

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Appeal From Beaufort County
Michael G. Nettles, Circuit Court Judge

S.C. Supreme Court

Case No. 2006-CP-07-2548

ANTONIO D. BORDEAUX,

Respondent,

vs.

STATE OF SOUTH CAROLINA,

Petitioner.

APPENDIX

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF BEAUFORT)
3)
4 STATE OF SOUTH CAROLINA)
5)
6 versus)
7)
8 WESLEY L. WASHINGTON,)
9 ANTONIO D. BORDEAUX)
10)
11 Defendants)

COURT OF GENERAL SESSIONS
No. 2004 GS 07, 0844;0845;
(As to Mr. Bordeaux)
0846;0847
No. 2004 GS 07, 0739;0858;
0861;0859
(As to Mr. Washington)

TRANSCRIPT OF RECORD

Beaufort, South Carolina
October 19, 2005

B E F O R E :

HONORABLE PERRY M. BUCKNER, JUDGE

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

For the State:

STONE, Esq.
Solicitor

For the Defendants:

Washington
Bordeaux

SCOTT LEE, Esq.
ANTHONY DORE, Esq.

Reporter:

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1 SOLICITOR: Your Honor, it is my
2 understanding that Mr. Washington has through his attorney--
3 wishes to enter a guilty plea in this case at this time. He
4 is indicted, as you know, on the charges that are before us.
5 He is pleading guilty to indictment eight, excuse me,
6 No. 2004 GS 06 07 860, charging Mr. Washington ... Sorry, I
7 got that one wrong.

8 Okay. No. 2004 GS 07 0739, charging him with the offense of
9 Armed Robbery. I understand that he is pleading guilty to
10 that indictment.

11 No. 2004 GS 07 0858, charging him with Armed Robbery. He is
12 pleading guilty to that indictment as well.

13 No. 2004 GS 07 0861, charging Mr. Washington with Burglary
14 in the first degree. He is pleading guilty to Burglary in
15 the second degree.

16 No. 2004 GS 07 0859, charging him with Burglary in the first
17 degree. He is pleading guilty to Burglary in the second
18 degree.

19 Understanding, Your Honor, from the State ...

20 THE COURT: He's repeated that twice,
21 Solicitor, I think there is only one Burglary first which he
22 is pleading Burglary second. He's pleading to Armed Robbery
23 so he is pleading to two indictments?

24 SOLICITOR: No, sir. He is pleading to
25 four indictments ...

1 THE COURT: Four.

2 SOLICITOR: He's pleading to two Armed
3 Robberies and two Burglary first pled down to Burglary
4 second.

5 THE COURT: I see. So he's actually
6 pleading to two Burglary seconds and two Armed Robberies.

7 SOLICITOR: Yes, sir.
8 Per the Solicitor's office, he'll be receiving half of
9 fifteen years.

10 THE COURT: On all four?

11 SOLICITOR: On all four running concurrent.
12 Which actually makes the sentence somewhere between ten and
13 fifteen because the Armed Robbery has a base minimum ...

14 THE COURT: Minimum of ten.

15 SOLICITOR: Of ten. Yes, sir. The Armed
16 Robbery is a violent, most serious offense. Burglary,
17 second degree would not be.

18 THE COURT: So he's actually pleading
19 Burglary second, non-violent.

20 SOLICITOR: That's right.

21 MR. LEE: I think it's (inaudible)

22 THE COURT: Well, the code would tell us
23 and I just asked him.

24 MR. LEE: I summed it up in the ruling -
25 second paragraph, subsection B. (inaudible)

1 THE COURT: Solicitor?

2 SOLICITOR: That's fine.

3 THE COURT: I don't think he has any
4 objection, Mr. Lee.

5 SOLICITOR: Can we go ahead and do Mr.
6 Bordeaux as well, Your Honor?

7 THE COURT: Yes, sir.

8 SOLICITOR: I understand that Mr. Bordeaux
9 also wishes to enter a guilty plea. He's pleading guilty to
10 indictment No. 2004 GS 07 0845. We are charging him with
11 Burglary in the first degree.

12 No. 2004 GS 07 0844. We are charging him with Burglary in
13 the first degree.

14 No. 2004 GS 07 0846. We're charging him with Armed Robbery.

15 No. 2004 GS 07 0847. Charging him with Armed Robbery.

16 The negotiation on him is that Mr. Bordeaux will receive a
17 cap of twenty-five years.

18 THE COURT: And the murder indictment,
19 Solicitor?

20 SOLICITOR: I'm now processing the murder
21 indictment for Mr. Bordeaux and Mr. Washington.

22 THE COURT: Cap twenty-five years
23 concurrent, Solicitor?

24 SOLICITOR: Yes, sir.

25 THE COURT: And Burglary, first violent and

1 the Armed Robbery, violent. Both are most serious. Is that
2 correct?

3 SOLICITOR: Yes, sir.

4 THE COURT: The negotiations on Mr.
5 Bordeaux is he's pleading to two Burglary firsts, two Armed
6 Robberies with a cap of twenty-five years. Violent and most
7 serious. Concurrent. Is that everything, Solicitor?

8 SOLICITOR: Yes, sir.

9 THE COURT: All right, Counsel. I'm going
10 to ask you both since I'm going to take both pleas and I
11 only have one microphone so I'm going to need you to ...
12 Put it on your other side, Mr. Dore. All right, then you
13 move over, Mr. Lee, and let Mr. Dore stay on the outside
14 and you stand on the outside and let both of them stand
15 beside each other to use the microphones.
16 All right, Mr. Lee, before we begin I'm going to start since
17 Mr. Washington was called first. You represent Mr.
18 Washington. We've obviously been through a good portion of
19 this trial. Has Solicitor accurately stated for the record
20 any and all negotiations or recommendations in connection
21 with your client's plea and because there's been a lapse of
22 time my understanding is a cap of fifteen, pleading two
23 Burglary seconds, violent, two Armed Robberies, concurrent?

24 MR. LEE: That's correct, Your Honor.

25 THE COURT: All right, Mr. Dore, I ask you

1 now. Has the Solicitor accurately stated for the record
2 any and all negotiations or recommendations in regards to
3 Mr. Bordeaux? My understanding from the Solicitor is a
4 cap of twenty-five years, pleading to Burglary first, two
5 of them, violent, and Armed Robbery, cap of twenty-five
6 years, concurrent. Is that correct?

7 MR. DORE: Yes, Your Honor.

8 THE COURT: Very well. Madame Clerk,
9 would you swear each of the Defendants?

10 Wesley L. Washington and Antonio D. Bordeaux, both
11 duly sworn for testimony.

12 THE COURT: All right. We'll start with
13 you, Mr. Washington. You're under oath now. Step up to the
14 microphone. Give me a verbal answer. That is, say yes or
15 no. Don't shake your head. Don't nod your head. Do not
16 say, uh-huh or uh-uh. So I'll understand what you are
17 telling me and my court reporter will be able to accurately
18 take down your answers. Have you understood what I've just
19 told you?

20 WASHINGTON: Yes, Your Honor.

21 THE COURT: Very good. Speak up for me
22 now.

23 WASHINGTON: Yes, sir.

24 THE COURT: State your full name for the
25 record.

1 WASHINGTON: Wesley Lamar Washington.

2 THE COURT: Mr. Washington, how old are
3 you?

4 WASHINGTON: Twenty-one.

5 THE COURT: How far have you gone in
6 school?

7 WASHINGTON: I think the tenth grade.

8 THE COURT: Tenth grade. What kind of
9 work do you do?

10 WASHINGTON: I install carpet.

11 THE COURT: You install carpet.

12 WASHINGTON: Yes, sir.

13 THE COURT: Come up to that microphone a
14 little bit more.

15 WASHINGTON: I install carpet, sir.

16 THE COURT: All right. Are you married?

17 WASHINGTON: No, sir.

18 THE COURT: Do you have any children?

19 WASHINGTON: Yes.

20 THE COURT: How many?

21 WASHINGTON: Two.

22 THE COURT: How old?

23 WASHINGTON: Four and three.

24 THE COURT: Do you support those children?

25 WASHINGTON: Yes, sir. But I can't for the last eighteen

1 months. I was locked up.

2 THE COURT: Are you paying your support
3 through the Family Court or are you paying it directly to
4 the mother?

5 WASHINGTON: I think through the Court, sir.

6 THE COURT: You're paying through the
7 Court? Is that right? Or you're not sure.

8 MR. LEE: Was it Family Court ordered?

9 WASHINGTON: Yes.

10 THE COURT: Have you ever been treated in
11 the past for drug abuse, alcohol abuse, or mental illness?

12 WASHINGTON: No, sir.

13 THE COURT: Have you taken any drugs or
14 alcohol or anything else within the past twenty-four hours
15 that might keep you from understanding what you are doing
16 in Court today?

17 WASHINGTON: No, sir.

18 THE COURT: All right. Step up to the
19 microphone, Mr. Bordeaux. You heard what I just told Mr.
20 Washington. Give me a verbal answer and speak into the
21 microphone. Say yes or no. Don't shake your head or nod
22 your head. Do not say uh-huh or uh-uh. So I'll understand
23 what you are telling me and the court reporter can take it
24 down. Have you understood what I've just told you?

25 BORDEAUX: Yes, sir.

1 THE COURT: All right. You are under oath.

2 Speak into the microphone and speak up. State your full
3 name for the record.

4 BORDEAUX: Antonio Dean Bordeaux.

5 THE COURT: Mr. Bordeaux, how old are you?

6 BORDEAUX: Twenty-one.

7 THE COURT: How far have you gone in
8 school?

9 BORDEAUX: I got my GED, sir.

10 THE COURT: What kind of work do you do?

11 BORDEAUX: Cook, sir.

12 THE COURT: Are you married?

13 BORDEAUX: No, sir.

14 THE COURT: Do you have any children?

15 BORDEAUX: Yes, sir.

16 THE COURT: How many?

17 BORDEAUX: One, sir.

18 THE COURT: How old?

19 BORDEAUX: One year, sir.

20 THE COURT: Do you pay child support?

21 BORDEAUX: I don't pay child support, sir.

22 THE COURT: Are you supporting the child?

23 BORDEAUX: I've been in jail since my child was born, sir.

24 THE COURT: I see. You've been in custody
25 since the child was born?

1 BORDEAUX: Yes, sir.

2 THE COURT: All right. Have you ever been
3 treated for drug abuse, alcohol abuse, or mental illness?

4 BORDEAUX: Yes, sir.

5 THE COURT: What were you treated for?

6 BORDEAUX: I was ...

7 THE COURT: Drugs, alcohol, or mental
8 illness?

9 BORDEAUX: I was just counseled, sir. In general. I was in
10 general counseling, sir.

11 THE COURT: I understand that. What were
12 you in counseling for? Drugs?

13 BORDEAUX: They say it was drugs.

14 THE COURT: Drugs.

15 BORDEAUX: I was in the ATU program, sir.

16 THE COURT: Pardon?

17 BORDEAUX: ATU.

18 THE COURT: You were in the addiction
19 treatment unit?

20 BORDEAUX: Yes, sir.

21 THE COURT: While you were in custody?

22 BORDEAUX: Yes, sir.

23 THE COURT: All right. For drugs?

24 BORDEAUX: Yes, sir.

25 THE COURT: All right. Have you

1 successfully completed that treatment?

2 BORDEAUX: Yes, sir.

3 THE COURT: Have you taken any drugs,
4 alcohol, or anything else within the past twenty-four hours
5 that might keep you from understanding what you are doing
6 in Court here today?

7 BORDEAUX: No, sir.

8 THE COURT: All right, Mr. Lee. I'll ask
9 you first. Have you advised your client of the charges
10 contained in these four indictments handed to me by the
11 Solicitor including any lesser included offense and the
12 maximum possible penalty or punishment as well as his
13 constitutional rights?

14 MR. LEE: I have, Your Honor.

15 THE COURT: In your opinion, Mr. Lee, does
16 he understand each of the charges against him as well as the
17 maximum penalty or punishment including any lesser included
18 offense and his constitutional rights?

19 MR. LEE: I'm certain that he does.

20 THE COURT: And how does he indicate to
21 you, Mr. Lee, that he desires to plead? Guilty or not
22 guilty?

23 MR. LEE: Guilty, Your Honor.

24 THE COURT: Very well. All right, Mr.
25 Dore. Have you advised your client of the charges contained

1 in each of these four indictments that have been handed to
2 me by the Solicitor as well as the maximum possible penalty
3 or punishment and his constitutional rights?

4 MR. DORE: Yes, Your Honor. I have.

5 THE COURT: And in your opinion, Mr. Dore,
6 does your client, Mr. Bordeaux, understand each of the
7 charges against him as well as the maximum penalty or
8 punishment and his constitutional rights?

9 MR. DORE: Yes, Your Honor. He does.

10 THE COURT: And how does he indicate to
11 you, Mr. Dore, that he desires to plead? Guilty or not
12 guilty?

13 MR. DORE: Guilty, Your Honor.

14 THE COURT: All right. I'm going to ask
15 you each in turn. Step back up to the microphone. I'm
16 going to ask you the same questions and I want an answer
17 from each of you beginning with you, Mr. Washington.
18 You've heard your lawyer tell me that he's advised you of
19 the charges in each of these four indictments that have been
20 handed to me, Mr. Washington, including in your case any
21 lesser included offense and your lawyer's told me he's
22 advised you of the maximum penalty or punishment for each
23 of these indicted charges including any lesser included
24 offense and your constitutional right and according to
25 your lawyer, you understand each of the charges against

1 you as well as the maximum penalty or punishment and your
2 rights including any lesser included offense. Is that
3 correct?

4 WASHINGTON: Yes, sir.

5 THE COURT: Step up to the microphone, Mr.
6 Bordeaux. You've heard your lawyer, Mr. Bordeaux, tell me
7 that he's advised you of the charges in these four
8 indictments handed to me by the Solicitor as well as the
9 maximum penalty or punishment for those charges and your
10 constitutional rights and according to your lawyer, Mr.
11 Dore, you understand each of the charges against you as
12 well as the maximum penalty or punishment for each of those
13 charges and your constitutional rights. Is that correct?

14 BORDEAUX: Yes, sir.

15 THE COURT: Very well. Step back up to the
16 microphone, Mr. Washington. Mr. Washington, I've been
17 handed by the Solicitor first of all, four indictments on
18 you, two are for Armed Robbery, two are for Burglary first.
19 I'll begin with the Armed Robbery indictment. The Armed
20 Robbery indictments are 2004, Mr. Washington, and it's 739
21 and 2004 at 858. Indictment 2004 at 739 titled the State
22 versus Wesley Lamar Washington. Indictment for Armed
23 Robbery, true bill by the Grand Jury, alleges that you did in
24 Beaufort County on about April sixteenth, 2004, while armed
25 with a deadly weapon feloniously take from the person or

1 presence of the victim, one Arturo Sanchez Jimenez, by means
2 of force or intimidation goods or moneys of the victim.

