, which there was another co-defendant,
18 Joshua Simmons.

19 Q Another co-defendant in this original case?

20 A Right.

21 Q Joshua Simmons, okay. All right. Now at the
22 time of your arrest were you and your wife living
23 together?

24 A No, we were separated.

25 Q How long had y'all been separated?

AW - W. REID - DIRECT

1 A By April of May of 2008.

2 Q Now the search warrant was executed at her
3 residence?

4 A Yes.

5 Q Had you at one time lived in that residence?

6 A Yes.

7 Q Yeah, but how long had you been away from there?

8 A I'd say about two months. About two-and-a-half
9 years from the, from the day of the incident.

10 Q Now you pled guilty in this case on April 11th of
11 2011; is that correct?

12 A Correct.

13 Q In front of Judge Cole, correct?

14 A Correct.

15 Q And your attorney at that time was Mr. Stanley
16 Myers?

17 A Correct.

18 Q And was he retained or appointed?

19 A Retained.

20 Q Okay. Now can you tell me in your own words why
21 you feel Mr. Myers was ineffective in representing
22 you at trial?

23 A Well, yeah, he was ineffective for the simple
24 fact that like you mentioned before on the
25 suppression hearing, he stated to me that the judge

AW - W. REID - DIRECT

1 had ruled and denied the suppression motion.

2 Q Okay, let's stop for a second. We're talking
3 about the motion to suppress, okay.

4 A Yes.

5 Q Now did he tell you that he had filed a motion to
6 suppress the results of that search?

7 A Yes.

8 Q Okay. Did he tell you whether or not a hearing
9 was ever held on that motion?

10 A He told me that a hearing was and it was denied.

11 Q Okay. When did he tell you that the hearing was
12 held on that motion?

13 A I can't recall the date, but I think I was in
14 federal prison. I think, I think I was in federal
15 prison or I had just got out of federal prison.

16 Q All right. Was this right before your trial or
17 your plea in April of 2011 or several months before
18 that?

19 A Several months before that.

20 Q Okay, all right. Did you at some point later on
21 find out that the motion had never been filed?

22 A Yes, when, when I was, when I had already got
23 convicted and pled guilty when I was at Kirkland he
24 came and see me. That's when he basically told
25 me -- well, no, no, no, I got a letter from him

AW - W. REID - DIRECT

1 first. And the letter basically stated that -- let
2 me get it together. The letter stated that if he
3 would have -- from the time he talked to the judge
4 before the hearing that he believed, it was his
5 contention that he believed that the judge wasn't
6 going to grant the suppression so that's why he
7 didn't submit it. So I told him then, I said, you
8 stated to me that the judge, you submitted it and
9 the judge denied it.

10 Q At the time that you pled guilty were you aware
11 that the motion had never been filed?

12 A No, I was not.

13 Q And at any time when you were in the courtroom
14 was the matter ever raised in open court?

15 A No.

16 Q Now what had he, if anything, he told you as far
17 as your chances of winning on that motion?

18 A Well, actually after the case went for about from
19 two to three years even though I had to do a federal
20 probation violation with that, you know, he said, he
21 basically was telling me that there was no
22 collaboration, no, you know, basically that the case
23 didn't have no legs to stand on so that's why
24 basically, you know, when they revoked my bond and
25 took me to court next week I was really unprepared.

AW - W. REID - DIRECT

1 Q Did you ever see a copy of that motion before the
2 case went to trial?

3 A Huh-uh.

4 Q When did you — yes or no, sir.

5 A No, no, I didn't.

6 Q Okay. When did you receive a copy of the motion?

7 A I think his sent it when I wrote him and asked
8 him to send me a copy of my Rule 5 evidence — no, I
9 think I called and asked him to send me a copy of my
10 Rule 5 evidence and I think his secretary sent it.

11 Q Now this was at some point after you were —

12 A Convicted.

13 Q —after you pled and you were already in prison?

14 A Right.

15 Q Okay. On the day of trial did y'all have any
16 discussions at all about that motion to suppress?

17 A No.

18 Q Okay. Now you said something about you thought
19 you'd got an letter from him at one time stating
20 that more or less that the motion had been denied?

21 A No, that's when he came to see me, when we get
22 together. I can't — I can't really remember how,
23 but I think I might have spoken with him because he
24 was accepting my phone calls and everything.

25 Q Okay. Well, on the day that you went to court

AW - W. REID - DIRECT

1 2011, what were you planning on doing, what did you
2 expect to do when you got to court that day?

3 A Plan on going to trial that's what I was paying
4 him he charged me 15,000. I paid him 12,000 and so
5 from the beginning when my parents came to see him
6 that's when they told him from the beginning that we
7 want a trial and that's why I, you know, I kept
8 state to him, you know, why did I pay you, you know,
9 all this money if you want to wait till the end to
10 then say that I got to take a guilty plea.

11 Q Well, why did you change your mind?

12 A Well basically when he, when he was in the
13 courtroom, I mean, the back room back there he
14 stated that he can't beat this case. He stated
15 that, you know, they know I'm sorry with you. You
16 know, I'm saying that your wife, she left you and
17 you're in a pickle, you know what I'm saying. By
18 her passing having an untimely death, y'all being
19 legally married, separated, you know what I'm
20 saying. It really doesn't matter, you know what I'm
21 saying he said but y'all legally married. And
22 basically what's hers is yours and what's mine is
23 hers. So he said you got to plead guilty. If you
24 don't, you know what I'm saying, when you walk up
25 out of the courtroom you're gonna be facing 25

AW - W. REID - DIRECT

1 years.

2 Q Did you tell him that y'all were not living
3 together at the time of the arrest?

4 A He know we wasn't from the time that Mr. Bars, he
5 got the case from the other attorney.

6 Q And you had another attorney before Mr. Myers?

7 A Right.

8 Q Okay. But did you ever discuss with Mr. Myers
9 what your living arrangements were at the time of
10 your arrest?

11 A Yes. Yes, I discussed it with him and that's why
12 I did, you know, he — I mean, I guess I was just
13 paying him being a good Samaritan and paying him
14 like he want me to be paying him, you know, 'cause
15 he was telling me at the time want I want to hear.

16 Q Okay. Well, if you had known what you know now,
17 okay, that the motion to suppress had not been filed
18 and had not been addressed in court what would you
19 have done on that day?

20 A I would have went to trial 'cause he knew I would
21 have went to trial 'cause I was already dressed to
22 go to trial. And then we consult with my family
23 member, you know what I'm saying, my mother and my
24 girlfriend at that time stating that, you know, I
25 need to go ahead and plead guilty because I'm gonna

AW - W. REID - DIRECT

1 come up out of here with 25 years and, you know, and
2 that's when my mother basically stated, you know,
3 said that I'm of age and, you know what I'm saying,
4 and go ahead and plead to 8 because I don't think I
5 can be around for no 25, and you know what I'm
6 saying, whatever, so you know, I was kind of stuck
7 between a rock and a hard place.

8 Q What had the most influence on you in making,
9 changing your mind deciding to plead guilty?

10 A Well -- repeat that.

11 Q Well, I mean, you changed your mind on that day
12 and decided to plead guilty. What had the biggest
13 influence on you? What was the main reason you
14 changed your mind?

15 A Because when Stanley basically stated, William I
16 can't beat this. He stated I can't beat this, you
17 know what I'm saying, whatever. So I'm like, well,
18 you know, why you wait, you know what I'm saying,
19 13,000-dollars, you know what I'm saying, and tell
20 me and I could have paid 7,000 so for a guilty plea,
21 you know what I'm saying. So I was like, we going
22 to trial, you know what I'm saying, that's what I
23 was paying you for to go to trial.

24 Q Now did you discuss the search warrant with him?

25 A Yes, he basically the one that put me up on

AW - W. REID - DIRECT

1 everything. I have another motion here that was I
2 think prepared by Mr. Spradley, you know what I'm
3 saying, whatever his name is, which he prepared a
4 wonderful motion as well, you know what I'm saying.
5 but it was just never presented.

6 Q And what was your understanding as far as the
7 problems with the search warrant?

8 A Well, as I got into it, you know what I'm saying,
9 it only stated that the informant never had any
10 collaborating evidence. It was stating that the
11 only single, that the only single thing that
12 actually made the informant reliable is because he
13 stated that he had worked with them in the past, you
14 know what I'm saying, but it never stated any type
15 of anything for truthfulness or whatever. Not even
16 that, you know, that the whole, the whole, the whole
17 thing, you know what I'm saying, should have been
18 dealt in Frank v. Delaware (ph) hearing because, you
19 know, the information that actually the officer had
20 gotten from the informant it was false because, you
21 know, it was never collaborated. It was never
22 nobody to -- individuals to, under -- I mean, to say
23 what he was actually saying was true, you know what
24 I'm saying. It just they went straight on the
25 opinion of what this guy was supposed have been

AW - W. REID - DIRECT

1 saying which he was lying.

2 Q Now you also allege that your attorney was
3 ineffective for failing to properly investigate your
4 case and talk to witnesses?

5 A Right.

6 Q Tell me about that.

7 A Well, I basically told Stanley that, you know
8 what I'm saying, that I had people that would
9 testify to the fact that at that particular time
10 that me and my wife was separated because at that
11 time I did have a girlfriend, you know what I'm
12 saying, and you know, we, we was basically separated
13 and I know that they was gonna come to court and
14 testify.

15 Q To your knowledge did he ever pursue that?

16 A No, he didn't.

17 Q Now after the guilty plea did you ever talk to
18 Mr. Myers about filing an appeal?

19 A Yes, I asked him that the day went back, you know
20 what I'm saying, after the guilty plea, you know
21 what I'm saying, he stated he was gonna file an
22 appeal but I got — I wrote the courts of appeal to
23 ask them, you know, after the I think it was ten
24 days or so. I wrote the court of appeals as far as
25 to ask them for, you know, do you have any

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1 information or any type of paperwork stating that
2 Mr. Myers asked for appeal or anything, and they
3 stated that they didn't have no records of him even
4 asking for an appeal. And so that's when I got in
5 contact with him, you know what I'm saying. That's
6 when he basically told me that to stop writing him
7 because that I think the courts had already
8 appointed you and that he would get in contact
9 witchu.

10 Q Did he tell you whether or not he was going to
11 file an appeal?

12 A Yea, he told me he was.

13 Q Okay.

14 A 'Cause I asked him to.

15 Q What was the grounds of the appeal going to be?

16 A Well, I can't even really say on that, you know
17 what I'm saying, as far as what was gonna actually
18 go about.

19 Q Now is there anything else you want to tell the
20 Court, any other reasons why you feel your attorney
21 was ineffective in representing you or why your plea
22 shown be overturned?

23 A I mentioned about the email, right?

24 Q Yes, yeah.

25 A You mentioned it.

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1 Q Yeah, in exhibit 3.

2 A Right.

3 Q Now tell me, why is that important to you?

4 A Well, that ain't the one.

5 Q Well, actually it is. Let me just show you the
6 original. This is just the — this is, the last
7 paragraph all on one page but it's the same.

8 A I'm gonna have to get my own.

9 Q This is the one you have.

10 A Okay.

11 Q It's the same thing. It's just all on one page.

12 A Now what was the question?

13 Q Well, what was it about this email that you
14 wanted to bring to the Court's attention?

15 A That if — as far as when Stanley basically told
16 me that Joshua, Joshua is the guy that was the
17 babysitter, you know what I'm saying. That was
18 cousin state that he was gonna come testify against
19 me the estate informant was gonna come testify
20 against me or whatever and I was state if he would
21 have actually let me see, you know what I'm saying,
22 this email between him and Mr. Moore, you know what
23 I'm saying that, you know, I had insisted on even
24 more going to trial because it basically states
25 here, you know what I'm saying, that he's not

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1 considered as material witness and that he will not
2 be test— he won't be able to testify at trial.

3 Q Okay, so my understanding you're stating that Mr.
4 Myers told you that the CI was going to testify.

5 A Yea, he told me he was.

6 Q And then when you saw this email later you
7 discovered that he was, never was going to testify?

8 A Right, because I got that email from you.

9 Q And so it's your testimony that if you had known
10 that at that time what would you have done?

11 A I would have insist on going to trial.

12 Q Okay?

13 A Because I was dressed, you know what I'm saying,
14 ready to go to trial.

15 Q Anything else you want to tell the Court?

16 A That's it.

17 THE COURT: Mr. Haselden, does your client
18 have any communications in writing from the Court of
19 Appeals?

20 MR. HASELDEN: Not that I have seen,
21 Judge.

22 THE WITNESS: I have a copy of it. When I
23 —

24 THE COURT: Is it here in court today?

25 THE WITNESS: No, it's not.

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1

THE COURT: All right, Ms. White.

2

3

MS. WHITE: Thank you, Your Honor.

4

CROSS-EXAMINATION

5

BY MS. WHITE:

6

Q Mr. Reid, on the day of your plea the Court went over with you the fact of whether or not you wanted a jury trial; is that correct?

7

8

9

A Correct.

10

Q And you said, no, sir, you want to plead, you want to plead guilty U.

11

12

A Correct.

13

Q Is that not correct?

14

A Correct.

15

Q You're saying now that the only reason you've changed your mind is because you think you could have fault the search warrant and gotten the drug suppressed?

16

17

18

19

A Not — that and as far as the, yeah, getting the drugs suppressed. Yeah, yeah, yes, ma'am.

20

21

Q So your testimony is at the time you were happy to plead based on the potential of them dropping charges from those other acts and you were receiving potentially a reduced sentence from what you were facing at trial?

22

23

24

25

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1 A Never that I was happy to plead. I didn't even
2 know until the last moment because me and Mr. Myers,
3 when he came to me he stated that they was gonna
4 drop these charges. I told him I want to go to
5 trial on those charges because it's already been
6 established that that was illegal search and seizure
7 you know what I'm saying. So no, I had wanted to
8 add that in or whatever; but somehow, you know what
9 I'm saying, when the whole thing twisted around that
10 they using that case for to warrant that was
11 dismissed, you know what I'm saying, for leverage to
12 get me to plead guilty to the other case and I --
13 that wasn't what I agreed on.

14 Q Okay, let me clarify. As part of the plea
15 negotiations the State dismissed charges related
16 that were two trafficking charges and another
17 possession with intent to distribute charge and a
18 related marijuana charge; is that right?

19 A Right.

20 Q And that was dismissed because you decided to
21 plead to these two charges?

22 A Well, on his advice. That was his advice to me
23 to plead on that.

24 Q But is that correct or not? Were those charges
25 dismissed when you pled guilty?

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1 A Yes.

2 Q Okay. And the court went over with you again
3 several times asking you if you have plenty of time
4 to talk with your lawyers about your plea and you
5 said yes.

6 A Right.

7 Q Was that not correct at the time?

8 A I mean, that is correct.

9 Q Okay. Did you know of any defense that you had?
10 You said you wanted to give up any defense and you
11 wanted to plead guilty?

12 A That was only because Mr. Myers basically stated
13 to me that he was not gonna be able to win his case.
14 He stating it. And I was to the point like, well,
15 what reason for me to go on in here and go to trial
16 knowing that if he feel he couldn't win the case
17 that I know I was gonna get the maximum of time.

18 Q So understanding the risk that you faced had you
19 gone to trial you chose to please guilty at that
20 time?

21 A On Mr. Myers' advice. That was on his advice; it
22 wasn't on mine.

23 Q Correct. But you stood before the court and
24 swore to tell the truth and told the court you
25 wanted to plead guilty that day and that you were

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1 guilty; is that correct?

2 A Right, on Mr. Myers' advice, yes, I did.

3 Q Okay. And the court informed you you could still
4 have a jury trial, call witnesses, present defenses,
5 you said, no, I want to go forward with a plea?

6 A Right.

7 Q Okay. And in regards to the issue that you said
8 you discussed you guess, with your attorney the
9 living situation, did you have a chance to talk with
10 him about all the facts in the case prior to this
11 plea?

12 A You see, yeah, I think I had enough, two years.
13 Two, three years is enough time to discuss anything.

14 Q So you were able to discuss with him verbally
15 either by phone or written communications?

16 A Yes.

17 Q Did you have a chance to see him face to face and
18 meet with him about the case?

19 A Yes, I met with him several times.

20 Q Okay. And in regards to the email you said the
21 CI would not testify at trial. The email was also
22 talking about that they had to pick you up on a
23 bench warrant I believe; is that correct?

24 A Correct.

25 Q Okay. And there had been some issues you stated

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1 previously you had some probation violations for
2 federal prison?

3 A Right.

4 Q And that was all going on at the same time that
5 they were able to get this resolved?

6 A Right.

7 Q Okay.

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

10 THE COURT: Redirect?

11 MR. HASELDEN: Nothing, Your Honor.

12 THE WITNESS: I would like to make a
13 statement if possible.

14 THE COURT: All right. Any objection to
15 this Applicant making a statement by either
16 attorney?

17 MR. HASELDEN: No, sir.

18 MS. WHITE: Well, Your Honor, the State
19 would object because I think it needs to be in
20 response to a question. At this time I think he's
21 pled everything in his application. In regards to
22 making a statement I think that would essentially
23 amount to an amendment on the stand depending on
24 what he says though.

25 THE COURT: Mr. Reid, I'm gonna let you

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1 make a brief statement. I'm gonna overrule the
2 objection, but I'll cut you off if you start
3 rambling. You understand?

4 THE WITNESS: Yes, sir. Yes, sir.

5 THE COURT: Go ahead. Just one second.
6 You need to keep your seat. You can get some help
7 but you keep your seat.

8 (Mr. Haselden and the applicant confer.)

9 THE WITNESS: Okay, I have something that
10 I want to — I think will help.

11 THE COURT: I'll tell you, I'm not going
12 to let you read everything like that.

13 THE WITNESS: Right, I'm just gonna scan
14 through just the main points. Okay, I'm ready.
15 Okay. I just want to — my name is William H. Reid,
16 345611. I'm presently a ward of the South Carolina
17 Department of Corrections. Although that I have
18 great confidence in my lawyer that I feel that his
19 action is genuine and admirable. I would like to
20 bring certain facts which would feel which I feel
21 that will help you in your decision making. To go
22 back to — if you look at the search warrant it only
23 state a single, it only —

24 THE COURT: Go forward. I've heard
25 enough. I've read the warrant.

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1 THE WITNESS: Okay, I want to go with -- I
2 had some case law 'cause I wanted to ask you --

3 THE COURT: I'll let you submit that as
4 Court exhibits, but I'm not gonna have you do the
5 case law, okay.

6 THE WITNESS: Okay, all right. Well, let
7 me see. Okay, I'll just read this little part right
8 here. I see. This case show that the informant got
9 to prove the basic knowledge of voracity* or
10 collaborative evidence. The affidavit contain one
11 single statement that the informant has provided
12 information before the alleged conviction therefore
13 the only information of the search warrant as to the
14 informant's reliability. The court of appeal held
15 that the search warrant --

16 THE COURT: Go forward past the search
17 warrant. Find any issue beyond the search warrant
18 please, sir. And I'll let -- Mr. Haselden, if you
19 don't object I will make that a Court exhibit to the
20 record here.

21 MR. HASELDEN: No, sir, I certainly have
22 no objection to that.

23 THE WITNESS: Well, actually it was all
24 about the search warrant, I mean, about -- it was
25 all basically about the search warrant in there and

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1 the hearsay. Okay, well, I can go with that. I
2 appreciate it.

3 THE COURT: Yes, sir. All right, if you
4 will give those to Mr. Haselden if you like,
5 Mr. Reid and we'll — I'll make that a Court exhibit
6 subject to the State's objection.

7 MS. WHITE: Thank you, Your Honor.

8 THE COURT: All right, Mr. Haselden.

9 MR. HASELDEN: These three pages?

10 (Mr. Haselden confers with the witness.)

11 (Court's Exhibit Number 1 was marked
12 and made a part of the record.)

13 THE COURT: Any further witnesses?

14 MR. HASELDEN: No, sir, I'm sorry.

15 THE COURT: Thank you.

16 Ms. White.

17 MS. WHITE: The State would call Stanley
18 Myers to the stand.

19 WHEREUPON,

20 **STANLEY LAMONT MYERS,**
21 having been duly sworn by the Clerk of Court,
22 testified as follows:

23 MR. HASELDEN: Judge, I hate to interrupt.
24 I have one more matter that Mr. Reid would like me
25 to bring up. When I got here this morning he

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1 advised me he wanted me to subpoena a witness to,
2 that would have been able to confirm that he was not
3 living with his wife at the time all this went down.
4 And I told him, I said, well, I can't very well do
5 that this morning but I think if he wants me to — I
6 told him I can't ask for another continuance. The
7 case has already been continued one time.