3 This incident is alleged to have occurred at 327 Shanklin
4 Road, Lot 36, Bent Vines Mobile Home Park, Burton, in
5 Beaufort County, South Carolina. Do you understand that
6 charge against you in that indictment for Armed Robbery?

7 WASHINGTON: Yes, sir.

8 THE COURT: Do you understand that if I
9 accept your plea to that charge for Armed Robbery that I
10 could sentence you to a term of imprisonment of not less
11 than ten years up to a maximum of thirty years?

12 WASHINGTON: Yes, sir.

13 THE COURT: Now, understand that I'll ask
14 you separately about the negotiations in a moment. Do you
15 understand that's the maximum sentence?

16 WASHINGTON: Yes, sir.

17 THE COURT: Do you understand that Armed
18 Robbery is a violent offense?

19 WASHINGTON: Yes, sir.

20 THE COURT: Do you understand that it is a
21 most serious offense?

22 WASHINGTON: Yes, sir.

23 THE COURT: Have you advised him, Mr. Lee,
24 about these, the offense of Armed Robbery, being both violent
25 and most serious?

1 MR. LEE: I have, Your Honor.

2 THE COURT: What have you told him?

3 MR. LEE: Your Honor, I've explained to him
4 that it is a most serious offense which under the law is a
5 two strike law. If you have two most serious offenses it is
6 automatic life without parole. I've also advised him that
7 because it carries more than twenty years that it is known
8 as a no parole offense which he will have to serve at least
9 eighty-five percent of any sentence that he receives.

10 THE COURT: Is that correct, Mr.
11 Washington?

12 WASHINGTON: Yes, sir.

13 THE COURT: Do you understand that?

14 WASHINGTON: Yes, sir.

15 THE COURT: Any other consequences of that
16 plea which Counsel for the State's aware?

17 SOLICITOR: I don't believe so, Your Honor.

18 THE COURT: Any other consequences of that
19 plea which Counsel for the Defendant's aware?

20 MR. LEE: No, sir.

21 THE COURT: I've also been handed
22 Indictment No. 2004 at 0858. State versus Wesley
23 Washington, indictment for Armed Robbery. This indictment
24 alleges you did in Beaufort County on or about April
25 seventeenth, 2004, while armed with a deadly weapon, a

1 handgun, did feloniously take from the person or presence
2 of the victim, Elezaur Munoz, by means of force or
3 intimidation, goods or money from the victim. This incident
4 occurred at 327 Shanklin Road, Burton, in Beaufort County.
5 Do you understand that charge against you, Mr. Washington?

6 WASHINGTON: Yes, sir.

7 THE COURT: Do you understand that this
8 charge also for Armed Robbery carries the exact same penalty
9 I've just advised you was the penalty in the previous Armed
10 Robbery?

11 WASHINGTON: Yes, sir.

12 THE COURT: And you understand that this
13 charge for Armed Robbery is also a violent and a most
14 serious offense?

15 WASHINGTON: Yes, sir.

16 THE COURT: Next I've been handed as to
17 you, Mr. Washington, two indictments both charging you with
18 the offense of Burglary in the first degree. Indictment
19 No. 2004 at 0859, the State versus Wesley Lamar Washington.
20 Indictment for Burglary in the first degree alleges that
21 you did in Beaufort County on or about April the sixteenth,
22 2004, willfully and unlawfully enter the dwelling of Jose
23 Villa without consent and with the intent to commit a crime
24 therein and that you or another participant in the crime was
25 armed with a deadly weapon. This incident is alleged to

1 have occurred at 39 Possum Hill Road, Burton, Beaufort
2 County, South Carolina. Do you understand that charge
3 against you for Burglary in the first degree in that
4 indictment?

5 WASHINGTON: Yes, sir.

6 THE COURT: Now the State is recommending
7 on your Burglary in the first degree charges that I accept
8 your plea to the lesser included offense. You agree it's
9 lesser included, Solicitor?

10 SOLICITOR: Yes, sir.

11 THE COURT: Do you agree it's lesser
12 included, Mr. Lee?

13 MR. LEE: Yes, sir.

14 THE COURT: The State is recommending that
15 I accept your plea to the lesser included offense of
16 Burglary in the second degree. Do you understand that?

17 WASHINGTON: Yes, sir.

18 THE COURT: Carrying up to, Solicitor?

19 SOLICITOR: The Burglary carries up to
20 fifteen.

21 THE COURT: You agree?

22 MR. LEE: I agree.

23 THE COURT: Violent. Correct?

24 SOLICITOR: Yes, sir.

25 THE COURT: Do you understand, Mr.

1 Washington, that if I accept your plea to the lesser
2 included offense on this indictment of Burglary in the
3 second degree that I could sentence you to a maximum
4 possible sentence of up to fifteen years?

5 WASHINGTON: Yes, sir.

6 THE COURT: Do you understand, Mr. Lee, if --did
7 you advise Mr. Washington as to the burglary indictments
8 that they are both violent and most serious?

9 MR. LEE: I have, Your Honor.

10 THE COURT: All right. And what have you
11 told him as to the burglary indictments?

12 MR. LEE: Actually I think the burglary is
13 second to the serious offense ...

14 THE COURT: Rather than most serious.

15 MR. LEE: Yes, sir.

16 THE COURT: Is it serious or most serious?

17 SOLICITOR: Burglary second would be
18 serious.

19 THE COURT: Burglary second violent is
20 serious?

21 SOLICITOR: Yes, sir. But the Armed
22 Robbery, of course, ...

23 THE COURT: Is most serious.

24 SOLICITOR: Yes, sir.

25 THE COURT: What have you advised him as to

1 the Burglary, Mr. Lee?

2 MR. LEE: I explained to him that the
3 serious offenses comes under the three strike law. I've
4 also advised him that because of his violent any parole
5 eligibility would be after one-third of his crime. It is
6 not an eighty-five percent crime because it does not carry
7 twenty years or more. I've also explained to him that by
8 pleading to more than one serious or most serious offense
9 at the same time that it counts as one strike and that he
10 has one big strike against him and any subsequent conviction
11 of a serious or most serious offense more than likely he
12 would be facing mandatory life without parole.

13 THE COURT: All right, Mr. Washington.
14 You've heard what your lawyer told me. Do you understand
15 that this Burglary second is violent? You understand that?

16 WASHINGTON: Yes, sir.

17 THE COURT: You understand that it is also
18 serious?

19 WASHINGTON: Yes, sir.

20 THE COURT: And meaning a serious offense.
21 Do you understand that?

22 WASHINGTON: Yes.

23 THE COURT: You understand that if you were
24 to be convicted at a later point in time of a combination of
25 certain criminal offenses in South Carolina, that you could

1 face the possibility if I accept your plea to Burglary
2 second violent, you could in the future face a possibility
3 of a sentence of life imprisonment without any possibility
4 of parole?

5 WASHINGTON: Yes, sir.

6 THE COURT: I've also been handed finally
7 on you, Mr. Washington, a fourth indictment No. 2004 at
8 0861, the State versus Wesley Lamar Washington. Indictment
9 for Burglary in the first degree. This indictment alleges
10 you did in Beaufort County on or about April seventeenth,
11 2004, willfully and unlawfully enter the dwelling of one
12 Arturo Sanchez Iminez without consent and with the intent to
13 commit a crime therein and that you or another participant
14 in the crime was armed with a deadly weapon. This incident
15 having occurred at 327 Shanklin Road, Burton, in Beaufort
16 County. Do you understand that charge against you for
17 Burglary in the first degree?

18 WASHINGTON: Yes, sir.

19 THE COURT: Do you understand the State is
20 also recommending to me that I accept your plea on this
21 indictment to the lesser included offense of Burglary in the
22 second degree violent? Do you understand the penalty that I
23 just advised you for in the earlier Burglary first degree
24 would also apply to this Burglary in the first degree
25 indictment for which you are pleading to Burglary second

1 violent?

2 WASHINGTON: Yes, sir.

3 THE COURT: Do you understand this is a
4 serious offense?

5 WASHINGTON: Yes, sir.

6 THE COURT: Do you understand it is a
7 violent offense?

8 WASHINGTON: Yes, sir.

9 THE COURT: And your lawyer has advised you
10 about the consequences of each of those as he explained to
11 me on the record in what he told me about his explanation to
12 you is your understanding. Is that correct?

13 WASHINGTON: Yes, sir.

14 THE COURT: Step back. Step up here, Mr.
15 Bordeaux. To the microphone. Speak up for me.
16 Mr. Bordeaux, you told me that your lawyer had advised you
17 of each of the charges now and that you understood them.
18 You understood the penalty and your constitutional rights.
19 Is that correct?

20 BORDEAUX: Yes, sir.

21 THE COURT: I've been handed first of all
22 on you, Mr. Bordeaux, two indictments No. 2004 at 0846 and
23 2004 at 0847. Each of these indictments, Mr. Bordeaux,
24 charge you with the offense of Armed Robbery. Indictment
25 No. 2004 at 0846 alleges that you, Antonio Dean Bordeaux,

1 did in Beaufort County on or about April seventeenth, 2004,
2 while armed with a deadly weapon, a gun, feloniously take
3 from the person or presence of the victim, Elezaur Munoz by
4 means of force or intimidation goods or moneys from said
5 victim. Do you understand that charge against you, Mr.
6 Bordeaux?

7 BORDEAUX: Yes, sir.

8 THE COURT: Do you understand that for that
9 charge, that if I accept your plea, that I could sentence
10 you to a maximum sentence of not less than ten years up to
11 thirty years for the offense of Armed Robbery?

12 BORDEAUX: Yes, sir.

13 THE COURT: Do you understand that the
14 offense of Armed Robbery is both a violent and a most
15 serious offense?

16 BORDEAUX: Yes, sir.

17 THE COURT: Mr. Dore, have you advised your
18 client about the offense of Armed Robbery being violent and
19 most serious?

20 MR. DORE: Yes, Your Honor. I have.

21 THE COURT: What have you told him?

22 MR. Dore: Your Honor, I've told my client
23 that for two most serious convictions the State could seek
24 life without parole and that for a violent charge you have
25 to serve eighty-five percent of the time before you are

1 eligible for parole.

2 THE COURT: You understand that, Mr.
3 Bordeaux?

4 BORDEAUX: Yes, sir.

5 THE COURT: You understand that you could
6 face in the future if you were convicted of a subsequent
7 criminal offense or certain combinations, being either a
8 series of serious or most serious offenses, you could face
9 a possibility in the future of life imprisonment without any
10 possibility of parole?

11 BORDEAUX: Yes, sir.

12 THE COURT: Do you understand that because
13 this is a violent offense carrying more than twenty years
14 that you also would have to serve at least eighty-five
15 percent of any sentence I might impose before being eligible
16 for any parole?

17 BORDEAUX: Yes, sir.

18 THE COURT: Any other consequences of that
19 plea which Counsel for the State is aware?

20 SOLICITOR: No, sir.

21 THE COURT: Any other consequences of the
22 Armed Robbery plea of which the Counsel for the Defendant is
23 aware?

24 MR. DORE: No, Your Honor.

25 THE COURT: I've also been handed, Mr.

1 Bordeaux, indictment No. 2004 at 0847, the State versus
2 Antonio Dean Bordeaux. Indictment for Armed Robbery. This
3 indictment alleges that you did in Beaufort County on or
4 about April sixteenth, 2004, while armed with a deadly
5 weapon, a gun, feloniously take from the person or presence
6 of the victim, Jose Villa, by means of force or intimidation
7 goods or monies of said victim. Do you understand that
8 charge against you sir?

9 BORDEAUX: Yes, sir.

10 THE COURT: Do you understand that if I
11 accept your plea to that charge also for the events of Armed
12 Robbery that the penalty I just advised you about in the
13 earlier indictment would apply?

14 BORDEAUX: Yes, sir.

15 THE COURT: You understand that penalty?

16 BORDEAUX: Yes, sir.

17 THE COURT: You understand that this
18 indictment is also a violent and a most serious offense?

19 BORDEAUX: Yes, sir.

20 THE COURT: And you understand from talking
21 to your lawyer who advised me on the record that you've
22 been advised by your lawyer that it is violent and most
23 serious and you understand what your lawyer told you about
24 that which he told me on the record?

25 BORDEAUX: Yes, sir.

1 THE COURT: And that's what your lawyer
2 told you. Is that correct?

3 BORDEAUX: Yes, sir.

4 THE COURT: Next, I've been handed on you,
5 Mr. Bordeaux, two indictments charging you with the offense
6 of Burglary in the first degree. The first is No. 2004 at
7 0845 and the second is 2004 at 0844. Indictment 2004 at
8 0845 entitled the State versus Antonio Dean Bordeaux, for
9 Burglary in the first degree alleges that you did in
10 Beaufort County on or about April seventeenth, 2004,
11 willfully and unlawfully enter the dwelling of one Arturo
12 Sanchez Jimenez without consent and with the intent to
13 commit a crime therein and that you or another participant
14 in the crime was armed with a deadly weapon, a gun, this
15 incident occurring in Beaufort County. Do you understand
16 that charge against you, Mr. Bordeaux, for Burglary in the
17 first degree?

18 BORDEAUX: Yes, sir.

19 THE COURT: Solicitor, this is - he's
20 pleading as indicted.

21 SOLICITOR: Yes, sir.

22 THE COURT: Is that correct, Mr. Dore?

23 MR. DORE: Yes, Your Honor.

24 THE COURT: Carrying up to, solicitor?

25 SOLICITOR: Up to life.

1 THE COURT: To not less than fifteen up to
2 life.

3 SOLICITOR: Up to life. Yes, sir.

4 THE COURT: Is that your understanding, Mr.
5 Dore?

6 MR. DORE: Yes, Your Honor.

7 THE COURT: Both violent and most serious.

8 SOLICITOR: Yes, sir.

9 MR. DORE: Yes, Your Honor.

10 THE COURT: All right, Mr. Bordeaux. Do
11 you understand if I accept your plea to Burglary in the
12 first degree which is both violent and most serious, that I
13 can sentence you to a term of imprisonment of not less than
14 fifteen years up to life in prison?