8 THE COURT: Right, and I appreciate that
9 and I appreciate the diligence with which you're
10 representing but I'm gonna deny that motion.

11 **DIRECT EXAMINATION**

12 BY MS. WHITE:

13 Q Thank you. If you could state your name for the
14 record.

15 A Stanley Lamont Myers.

16 Q And Mr. Myers, if you could tell us how you
17 became involved with Mr. Reid's case?

18 A Yes, ma'am. I — back in 2009 Mr. Reid came to,
19 or his family contacted me, to represent him on two
20 separate charges pending here in Spartanburg, one
21 from the incident which occurred on or about
22 June 8th, 2008, and also another offense which
23 occurred in December 2008. Prior to my involvement
24 or my office's involvement, Mr. Reid had previous
25 counsel, Mr. Bozzie Boggs out of the Greenville bar.

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1 Immediately I contacted Bozzie, found out what he
2 knew about the case, and Bozzie — without going
3 into detail as to why that representation was
4 terminated, Mr. Bozzie was kind enough to share with
5 me his entire file. At the time Mr. Reid was
6 incarcerated on a federal probation revocation
7 matter down in Aiken — I'm sorry, Edgefield. So I
8 went to visit him at the Edgefield federal prison,
9 talked to him, introduced myself, told him what my
10 plan was, that I was waiting on all the discovery
11 material. And we talked for about an hour at that
12 point, and at that point from thereafter I started
13 getting all the evidence from Mr. Bozzie's office as
14 well as the Spartanburg County Solicitor's Office.

15 Q At the time of your initial discussions with the
16 applicant what was the original trial strategy or
17 plan?

18 A At the initial meeting we did not have or discuss
19 any sort of trial strategy because he — I had not
20 received any of the evidence; but I indicated, told
21 him I charged to represent him on these cases and
22 before I could give him any sort of analysis I
23 needed to get the evidence. So over time, the only
24 matter, the only reason this matter was delayed was
25 because Mr. Reid was incarcerated in federal prison

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1 for quite some time so the matter was stayed, or
2 state court charges were stayed until he was
3 actually released from prison. And at that point
4 that's when he and I started discussing my thoughts
5 about this case. I thought that of both charges the
6 weaker charge was the December 2008 charge. We
7 discussed the confidential informant issue with the
8 June 2008 charges. And I told him that I thought
9 that we might have an issue; I was prepared to argue
10 that issue. It was called for trial on April 11th,
11 2011. Mr. Reid was picked up that previous Friday
12 or that Thursday morn— Thursday evening for a bond
13 violation. At the — on that Friday the solicitor
14 Mr. Travis Moore extended an offer to Mr. Reid,
15 something in the tune of ten years. I did not feel
16 Mr. Reid, I did not believe that that was a
17 reasonable offer so that weekend I prepared, my lay
18 partner Chris Bradley and I, prepared to come to
19 Spartanburg to try that case. Mr. Reid is correct
20 in one thing, and I do disagree with several other
21 things that he stated, but I did prepare a written
22 motion to dismiss or in the alternative to suppress
23 the drugs found in the June 2008 incident. My
24 intent was to argue this motion when the jury was
25 sworn, that when jeopardy attached there was no way

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1 that the State could appeal it at that point.
2 Mr. Reid knew that. Mr. Reid indicated he had come
3 to court dressed to try this case. Mr. Reid was not
4 dressed. Mr. Reid was in a jump suit because at
5 that point he had been violated for the bond so we
6 met, my law partner and I, met with Mr. Reid in the
7 room right outside this courtroom here and talked
8 with him about the State's offer, how I did not
9 believe that that was a reasonable offer, that we're
10 here to try this case, that we are more than
11 prepared to try that case. At that point the
12 solicitor and Mr. Spradley and I, we all went back
13 to Judge Cole's office, or chambers I'm sorry, and
14 he asked us a little bit about the case, I told him
15 that I believed we had a significant motion. He
16 never said that he was going to deny the motion. He
17 just had indicated that he believed that the offer
18 from the State was a little unreasonable. At that
19 point the State came back to us and indicated that
20 they were put a different offer on the table and
21 Judge Cole kind of went back and forth. He didn't
22 think he would give Mr. Reid ten years. We
23 explained that to Mr. Reid. He wanted to talk with
24 his family at that point. Mr. Spradley and I told
25 him that we're here to try this case. Normally if I

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1 came up with the intention of pleading a case my
2 customary practices is to have a plea form signed by
3 my client outlining all of his constitutional rights
4 and everything that he or she has given up. I
5 didn't do that in this case because our sole purpose
6 was to come here and try that case. We had a list
7 of witnesses. I think we had his sisters, his mom,
8 his dad, and other witnesses here on the date of
9 trial who were going to talk about defenses of this
10 case. And Mr. Reid, after we went back on forth
11 whether or not he wanted to take the offer, he asked
12 if he could speak to his mother. We made
13 arrangements for him to do that in the courtroom
14 because, again, he was in — he was detained at that
15 point. He accepted the State's offer. They
16 dismissed all of the December 2008 charges which
17 carried a mandatory minimum time, and we went before
18 Judge Cole. Judge Cole performed a great soliloquy.
19 Mr. Reid did not have any questions of me during the
20 plea soliloquy or during the plea. We gave our
21 presentation and Judge Cole sentenced him to eight
22 years.

23 Thereafter, I did have previous
24 discussions — I'm sorry I do have in my file a memo
25 because once Mr. Reid was sentenced, he then went to

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1 Kirkland Reception and Evaluation so on May 13th.
2 2011 I visited with him at Kirkland Reception and
3 Evaluation. I provided him a copy of his guilty
4 plea; we talked about it. At that time he in no way
5 indicated he wanted me to appeal or he had even
6 asked me to appeal. I have here this memo for file
7 that I basically did to my file and one of the
8 things that I stated — and I'll read it with the
9 Court's permission — that I met with William Reid
10 on Friday, May 13th, 2011, at Kirkland R&E. I
11 provided him a copy of his transcript of his guilty
12 plea before the Honorable Derham Cole on April 11th,
13 2011. William seems to be content with all I did
14 for him. He is just looking for ways to serve less
15 than 85 percent of his eight year sentence. We had
16 a good discussion about life and his wellbeing. He
17 gave no indication he was dissatisfied with my
18 services. Based on the charges I will be very
19 surprised if he was dissatisfied or ever become so;
20 however, stranger things can happen.

21 I had no further discussions with Mr. Reid
22 after that or after reception and evaluation, and
23 I'm here today. But again, we filed several motions
24 which I'm happy to hand up and make part of the
25 court's exhibit, and we thoroughly discussed those

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1 with Mr. Reid and in no way did I tell him or my law
2 partner tell him that he had better plead guilty.

3 Again, our sole purpose for driving two hours up
4 here on that day was to try this case, and we were
5 happy to do that. We had his family here, all the
6 witnesses here, and we were prepared to go forward.

7 Q What motions did you file in the case prior to
8 other than this one motion that he alleges?

9 A Yes, ma'am. In addition to Rule 5 and Brady I
10 also filed a Rule 6 chemical analysis. I always
11 filed that motion in drug cases because based on
12 case law I interpret it as the State having to have
13 each and every witness present at trial to establish
14 the chain of custody.

15 I also filed a motion for the disclosure
16 of the confidential informant, and I also had
17 prepared a memorandum in support of our motion for
18 disclosure of confidential informant. So I will
19 agree that I did not file the motion to dismiss or
20 in the alternative to suppress prior to trial
21 because again, our strategy was that we believed
22 that we could have caught the State off their feet
23 if we allowed the jury to be sworn jeopardy
24 attached, and then argue that motion. But Mr. Reid
25 at all times knew that this motion was there. We

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1 never indicated that we were not going to file that
2 motion. We never indicated we were not going to
3 provide witnesses to testify that he, that he was,
4 was not living at the residence, the ones were all
5 here. We were here, again, to try this case and the
6 only knot that I think I made was not having an
7 acknowledgment form signed; but again, I did not do
8 that because my sole intent was to try this case.

9 Q And once the plea offer was, the second plea
10 offer was conveyed and Mr. Reid indicated that he
11 wished to plead, did you have any concerns that he
12 was doing this out of not freely or voluntarily on
13 his own accord?

14 A No. During the plea Judge Cole was very explicit
15 about him doing it under his own free will and
16 volition. There was a time in which Mr. Reid was
17 appearing choked up. Judge Cole then said that, you
18 know, do you want me to get a jury up here, I got
19 them downstairs, do you want a trial. Mr. Reid
20 stated no, he didn't. I actually addressed that in
21 my presentation because it wasn't that he was
22 hesitant in my feeling; it was that he understood he
23 was going to jail that day and no one wanted — to
24 go one day in jail is certainly a long time in my
25 opinion so I basically informed the Court that any

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1 hesitancy wasn't because he was doing it
2 involuntarily, but instead, he understood he was
3 going to go to jail.

4 Q And just to clarify, you've indicated when you
5 visited with him in Kirkland prior to that point or
6 any time after had he indicated that he wished for
7 you to appeal the case?

8 A No, ma'am. I do have in my file correspondence
9 that I sent to Mr. Reid even before I visited with
10 him at Kirkland. And one of the reasons I try to
11 paper this file because in my discussions with his
12 previous attorney who I understand he filed a
13 grievance on. Mr. Bozzie informed me that, you
14 know, you want to make sure you do everything and
15 cross your T's and dot your I's. So I called — I
16 wrote him a letter explaining the sentence to him;
17 and then even after I got that letter when I found
18 out he was in Columbia which is closer to my office,
19 I visited with him at Reception and Evaluation to
20 make sure there was nothing that he felt I did wrong
21 my, law partner did wrong, or anything else he
22 needed on my behalf.

23 Q Okay. Thank you, Mr. Reid [sic]. I think that's
24 all the questions I have at this time, Your Honor.

25 THE COURT: Cross-examination.

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1 MR. HASELDEN: Yes, sir.

2 MS. WHITE: I'm sorry, I just realized I
3 called you Mr. Reid and I meant Mr. Myers, sorry, I
4 apologize.

5 **CROSS-EXAMINATION**

6 BY MR. HASELDEN:

7 Q Now you've put an impression on me not to do the
8 same thing. Mr. Myers, you testified that you did
9 not have him sign a plea agreement because you came
10 up — because you didn't bring one with you. You
11 came up expecting to try the case?

12 A That's correct. And what I mean as far as a
13 plea, I prepare a plea acknowledgment form where I
14 outline the charges, I outline their constitutional
15 rights and everything that I believe a judge will go
16 through during the plea soliloquy. I do that during
17 my plea but Mr. Reid and I, I believe we were on the
18 same page that the initial offer was unreasonable
19 and I came prepared to try the case.

20 Q Well, this is not the first case that you've come
21 prepared to try that you ended up pleading, is it?

22 A No, sir.

23 Q Okay. So you've done that in the past?

24 A Yes, sir.

25 Q And you know that always happen?

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1 A Yes, sir. Well, not always happen. Sometime I
2 came to try a case and the case has gone to trial.

3 Q Well, you know, the original offer was ten and
4 you ended up with eight so not a big difference
5 there, is it?

6 A Two years is a good difference to me. I wouldn't
7 want to serve an additional two years.

8 Q Okay, but you didn't think there was some chance
9 this case might end up in a plea?

10 A No, not when I came up here on Monday.

11 Q Was residence ever an issue in this case in your
12 mind?

13 A The —

14 Q The residence, Mr. Reid's residence, was that
15 ever an issue in this case?

16 A I believe it would have been an issue, a factual
17 issue for a jury, not a pretrial issue. The issue
18 as I understood Mr. Reid wanted to make was that he
19 and his wife were separated at the time the drugs
20 were found. Unfortunately, and I expressed my
21 concern, in fact, Mr. Reid wanted me to represent
22 his family hon a wrongful death case after his wife
23 passed away; and but unfortunately she passed away.
24 And one of the arguments that he wanted make was
25 that it was all hers. I had no objections to that

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1 argument but it was a factual argument for a jury,
2 but it's not one in which you argue that he had
3 about dominion and control at that particular time
4 because we had to then establish the evidence that
5 they were separated. And in order to do that we
6 would have had to have gone to trial which, again,
7 we prepared to do, but that was a factual issue.

8 Q Did you investigate that factual issue before
9 trial?

10 A We had the witnesses here to testify that whether
11 or not they were living together. The witnesses
12 were here to basically establish that if we were
13 going —

14 Q What witnesses did you have here to testify?

15 A We had at the time he was dating, we had — I
16 think he went back and forth to calling her his
17 girlfriend and/or his fiancée. We also had his
18 mother and his father who were also in the
19 courtroom. We also had his sisters. One of his
20 sisters was the initial contact I had, the one who
21 initially contacted my office and as well as the
22 another sister who's also — I think he only had
23 two, maybe three sisters I do recall sisters and
24 family members being here.

25 Q Had you investigated any nonfamily members for

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1 the purpose of verifying residence?

2 A Nonfamily members?

3 Q Right.

4 A I do not recall Mr. Reid telling me to
5 investigate any nonfamily members when the family
6 members could have certainly testified. At some
7 point it would have been overkill.

8 Q Were you aware of any documentary evidence
9 establishing a different address?

10 A No, because the documentary evidence that I had
11 been supplied under Rule 5 and Brady was
12 correspondence through the US mail that indicated
13 that William Reid still lived at the residence.

14 Q You did receive a copy of the traffic ticket and
15 other documents arising out of the stop that that
16 police made?

17 A Yes.

18 Q Were you aware that the traffic ticket particular
19 indicated a different residence?

20 A Yes, sir. The traffic, as I understand the
21 traffic ticket had a different, had a different
22 address; but there was also mail that had come to
23 the house that still had him listed at that address.
24 But again, as we told Mr. Reid, that is a factual
25 issue to argue before a jury, not a pre-trial issue.

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1 Q All right. Now this mail that you're referring
2 to, is this mail was in evidence, solicitor's file,
3 or what mail are you referring to?

4 A The discovery material that I had received, the
5 officer's incident report, when he -- after the
6 arresting officer went through the home, they in
7 their, he in his incident report indicated they
8 found some mail or there was mail that was addressed
9 to Mr. Reid.

10 Q Thank you very much. Bear with my just a second.
11 Now I read your brief, or your partner's brief,
12 depending on who drafted it, with regard to the
13 motion to suppress. It seems like a pretty strong
14 argument. I mean, what did you feel your chances
15 were of winning on that argument?

16 A As I tell all my clients and tell -- and as I
17 told Mr. Reid, I can't put any numbers on what
18 someone other than myself will decide. I told him
19 that I thought it was a good strong argument but,
20 and I also told him that I did not know what Judge
21 Cole would do with that argument but I thought it
22 was a good argument. And I also indicated to him
23 that if we're going -- trial strategy would indicate
24 that we wait until the jury is sworn when jeopardy
25 is attached to make that motion. He knew that; we

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1 all knew that. The problem you get into on a
2 criminal case is that if the offer — if the offer
3 is then rescinded or the offer — if another offer
4 is made and then it's rescinded, you take chance of
5 starting a trial and there are no further offers at
6 that point and then if Mr. Reid does, is found
7 guilty, he's facing more time. But in this instance
8 we basically decided we were going to wait to argue
9 that motion; and again, he knew that as well. But I
10 did not give him any numbers or any percentages as
11 to what I believed his chances of success were, and
12 I never told him that I did not think he could
13 prevail. I just told him I did not know whether or
14 not we would prevail because I was not the decision
15 maker.

16 Q Did you tell him about your conversation with
17 Judge Cole in chambers?

18 A Yes.

19 Q Exactly what did you tell him?

20 A I told him — bear with me. If I recall that
21 conversation it was myself, Mr. Spradley, Mr. Moore,
22 and also I believe one of the deputy solicitor's in
23 chambers. At that time we basically discussed the
24 case. Judge Cole inquired as to what the offer on
25 the table was at that time, and I told him my

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1 feelings against accepting that offer because at
2 that time also they wanted him to plead guilty to
3 the December charges as well. Then we begged with
4 him not to plead guilty to the December charge. So
5 Judge Cole had just simply indicated that he did not
6 know what he would do with the motion. He wasn't
7 one hundred percent convinced with the motion, but
8 he at no time stated he was going to deny the
9 motion. And then at that point the State would
10 basically just — they made another offer and that
11 included dismissing the December charges. We went
12 back, we talked to Mr. Reid about that. And again,
13 that's when he started talking with his family
14 members. We made arrangements again because he was
15 detained at that point, and he made the decision he
16 was going to plead guilty to the June charges.

17 Q How much of the conversation with Judge Cole did
18 you relay to him, everything you just told me or
19 part of it?

20 A Yeah, we relayed everything to him. I mean, it
21 wasn't, it wasn't a five hour conversation with
22 Judge Cole, but it was —

23 Q Had the motion suppress been granted, heard and
24 granted, what would that have done to the State's
25 case?

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1 A It would have dismissed the June charges, but it
2 would have left the December charges because the
3 warrant was just based, or the warrant that's in
4 question is, was solely in regards to the June 2008
5 charges.

6 Q So your testimony —

7 A Or I should say not dismissed, it would have —
8 if it was granted then we believe that it would have
9 suppressed the evidence on the June charges.

10 Q Well, I mean, effectively though, in your opinion
11 could they have gone forward without that evidence?

12 A I've seen them try, or I don't think they would
13 have been successful of course, or at least that's
14 my position. But again, Mr. Reid knew all that and
15 Judge Cole during the plea soliloquy indicated that
16 he, did he need anymore time to discuss with me, and
17 my opinion William waived that defense.

18 Q Now tell me about what went on with the State as
19 far as your trying to get them to disclose the CI?
20 Based on the correspondence you asked they declined.
21 In your opinion could they have proceeded without t
22 he testimony of the CI?

23 A There's some case law out there that I recall
24 that talks about whether or not the CI is a material
25 witness to the State's case. My intent behind

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1 filing that motion was -- well, first of all, the CI
2 was no longer a confidential informant because it
3 was later revealed who that confidential informant
4 actually was and --

5 Q Now when was that revealed because in this --

6 A Well, Mr. Reid knew before the -- Mr. Reid
7 actually indicated to me he knew who the
8 confidential informant was so it wasn't anything
9 that came from the State. But it was no surprise as
10 to how law enforcement got on to Mr. Reid and on to
11 the house. But as far as the confidential
12 informant, the State's position simply was it was
13 not a material witness. Our argument would have
14 been that he certainly was a material witness
15 because that formed the basis of obtaining the
16 search warrant. That was something that would have
17 been argued at the hearing, but again, --
18 Q So how would they have linked him to the drugs
19 without the CI?

20 A How would they have linked him?

21 Q Yeah.

22 A Well, they could have linked him through the mail
23 that was there. And also I believe that the State
24 claimed that they had evidence to indicate Mr. Reid
25 was in fact living there when he said that he

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1 wasn't; but that was all factual issues and not in
2 one I believe a judge would have issued at that
3 particular time. Those are arguments that we would
4 have made at the suppression hearing, and I believe
5 that a judge could have come down two ways. He
6 could have certainly agreed with us or he could have
7 stated that that's a factual issue for a jury to
8 decide and deny the motion. If he had denied the
9 motion and we had gone trial then the consequences
10 certainly would have been detrimental.

11 Q All right. You mentioned earlier a incident
12 report with regard to the mail. I'm trying to lay
13 my hands on it.

14 MR. HASELDEN: Judge, bear with me just a
15 moment.

16 THE COURT: Yes, sir.

17 BY MR. HASELDEN:

18 Q Mr. Myers, do you have that document handy that
19 you're referring to?

20 A Yes, sir, it is the incident report that appears
21 to have been prepared by deputy or Investigator
22 Hutching.

23 Q Uh-huh.

24 A And it basically talks about money that was found
25 as well as where certain -- it looks like I have

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1 page 1. Bear with me, I think I have page 2 — here
2 it is, sorry.