15 BORDEAUX: Yes, sir.

16 THE COURT: Do you understand that Burglary
17 in the first degree is both a violent and a most serious
18 offense?

19 BORDEAUX: Yes, sir.

20 THE COURT: Mr. Dore, have you advised your
21 client as to the Burglary and first degree indictments?

22 MR. DORE: I have, Your Honor.

23 THE COURT: About it being both violent and
24 most serious?

25 MR. Dore: Yes, Your Honor. I have.

1 THE COURT: What have you told him?

2 MR. DORE: Your Honor, as I earlier spoke
3 with my client and I explained to him that the two most
4 serious convictions in the State has the option to give a
5 life in prison without parole and that this crime carries
6 more than twenty years and he'd have to serve eighty-five
7 percent of that before he'd be eligible for parole.

8 THE COURT: Mr. Bordeaux, is that correct
9 what your lawyer just told me?

10 BORDEAUX: Yes, sir.

11 THE COURT: You understand that?

12 BORDEAUX: Yes, sir.

13 THE COURT: Very well. Finally, I've been
14 handed indictment No. 2004 at 0844, the State versus
15 Antonio Dean Bordeaux. Indictment for Burglary in the
16 first degree. This indictment alleges that you did in
17 Beaufort County on or about April sixteenth, 2004,
18 willfully and unlawfully enter the dwelling of Jose Villa
19 without consent and with the intent to commit a crime
20 therein and that you or another participant in the crime
21 was armed with a deadly weapon. This incident having
22 occurred in Beaufort County. Do you understand that charge
23 against you, Mr. Bordeaux, for Burglary in the first degree
24 in indictment 2004 at 0844?

25 BORDEAUX: Yes, sir.

1 THE COURT: Do you understand as to that
2 indictment that if I accept your plea that I could sentence
3 you to a term of imprisonment of not less than fifteen years
4 up to life in prison?

5 BORDEAUX: Yes, sir.

6 THE COURT: Do you understand as to that
7 indictment that that is both a most serious and a violent
8 offense?

9 BORDEAUX: Yes, sir.

10 THE COURT: Very well. Mr. Washington, you
11 stay right up there. Just stay to the side and stay
12 forward. Mr. Washington, step back up.
13 Mr. Washington, understanding each of the charges against
14 you including any lesser included offense, the maximum
15 penalty or punishment and your constitutional rights,
16 understanding all of that I ask you now, how do you wish to
17 plead? Guilty or not guilty?

18 WASHINGTON: Guilty.

19 THE COURT: Mr. Bordeaux, understanding
20 each of the charges against you, the maximum possible
21 penalty or punishment and your constitutional rights,
22 I ask you now, how do you wish to plead? Guilty or not
23 guilty?

24 BORDEAUX: Guilty, sir.

25 THE COURT: All right, Mr. Washington. I

1 asked each of you in turn so I'll start each time with you.
2 It's the same question to each of you. I'll start with you,
3 Mr. Washington. Please respond verbally.

4 Do you understand by pleading guilty that you are giving up
5 your constitutional right to remain silent?

6 WASHINGTON: Yes, sir.

7 THE COURT: Mr. Bordeaux, do you understand
8 that?

9 BORDEAUX: Yes, sir.

10 THE COURT: Mr. Washington, do you
11 understand by pleading guilty you are giving up your
12 constitutional right to a trial by jury?

13 WASHINGTON: Yes, sir.

14 THE COURT: Mr. Bordeaux, do you understand
15 that?

16 BORDEAUX: Yes, sir.

17 THE COURT: Mr. Washington, do you
18 understand that if you had a jury trial you would have the
19 right to confront all witnesses and evidence which the State
20 may have against you and if you continued with this jury
21 trial you would have the right for the State to have to
22 prove your guilt beyond a reasonable doubt and if you
23 continued with the jury trial you could put up any witnesses
24 or evidence in your defense if you so chose? Do you
25 understand that you have each of those rights as to a jury

1 trial?

2 WASHINGTON: Yes, sir.

3 THE COURT: Mr. Bordeaux, do you understand
4 you have each of those rights as to a jury trial?

5 BORDEAUX: Yes, sir.

6 THE COURT: Mr. Washington, understanding
7 your rights as to a jury trial, do you now want a jury trial
8 or do you wish to plead guilty?

9 WASHINGTON: Plead guilty, sir.

10 THE COURT: Mr. Bordeaux, understanding all
11 of your rights as to a jury trial, do you now want a jury
12 trial or do you wish to plead guilty?

13 BORDEAUX: I wish to plead guilty sir.

14 THE COURT: All right, Mr. Washington.
15 You've heard the Solicitor tell me at the outset of this
16 hearing and it was confirmed to me by your attorney, Mr.
17 Lee, that there have been negotiations in regards to your
18 plea. Those negotiations were published to me as a cap of
19 fifteen years imprisonment or a maximum of fifteen years.
20 Sentence is to run concurrent. Of course, because you are
21 pleading to Armed Robbery as I advised you your sentence can
22 not be less than ten years by law. Is that your under-
23 standing of any and all negotiations which have taken place
24 in regards to your plea, Mr. Washington?

25 WASHINGTON: Yes, sir.

1 THE COURT: Has anybody promised you
2 anything in order to try to get you to plead guilty?

3 WASHINGTON: No, sir.

4 THE COURT: Has anybody threatened you in
5 any manner to order to try to get you to plead guilty?

6 WASHINGTON: No, sir.

7 THE COURT: All right, Mr. Bordeaux. You
8 heard the Solicitor tell me and it was confirmed to me by
9 your attorney, Mr. Dore, at the outset of this hearing that
10 there had been negotiations in regards to your plea. Those
11 negotiations were published to me as a cap or maximum of
12 twenty-five years on your plea. Sentences to run
13 concurrent. Do you understand that?

14 BORDEAUX: Yes, sir.

15 THE COURT: Do you understand because you
16 are pleading to Burglary first degree your sentence cannot
17 be less than fifteen years and on the Armed Robbery, your
18 sentence cannot be less than ten years? Do you understand
19 that?

20 BORDEAUX: Yes, sir.

21 THE COURT: I ask you now. Is that your
22 understanding of any and all negotiations which have taken
23 place in regards to your plea?

24 BORDEAUX: Yes, sir.

25 THE COURT: Has anybody promised you

1 anything in order to try and get you to plead guilty?

2 BORDEAUX: No, sir.

3 THE COURT: Has anybody threatened you in
4 any manner in order to try and get you to plead guilty?

5 BORDEAUX: No, sir.

6 THE COURT: Mr. Washington, are you fully
7 satisfied with the services of your attorney, Mr. Lee?

8 WASHINGTON: Yes, sir.

9 THE COURT: Has he done everything in your
10 behalf that you feel like he should or could have done?

11 WASHINGTON: Yes, sir.

12 THE COURT: Have you had enough time to
13 talk to your lawyer?

14 WASHINGTON: Yes, sir.

15 THE COURT: Have you understood all of your
16 talks with your lawyer?

17 WASHINGTON: Yes, sir.

18 THE COURT: Are you completely satisfied
19 with your lawyer's services?

20 WASHINGTON: Yes, sir.

21 THE COURT: Mr. Bordeaux, have you - are
22 you completely satisfied with your lawyer's services?

23 BORDEAUX: Yes, sir.

24 THE COURT: Have you had enough time to
25 talk to your lawyer?

1 BORDEAUX: Yes, sir.

2 THE COURT: Have you understood all of your
3 talks with your lawyer?

4 BORDEAUX: Yes, sir.

5 THE COURT: Mr. Washington, do you have any
6 complaints against any law enforcement officers, court
7 officials, or members of the Solicitor's office?

8 WASHINGTON: No, sir.

9 THE COURT: Mr. Bordeaux, do you have any
10 complaints against any law enforcement officers, court
11 officials, or members of the Solicitor's office?

12 BORDEAUX: No, sir.

13 THE COURT: Mr. Washington, do you
14 understand you have the right to appeal this guilty plea and
15 my sentence but you must do so within ten days of today by
16 filing a notice of intention to appeal?

17 WASHINGTON: Yes, sir.

18 THE COURT: Mr. Bordeaux, do you understand
19 you have that right of appeal and you must do so within ten
20 days of today?

21 BORDEAUX: Yes, sir.

22 THE COURT: Mr. Washington, are you
23 pleading guilty of your own free will and accord?

24 WASHINGTON: Yes, sir.

25 THE COURT: Mr. Bordeaux, are you pleading

1 guilty of your own free will and accord?

2 BORDEAUX: Yes, sir.

3 THE COURT: Mr. Washington, do you under-
4 stand as to any sentence of imprisonment I might impose
5 that you would have to assume that you would have to serve
6 day for day as to any sentence of imprisonment I might
7 impose?

8 WASHINGTON: Yes, sir.

9 THE COURT: Mr. Bordeaux, do you understand
10 as to any sentence of imprisonment I might impose that you
11 would have to assume that you would have to serve day for
12 day as to any sentence of imprisonment I might impose?

13 BORDEAUX: Yes, sir.

14 THE COURT: Mr. Washington, I ask you now,
15 are you in fact, Mr. Washington, guilty of the offenses of
16 Armed Robbery in Beaufort County, Mr. Washington, on the
17 dates of April the seventeenth, 2004, and the dates of April
18 the sixteenth, 2004?

19 WASHINGTON: Yes, sir.

20 THE COURT: I ask you now, Mr. Washington,
21 are you in fact guilty of the offense of Burglary in the
22 second degree in Beaufort County on April the sixteenth,
23 2004, and April the seventeenth, 2004?

24 WASHINGTON: Yes, sir.

25 THE COURT: I ask you now, Mr. Bordeaux,

1 are you in fact guilty of the offense of Burglary - excuse
2 me ... Armed Robbery in the two indictments charging you with
3 Armed Robbery in Beaufort County on or about April sixteenth
4 2004, and April seventeenth, 2004?

5 BORDEAUX: Yes, sir.

6 THE COURT: I ask you now, Mr. Bordeaux,
7 are you in fact guilty of the offense of Burglary in the
8 first degree in Beaufort County on or about April the
9 seventeenth, 2004, and April sixteenth, 2004?

10 BORDEAUX: Yes, sir.

11 THE COURT: Solicitor?

12 SOLICITOR: Please the Court, Your Honor.

13 The first one of these instances ... these as you know, we
14 haven't put any of this on the record, that took place
15 basically back to back. This all started on April the
16 sixteenth and it bled over into the midnight hour and
17 shifted it to April the seventeenth. The first robbery was
18 on 39 Possum Hill Road. These same five individuals that
19 you've heard about so far were involved in that robbery as
20 well. The victims were Hispanic. The money that was taken
21 was from the Hispanics using the same ruse that they had
22 used before to get into the home, which was Courtney Pierce
23 would go to the door, make some gesture as to offering her
24 services for money and find out if any of them had money
25 and then the other three individuals would then go into

1 the house and rob the people of their money. The second
2 robbery happened after the first stop off at the Howard
3 Johnson and you've heard of everyone going to the Howard
4 Johnson but actually they went to the Howard Johnson after
5 the first robbery and I think all five of them at that time
6 were splitting up money and were partying and doing other
7 things and then all of a sudden it started becoming a really
8 good idea to go do this again.
9 This is when they go to Lot 36 at Bent Pines and this is
10 when the case that is actually on trial happened. When they
11 get to Bent Pines as you've heard from Courtney Pierce, the
12 ruse was for her to get them into the door and once she did
13 that they went in. The thing that separates, I think, Mr.
14 Bordeaux and Mr. Washington at this point is that all the
15 evidence that we have points to Mr. Washington never leaving
16 the front area of this house. The gun that Mr. Washington
17 had and the evidence that we have showing what gun he had
18 that it was not possible for that gun to fire the murder -
19 to fire the bullet. We have evidence that Washington stayed
20 in the front area. Mr. Bordeaux along with Mr. Alston went
21 to the back area where Mr. Jimenez was shot and killed.
22 From everything that you will hear and I believe in the
23 remaining part of this case is that the bullet taken from
24 the body of Mr. Jimenez matches or at least is consistent
25 with a 38 caliber gun. In the testimony that we have is

1 that that was from Tommy Alston's gun. Tommy Alston had
2 that with him at the time and I believe that you'll also
3 hear testimony that Tommy Alston made the statement that he
4 actually did the shooting and I think that's what separates
5 him from these other two individuals and why we are entering
6 into this plea at this point. Other than that, Your Honor,
7 the only thing I can tell you about these individuals is
8 their records are relatively similar. In fact, Mr. Bordeaux
9 and Mr. Washington have stood in front of this bench if not
10 in front of Your Honor but in front of in Beaufort county
11 before. At that time, I prosecuted that case. They were
12 robbing the Hispanic people at this point in a different
13 area. I think that was on St. Helena's if I recall
14 correctly, again targeting the Hispanic community. They did
15 not do that with Mr. Dorsey. They did not do that with Ms.
16 Pierce but very similar circumstances, fortunately no one
17 died at those robberies.

18 THE COURT: How long ago was that?

19 SOLICITOR: This was in 2000. I've got
20 various dates but I think I prosecuted the cases at
21 different times but I have July of 2001 as the earliest
22 dates. I believe that would be ...

23 THE COURT: What were they charged with?

24 SOLICITOR: Criminal Conspiracy. Strong
25 Arm Robbery. There were convictions on both Strong

1 Arm Robbery and Conspiracy for Mr. Bordeaux. Just Strong
2 Arm Robbery for Mr. Washington and Mr. Washington also has
3 a Possession of Marijuana.

4 THE COURT: Mr. Washington has Strong Arm
5 Robbery and a Possession of Marijuana and Mr. Bordeaux has
6 a Conspiracy and a Strong Arm Robbery.

7 SOLICITOR: That's correct.

8 THE COURT: And this was 2001.

9 SOLICITOR: The Criminal Conspiracy for Mr.
10 Bordeaux - I have that with a specific date of May the
11 twenty-seventh of 2001. I have a - the Strong Arm Robbery I
12 have as July the eleventh of 2001. Two months later.
13 I'm sorry. Mr. Washington, although the rap sheet reads
14 Strong Arm Robbery, Mr. Washington's was Attempted Strong
15 Arm Robbery. I apologize.

16 THE COURT: And that's the only thing on
17 the record?

18 SOLICITOR: Yes, sir.

19 THE COURT: All right. Anything else on
20 the factual basis for the plea as to either Defendant?

21 I realize that all these events even the one I'm not trying
22 occurred in Beaufort County.

23 SOLICITOR: They did.

24 THE COURT: Very well, Solicitor. I find
25 there is a factual basis for each of your pleas. That is

1 yours, Mr. Washington, and yours, Mr. Bordeaux. Mr.
2 Washington, I find that your decision to plead guilty is
3 freely, voluntarily, knowing and intelligently made. That
4 you've had the advise and the counsel of a competent
5 attorney with whom you tell me you are completely satisfied.
6 I will accept your plea of guilty.

7 Mr. Bordeaux, I find that your decision to plead guilty is
8 freely, voluntarily, knowing and intelligently made. That
9 you have had the advise and the counsel of a competent
10 attorney with whom you tell me you are completely and
11 totally satisfied. I will accept your plea of guilty.

12 Mr. Lee, I will be happy to hear from you on behalf of Mr.
13 Washington.

14 MR. LEE: Thank you, Your Honor. May it
15 please the Court. As you've heard, Wesley is twenty-one
16 years old. With him today is (inaudible) his mother, his
17 father, and his godfather. His mother's sister I think were
18 here Monday when we were picking a jury but he has a great
19 deal of family support. I, in the past eighteen months,
20 feel like I've gotten to know his family very, very well.
21 His grandmother is very influential in his life as well and
22 unfortunately her health did not permit her to come to trial
23 but I know that she is hanging on to every word and anxious
24 to see what happens. When I - Wesley turned himself in.
25 There was something in the paper a couple of days after this

1 happened in April and Wesley's picture was in the paper and
2 his dad, Westin, called me that day and said, hey, you know,
3 what do we do? They're looking for Wesley. I said, well,
4 have him call me and we need to take care of this so I don't
5 remember if it was that day or the very next day but we
6 called the Sheriff's office and arranged for him to turn
7 himself in I think on the twentieth of April. He's been in
8 jail since that time. I'm not even sure if we even asked
9 for bond. Quite frankly, I think we waived our right to a
10 bond knowing that the family wouldn't be able to make it and
11 that he needed to sit tight for a little bit. Since that
12 time that Wesley Washington had walked into my office April
13 twentieth he's a lot different than the one today. He's had
14 eighteen months over there to think about things. I have
15 had untold numerous discussions with him and never once has
16 he not been remorseful for what happened. Not just feeling
17 sorry for himself but feeling sorry for the victim and kind
18 of kicking himself for getting involved in this kind of
19 stuff again and quite frankly when I first talked to him I
20 didn't want to have much to say to him because he had gotten
21 a very good deal in 2001 on Attempted Strong Arm Robbery and
22 so at first I wasn't real happy to talk to him about it but
23 as the time went on our relationship got a little bit
24 better. He got a little bit of the chip off his shoulder
25 after he had been in. He started coming around and we were

1 able to communicate better and at this point I feel like I
2 know him pretty well. He's been nothing but helpful with me
3 and I honestly believe that he is deeply sorry for what
4 happened. I know his mother who is here is deeply religious
5 and has shared a lot of her thoughts with him and I kind of
6 see somewhat of a change in Wesley. He knows that what he
7 did was wrong and if he could go back and take it back I'm
8 sure he would. He also knows that he is going to get
9 punished when he stands before you today ready to take
10 whatever punishment the Court deems appropriate.

11 I would ask if you and the Court allow his family members
12 would like to speak. Despite the thing that he is charged
13 with and the thing that he has pled to, I think deep down
14 he's a pretty good kid. I've been able to talk to him not
15 just about his case but all kinds of things and a lot of
16 times I can't really do that with ... I'm convinced he fully
17 understands the ramifications of what he is doing today.
18 I'm convinced that he fully now understands the exposure
19 that he had by going to trial and I think today he has
20 come around or sometime last night to realize that he
21 doesn't want to throw his life away and take a chance on
22 making a big mistake and getting a tremendous amount of
23 jail time because I think once he does his time he'll be
24 able to be productive. He'll be able to help out his
25 family. He'll be able to do something. I don't know if

1 he knows what it is yet but I think he'll be able to do
2 something and he stands before you throwing himself on the
3 mercy of the Court asking you in that range that you have
4 under the negotiated plea to show some mercy for him and to
5 let him know that he's going to be able to have a second
6 chance and so we would appreciate whatever consideration
7 the Court can give us in the five year's of discretion
8 that you have. This is his mother, Your Honor. If she
9 could briefly address the Court.

10 THE COURT: Can you give me your name for
11 the record please?

12 MOTHER: Deon Washington, sir.

13 THE COURT: Mrs. Washington.

14 MOTHER: Good morning, Your Honor. How are you doing today?

15 THE COURT: Good morning.

16 MOTHER: What I want to say is Wesley-he is a good child
17 and I know it's not about me today but if you would allow
18 me, I would like to tell you a little bit of my testimony
19 of things about what you understand that reflected on him
20 being hurt because I wasn't there for him. I know I can't
21 rectify or change the things that happened but now I can be
22 there for him to be the mother that I've always wanted to
23 be because I too had a drug problem, which I'm not ashamed
24 to say I've been clean now for the last five years
25 (inaudible) the law fully with all that I know how to do.

1 You understand? And I'm asking the Court to have mercy on
2 my son, you understand. I'm not trying to justify what he
3 did wrong because I know he has to be punished and I'm
4 asking you, Your Honor, to just have mercy on him. To give
5 him the chance, you know, to know what he did wrong and as
6 far as the family, I know how she feels to lose a son and I
7 want to tell them that I'm too sorry for what happened to
8 their son, you understand. Your Honor, I just don't know
9 what to say, you know, I can't express it no more. I've
10 been sharing my life with him, you know, because what I
11 went through I had to go through to be there for him, to
12 support him now, you understand. And drugs is a bad thing.
13 You're looking at an ex-crack addict here. I was an ex-
14 crack addict and if God can deliver me by grace. By grace
15 because I began to seek him the way that he wanted me to.
16 You know. And I'm just asking you, sir, to just please
17 have mercy on him. You know, I know he has to be punished.

18 THE COURT: I understand your feelings,
19 Mrs. Washington.

20 MOTHER: I know he has to be punished, sir, but we have been
21 talking and I have been sharing and I have been sharing the
22 Bible with him and I know he has changed within the last
23 eighteen months. I know he has changed. You know, he has
24 opened up even more. He began to share some hurts with me
25 that he had to share with me.

1 THE COURT: I understand. I don't doubt
2 for one minute how much you love your son. I understand.

3 MR. LEE: Your Honor, I think my client
4 briefly if permitted would like to say a word to the victim.
5 He's indicated that he'd like to.

6 THE COURT: Your client?

7 MR. LEE: Yes, sir. He'd like to
8 apologize.

9 THE COURT: You talk to me. Don't turn and
10 talk to the family. You're addressing the Court but I'll
11 be glad for you to tell me anything you'd like to tell me
12 but you're talking to me. Not anybody else.

13 WASHINGTON: I just want to tell the family that I deeply
14 sympathize with the loss of their son. I know I never
15 meant for nobody to get hurt. And I won't be running away
16 from my problems no more and start over. And I'll take
17 whatever ...

18 THE COURT: I understand, Mr. Washington.
19 Anything further, Mr. Lee?

20 MR. LEE: No, sir. Thank you very much.

21 THE COURT: Mr. Dore, I'll be happy to hear
22 from you.

23 MR. Dore: Your Honor, I work with Antonio
24 Bordeaux. He stands here today freely and voluntarily
25 taking responsibility for his actions. As you've heard he

1 is twenty-one years old. Today he is joined by his
2 mother, Tracy Bordeaux, and an aunt and they have been very
3 supportive of him through this entire ordeal. I have spent
4 a lot of time with both my client and his family during the
5 past eighteen months this case has been pending. I want to
6 make the Court aware of the profound effect that this case
7 has had on this family. It has been a life changing event
8 for both my client and his family. I can tell you my client
9 is contrite and full of remorse. We discussed this case
10 for many hours and hours and hours with him, Your Honor.
11 And he has also made me aware of the fact that he never
12 intended for anybody to be hurt through this incident. He
13 was experiencing some problems during his life when this
14 incident occurred and I can tell you that during the past
15 eighteen months he has matured greatly while being
16 incarcerated over at the Beaufort County Detention Center.
17 I can also tell you I understand the Prosecutor's position
18 is that my client was one of two Defendants that went into
19 the back of this house but I can tell you without any doubt
20 whatsoever that my client did not in fact shoot the victim.
21 And he is very remorseful and sorry the victim was hurt at
22 all. We would ask, Your Honor, that you would consider
23 a sentence in your discretion which is not greatly
24 disproportion between my client, Mr. Bordeaux and Mr.
25 Washington and as the Prosecutor told you earlier, they

1 they are in a very similar situation. They both have a
2 prior record arising out of a situation that happened some
3 time ago. We would ask that you not sentence him greatly
4 disproportionate to Mr. Washington. He has been in jail
5 now for - since May the sixth of '04. We'd ask that you
6 consider giving him credit for the time that he's been in
7 prison. I believe that his mother would like to address
8 the Court. This is his mother, Tracy Bordeaux, Your
9 Honor.

10 THE COURT: Mrs. Bordeaux.

11 MOTHER: Good morning.

12 THE COURT: Good morning.

13 MOTHER: I guess I can only say again just what Mrs.
14 Washington said. That we are very sorry that someone's
15 life was taken and I'm asking for mercy of the Court for
16 my son. He does know and accept responsibility for his
17 wrong doing and I believe that he will and he better make
18 a change and if he does, give him mercy please.

19 MR. DORE: Your Honor, my client would like
20 to address the Court as well.

21 THE COURT: Yes, sir. Mr. Bordeaux, I'll
22 be happy to hear from you.

23 BORDEAUX: Yes, sir. First I would like to apologize to the
24 victim of the incident. I would like to apologize to the
25 Courts for taking up their time getting through this

1 incident. But I also would like to say that I didn't
2 wake up on the sixteenth. I didn't wake up on the sixteenth
3 to rob somebody, sir. And it wasn't my intention when I
4 copied these group of guys. I didn't pre-think this out.
5 I didn't say I was going to rob somebody when I jump into
6 the car with Mr. Dorsey. I didn't say - it was not in my
7 mind. I never thought that. I was going to the hotel and
8 play cards and enjoy myself.

9 THE COURT: When you left that hotel, Mr.
10 Bordeaux, you knew you were going to rob somebody.

11 BORDEAUX: Yes, sir.

12 THE COURT: And you know that using drugs
13 and going to rob somebody is going to put you in jail.

14 BORDEAUX: Yes, sir.

15 THE COURT: In addition to that, a family
16 has also suffered the loss of someone they love.

17 BORDEAUX: Yes, sir.

18 THE COURT: Anything else you want to tell
19 me?

20 BORDEAUX: No, sir.

21 THE COURT: Mr. Dore?

22 MR. DORE: Your Honor, I don't think my
23 client was trying to sidestep his responsibility. I've
24 spoken to him ...

25 THE COURT: I want to make sure I under-

1 stand when he woke up that morning he wasn't planning a
2 crime but when he left that Howard Johnson he knows. He
3 honestly told me, Mr. Dore. He knew he was going to rob
4 people. And a person died.

5 MR. DORE: Yes, sir. I think he realized
6 that, Your Honor. I think he realized the gravity of the
7 situation, Your Honor. Now, I want the Court to be aware
8 of the fact that he's not trying to sidestep his
9 responsibility. Again, we're throwing ourselves on the
10 mercy of the Court. He's looking at a sentence somewhere
11 between fifteen and twenty-five and we're just asking the
12 Court for a sentence (inaudible).

13 THE COURT: Solicitor, do any members of
14 the victim's family wish to address the Court?

15 SOLICITOR: I believe they do, Your Honor.
16 We have ... she will be actually interpreting (inaudible).

17 THE COURT: Madame Clerk, would you swear
18 in for me ... This isn't sworn testimony but just to make
19 sure. Ma'am, do you understand that I need to make sure
20 that I'm getting the current translation?

21 (Interpreter sworn in by clerk)

22 THE COURT: Solicitor?

23 SOLICITOR: Go ahead and give her your full
24 name. Could you do that?

25 TRANSLATOR: My name is Christine Horne.

1 SOLICITOR: And what Ms. Horne is ... Arturo
2 Sanchez, you've already heard of.

3 THE COURT: Who is the father of the
4 victim.

5 SOLICITOR: The father of Mr. Jimenez.
6 Yes, sir. Ask him if he would like to tell the Court any-
7 thing. To tell the Judge anything.

8 TRANSLATOR: He says that he is grateful for the justice but
9 but it's out (inaudible portion).

10 THE COURT: Tell him I pray justice will be
11 done. Anything else, Solicitor?

12 SOLICITOR: If I may, just a minute.

13 TRANSLATOR: He says he knows his son is with God. This
14 changed my life. I lost my life, my work. I lost many
15 things. But I know that my son is okay and is with God.
16 He's saying he is grateful to the past so his son will come
17 to him. He says he hopes this won't happen again in
18 Beaufort with others.

19 THE COURT: I hope so also.

20 TRANSLATOR: That's all.

21 THE COURT: Thank you.

22 TRANSLATOR: I would just like to say that my husband and I
23 have been lay pastors for the past two and a half years in
24 the Spanish church where his son attended and it's a great
25 loss but I will tell you that there's no bitterness and

1 because his son was such a strong Christian young man, his
2 father is now also a Christian young man and more than
3 forty-five of his family members have changed because of
4 Jimenez so in the middle of something so hard and so
5 terrible there is something good coming of it. And we wish
6 peace for this family, for all the family members and I know
7 he is not bitter. I know Mr. Sanchez is not either. He's
8 really a changed man so we will be praying for the community
9 but also for these people and for these young people because
10 there is still hope. They're young and God can change them
11 in the same way that this family has gone through such a
12 change. We thank the Court for everything that has been
13 done here.

14 THE COURT: Thank you, ma'am.

15 SOLICITOR: I believe that's all from the
16 victims, Your Honor. Unless you have any questions of me.

17 THE COURT: Counsels approach.

18 (Discussion off the record)

19 THE COURT: Solicitor?

20 SOLICITOR: Yes, sir. Not from the State.

21 THE COURT: Anything further from you, Mr.

22 Lee?

23 MR. LEE: No, sir.

24 THE COURT: Mr. Dore?

25 MR. DORE: No, Your Honor.

1 THE COURT: All right, Mr. Dore. First is
2 your client. Mr. Dore, I recognize you have called my
3 attention from Mr. Bordeaux that I should treat him like
4 Mr. Washington. I recognize that their criminal records are
5 similar as you point out to this Court but there is a
6 difference in their accountability which the Solicitor has
7 pointed out to me. And what concerns me here is that we
8 have as great a tragedy here as you could have. Not only
9 with a young person who is involved with drugs, robbery,
10 armed robbery, but we have the loss of a human life in
11 Beaufort County as well. I take all of that into
12 consideration in my sentence.
13 Mr. Bordeaux, first this to you. On Indictment 2004 GS
14 070 0846, Armed Robbery. 2004 GS 070 0847, Armed Robbery.
15 The sentence of this Court is Defendant is committed to the
16 State Department of Corrections for a term of twenty-four
17 years. On Indictment 2004 GS 070 0845 and 2004 GS 070 0844,
18 Burglary in the first degree. The sentence of this Court
19 is Defendant is committed to the State Department of
20 Corrections for a term of twenty-five years, provided that
21 upon the service of twenty years the balance is suspended
22 and you be placed on probation for a period of three years.
23 A special condition of probation, substance abuse
24 counseling, random drug and alcohol testing. Probation is
25 not to start on these sentences until you have completed

1 your twenty-four year Armed Robbery sentence in 2004 GS
2 070 0846 and 2004 GS 070 0847. Those sentences, Mr. Bordeaux
3 and Mr. Dore, will run concurrently.