3 Q 'Cause I think I'm looking at the same thing
4 you're looking at and the only reference I see to a
5 bill is a Duke Energy bill in the name of Randolph
6 Williams in the second left bedroom.

7 A Yes, that is correct. It is U.S. currency
8 located on the kitchen counter, a Duke energy bill
9 in the name of Mark Boler (ph) located on the
10 nightstand in the right bedroom, a sum of U.S.
11 currency located in the top right drawer of the
12 dresser in the right upstairs bedroom, a Duke energy
13 bill in the name of Randolph Williams in second left
14 bedroom, small piece of white rock like substance
15 located in the upstairs room, suspect three Diedre
16 Reid came to the residence. And then it says
17 continued which I'm trying to — which simply just
18 trying to find the second page. Yes, this is it,
19 yes, sir.

20 Q Now does that second page make any reference to
21 mail addressed to Mr. Reid?

22 A No, it does not.

23 Q All right. Just so your prior testimony in
24 regard to mail found at the residence linking
25 Mr. Reid to the residence appears to be incorrect

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1 based on that incident report?

2 A No, sir, not incorrect. What I'm saying is, is
3 that they — that their testimony would have been
4 that, if I understood conversation between myself
5 and the solicitor, their indication was that they
6 had individuals including the witness Mr. Josh
7 Sanders as well as other folks that would link
8 Mr. Reid to the actual residence. They also, and at
9 that time I thought there was some actual bill of
10 the incident report referenced, but our argument was
11 a factual one before a jury because as you can see I
12 highlighted even the copy that I had with the sole
13 intention of highlighting that in front of a jury.
14 I mean, I have — yours is in yellow, mine is in
15 green where I basically stated that that was an
16 issue for us. And I told Mr. Reid that if it goes
17 to trial, that is a factual issue for a jury to
18 decide and we had the witnesses prepared to testify
19 as to that. So I know — I knew that it was an
20 issue; I made it an issue. I highlighted it and I
21 was prepared. I discussed it with Mr. Reid.

22 Q All right, I thought I understood you earlier to
23 say that there was mail linking Mr. Reid but —

24 A If I did that's my fault, I apologize for that,
25 but what I'm try— what my testimony is, that I

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1 realize that it was an issue to raise and Mr. Reid
2 knew that and he knew all of that before he made his
3 decision to plead guilty. His decision to plead
4 guilty was not my decision. It was not forced; it
5 was not coerced. It was his decision to plead
6 guilty after we thoroughly went over all the
7 evidence we had.

8 MR. HASELDEN: That's all.

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

11 THE COURT: May this witness be excused?
12 Is that the State's case?

13 MS. WHITE: One moment please, Your Honor.
14 Your Honor, we will just call Christian Spradley to
15 the stand quickly.

16 THE COURT: Sure.

17 MS. WHITE: Yes.

18 WHEREUPON,

19 **CHRISTIAN G. SPRADLEY,**

20 having been duly sworn by the Clerk of Court,
21 testified as follows:

22 BY MS. WHITE:

23 Q If you could just give your name for the record
24 please.

25 A Christian G. Spradley.

RW - C. SPRATLEY - DIRECT

1 Q And Mr. Spradley, we've heard your name
2 mentioned. Can you just tell me how you were
3 involved in this case?

4 A Mr. Myers is my partner. And probably a week or
5 two before the term of court where Mr. Reid pled
6 guilty, he called me and asked me if I would
7 basically sit at trial with him so we began getting
8 ready for trial, and I was in second seat of the
9 trial with Mr. Myers.

10 Q So you were involved in the conversations right
11 prior to the trial and Mr. Reid's decision to plead
12 guilty?

13 A Yes, ma'am.

14 Q At the time of the plea can you confirm that what
15 your strategy was?

16 A Yes. We — the email that had been placed in
17 evidence basically showed that the State was not
18 intending to call the CI as a witness. And so when
19 Stan and I discussed that, the reason we didn't file
20 a motion was we felt once jeopardy attached the
21 State could not get a continuance to get that
22 witness here so if the judge was going to bite on
23 our argument that they were going to be stuck
24 without that witness if the Court was going to
25 require it and that would give us a leg up at trial,

RW - C. SPRADLEY - DIRECT

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22 witness here so if the judge was going to bite on
23 our argument that they were going to be stuck
24 without that witness if the Court was going to
25 require it and that would give us a leg up at trial,

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1 and that's why we didn't file that. We had it in
2 our hand. When we got to the courthouse, we were
3 ready to file it. We actually discussed waiting
4 until the jury was sworn before we filed that motion
5 and that was our strategy.

6 Q And were you present in any meetings with Judge
7 Cole and the State regarding any plea offer?

8 A Yeah, basically what happened was there were a
9 lot -- there were discussions with the solicitor
10 earlier that morning about the plea negotiations and
11 eventually going back to speak to Judge Cole.

12 Basically he wanted an update on where we were on
13 the case, get kind of an idea of issues involved in
14 the case. It was very brief conversation; it wasn't
15 anything that long. I came away from that; and of
16 course the judge never ruled on anything, but I
17 don't believe that he was impressed with the
18 possible motion that we had was the impression I
19 came away with from that meeting in chambers.

20 Q And to your understanding following that second
21 plea offer was Mr. Reid choosing to plead freely and
22 voluntarily of his own volition, or was he feeling
23 coerced?

24 A It was most definitely of his own volition. We
25 spent a good bit of time going over his

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1 constitutional rights, and I remember specifically
2 telling him that my only purpose for being here that
3 day where we were gonna to try the case. There was
4 no reason for two of us, for me to come from Saluda
5 and for Stanley to come from West Columbia to come
6 here to do a plea. We were ready to go; he knew
7 that. There was no question in his mind we were
8 ready to go that day. And once the negotiations
9 came down the State came off a little bit more, he
10 chose to take a plea voluntarily, and we went
11 through all his constitutional rights telling him he
12 was waiving all those and that we were still ready
13 to go. And as Mr. Myers pointed out, during the
14 plea the judge even said a second or third time, the
15 jury is sitting here, we're ready to go if you wan
16 to pull a jury, and he said no.

17 Q Okay, thank you. That's all I have,
18 Mr. Spradley.

CROSS-EXAMINATION

19 BY MR. HASELDEN:

20 Q Mr. Spradley, when you got that email from the
21 Solicitor and they indicated that they did not
22 intend to call the informant, what was your
23 reaction?
24

25 A That it was something we could possibly use.

RW - C. SPRADLEY - CROSS

1 Q You thought they might be playing in your hands
2 for helping you a little bit by not doing that?

3 A They might. Then again, it was a — it was gonna
4 be a crap shoot because we didn't know whether the
5 judge was going to bite on the motion whether we
6 filed it or not.

7 Q So if they didn't call the informant how are they
8 gonna link him to the drugs?

9 A My understanding was what the solicitor was
10 planning on doing was he was going to call the
11 police officer stated — 'cause all they're talking
12 about is the probable cause issue for the search
13 warrant. The only issue we had was is whether the
14 informant was reliable. The officer could have
15 gotten on the stand and testified as to all these
16 different things he had done for the police officers
17 before without the CI ever sitting on the stand and
18 that would have made him reliable. That was the
19 danger of going forward with the motion. If we had
20 gone forward with the motion and it had been denied,
21 we had nothing to negotiate with and they never
22 would have come down with the offer that they made.

23 Q I mean, that — I think my question -- my
24 question was assuming that they didn't call the CI
25 to testify —

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1 MS. WHITE: Your Honor, I would just
2 object. This is speculation. We don't know what
3 they would have done had the CI testified or ---

4 THE COURT: Overruled.

5 BY MR. HASELDEN:

6 Q Assuming they had not called the CI to testify as
7 they indicated they were not going to do because
8 obviously they had credibility issues among other
9 things, how did you anticipate that they going to
10 link about Mr. Reid to the drugs?

11 A My understanding is that the CI was the probable
12 cause for the search warrant so we're talking the
13 probable cause or the issuance of the search warrant
14 where they went and found the drugs. The argument
15 that we made in our motion was based upon the fact
16 that the information they put in the search warrant
17 about the CI was lacking.

18 Q Now I understand that while we talked about the
19 search warrant. But I mean, just, you know, as a
20 practical matter at trial what evidence did you
21 expect them to offer linking him to the drugs? I
22 mean, yeah, let's assume that the search warrant is
23 valid, you've got the drugs in the house where his
24 ex-wife is living where apparently two other people
25 are living based on these power bills in there, what

1 was going to link him to that house?

2 A I believe they were gonna have testimony that he
3 lived in the house based on —

4 Q Okay.

5 A ---things that we were given in Rule 5. Now what
6 those specific things are, I haven't seen his file
7 in a number of years because it's in West Columbia
8 and I'm in Saluda so I haven't simply gone through
9 the file.

10 Q I mean, your recollection, was that going to be
11 much of an issue?

12 A Yes, it was going to be a jury issue. It was
13 gonna be an issue because they were married and
14 whether we could prove they were actually separated
15 or not.

16 Q But you can't tell me — the only thing you can
17 say is you thought that they might call witnesses to
18 put him in the house, but you don't know who—

19 A That's what I was expecting them to do.

20 Q But you don't know who those witnesses were?

21 A As I said, I have not seen this file in years.

22 Q Okay.

23 A And I was second seating in the trial.

24 Q All right.

25 MR. HASELDEN: Judge, that's all I have.

1 MS. WHITE: Nothing further Your Honor.

2 THE COURT: May this witness be excused?

3 MS. WHITE: Yes.

4 MR. HASELDEN: Yes, sir. Thank you, your
5 Honor.

6 THE COURT: Anything in reply? Is that
7 the State's case?

8 MS. WHITE: State rests, Your Honor.

9 MR. HASELDEN: Nothing.

10 THE COURT: Let me say this, it's the
11 Court's finding in this matter that as to the first
12 prong of the Strickland factors, the showing of
13 deficient performance, that based on presentation
14 evidence presented in this matter there's been no
15 showing of deficient performance in any regard.
16 Both of — I find that both attorneys testimony is
17 credible, reasonable, and seem to be good trial
18 strategy. Conversely, especially considering the
19 light of the colloquy between Judge Cole and
20 Mr. Reid, his testimony today is not very credible.
21 That being said, in this Court's opinion, meaning
22 mine, the search warrant, although it is sparse
23 granted, I think would be sufficient to establish
24 probable cause and that would be — I would refer to
25 State versus Peters in making that determination or

1 making that statement.