4 MR. Dore: Your Honor, thank you. Can he
5 please get credit for time served?

6 THE COURT: Mr. Washington. On your two
7 sentences for Armed Robbery, I take into consideration
8 several factors. Your record, which is no different from
9 Mr. Bordeaux's; however, I take into consideration what the
10 Solicitor tells me that he could or could not prove and that
11 you did not--1, that the weapon you had wasn't involved in
12 the taking of human life, and 2, I take into consideration
13 that you did not go back in the back room where this alleged
14 crime of murder was to have occurred.

15 On Indictment 2004 GS 070 0858 and 2004 GS 070 0739, Armed
16 Robbery. The sentence of this Court is that you are
17 committed to the State Department of Corrections for a term
18 of twelve years. On Indictment 2004 GS 070 0861 and 2004
19 GS 070 0859, Burglary in the second degree. The sentence
20 of this Court on each that the Defendant is committed to the
21 State Department of Corrections for a term of fifteen years
22 provided that upon the service of twelve years the balance
23 is suspended and you be placed on probation for a period of
24 three years. The special condition of probation-- substance
25 abuse counseling, random drug an alcohol testing. Those

1 sentences will run concurrent to each other. The Defendant
2 on each of these, both Mr. Bordeaux and Mr. Washington, are
3 to receive credit for any time served. That credit is
4 pursuant to South Carolina code section 24-13-40. That is
5 to be calculated and applied by the State Department of
6 Corrections. Good luck to you, sir.

+++ END OF REQUESTED TRANSCRIPT +++

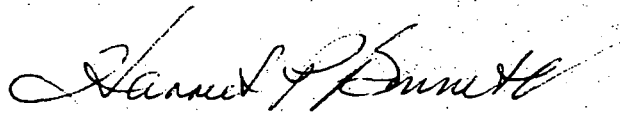
CERTIFICATE

1
2 I, HARRIET P. BENNETT, Official Court Reporter for the
3 Office of South Carolina Court Administration, do hereby cer-
4 tify that the foregoing Transcript was prepared from records
5 of ANNETTE MOLE.

6 That the matter was heard in the Court of General Sessions
7 for Beaufort County on October 19, 2005.

8 FURTHER, that it was prepared to the best of my ability,
9 and that I am not of kin or of counsel to any party to the
10 action, nor do I have any interest in the same.

11 Dated: August 29, 2007

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06-CP-07-254,
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06 SEP 29 PM 4: 33
BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT, S.C.

STATE OF SOUTH CAROLINA)
)
County of Beaufort)

IN THE COURT OF COMMON PLEAS

Antonio D. Bordeaux, #278545)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Lieber Correctional Institution
P.O. Box 205, Ridgeville, S.C. 29472
2. Name and location of Court which imposed sentence The Court of General
for the Fourteenth Judicial Circuit, Beaufort, S.C.
3. Name(s) of co-defendant(s) (if any) Corteny Brooke Pierce, Kwame Chad
Alston, Wesley Lamar Washington, Charles Albert Dorsey, III.
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2005-GS-07-00844, 00845, 00846 and 00847.

- (b) _____
- (c) _____

5. The date upon which sentence was imposed and the terms of the sentence:

- (a) October 19, 2005. 25 years imprisonment.
- (b) _____
- (c) _____

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty x
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____

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

 No.

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

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

9. If you answered "no" to (7), state your reasons for not so appealing:

- (a) I requested that Mr. Dore file an appeal but it was never properly filed.

- (b) N/A
- (c) N/A

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

- (a) Ineffective assistance of counsel.
- (b) Guilty plea was not knowing, voluntary and intelligent.
- (c) _____

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

- (a) Please see attachment at 11(a).
- (b) Please see attachment at 11(b).
- (c) _____

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

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

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

- (a) the specific nature thereof:
 - i. N/A
 - ii. N/A
 - iii. N/A
 - iv. N/A
- (b) the name and location of the Court in which each was filed:
 - i. N/A
 - ii. N/A
 - iii. N/A

iv. N/A

(c) the disposition thereof:

i. N/A

ii. N/A

iii. N/A

iv. N/A

(d) the date of each such disposition:

i. N/A

ii. N/A

iii. N/A

iv. N/A

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

i. N/A

ii. N/A

iii. N/A

iv. N/A

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. N/A

ii. N/A

iii. N/A

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

i. N/A

ii. N/A

iii. N/A

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

- (a) This Application for Post-Conviction relief is
 (b) the proper way to raise these grounds.
 (c) _____

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

- (a) your arraignment and plea? Yes.
 (b) your trial, if any? N/A
 (c) your sentencing? Yes.
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
 (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. Anthony O. Dore
P.O. Box 2478, Beaufort, S.C. 29901
 ii. N/A
N/A
 iii. N/A
N/A

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

- i. 17 (a) and (c).
N/A
 ii. N/A
N/A
 iii. N/A
N/A

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

For guilty pleas and sentences to be vacated, to be released from custody or a new trial ordered.

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

No.

Revised 3/2003

STATE OF SOUTH CAROLINA)
)
County of Dorchester)

VERIFICATION

I, Antonio D. Bordeaux, #278545, 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.

Antonio Bordeaux

SWORN to and subscribed before me this 28 day of Sept, 2006.

[Signature] (L.S.)
Notary Public

My Commission Expires: 4/24/2016

06 SEP 29 PM 4:35
BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT, S.C.

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

I, Antonio D. Bordeaux, #278545, 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.

Antonio Bordeaux
Applicant

SWORN or affirmed to and subscribed before me this

28 day of Sept, 2016.

Bunette Stevens
Notary Public

My Commission Expires: 4/24/2016

06 SEP 29 PM 4:34
BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT, S.C.

11(a) Counsel was ineffective and Applicant was prejudiced through counsel's failure to file a Notice of Appeal on Applicant's behalf after Applicant requested that an appeal be filed.

Counsel was ineffective and Applicant was prejudiced through counsel's failure to object to the sentence in this matter as being barred by the Eighth Amendment to the United States Constitution and Article I, §15 of the South Carolina Constitution regarding the infliction of cruel and unusual punishment.

Counsel was further ineffective and Applicant was prejudiced through counsel's failure to investigate the case and prepare a defense on behalf of Applicant and through counsel's failure to advise Applicant of the relevant law as it applied to the facts of Applicant's case. Has Applicant been properly advised on the facts of the case and how the relevant law applied to those facts Applicant would not have pleaded guilty and would have insisted on going to trial.

11(b) Guilty pleas were not knowing, voluntary and intelligent as required by law in that during the plea process counsel was ineffective and Applicant was prejudiced by that ineffectiveness. Applicant did not have the requisite level of knowledge of the facts and law and how the law applied to Applicant's case to make a knowing, voluntary and intelligent decision on how best to proceed.

Furthermore, Applicant was not advised, prior to entering the guilty pleas, of all the constitutional rights he would be waiving by entering guilty pleas to the charges against him.

September 28, 2006

Antonio Bordeaux, #278545
Lieber C.I., EA-35
P.O. Box 205
Ridgeville, S.C. 29472

Elizabeth M. Smith
Clerk of Court
P.O. Box 1128
Beaufort, S.C. 29901

Re: Antonio Bordeaux v. State of South Carolina
Filing of Application for Post-Conviction Relief


Dear Ms. Smith:

Enclosed please find the original of my Application for Post-Conviction Relief for filing in your office.

Please be advised that pursuant to South Carolina Department of Corrections Policy GA-01.03, Inmate Access To The Courts, I cannot have a copy of this application made. Therefore, I request that you make me a copy, clock stamp it and return it to me in the enclosed self-addressed stamped envelope.

Thank you for your time and consideration in this matter.

Sincerely,



Antonio Bordeaux

cc: file

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

06-CP-07-2548

Antonio D. Bordeaux, 278545,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)
_____)

RETURN

The Respondent, making its Return to the application for post conviction relief (PCR) filed September 29, 2006, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Beaufort County Clerk of Court. The Applicant was indicted at the May 2004 term of the Beaufort County Grand Jury for two counts of burglary 1st degree (04-GS-07-844,845) and two counts of armed robbery (04-GS-07-846,847). He was represented by Anthony O. Dore, Esquire. On October 15, 2005, the Applicant pled guilty to two counts of burglary 2nd degree and two counts of armed robbery. He was sentenced by the Honorable Perry M. Buckner to confinement for twenty-five (25) years on each count of burglary 2nd degree and twenty-four (24) years on each count of armed robbery. The sentences ran concurrently.

The Applicant filed a pro se notice of intent to appeal on October 31, 2005. By Order dated May 23, 2006, the South Carolina Court of Appeals dismissed the Applicant's appeal for

failure to provide a motion to file out of time and to order the transcript out of time. The Remittitur is dated June 12, 2006.

Attached herewith and incorporated herein by reference are the records of the Beaufort County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, and the Applicant's appellate records. The guilty plea transcript will be forwarded upon receipt.

II.

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

1. Ineffective assistance of counsel in that:
 - a. Counsel failed to file the notice of appeal.
 - b. Counsel failed to object to the sentence as cruel and unusual.
 - c. Counsel failed to properly investigate and advise the Applicant of the applicable law.
2. Involuntary guilty plea in that:
 - a. Applicant did not have the requisite level of knowledge.
 - b. Applicant wasn't advised of constitutional rights.

III.

In his first allegation the Applicant alleges trial counsel was ineffective. 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, Id.

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, Id. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

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

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent

requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

In his first allegation, the Applicant also alleges trial counsel was ineffective for failing to file a direct appeal. Counsel has a constitutionally imposed duty to consult a defendant about an appeal only when there is reason to think either that a rational defendant would want to appeal or that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. In making this determination, courts must take into account all the information counsel knew or should have known. One highly relevant factor will be whether the conviction follows a trial or a guilty plea, because a plea both reduces the scope of potentially appealable issues and may indicate that the defendant seeks an end to judicial proceedings. Even then, a court must consider such factors as whether the defendant received the sentence bargained for and whether the plea expressly reserved or waived some or all appeal rights. Roe v. Flores-Ortega, 120 S.Ct. 1029, 528 U.S. 470 (2000).

The Respondent submits that trial counsel was not ineffective for failing to file an appeal. 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).

V.

In his second allegation the Applicant alleges that he did not plead guilty freely and voluntarily. The State submits this allegation has no merit. To be knowing and voluntary, a plea

must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

The State submits the transcript reflects that the pleas were knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Boykin, supra; Dover, supra. Further, because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 317 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976). The State submits the Applicant should not be allowed to depart from the truth of the statements he made during his guilty plea hearing.

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993). Given the Applicant's burden of proof and the analysis to be applied to

this claim, the Respondent submits that the Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it should therefore, be treated as such.

VI.

The State therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the State moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VII.

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

VIII.

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

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

JEANETTE VAN GINHOVEN
Assistant Attorney General

By: Jeanette Van Ginhoven
ATTORNEYS FOR RESPONDENT

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

6-6-, 2007.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
)
)
 Antonio D. Bordeaux, #278545,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS


2006-CP-07-2548

AFFIDAVIT OF SERVICE BY MAIL

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

Antonio D. Bordeaux, #278545
Lieber Correctional Institution
P.O. Box 205
Ridgeville, SC 29472

DATED this 6th day of June, 2007.



 Kristi P. Kohl, Legal Assistant
 Office of the Attorney General
 Post Office Box 11549
 Columbia, SC 29211-1549
 (803) 734-3737

February 22, 2007

RECEIVED

FEB 23 2007

ATTORNEY GENERALS
OFFICE

*1/4
Chiller
SE
route
to
Jeannette*

Antonio D. Bordeaux, #278545
Lieber C.I., EA-61
P.O. Box 205
Ridgeville, S.C. 29472

Salley W. Elloitt
Assistant Deputy Attorney General
P.O. Box 11549
Columbia, S.C. 29211

Re: Antonio D. Bordeaux v. State of South Carolina
Case No. 2006-CP-07-2548

Dear Ms. Elliott:

Please find enclosed a copy of my Amendment To Application For Post-Conviction Relief that was filed on January 26, 2007. I will forward an Affidavit of Service By Mail to you when I receive my clock stamped copy back from the clerk of court.

Thank you for your time and consideration in this matter.

Sincerely,


Antonio D. Bordeaux

cc: file

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

Antonio D. Bordeaux, #278545,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)

2006-CP-07-2548

AMENDMENT TO APPLICATION FOR
POST-CONVICTION RELIEF

01 JAN 26 AM 11:45
BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT, S.C.

This matter is before the Court by way of an Application for Post-Conviction Relief filed on behalf of Applicant on September 29, 2006. Applicant moves at this time to amend the original application to include the following grounds for relief:

a) Counsel was constitutionally ineffective and Applicant was prejudiced through counsel's failure to timely file a notice of appeal after Applicant requested an appeal. After Applicant discovered that counsel had in fact not filed for an appeal on his behalf Applicant attempted to file the notice of appeal himself. Because of Applicant's unfamiliarity with the court rules and procedures the appeal was ultimately dismissed on procedural grounds out of Applicant's control.

In Roe v. Flores-Ortega, 528 U.S. 470, 120 S.Ct. 1029, 145 L.Ed.2d 985 (2002), the Court held that the Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984) standard is to be applied to claims that counsel was ineffective

in failing to file an appeal. Although a defendant has a right to appeal his guilty plea, there is no constitutional requirement that he be advised of this right, absent extraordinary circumstances. Weathers v. State, 319 S.C. 59, 459 S.E.2d 838 (1995). A defendant inquiring about an appeal is an extraordinary circumstance that requires counsel to advise his client of the right to appeal. Weathers, supra. In this case Applicant specifically requested that counsel file an appeal for him but counsel failed to do so.

Since Applicant did not knowingly and intelligently waive his right to appeal from his guilty plea, he is entitled to a belated appeal. White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974); Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986); Braddock v. State, 344 S.C. 578, 545 S.E.2d 498 (2001).

b) Counsel was constitutionally ineffective and Applicant was prejudiced through counsel's failure to object to the sentence imposed as being in violation of both the state and federal constitution.

At sentencing, a judge is obligated to consider information that is material to the punishment of the defendant. Hayden v. State, 283 S.C. 121, 322 S.E.2d 14 (1984). Applicant respectfully argues that as an offender who acknowledged his responsibility, the twenty-five (25) year sentence imposed upon him violates his constitutional rights guaranteed by the Eighth Amendment to the United States Constitution in that the sentence received does not meet the proportionality standards

required by Solem v. Helm, 463 U.S. 277, 103 S.Ct. 3001, 77 L.Ed.2d 637 (1983), and Harmelin v. Michigan, 501 U.S. 957, 111 S.Ct. 2680, 115 L.Ed.2d 836 (1991). Applicant also argues respectfully that the sentence violates Article I, Section 15 of the South Carolina Constitution regarding the infliction of cruel and unusual punishment, which is analyzed in the same manner as the federal prohibition. State v. Wilson, 306 S.C. 498, 413 S.E.2d 19, (1992). For it has been a longstanding principle that where the duration of a sentence is so disproportionate to the offense committed as to shock the moral sense of the community, the punishment is prohibited. Weems v. United States, 217 U.S. 349, 30 S.Ct. 544, 54 L.Ed 793 (1910). In such situations, courts routinely look at such matters as the nature of the offense, the character of the defendant, the penalties imposed in the jurisdiction for other offenses, and the penalties imposed in other jurisdictions for the same offense. See State v. McCloud, 257 Kan. 1, 891 P.2d 324 (1995).

Applicant contends that the sentence imposed in this case violates the Fifth Amendment to the United States Constitution made applicable to the states through the Fourteenth Amendment and Article I, Section 3 of the South Carolina Constitution establishing principles of fairness which require due process of law before deprivation of life, liberty or property. Matthew v. Eldridge, 424 U.S. 886, 81 S.Ct. 893, 47 L.Ed.2d 18 (1976). The term "due process" itself requires that fundamental fairness

be employed in such proceedings. Lassiter v. Department of Social Services, 341 U.S. 18, 101 S.Ct. 2153, 68 L.Ed.2d 640, rehearing denied, 453 U.S. 927, 102 S.Ct. 889, 69 L.Ed.2d 1023 (1981).

The character of the Applicant and the nature of the circumstances surrounding the incident required a lesser sentence. Applicant asserts that he did not receive adequate consideration of the mitigating circumstances surrounding his acknowledgment of guilt of wrongdoing in this case which was evidenced by his guilty plea. For in and of itself, a defendant who enters a plea of guilty has extended a substantial benefit to the state and deserves a substantial benefit in return. State v. Brouwer, 346 S.C. 375, 550 S.E.2d 915 (2001)(guilty pleas are recognized by the courts as a substantial step towards rehabilitation). For those reasons, Applicant contends that the factors surrounding his guilty plea should have been given greater weight by the Court in considering his sentence and afforded Applicant greater leniency from the Court in the ultimate conclusion.

Where the defendant enters a guilty plea upon counsel's advice, the voluntariness of the plea depends on whether counsel's advice was within the range of competence demanded of attorneys in criminal cases. The two-part standard adopted in Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984), applies to guilty plea challenges based on ineffective assistance of counsel and requires that the defendant

show that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985).

In order to satisfy the prejudice requirement of the standard for evaluating claims of ineffective assistance of counsel under Strickland, the Applicant must show that there was a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial. Hill, supra. Applicant submits he meets that standard and his plea and sentence should be vacated and Applicant released from custody or a new trial ordered.

Counsel was further constitutionally ineffective and Applicant was prejudiced through counsel's failure to investigate the case and prepare a defense on behalf of Applicant as well as counsel's failure to motion the trial court for Applicant to have a trial separate from his codefendants. None of Applicant's codefendants would have testified against Applicant at a separate trial so the chances for a not guilty verdict were good. Yet counsel failed to pursue this. One of the most important holdings of Strickland is that counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary. Strickland, 691, 104 S.Ct.

2066. In this case counsel undertook no investigations and was in no way prepared to defend Applicant at trial. Had counsel been prepared for a trial separate from Applicant's codefendants Applicant would not have pleaded guilty and would have insisted on going to trial. As it were, Applicant did not have the requisite knowledge of all the options available to him and felt pressured with no choice but to plead guilty. Thus, the plea did not represent a voluntary and intelligent choice among the alternative courses of action open to him as required by North Carolina v. Alford, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970) and Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969). As such the plea and sentence should be vacated and Applicant released from custody or a new trial ordered. I certify the statement is true

Respectfully submitted,

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 25 DAY OF Jan.

2007
Yvette Brown

NOTARY PUBLIC
STATE OF SOUTH CAROLINA

MY COMMISSION EXPIRES 8/20/2011

Antonio Bordeaux 278545
 Applicant, pro se
 Lieber C.I., EA-61
 P.O. Box 205
 Ridgeville, SC 29472

This _____ day of _____, 2007.
Ridgeville, South Carolina

I certify the statement is true

State of South Carolina) In The Court of Common Pleas
 County of Beaufort) Fourteenth Judicial Circuit
 Antonio D. Bordeaux,)
 Applicant,)
 vs.) Case No. 06-CP-07-2548
 State of South Carolina,)
 Respondent.)

TRANSCRIPT OF RECORD

April 18, 2008

Beaufort, South Carolina

B E F O R E:

The Hon. Michael G. Nettles, Judge

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

Antonio D. Bordeaux
Applicant *Pro Se*

Matthew J. Friedman, Esq.
Attorney for the Respondent

Brenda Cooley
Circuit Court Reporter

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E X H I B I T S

APPLICANT'S	DESCRIPTION	I.D.	REC'D
1	Copy of Sentence Sheet Indictment Burglary Second Degree, Case No. 04-GS-07-00844	7	7
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4	Copy of Proof of Service Notice of Appeal Dated 10/31/05	11	11
5	Copy of Proof of Service Notice of Appeal Dated 10/31/05	11	11

* * *

(The exhibits are retained by the Clerk of Court.)

1 (On Friday, April 18, 2008, the hearing
 2 convenes at approximately 9:50 a.m., and the
 3 following proceedings were had:)

4 THE COURT: Mr. Friedman, you may call
 5 your next case.

6 MR. FRIEDMAN: Thank you, Your Honor.

7 The next case is Antonio Bordeaux, docket
 8 number 2006-CP-07-2548.

9 Mr. Bordeaux was indicted for two counts
 10 of burglary first degree, two counts of armed
 11 robbery, and murder.

12 He pled guilty to two counts of burglary
 13 second and two counts of armed robbery. The murder
 14 charge was nol pros'd in exchange for his plea.

15 He was sentenced to confinement for
 16 twenty-five -- confinement for twenty-five years for
 17 each burglary and twenty-four years for each armed
 18 robbery. Those sentences were to run concurrently.

19 And at this time I'll turn it over to the
 20 applicant.

21 THE COURT: All right. Mr. Bordeaux, I'm
 22 going to ask if you could stand up and raise your
 23 right hand as I administer the oath.

24 ANTONIO D. BORDEAUX,
 25 being first duly sworn by the Court, is examined and

LASER BOND FORM B

1 testifies as follows:

2 THE COURT: All right. Before we proceed
3 forward, I understand that you're proceeding forward
4 *pro se*. Do you know that -- you're incarcerated
5 and, clearly, I will make the determination that
6 you're indigent -- if you want a lawyer, I'll
7 appoint one for you. Do you want a lawyer?

8 MR. BORDEAUX: No, sir.

9 THE COURT: All right. You understand
10 that this is a proceeding that's governed by the
11 Rules of Evidence and the Rules of Civil Procedure
12 and that you're going to be held accountable for
13 those rules just as if you were a lawyer? Do you
14 understand that?

15 MR. BORDEAUX: Yes, sir.

16 THE COURT: Do you still want to proceed
17 forward *pro se*?

18 MR. BORDEAUX: Yes, sir.

19 THE COURT: Are you under the influence
20 of any drugs or alcohol here today?

21 MR. BORDEAUX: No, sir.

22 THE COURT: Are you experiencing any kind
23 of physical or mental problem that could prevent you
24 from understanding what we're doing here today?

25 MR. BORDEAUX: No, sir.

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LASER BOND FORM B

1 THE COURT: All right. How far did you
2 go in school?

3 MR. BORDEAUX: I got my GED, sir.

4 THE COURT: Can you read and write?

5 MR. BORDEAUX: Yes, sir.

6 THE COURT: Do you feel like you
7 understand the proceedings that we're going forward
8 with here today?

9 MR. BORDEAUX: Yes, sir.

10 THE COURT: You understand the nature of
11 them?

12 MR. BORDEAUX: Yes, sir.

13 THE COURT: All right. You understand
14 that you only have one PCR? You can't come back and
15 do it again. Do you understand that?

16 MR. BORDEAUX: Yes, sir.

17 THE COURT: Do you still want to go
18 forward?

19 MR. BORDEAUX: Yes, sir.

20 THE COURT: All right. What kind of
21 contact have you had with the criminal justice
22 system? What kind of record do you have? How much
23 have you come to criminal court?

24 MR. BORDEAUX: This will be my third
25 time, sir.

1 THE COURT: Okay. So you have some
2 familiarity with the procedures. Is that correct?

3 MR. BORDEAUX: Yes, sir.

4 THE COURT: All right. I'll allow you
5 to proceed forward *pro se* and be glad to hear from
6 you.

7 MR. BORDEAUX: Yes, sir.

8 I move at this time, sir, to admit -- I
9 have documents I'd like to admit, sir.

10 THE COURT: Okay. All right. What we're
11 going to do, Mr. Bordeaux, is I'm going to ask you
12 to come forward and take the witness stand. I
13 remind you that you're still under oath.

14 ANTONIO D. BORDEAUX,
15 previously duly sworn by the Court, is examined and
16 testifies as follows:

17 THE COURT: All right. Mr. Bordeaux,
18 I'll be glad to hear from you at this time.

19 DIRECT TESTIMONY

20 MR. BORDEAUX: I would like to have a
21 copy of my sentence sheet, and this is the sentence
22 sheet for the burglary second degree, be placed into
23 evidence.

24 THE COURT: Okay.

25 MR. BORDEAUX: That's the only copy I

1 have. I don't have access to a copy machine.

2 THE COURT: All right.

3 MR. BORDEAUX: And also a copy of my
4 indictment for burglary in the first degree...

5 THE COURT: All right.

6 MR. BORDEAUX: --- placed into evidence.

7 THE COURT: Okay.

8 MR. BORDEAUX: And the indictment for
9 burglary in the -- I mean, for armed robbery to be
10 placed into evidence, sir.

11 THE COURT: Very good. All right.

12 Any objection to these items being
13 introduced into evidence?

14 MR. FRIEDMAN: No, Your Honor.

15 THE COURT: All right. Applicant's
16 exhibit number one, two, and three are into evidence
17 without objection from the state.

18 (Applicant's Exhibit No. 1, copy of
19 sentence sheet, burglary second degree, Case No.
20 04-GS-07-00844, is marked for identification and
21 received in evidence.)

22 (Applicant's Exhibit No. 2, copy of
23 indictment, burglary first degree, Case No.
24 04-GS-07-00845, is marked for identification and
25 received in evidence.)

1 (Applicant's Exhibit No. 3, copy of
2 indictment, armed robbery, Case No. 04-GS-07-00846,
3 is marked for identification and received in
4 evidence.)

5 THE COURT: Yes, sir.

6 MR. BORDEAUX: Okay. On or about October
7 19th, that was the day I pleaded guilty to burglary
8 in the second degree, sir; armed robbery, sir.

9 Let the record show that the maximum
10 penalty for burglary in the second degree is fifteen
11 years under South Carolina Code 16 -- you have it up
12 there. That's the only copy I have.

13 THE COURT: All right.

14 MR. BORDEAUX: 16-11...

15 THE COURT: 16-11-0311?

16 MR. BORDEAUX: Yes, sir.

17 THE COURT: Okay. Very good. We can
18 just refer to that as burglary in that indictment.

19 MR. BORDEAUX: Okay. Yes, sir.

20 Also, as you can see, it's clearly in --
21 on the indictment -- I mean, on the plea sheet it
22 was marked fifteen years. And after my signature
23 was presented on it, somebody scratched it out with
24 no signature being initiated by it. I don't know
25 who scratched it out, when it was scratched out.

1 That's why I have got it admitted into evidence,
2 sir.

3 THE COURT: All right.

4 MR. BORDEAUX: Okay. And I took the plea
5 not knowingly and intelligently, because I was
6 sitting there with three codefendants and one of
7 them was pleading out, and on the advice of
8 Mr. Dore, he told me that when the jury get back --
9 we were on our third day of trial -- they're going
10 to know that the guy didn't just disappear. They're
11 going to know that he pled guilty.

12 So I was thinking that it was best to
13 take the plea and which he told me that I could
14 appeal it. I could appeal the plea, hopefully to
15 get a separate trial from my codefendant. Because
16 one was already leaving the table. We were already
17 in the middle of the trial.

18 So I took that upon his advice, but I
19 realize that it wasn't the right thing to do because
20 I lost all my constitutional rights by entering that
21 plea of guilty, sir.

22 And it wasn't in my best interest, nor
23 was it in the best interest of my lawyer to allow me
24 to take that plea, sir. Because from day one is
25 when for Dr. Dore, I kept telling him, I told him

1 that I wanted to go to trial, I was not guilty, sir.

2 But he kept banging it in me. I don't
3 know if it was only because he wasn't properly
4 prepared for trial or what it was. Because my
5 original trial was set for the 11th of October, but
6 Mr. Dore got sick and had to have surgery. So he
7 was hospitalized for a few days.

8 So when I came in, they had a different
9 judge. Mr. Dore explained to me before I took the
10 plea that the state -- one of the state attorneys
11 was -- used to be Mr. Buckner's law clerk that was
12 prosecuting me. So he told me it was like a no-win
13 situation. So listening to counsel's advice.

14 Also, I feel that the law states that I
15 have a right to appeal a guilty plea, which I filed,
16 but I asked -- which I asked Mr. Dore before we left
17 out of the courtroom right over there, right over
18 there, October the 19th, to file an appeal. At no
19 time did he file an appeal.

20 I have a copy of the appeal that I tried
21 to file. I also have the card stamped and dated
22 with a proof of service which then was served. I
23 filed this, sir, on October the 31st, 2005. Could I
24 please have a copy of this placed into evidence,
25 too, sir, Your Honor?

1 THE COURT: Yes.

2 Any objection from the state?

3 MR. FRIEDMAN: No, sir.

4 MR. BORDEAUX: I served a copy of that,
5 sir, on ---

6 THE COURT: Defendant's exhibit number
7 four and five are into evidence without objection.

8 (Applicant's Exhibit No. 4, copy of proof
9 of service, notice of appeal, dated 10/31/05, is
10 marked for identification and received in evidence.)