2 But going through the colloquy itself, I
3 turn over to page 9. In that, after Judge Cole
4 asked Mr. Reid whether he's pleading freely and
5 voluntarily which he does on numerous occasions
6 through colloquy, he asked him specifically, do you
7 understand that if anything was done that was
8 unlawful or illegal that resulted in evidence being
9 obtained that would be used against you to try to
10 establish your guilt as to these charges, if that
11 evidence was obtained unlawfully you give up your
12 right to contest it or challenge it, that
13 illegality, you understand that? So regardless
14 whether another trial judge would disagree with my
15 present opinion of it, Mr. Reid obviously, whether
16 or not he didn't know the motion was filed, knew
17 that he had, based on his conversation with his
18 attorneys, had some issue as to the warrant because
19 he kept bringing up the fact I didn't live in that
20 house. And so he knew he had a fact and he waived
21 any chance to challenge it in his plea colloquy with
22 the judge. So as to the ground of deficiency I find
23 that there's no showing. Further, there's been no
24 prejudice. He was looking at potentially a long
25 time with the charges that he was pending on and I

1 think that he was look-- he was no stranger to the
2 process and that he was making a strategy to avoid
3 any additional time when he got the offer of eight
4 years.

5 As to the appeal, there's no requirement
6 of trial counsel on a plea to advise Mr. Reid of his
7 right to an appeal. Furthermore, counsel did
8 discuss that with him based on his testimony and
9 there's no evidence presented by Mr. Reid that he
10 ever asked for appeal and did not receive it. So
11 therefore, I am denying the petition in its
12 totality. I believe I've addressed -- oh, there's
13 another issue, failure to investigate. There's been
14 absolutely no testimony as to what would have been
15 revealed and the outcome being any different from a
16 proper investigation if that had not been done, so
17 therefore, that is denied as well. Are there any
18 issues from the State that I have not covered?

19 MS. WHITE: Your Honor, I think that
20 covers all.

21 THE COURT: Mr. Haselden, issues from the
22 Applicant side?

23 MR. HASELDEN: I think you covered
24 everything that we raised.

25 THE COURT: Thank you, attorneys, for your

1 preparation here today and but that's my ruling.
2 That's — I ask the State to prepare an order and
3 give it to Mr. Haselden.

4 MS. WHITE: Thank you, Your Honor.

5

6

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

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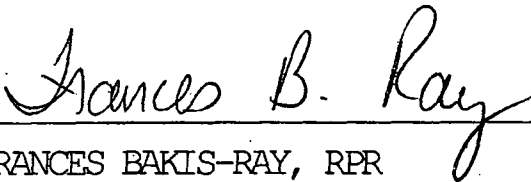
C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA }
COUNTY OF FLORENCE }

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

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

Witness my hand at Florence, South Carolina, this 23rd day of February, 2014.

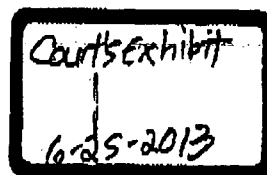

FRANCES BAKIS-RAY, RPR

2

But still his statement was used as if his
Reputation was legit.

2 Your Honor Sir I'd also like to if I may point
out evidence that give credit to my Innocence
If You will Your Honor Briefly look at Case
State vs Heath 370 S.W. 326, 330, 635 S.E.2-1
16, 19 2006 where an adult son was living at
the address with his mother and Controband
was found, b/c the house was in question b/c
the house was not in the son name the case
was Reverse. at the case at hand (I)
William H. Royal was not living at that
residence, I was not present when the Controband was
also there wasn't any drugs, feeling or selling in my
wife's home.

If You look at this email from Solicitor
Travis Moore and Attorney Stanley Wilcox
You will see that the CRI was not going
to testify b/c he was not a material witness
b/c me and the CRI never had any
Drug Involvement so Everything he stated
was Hearsay.



(2)

was the same in my Rule 5 motion at the beginning
 so why did you wait all the way to trial date to
 charge my \$5,000.00 for a trial and you could've
 save you time and ~~my~~ money and you know
 you wanted this case ^{to end} ~~in a~~ Guilty Plea. then Mr.
 Chris Spradley stated after my lawyers left the room.
 He stated that he wish that I found him first and the
 case will be different, but if Mr. Myers would've let me
 see this E-mail I would've had no choice but to go
 to trial. All my Attorney is Incompetence B/c

If you look at the Search Warrant Affidavit it
 only stating one single thing stating that the Informant
 is Reliable, but not showing ^{How} In case State v. Phillips
317 S.C. 454, 454 S.E.2d 905 State v. Bellamy 323 S.C. 199, 473
S.E. 2d 938 State v. Adolph 314, S.C. 89, 441 S.E. 2d 932
State v. Johnson 302 S.C. 243, 395 S.E. 2d 167 these cases
 show that the Informant got to prove his Basis of
 Knowledge, Veracity or ^{Evidence} Corroborating. the Affidavit contains
 one single statement that the Informant had provided
 info before that led to a conviction. That was the
 only info in the Search Warrant as to the Informant's
 Reliability. the Court of Appeal held the Search Warrant
 lack probable Cause b/c it was base on the Affidavit
 where there was no showing of the C.R.I.'s Reliability
 and the Informant Allegations were never Corroborated

that why I Feel my attorney was Ineffective? (17)

Wlc he have Not been Truthful with me, When he stated that he File for a motion To suppress And Judge denied it but As You see he never Filed it. Also my attorney ~~is~~ Withhold Eviden From me Wlc I have this E-mail Dated 4-7-11 4 day Before the trial Date From Stanley Myers And Travis Moore stating that the CI Not able To Testify Because he's Not Consider As a Witness Wlc he had No Illegal Dealing With me, But Mr. Myers was Telling me at the last When that The CI And unnamed witness is going To Testify, If I don't Take this Plea. Also then he Tells me, On The Baneday, Wm I Can't beat this Case Wlc your wife left You In a picket, He stated the House was in your wife Name Even throu You And her was separated at that Time but the Fact of the Matter is that a You Two are still married And its xlo way around that, By her having a untimly Death Before the Case Ena she left You holding the bag So You got To Plead Guilty or when You leave this Court Room You will have 25 Yr. So Then I Ask Mr. ^{myers} ~~myers~~, You Do Not have Anything Different ^{in the} From the Time Mr. Bagg Turn over my Case To You, So all this Infor You saying Now

(9)

By any identifiable individuals according to Adolph. These statements are devoid of any pertinent info that would lead the Magistrate to find ~~probable~~ probable cause based entirely on the hearsay of a C.I. In State vs Briggs 473 S.E.2d 37 the Court explained the difference between an eyewitness and CRI in that "Evidence of past reliability is not usually required when info is provided by an Executive. Unlike the paid informant, the Executives do not have to establish a record of previous reliability. ~~Also~~ In the case State vs Smith 301 S.C. 371, 392 S.E.2d 192 the affidavit was also insufficient where it failed to set forth facts as to why police believed Defendant had committed a Trusting offense and this was utterly conclusory.

STATE OF SOUTH CAROLINA

SEARCH WARRANT

COUNTY OF SPARTANBURG, SCTO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE
MUNICIPALITY OF SPARTANBURG COUNTY, SC

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

From Spartanburg travel Church St. towards Church St. to Hwy 221 and Hwy 221 to Old Church Rd and turn right. Travel Old Church Rd and turn right onto Hwy 221 and go straight on Highway Dr. The residence is brick with blue siding and a large porch. Now, therefore, you are hereby authorized to search premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY SOUGHT

Cocaine, cocaine-base, schedule II control substance, scales, baggies, electronic scales, U.S. currency, drives, and any item related to drug trade.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

ANY SPARTANBURG COUNTY MAGISTRATE

Within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of such person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Spartanburg SC
June 4, 2014

[Signature] (I.S.)
Signature of Judge



STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF SPARTANBURG, SCPersonally appeared before me, one M. Hartshorn

Who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this county:

DESCRIPTION OF PROPERTY SOUGHT

Cocaine & schedule II controlled substances
cocaine base & schedule II controlled substances
scales, identifying equipment, electronic media and
any items related to the drug trade.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

from downtown Spartanburg travel Church Street towards Chesnee

Travel Church Street to Hwy 221 stop at 221 turn left down

Turn Rt onto old Chesnee Hwy Travel old Chesnee Hwy to WANE

Rd at stop sign go straight on to Sequoyas Rd. The residence to be
searched is on the left hand side. The number 230 on the corner. The main
to be searched is a blue and brick split level.

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY
SOUGHT IS ON THE SUBJECT PREMISES

Within the past seventy two hours of today's date 6-4-08
a Confidential reliable informant (CRI) working for the Spartanburg
County Sheriff's Office observed a quantity of cocaine and cocaine
base being sold and stored at location situated above. CRI knows
cocaine and cocaine base by sight, smell, texture, and packaging. CRI has
provided information in the past that has led to the arrest and
conviction of subjects and the confiscation of illegal contraband in
the past.

Sworn to and Subscribed before me

This 4 day of June 2008

[Signature]
 Signature of Judge

[Signature]
 Affiant
 Address 8015 Hanged St.
Spartanburg SC 29303
 Phone 503-4500

RETURN

received the attached Search Warrant 1-4, 2008, and have executed it as

Follows: On 6-4, 2008 at 6:34 o'clock P M.

I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with Residence

Name of person searched or "at the place of search" with.

Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: (1) A clear bag containing white powder substance, (2) six black baggies containing various pills, (3) A glass jar containing clear bag of cream all found together in the laundry room on a shelf located by J. Calderone. (4) Small pieces of an off-white rock like substance in a plastic bag found in the laundry room on a shelf located by J. Calderone. (5) A sum of U.S. currency found in the upstairs right bedroom by N. Cantrell. (6) A sum of U.S. currency, (B) eight small black baggies found in the quad left bedroom by M. Hutchins. (7) A sum of U.S. currency found in the kitchen drawer by J. Pharis. (8) A black digital scale and clear bag containing several black baggies found in a kitchen drawer by J. Pharis. (9) A sum of U.S. currency found on the kitchen counter by J. Pharis. (10) Duke Energy paper work with the name Mark Biles III found on the night stand in the right bedroom by H. Beck.