11 (Applicant's Exhibit No. 5, copy of proof
12 of service, notice of appeal, dated 10/31/05, is
13 marked for identification and received in evidence.)

14 MR. BORDEAUX: I served a copy of that,
15 sir, on Mr. Henry McMaster, which you can tell by
16 the proof of service. I served a copy of that on
17 the Beaufort County Clerk of Court. I served a copy
18 of that on Judge Buckner, and I mailed a copy -- the
19 original copy to the Court of Appeals, sir.

20 And me not being familiar with the legal
21 terminology or whatever, they threw it out, said I
22 didn't file it in time, which it's clearly stated
23 with the proof of service that I filed my direct
24 appeal in time to withdraw my guilty plea, sir, but
25 they never granted it to me, so I brought this as a

1 PCR issue, sir.

2 Also, and when you plead it's a
3 substantial benefit not only for me for the judge to
4 allow me to enter a guilty plea, but also for the
5 state, because a plea is admitting guilt. By me
6 admitting guilt, there should be some kind of
7 substantial benefit in exchange.

8 And what I ended up getting out of that
9 plea was a illegal sentence, sir, and the maximum --
10 almost the maximum penalty for armed robbery if I
11 was to go to trial. And Mr. Washington, my
12 codefendant, he pled to the exact same thing, and I
13 got double his sentence.

14 But if it wasn't for the coercion and
15 persuasion of my attorney, I would have insisted on
16 going to trial. I would have fought because --
17 because I feel that I was not guilty.

18 Also, burglary, on my burglary first
19 degree indictment, under subject matter jurisdiction
20 it states that all -- all of the elements of the
21 crime should be in the indictment, sir.

22 And if I could, for the record, can I
23 read the indictment for burglary in the first degree
24 how it was indicted, sir?

25 THE COURT: I have those documents before

1 me, and those are into evidence just as if they were
2 read into the record.

3 MR. BORDEAUX: Okay. Thank you, sir.

4 Also, on one of my armed robbery charges,
5 I don't know when it was scratched out or how it was
6 scratched out, before the grand jury or after the
7 grand jury, sir, and it was scratched out and a name
8 was replaced by another name.

9 And the law that I read, sir, it should
10 have been typed over and resubmitted to the grand
11 jury. Because I don't know if that was done after
12 the grand jury or when it was done. The day of
13 court? I don't know, sir.

14 My attorney didn't object to that, didn't
15 bring that to my attention. I just learned that
16 when he -- when I wrote to Disciplinary Counsel and
17 him to receive my file.

18 So I don't know exactly how that -- when
19 that was done and whose initials is that beside it,
20 but I know it's not the foreperson, the jury
21 foreperson, the grand jury foreperson. It's not her
22 signature.

23 And I really think that Mr. Dore did not
24 have a proper defense ready for me. With the things
25 he was going through, he had to have -- he was in

1 the hospital a couple days before the trial and
2 wasn't doing much talking during the trial the
3 couple days that we were here, because we -- I asked
4 him to file a severance enjoiner where I could get
5 a separate trial from my codefendant so it wouldn't
6 be like that where we have one attorney speaking,
7 but he never filed that.

8 So, Your Honor, I'm asking that you take
9 into consideration those things and that my plea was
10 not knowingly and intelligently when I pled, and I
11 ask that you vacate my sentence and allow me a new
12 trial, sir.

13 THE COURT: All right. Very good.
14 Anything further?

15 MR. BORDEAUX: Not at this time, sir.

16 THE COURT: All right. Mr. Friedman, you
17 may cross-examine this witness.

18 MR. FRIEDMAN: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. FRIEDMAN:

21 Q. Mr. Bordeaux, at the guilty plea hearing you
22 told the Court that your attorney advised you of the
23 charges, your constitutional rights, and the maximum
24 penalties. Is that correct?

25 A. Yes, sir.

1 Q. You told the Court that you understood that
2 armed robbery carries a maximum sentence of thirty
3 years and a minimum sentence of ten years?

4 A. Yes, sir.

5 Q. You told the Court you understood you would
6 have to serve at least 85 percent of the sentence
7 before being eligible for parole?

8 A. Eighty-five percent of what sentence, sir?

9 Q. Of your armed robbery sentence?

10 A. I don't think he read it to me like that. He
11 read both -- all four indictments to me, sir, at one
12 time and told me that it was a most serious, most
13 serious offense. But burglary second degree is not
14 a most serious offense.

15 That's what the judge told me; it was a most
16 serious offense. But burglary in the second degree
17 under South Carolina Code is not a most serious
18 offense.

19 Q. Okay. But you told the Court you understood
20 that armed robbery was a violent and most serious
21 offense. Is that correct?

22 A. Yeah. I understand armed robbery is a most
23 serious offense.

24 Q. Okay. You also told the Court you understood
25 that burglary first carries fifteen years to life?

1 A. Sir, burglary second was the plea that I was
2 charged -- under the sentence sheet, that's what I
3 signed for, sir.

4 Q. But the indictment was burglary first, and do
5 you remember telling the Court that you knew that
6 burglary first carried fifteen years to life?

7 A. No, sir. I don't remember that, sir.

8 Q. You don't remember that?

9 A. No, sir.

10 Q. If it's in the record, you wouldn't dispute
11 that?

12 A. No. I'm looking at the record now, sir.

13 Q. Okay. Turn to page 26.

14 A. All right.

15 Q. Line ten.

16 THE COURT: Page 26?

17 MR. FRIEDMAN: Page 26, line ten,

18 Your Honor.

19 BY MR. FRIEDMAN:

20 Q. The Court says: "All right, Mr. Bordeaux. Do
21 you understand if I accept your plea to burglary in
22 the first degree which is both violent and most
23 serious that I could sentence you to a term of
24 imprisonment of not less than fifteen years up to
25 life in prison?" And your response was: "Yes,

1 sir"?

2 A. Yes. You said thirty years?

3 Q. "Fifteen years to life"?

4 A. Okay. Yes, sir.

5 THE COURT: Mr. Friedman, the sentence
6 sheet does in fact say burglary second.

7 MR. FRIEDMAN: Yes, sir. Your Honor, I
8 was actually just noticing on page 51 -- I
9 understand the sentencing sheet says burglary
10 second. The sentence was actually for burglary
11 first, and that's -- it's clear in the record that
12 that's what he was pleading to. And I understand
13 that the sentencing sheet says burglary second.

14 THE COURT: That's what he signed and
15 what the judge signed.

16 MR. FRIEDMAN: Yes, sir.

17 THE COURT: It might be a problem.

18 MR. FRIEDMAN: Yes, sir. On page 51 is
19 when he hands down the sentence.

20 THE COURT: What's the law when the
21 record says one thing and the sentencing sheet says
22 another?

23 MR. FRIEDMAN: I'm not certain, Your
24 Honor.

25 MR. BORDEAUX: Under *Thrift vs. State*,

1 Your Honor, if I can, under *Thrift vs. State*, the
2 state has -- the state is binded to that agreement
3 which was signed, which really wasn't erased by not
4 signing fifteen years. Also you can refer to *Thrift*
5 *vs. State...*

6 MR. FRIEDMAN: Your Honor, I don't know
7 the sentencing range for burglary second, but I do
8 know that it says burglary first in the transcript.
9 It says burglary second on the sentencing sheet.

10 Your Honor, the sentence is the same in
11 the transcript as it is on the sentencing sheet. It
12 just says burglary second on the sentencing sheet
13 and burglary first in the transcript. But I don't
14 know if that affects...

15 THE COURT: The CDR code is for burglary
16 second, as well.

17 MR. FRIEDMAN: It is?

18 THE COURT: Yeah. That's a very real
19 problem. And I think this is the first time in my
20 entire life -- I've been practicing law for 20
21 years. I've never actually seen an illegal
22 sentence, and this pretty much sounds like that.
23 What do you think?

24 MR. FRIEDMAN: Yes, Your Honor.
25 Your Honor, I'm not sure of the exact law. I just

1 know the sentence is the same. And I don't know if
2 this sentence is within the range for burglary
3 second or if it is ---

4 THE COURT: Zero to fifteen ---

5 THE CLERK: Zero to ---

6 THE COURT REPORTER: Pardon me.

7 THE COURT: I'm sorry. Everybody, three
8 people talking at one time. The court reporter is
9 good but not that good.

10 I said zero to fifteen, the clerk said
11 zero to fifteen, and the trial counsel ---

12 MR. FRIEDMAN: Trial counsel has informed
13 me it is zero to fifteen, as well.

14 THE COURT: All right.

15 MR. BORDEAUX: Your Honor, may I address
16 the Court?

17 THE COURT: You may.

18 MR. BORDEAUX: That's why, one of the
19 reasons that I believe that Mr. Dore was
20 insufficient. Because when I came up for my plea,
21 Your Honor, he brought that to my attention, that's
22 why I asked him to withdraw my guilty plea, because
23 I was not going to plead to burglary in the first
24 degree, which after that time I don't know who
25 scratched it out, if it was the solicitor, Mr. Dore,

1 or whoever scratched that out. But I see there's
2 some initial beside it, and they scratched out the
3 fifteen years and put twenty-five.

4 THE COURT: Mr. Friedman, one of the
5 things that's a real problem, regardless of who
6 struck it out, you know, the CDR code is burglary in
7 the second degree. And I notice that the sentence
8 at one time was fifteen years which would seem to
9 indicate there was a contemplation of it being
10 burglary second degree.

11 MR. FRIEDMAN: Yes, Your Honor.

12 THE COURT: Then it's been changed to
13 twenty-five.

14 But he is right. There is no initial. I
15 don't think that would be fatally flawed if this was
16 consistent with the transcript.

17 MR. FRIEDMAN: Yes, Your Honor. From
18 what I saw in the transcript, though, I didn't see
19 anything about burglary second. I understand ---

20 THE COURT: I understand all that, but
21 what I'm saying is this right here says different.

22 MR. FRIEDMAN: Yes, sir. I'm just not
23 sure where the discussion of burglary second came
24 up, because I couldn't -- I didn't see anything
25 about it in the transcript, and he pled to burglary

1 first.

2 THE COURT: All right. Anything further,
3 Mr. Bordeaux?

4 MR. BORDEAUX: Not at this time, sir.

5 THE COURT: All right.

6 MR. FRIEDMAN: Nothing further,
7 Your Honor.

8 THE COURT: You may step down.

9 MR. BORDEAUX: Yes, sir.

10 (The applicant rests.)

11 THE COURT: 006 -- I mean, 0086 (sic),
12 burglary second degree violent. Mr. Friedman,
13 what's your understanding as to whether or not
14 burglary second degree is most serious or serious?
15 Well, clearly, it's not most serious.

16 MR. FRIEDMAN: It's not. Your Honor,
17 it's not most serious.

18 THE COURT: I notice that on here that
19 there it is checked most serious.

20 (Mr. Friedman and Mr. Dore confer.)

21 MR. FRIEDMAN: Yes, Your Honor. It's
22 also -- trial counsel pointed out that it's checked
23 as indicted even though he was indicted for burglary
24 first. So I'm not sure who crossed out some of the
25 stuff on here.

1 THE COURT: Say that again, now?

2 MR. FRIEDMAN: On indictment 845,
3 burglary second, it's checked the charge is as
4 indicted.

5 THE COURT: On the indictment?

6 MR. FRIEDMAN: Oh, I'm sorry. On the
7 sentencing sheet for burglary second, it's checked
8 that the charge is as indicted even though the
9 indictment was for burglary first. So that's
10 incorrect, as well.

11 THE COURT: You're absolutely right.

12 MR. FRIEDMAN: It was clearly originally
13 -- it was clearly originally written burglary first,
14 and I'm not sure who crossed out -- crossed it out
15 or why it was crossed out.

16 THE COURT: Mr. Friedman, also, the other
17 burglary second degree has a CDR code of burglary
18 second, and it's got a sentence of twenty-five
19 years. I want you to -- my understanding of the law
20 under the current state law that burglary second
21 degree is fifteen years, up to fifteen years ---

22 MR. FRIEDMAN: I believe that's correct.

23 THE COURT: --- and I think it's parole
24 eligible, as well.

25 MR. FRIEDMAN: I believe that's correct,

1 Your Honor. And not only does it appear ---

2 THE COURT: And it's got most serious
3 checked on this, as well ---

4 MR. FRIEDMAN: And this one ---

5 THE COURT: Most serious and serious.

6 MR. FRIEDMAN: Yes, sir. And this one
7 doesn't appear to be crossed out like the other one.
8 The actual sentence doesn't appear to be crossed
9 out.

10 THE COURT: Well, what's the state's
11 position? Don't you feel as though that's an
12 illegal sentence? You can't get twenty-five under a
13 fifteen-year statute.

14 MR. FRIEDMAN: It would seem like it,
15 Your Honor. My only concern is that it appears that
16 he actually did plea to burglary first, and
17 everything in the transcript reflects that there was
18 never a plea to burglary second.

19 I don't know where that came from on the
20 sentencing sheets. So I don't know if that makes it
21 an illegal sentence, because it appears that he pled
22 to burglary first. It just appears to be a
23 scrivener's error on the sentencing sheet.

24 THE COURT: Well, that's a heck of a
25 scrivener's error.

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MR. FRIEDMAN: Right.

THE COURT: I'll be glad to hear from you.

(Mr. Friedman and Mr. Dore confer.)

MR. FRIEDMAN: Your Honor, I call Mr. Dore to the stand.

THE COURT: Very good. Mr. Dore, if you could come forward and place your left hand on the Bible and raise your right hand.

ANTHONY DORE, ESQ.,
being first duly sworn by the Court, is examined and testifies as follows:

THE COURT: You can have a seat in the witness chair. I ask that you pull up close to the microphone and speak loudly and clearly and slowly, please, sir.

THE WITNESS: Yes, sir.

DIRECT EXAMINATION

BY MR. FRIEDMAN:

Q. Mr. Dore, how long have you been practicing law?

A. I graduated from the University of South Carolina in 1997. So for eleven years.

Q. How much of that time has been in criminal law?

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1 A. My entire practice has been in criminal law.

2 Q. Did you discuss the elements of the charges
3 and what the state was required to prove?

4 A. I did.

5 Q. Did you discuss the facts of the case with the
6 applicant?

7 A. I did.

8 Q. Did you discuss possible defenses?

9 A. We did discuss those.

10 Q. Did you inform the applicant of his
11 constitutional rights?

12 A. I certainly did.

13 Q. Did you enter plea negotiations on behalf of
14 the applicant?

15 A. I did.

16 Q. And what did the state offer?

17 A. The state offered a plea of burglary first --
18 two counts of burglary first, two counts of armed
19 robbery. In exchange, they were willing to dismiss
20 a murder indictment.