This inventory was made in the presence of LT. Decca, Sgt. Pharis, M. Hutchins, N. Cantrell, J. Calderone

AND P. Norris, H. Beck, Joshua Sanders, Dendee Reed, M. Deering

I swear this inventory is a true and detailed account of all the property taken by me on the warrant

SWORN to before me this 12

Day of June 2008

J. J. Decca

Signature of Judge

(L.S.)

(Signature of Executing Officer)

1.2.1. p. 1.0.0.0

RETURN

(P32)

received the attached Search Warrant 6-07, 2008, and have executed it asFollows: On 6-07, 2008 at 6:54 o'clock P.M.

I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with Residence

Name of person searched or "at the place of search" with.

Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: (a) A sum of U.S. Currency
located in the right to 2 drawer of the dresser found by J. Pharis (10)
A Date energy power bill with the name of ~~John~~ Randolph Williams
on the bill found in the 2nd left bedroom on the right stand by
M. Hutchins. (11) Several small pieces of off-white rock like substance found
on the dresser in the right upstairs bedroom by J. Pharis.

1) Fuji Digital Camera

no other items taken

Search Warrant closed at 7:55pmThis inventory was made in the presence of LT Dorian, Sgt. Pharis, M. Hutchins, N. Antrell, S. CallahanAND Pharris, H. Beck, Tashun Sanders, Deidra Reid, M. Deering

I swear this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 12Day of June

Signature of Judge

(L.S.)

(Signature of Executing Officer)

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS

The State of South Carolina,)

Warrant Nos.: M-022294-5

vs.)

William H. Reid,)

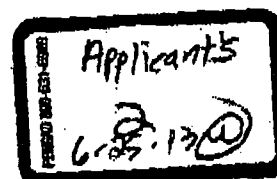
MOTION TO DISMISS, OR IN THE
ALTERNATIVE, SUPPRESS

Defendant.)

TO: Travis A. Moore, Assistant Solicitor for Seventh Judicial Circuit:

The Defendant, by and through his undersigned counsel, will hereby move for an Order of this Court dismissing, or in the alternative, suppressing any evidence seized pursuant to the search warrant of June 4, 2008. The search warrant was not supported by probable cause, and, thus, any evidence seized was in violation of Defendant's constitutional rights.

Defendant is charged with possession with the intent to distribute methamphetamine, possession with intent to distribute marijuana, and trafficking cocaine in Spartanburg County. According to the information the State provided to the Defendant, a confidential informant contacted law enforcement on June 4, 2008, about alleged drug sales with the Defendant. Law enforcement obtained a search warrant based entirely upon oral statements made by this confidential informant.* The affidavit supporting the search warrant contained no information as to the confidential informant's basis of knowledge, veracity, or corroborating evidence.* Further, the affidavit contained a single statement that the informant had provided information before that led to a conviction. That was the only information in the search warrant as to the informant's reliability. At the present time, the identity of the confidential informant is unknown to the Defendant.



The task of a magistrate when determining whether to issue a search warrant is to make a practical, common sense decision as to whether, under the totality of the circumstances set forth in the affidavit, there is a fair probability that the evidence of the crime will be found in a particular place. *State v. Adolphe*, 314 S.C. 89, 441 S.E.2d 832 (Ct.App. 1994). This includes consideration of the veracity of the person supplying the information and the basis of his or her knowledge. *Id.* The affidavit must contain sufficient underlying facts and information upon which the magistrate may make a determination of probable cause. Mere conclusory statements which give the magistrate no basis to make a judgment regarding probable cause are insufficient. *State v. Smith*, 301 S.C. 371, 392 S.E.2d 182 (1990).

In *State v. Adolphe*, 314 S.C. 89, 441 S.E.2d 832 (1994), the South Carolina Court of Appeals reversed the trial court's admission of evidence because the affidavit supporting the search warrant was deficient. In *Adolphe*, the Beaufort Sheriff's Department organized a controlled buy between a confidential informant and the Defendant. After the controlled buy, the Sheriff's Department obtained a search warrant based on the crack cocaine purchased from the Defendant, but the supporting affidavit failed to address the informant's veracity, reliability, basis of knowledge, or any corroborating information. The Court of Appeals held the search warrant lacked probable cause because it was based on an affidavit where "[t]here was no showing of the confidential informant's reliability and the informant's allegations were never corroborated by any identifiable individuals."

The affidavit supporting the search warrant against Mr. Reid was sworn by Officer Hutchins of the Spartanburg County Sheriff's Office. Officer Hutchins' Affidavit states to following reasons in an attempt to show the truthfulness and reliability of his informant:

"Within the past seventy two Two Hours [sic] of today's date 6-4-08 a

confidential reliable informant (CRI) working for the Spartanburg County Sheriff's Office observed a quantity of cocaine and cocaine base being sold and stored at a location described above. CRI knows cocaine and cocaine base by sight, smell, texture, and packaging. CRI Has [sic] provided information in the past that has led to the arrest and conviction of subjects and the confiscation of illegal contraband in the past."

(Aff. M. Hutchins, Jun. 4, 2008). The most apparent deficiency of the above statement is that no corroborative evidence supports the information given by the informant. There are no indications as to the truthfulness of the informant at all.

There is no basis for the informant's knowledge in the above statement. There is no indication of how the informant was placed in a position to "observe a quantity of cocaine or cocaine base." There is no indication of why the informant "knows" what he observed was illegal narcotics.

Beyond a blanket statement that the informant has "provided information" leading to prior convictions, there is no indication as to how reliable the informant is. These statements essentially display the circular logic that Officer Hutchins's informant is reliable because the informant is reliable. According to Adolphe, these statements are devoid of any pertinent information that would lead the magistrate to find probable cause based entirely on the hearsay of a confidential informant.

For the reasons stated above, the search warrant lacked probable cause. Any items seized pursuant to the search warrant were seized illegally and must be suppressed at the trial of Defendant's case as a matter of law. Based thereon, we respectfully request the Court to dismiss the case, or in the alternative, suppress the evidence.

Respectfully submitted,

MOORE, TAYLOR & THOMAS, P.A.

By: _____

Stanley L. Myers
Christian G. Spradley
1700 Sunset Boulevard
Post Office Box 5709
West Columbia, SC 29171
(803) 796-9160 (office)
(803) 791-8410 (facsimile)
Attorneys for the Defendant

West Columbia, South Carolina
April 9, 2011.

Karen Kaminer

From: Moore, Travis
Sent: Wednesday, April 08, 2011 11:52 AM
To: Stanley Myers
Cc: Karen Kaminer; McCarty, Ryan
Subject: William Henry Reid Jr.

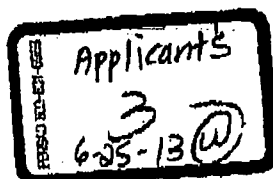
Stanley,

I want to reiterate the State's outstanding offer on these charges. He may plea to a negotiated 10 year sentence on all of his pending drug charges. This offer will remain open until 5 p.m. on Friday April 8th, 2011. After that the State will be prepared to try him on each of his cases and there will be no recommendations or negotiations if he decides to plea at that point. As far as his bond situation is concerned, I am not in a position to consent to something contrary to a Circuit Judge's outstanding order. I would suggest being here Monday morning for Roll Call prepared to handle that motion.

I know we spoke about this on the phone, I am in receipt of your Motion for Disclosure of the CRI's identity and your Motion for Chemical Analysis and Chain of Custody. The Chemical Analysis and Chain of Custody were provided in discovery. If this is not the case please let me know I will make sure a copy is immediately provided to you. As for the other motion, it is the State's position that the CRI is not a material witness to a search warrant trial. The CRI will not be called because the extent of his/her involvement is the probable cause leading to the issuance of the warrant. This matter will be handled at a pre-trial suppression hearing if you decide to move to suppress. The Judge will be available to hear this motion prior to starting the trial. In the interests of justice my file is open for your review prior to trial. Please let me know if you have any further issues or concerns.



Travis A. Moore
Assistant Solicitor
Seventh Judicial Circuit



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	2011-CP-42-5638
William H. Reid, Jr., #345611.	)	
	)	
Applicant,	)	
	)	
v.	)	ORDER OF DISMISSAL
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

This matter comes before the Court by way of an Application for Post-Conviction Relief filed December 19, 2011. The Respondent made its Return on or about September 11, 2012. An evidentiary hearing into the matter was convened on June 25, 2013, at the Spartanburg County Courthouse. The Applicant was present and represented by M. Terry Haselden, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. Stanley L. Myers, Esquire, and Christian G. Spradley, Esquire, testified on Respondent's behalf. This Court also had before it a copy of the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the Return, the plea transcript, and various exhibits introduced by Applicant.

PROCEDURAL HISTORY

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Spartanburg County Grand Jury indicted the Applicant at the October 2008 term of General Sessions for possession with intent to distribute (PWID) crack cocaine (08-GS-42-6337) and trafficking in

cocaine (08-GS-42-6338). The Applicant was represented by Stanley L. Myers, Esquire, and Christian G. Spradley, Esquire. On April 11, 2011, the Applicant pled guilty as indicted. The Honorable J. Derham Cole, sentenced the Applicant to confinement, for a period of eight (8) years, for both charges, to run concurrent. The Applicant did not appeal his guilty plea or sentence.

ALLEGATIONS

In the current application, the Applicant alleged he was being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel: in that,
 - a. "Plea Counsel was ineffective for failure to properly prepare and investigate," and
2. Involuntary guilty plea; in that,
 - a. "The drugs have not been tested and my attorney stated that the charges will be dropped if I 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 and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. Specifically, the Applicant informed the court that he was proceeding on the allegations that Counsel induced Applicant to plead guilty by indicating that a motion to suppress had been filed and denied, Counsel failed to talk with witnesses who could testify that Applicant did not live at the house where the drugs were found, Applicant's wife had passed away, but it had been her home where

the drugs were found, and Counsel failed to investigate problems with the search warrant in regards to the corroboration of the confidential informant ("CI").

In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

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

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

Applicant testified that his wife, from whom he was separated at the time of arrest in June

2008. passed away in October 2008. Applicant indicated that both he and his wife had been charged with the same offenses. However, Applicant testified that he and his wife were separated at the time of arrest and Applicant had not lived in the home for more than two and a half months prior to the arrest. When asked, Applicant indicated that he "guessed" that he discussed his living situation with Counsel. Applicant testified that he informed Counsel of various witnesses who could testify that Applicant and his wife were separated at the time.

Applicant introduced a copy of the search warrant, affidavit, and return as Applicant's Exhibit #1. A copy of the unfiled motion to suppress was introduced as Applicant's Exhibit #2 and an email from the Assistant Solicitor prosecuting the case to Counsel Myers was introduced as Applicant's Exhibit #3. The email indicated that the CI would not be testifying at trial, if the case proceeded to trial. Applicant also testified that he wrote Counsel Myers, requesting that an appeal be filed on Applicant's behalf, but Myers refused.

Counsel Myers testified that he was retained by Applicant to represent him on two charges resulting from arrests in June and December 2008. Myers testified that the Applicant was incarcerated at the time he was retained on a federal probation revocation matter, so they had this case delayed until the resolution of the federal case. Myers testified that the case was called for trial the week of April 11, 2011. Applicant was picked up for a bond violation on the Thursday prior to the trial week and the Assistant Solicitor made the offer on that Friday. Myers testified that a Rule 5/Brady motion was filed, Rule 6 regarding chemical analysis of the drugs, motion for disclosure of the CI, and a memorandum in support were all filed on Applicant's behalf.

Myers testified that he had prepared a written motion to suppress, with the intent to argue the motion at trial after the jury was sworn, so that jeopardy would have attached. Myers

testified that he thought they had a strong argument, but he had no idea what the judge would do. Myers testified that he discussed that strategy with the Applicant. Myers testified that the issue of Applicant's residence was not a pretrial issue, but rather a factual issue for the jury, but witnesses were present and prepared to testify as to Applicant's residence. Myers testified that he had the Applicant's parents, sisters, and current girlfriend present, but did not have any non-family members who could testify as to Applicant's residence. However, Myers testified that incident reports appeared to indicate that mail was found to support the State's contention of Applicant living at the residence. Finally, Myers testified that in a memo to file dated May 13, 2011, he noted that he visited with the Applicant at Kirkland Correctional Institution and the Applicant never indicated that he wished to appeal the matter.

Counsel Spradley testified that he is partners with Myers. Spradley testified that the strategy of the case was discussed with the Applicant, in particular when the State indicated that they would not call the CI as a witness. Spradley testified that it did not appear to be an issue from the State's perspective and the CI was actually known to Applicant.

Involuntary Guilty Plea

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).

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).

Applicant testified that he was in federal prison on other charges prior to the plea, but received a letter from Mr. Myers indicating that the judge had ruled on the motion to suppress and it had been denied at a hearing. Applicant testified that he believed there were problems with the search warrant, specifically because of a lack of corroboration of the CI. Applicant testified that he first saw the motion after his plea and realized that the motion had never been filed. Applicant testified that he would have gone to trial had he known the motion had never been filed. However, he did acknowledge that he pled guilty at the time to avoid facing a possible sentence of twenty-five years.

Myers testified that he was prepared for trial and if it had been a plea all along, he would have had Applicant sign a plea acknowledgment form. Myers testified that the Applicant did not want to plead to the December 2008 charges, so the second offer from the State dismissed those charges and allowed Applicant to plead solely to the June 2008 charges. Myers testified that following Applicant's acceptance of the second offer, Myers had no concerns regarding Applicant's willingness to plea. Myers testified that in a memo to file dated May 13, 2011, he noted that he visited with the Applicant at Kirkland Correctional Institution and the Applicant

never indicated that he was unhappy with his plea. Further, he wrote a letter to Applicant following the plea explaining the sentencing.

Spradley testified that he believed the Applicant pled freely and voluntarily and knowingly waived his right to a jury trial. Spradley testified that he and Myers discussed Applicant's right to trial with him and the waiver of that right, in addition to the judge reviewing that during the plea colloquy.

This Court finds the Applicant's testimony to not be credible, in particular based upon the Applicant's answers during his plea colloquy, while this Court finds both attorneys to be credible. First, this Court finds that the Applicant has failed to meet the first prong of Strickland, in failing to establish any deficient conduct on either Counsel's behalf. In regards to the issue of the sufficiency of the search warrant and Counsel's failure to attack the warrant, this Court finds that the Applicant has failed to meet his burden of proof. Although the information on the search warrant and affidavit regarding the CI is sparse, this Court finds that it is sufficient pursuant to State v. Peters, 271 S.C. 498, 248 S.E.2d 475, (1978). Furthermore, this Court finds that the judge addressed the fact that by pleading guilty, the Applicant was waiving his right to challenge any issues with evidence in his case. (Tr. p. 9, lines 15-25).

This Court also finds that Counsel expressed a reasonable trial strategy for not filing the motion to suppress pretrial. Where counsel articulates valid reasons for employing a certain strategy, counsel's choice of tactics will not be deemed ineffective assistance. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 530 (1992). See also Dempsey v. State, 363 S.C. 365, 610 S.E.2d 812 (2005) and McLaughlin v. State, 352 S.C. 476, 575 S.E.2d 841 (2003).

This Court also finds that the Applicant failed to meet his burden of proof as to his claims that Counsel failed to properly investigate and failed to talk to witnesses regarding Applicant's

residency. To establish counsel was inadequately prepared, an Applicant must present evidence of what counsel could have discovered or what other defenses could have been pursued had counsel been more fully prepared. Jackson v. State, 329 S.C. 345, 495 S.E.2d 768 (1998); Skeen v. State, 325 S.C. 210, 481 S.E.2d 129 (1997) (applicant not entitled to relief where no evidence presented at PCR hearing to show how additional preparation would have had any possible effect on the result at trial). The Applicant failed to offer any information as to what could have been discovered with additional investigation. Additionally, the Applicant failed to offer the identity of anyone that could have been called as a witness that was not already identified by Counsel as present and ready to testify. Prejudice from trial counsel's failure to interview or call witnesses cannot be shown where the witnesses do not testify at post-conviction relief. Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Bassette v. Thompson, 915 F.2d 932 (4th Cir. 1990), cert. denied, 499 U.S. 982 (1991).

As to Applicant's claim that Counsel failed to file an appeal on his behalf, this Court finds that Counsel had no duty to advise Applicant about an appeal and there was no evidence that the Applicant asked Counsel to appeal, and Counsel failed to do so. Counsel has a constitutionally-imposed duty to consult with a defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal, or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. Roe v. Flores-Ortega, 528 U.S. 470, 120 S.Ct. 1029 (2000.)

This Court finds that the Applicant pled freely and voluntarily, based upon his discussions with Counsel and decision to avoid the possibility of additional jail time. Clearly, the Applicant has failed to establish any deficient performance by Counsel or prejudice suffered.

Therefore, as to the claims of ineffective assistance of counsel and involuntary guilty

plea, this Court finds that the Applicant has failed to meet his burden of proof and the claims are denied and dismissed.

Summary

This Court finds that Counsel are both experienced attorneys who were prepared for and effectively represented Applicant at his plea. This Court finds Counsel adequately conferred with the Applicant, was thoroughly competent in their representation, and that Counsels' conduct does not fall below the objective standard of reasonableness.

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

This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by Counsels' performance. There is no evidence that the outcome of the trial would have changed based upon any of the allegations of deficiency. This Court concludes the Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance. See Frasier supra. Therefore, this allegation is denied.

CONCLUSION

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

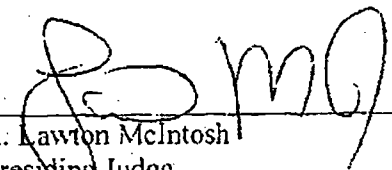
This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the

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

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 15 day of Sept, 2013.


R. Lawton McIntosh
Presiding Judge
Seventh Judicial Circuit

2013 OCT -2 PM 2:43

1. SENTENCE MADE BY **Computer**
2. REPORT NUMBER
SPARTANBURG COUNTY SHERIFF'S OFFICE

4. JURY ☒
5. CHARGE ☒
6. CHARGE ☒
7. ASSISTANT ATTORNEY GENERAL **Computer**
8. TRAFFIC VIOLATIONS COPY ☒

ARREST WARRANT NUMBER

DIRECT INDICTMENT

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date: **10-24-08**

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. **08-GS-42-6351**
The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

OCT 27 2008

TERM

THE STATE
VS.

WILLIAM HENRY REID JR

Indictment for
POSSESSION WITH INTENT TO DISTRIBUTE
METHAMPHETAMINE

SC Code: 44-53-375
CDR Code:
Class MIS/A

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2008 NOV -3 AM 11:07

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

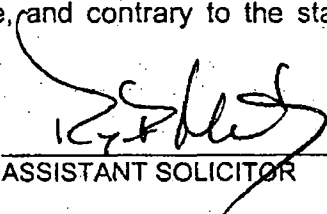
At a Court of General Sessions, convened on OCT 24 2008 the

Grand Jurors of Spartanburg County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE

That William Henry Reid Jr. did in Spartanburg County on or about June 4, 2008, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Methamphetamine, a schedule II controlled substance under provisions of § 44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.*

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



ASSISTANT SOLICITOR

WITNESSES

JUN

Paul Gompert

SPARTANBURG CO SHERIFF'S OFFICE

Trey Gowdy, Solicitor

DOCKET NO. 10-338

The State of South Carolina

County of Spartanburg

FILED

CLERK OF COURT

2008 NOV -3 AM 11:07

COURT OF GENERAL SESSIONS

OCT 27 2008

TERM

ARREST WARRANT NUMBER

M022294

THE STATE

VS.

WILLIAM HENRY REID JR

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: 10-24-08

VERDICT

Indictment for

TRAFFICKING IN COCAINE

SC Code: 44-53-370

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on OCT 21 2008, the
Grand Jurors of Spartanburg County present upon their oath:

TRAFFICKING IN COCAINE

That William Henry Reid Jr did in Spartanburg County on or about June 4, 2008, knowingly sell, manufacture, cultivate, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase or bring into this State, or did knowingly actually or constructively possess or did knowingly attempt to become in actual or constructive possession of more than (28) twenty-eight grams of Cocaine, a schedule I controlled substance, in violation of §44-53-370, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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


ASSISTANT SOLICITOR