21 Q. And was there a negotiated sentence?

22 A. The negotiated sentence for a cap of
23 twenty-five years.

24 Q. And it was your understanding that he was
25 pleading to burglary first?

1 A. That was my understanding.

2 Q. And armed robbery? Did you discuss the plea
3 negotiations with the applicant?

4 A. I did. This was a three-day trial we started.
5 From the very beginning, there was at least one
6 codefendant that began to cooperate with the state.
7 When the trial commenced, some of the other
8 codefendants began plea negotiations, and we felt
9 like it was in our best interest for Mr. Bordeaux to
10 plead guilty.

11 Q. Did you discuss the consequences of the plea
12 with the applicant?

13 A. I did.

14 Q. Did the applicant ever indicate that he wanted
15 to go to trial?

16 A. He did indicate that he wanted to go to trial
17 initially. And like I said, we started the trial,
18 and we were in the third day of the trial at the
19 time he decided to change his mind and plead guilty
20 and then went through.

21 Q. Whose decision was it to plead guilty?

22 A. It was his decision.

23 Q. And why did you not object to the sentence
24 that was handed out?

25 A. I think the sentence was within the

1 negotiations. We had negotiated for a cap of
2 twenty-five years, and the judge found in his
3 discretion that twenty-five years was appropriate
4 under the circumstances.

5 Q. Did the applicant ask you to file a notice of
6 appeal?

7 A. No, he did not.

8 Q. If he had asked you, would you have filed it?

9 A. Certainly.

10 MR. FRIEDMAN: I have nothing further,
11 Your Honor.

12 THE COURT: Do you have any questions of
13 this witness?

14 MR. BORDEAUX: Yes, sir.

15 THE COURT: All right.

16 CROSS-EXAMINATION

17 BY MR. BORDEAUX:

18 Q. Mr. Dore.

19 A. Yes, sir.

20 Q. On that third day of trial, that morning you
21 came to me and you said that Mr. Washington --
22 Mr. Washington was accepting a plea, and you said
23 the only reason -- way the state would give him a
24 plea if I was to plead out, too. Am I right? Am I
25 correct?

1 A. That's not my recollection.

2 Q. Okay. Do you remember me, you, and my mother
3 went over there during -- before the trial. Judge
4 Buckner came in here. Mr. Grayson escorted us over
5 there because you said you wanted to talk to me, and
6 I told you right here that I was not going to accept
7 a plea?

8 A. That was true. But what happened was, there
9 were several times during our discussions that you
10 said you weren't going to -- that you did not intend
11 to plead guilty. Ultimately, what happened was, my
12 understanding and my recollection was that when the
13 codefendants during mid-trial decided that they
14 would plead and testify against you, I think that
15 that was something that entered into your decision
16 to change your mind.

17 Q. Do you remember me telling you that I wanted
18 to go to trial from day one?

19 A. Yes.

20 Q. And that I was not going to accept no plea so
21 don't even negotiate no plea?

22 A. That's true.

23 Q. Okay. And but your coercion when you -- you
24 told me that the law -- that the prosecutor over
25 there used to be the judge's law clerk and I had no

1 way of winning the case with the codefendants,
2 because do you remember telling me that if
3 Mr. Washington leaves the table it's only going to
4 be me and Mr. Alston left?

5 A. I do recall telling you that.

6 Q. And that probably the jury will find me guilty
7 because they would know that the guy didn't just
8 magically disappear? Mr. Washington?

9 A. I felt like there was overwhelming evidence of
10 your involvement in this crime, not only based on
11 the physical evidence but from testimony that would
12 have come from your codefendants that were
13 cooperating with the state.

14 Q. I don't remember you telling me about any
15 physical evidence they had on me, sir. Could you
16 let me know what physical evidence you recall
17 telling me about in this case?

18 A. There was a lot of evidence of your
19 involvement in this crime which was corroborated by
20 codefendant testimony as far as the time line of
21 what had happened during this night, from receipts
22 found in the hotel rooms and other physical
23 evidence.

24 Q. Receipts found in a hotel room, you say that
25 was physical evidence linking me, sir?

1 A. I believe that that was evidence that was
2 corroborated by codefendants of what had happened
3 prior to this armed robbery, burglary first, and
4 murder.

5 Q. Because I remember the discussion we had and
6 -- well, you never recollect telling me about any
7 kind of physical evidence at all. Reading through
8 all these papers that you sent me, that you didn't
9 -- never told me about any physical evidence that
10 they had linking me. You were telling me about
11 codefendant testimony, but I don't recall you ever
12 telling me about physical evidence.

13 Also, Mr. Dore, on that indictment for armed
14 robbery, I see that my name was scratched out in
15 that indictment. Could you tell me why didn't you
16 object to that in open court, sir? Was that
17 scratched out before it was submitted to the grand
18 jury or after?

19 A. I think that that was scratched out prior to
20 indictment.

21 Q. Well, I don't really need you to think,
22 Mr. Dore. I need the facts. Do you know if that
23 was scratched out before or after, sir?

24 A. That's my recollection, that it was done prior
25 to indictment, at the time the indictment was

1 prepared.

2 Q. Okay. I believe the case law states that it
3 should be retyped, sir, and resubmitted to the grand
4 jury if there's any kind of error. Are you trying
5 to tell me that they took a piece of paper and
6 scratched out, but they could have typed it over and
7 took it to the grand jury, sir? Is that what you're
8 telling me?

9 A. I think the indictments are amended, you know,
10 frequently.

11 Q. Constructive amendment?

12 A. I'm sorry?

13 Q. Did you ever go over the grand jury's record
14 to see if that was scratched out before or after?

15 A. No, I didn't.

16 Q. Review it?

17 A. No. But I went over the indictments with you
18 in depth prior to your guilty plea, and we discussed
19 this for a substantial period of time.

20 Q. Yeah. I don't really ---

21 A. I think that you and I -- my recollection was
22 that you and I read over the indictment previous to
23 us filling out the sentencing sheet and you signed
24 it. As a matter of course, I would always in every
25 case, especially in a case as serious as this one,

1 review a copy of the indictment with my client.

2 Q. Right. But if I had went over the indictment,
3 sir, I believe I wouldn't even have pled to burglary
4 in the first degree because that indictment states
5 -- it doesn't even have the elements of burglary in
6 the first degree when it was presented to the grand
7 jury.

8 One of the key elements of burglary in the
9 first degree, sir, is at night, dark. There's
10 nothing in that indictment that states dark, at
11 night, in the early morning. It don't have no time
12 or nothing, sir.

13 So I believe that you weren't properly ready
14 to defend me because you didn't even challenge that,
15 sir.

16 THE COURT: Mr. Bordeaux.

17 MR. BORDEAUX: Yes, sir.

18 THE COURT: One of the things, the rules
19 require that you ask a question.

20 MR. BORDEAUX: Oh.

21 THE COURT: What you're doing is very
22 similar to testifying. So if there is a question in
23 there, pose it to him.

24 MR. BORDEAUX: Okay.

25 BY MR. BORDEAUX:

1 Q. Why didn't you challenge the burglary in the
2 first indictment, Mr. Dore?

3 A. I think that the indictment could have been
4 challenged. In this case, you opted to plead
5 guilty. I don't think that the -- the indictment
6 could have been amended.

7 It's obvious that the indictment does not
8 mention that it happened in the nighttime, and I
9 think that is a flaw. However, I think that the
10 indictment could have very easily been amended and
11 reindicted.

12 And oftentimes individuals waive the right to
13 be -- to have their case re-presented if it's their
14 intention to plead guilty and want to go forward
15 with a guilty plea at the time that it's offered by
16 the state.

17 Q. Well, I told you, Mr. Dore, during the trial
18 and before the trial, do not negotiate a plea with
19 the state. Didn't I tell you that, sir?

20 A. Initially you did tell me not to negotiate a
21 plea with the state. However, the state made
22 certain offers which you told me that you wanted to
23 accept, and that is why the judge asked you on the
24 record, and on the record you told him that you
25 wanted to plead guilty, freely and voluntarily,

1 without coercion, and that you talked to your lawyer
2 as long as you wanted to talk to him, that he'd
3 answered all of your questions, and that it was your
4 decision after talking with him to plead guilty.

5 Q. Do you feel that you gave me the -- the
6 requisite knowledge of the constitutional rights
7 that I will forfeit by pleading guilty, Mr. Dore?

8 A. Certainly not only did I advise you of your
9 rights, but the judge asked you of your rights on
10 the record at the time of your guilty plea. He
11 asked you in front of the -- in an open courtroom
12 what -- and told you what your rights were and asked
13 you if you realized that by pleading guilty you were
14 giving up those constitutional rights, and on the
15 record you said that you did understand your rights
16 and that you wished to give those rights up and
17 enter a plea of guilty.

18 Q. Within the last six or seven months, I just
19 realized what rights that I lose by pleading guilty.
20 I didn't really understand what a guilty plea was
21 until I started reading the law books on what a
22 guilty plea was.

23 A. Well, I advised you of what a guilty plea was,
24 and the judge advised you. And my recollection was
25 this was not the first time you had pleaded guilty

1 in court. I think I've represented you on a charge
2 similar to this before.

3 Q. No, you never represented me on a charge
4 similar to that before. Those are the only charges
5 you ever represented me on.

6 A. Well, you had been involved in a similar
7 situation before.

8 THE COURT: Once again, Mr. Bordeaux, you
9 can't testify. You can ask questions.

10 MR. BORDEAUX: Okay.

11 BY MR. BORDEAUX:

12 Q. Well, Mr. Dore, you don't remember that I
13 asked you on the way out of here, we were standing
14 out there, to file an appeal for me to withdraw my
15 plea?

16 A. No, sir.

17 Q. And you told me that you will see me in the
18 morning?

19 A. Sir, if you had asked me to file an appeal, I
20 would have filed an appeal on your behalf. I
21 promise you that.

22 Q. Okay. See, so I went through all of that and
23 filed a direct appeal, which the Court has a copy of
24 it. I tried to file an appeal to withdraw my plea,
25 which was not honored because I didn't -- I didn't

1 find out in time. And I was at Kirkland. And I
2 left the next day. I couldn't get in contact with
3 you the next morning. As soon as I got sent in, I
4 left.

5 THE COURT: Mr. Bordeaux, once again,
6 you've got to ask a question.

7 MR. BORDEAUX: Yes, sir. That's where
8 I'm getting, to the question.

9 BY MR. BORDEAUX:

10 Q. So, Mr. Dore, I did -- I do remember asking
11 you to file an appeal, but you can't recollect me
12 asking you to file an appeal. But do you think that
13 I should have appealed that sentence that was
14 imposed on me?

15 A. I thought that -- I generally was expecting
16 the judge to give you a sentence that was less than
17 25 years, and that was what I hoped for. However, I
18 think that you and I both realized that that was a
19 possibility when the state said that a 25-year
20 sentence would be the max and a cap. And so I hoped
21 that the judge could have given you a reduced
22 sentence.

23 I think that the circumstances that under
24 which you pleaded were very serious. I think you
25 had been charged with murder. An individual died

1 during this incident. And I felt like we had been
2 offered a favorable plea which did not require that
3 you spend a lifetime in prison, that offered you an
4 opportunity to be free at some point.

5 I felt like you were a relatively young
6 person; that if you had received even a twenty-five
7 year sentence that at some point in the future you
8 would be released and have an opportunity to spend
9 some time with your family.

10 And I felt if you had been convicted of murder
11 or burglary in the first degree after a trial that
12 you would have gotten a life sentence. I felt that
13 the judge would have given you a life sentence. And
14 I felt like this was an opportunity for you to get
15 twenty-five years as a maximum.

16 Q. Did me and Mr. Washington plead to the same
17 thing, Mr. Dore?

18 A. My recollection was that the situation between
19 you and Mr. Washington was different in many
20 respects in that there was some question in the
21 state's mind as to who the individual was that
22 actually pulled the trigger and had actually
23 committed the murder during the armed robbery.

24 And I think that based on the state's
25 investigation it was their belief that it was not

1 possible that your codefendant, Mr. Washington, was
2 the person that actually comitted the murder.

3 And so they felt like your sentence should
4 have been substantially more than his, and so that
5 is why his sentence was substantially less, in my --
6 in my own opinion. It was because there was not a
7 possibility based on the evidence that he was
8 actually the shooter, and there was some question
9 about whether or not you were the shooter in their
10 minds.

11 Q. Mr. Dore, do you remember me telling -- you
12 telling me that South Carolina has a law that says
13 the hand of one, the hand of all?

14 A. That is something that we did talk about, yes.

15 Q. And you told me even if I was a mile away but
16 if I was with those individuals that I could be
17 tried for or found guilty for anything that they
18 did, they committed?

19 A. That was something that we talked about, the
20 hand of one, the hand of all, yes.

21 Q. So if I was in the car when this happened, I
22 still could receive the same sentence they got,
23 under the hand of one, the hand of all?

24 A. I think that the -- there was -- the evidence
25 was not -- the evidence presented by the state was

1 not that you were in the vehicle at the time this
2 crime occurred. The evidence presented by the state
3 was that you were actually in the home.

4 MR. BORDEAUX: That's all, Your Honor.

5 MR. FRIEDMAN: Briefly, Your Honor.

6 REDIRECT EXAMINATION

7 BY MR. FRIEDMAN:

8 Q. Mr. Dore, based on your discussions with the
9 applicant, did you feel the applicant had notice
10 from the indictments that he was being charged
11 burglary first and armed robbery, or did he have
12 notice that that's what the indictments were for?

13 A. The indictment is for burglary first. The
14 indictment is in fact missing a critical element for
15 burglary first.

16 Q. And what is that?

17 A. That it occurred at night.

18 Q. And how about the armed robbery indictments?
19 Did he have notice that he was indicted for armed
20 robbery?

21 A. Yes.

22 Q. Did the applicant, did he maintain his
23 innocence to you?

24 A. He advised that he wanted to plead guilty.
25 That's what he advised me.

1 MR. FRIEDMAN: Nothing further, Your
2 Honor.

3 (The respondent rests.)

4 THE COURT: Mr. Friedman, I was looking
5 at this armed robbery sentencing sheet. I think
6 that it's very clear that the fact that it's a
7 violent offense and most serious offense is not
8 checked on this one either. Is the CDR code right
9 for the armed robbery?

10 MR. FRIEDMAN: I seem to be missing one
11 of the sentencing sheets. Your Honor, the one armed
12 robbery sentencing sheet that I'm looking at has
13 most serious checked and violent is checked. I may
14 have misplaced the other one.

15 (The Court reviews documents.)

16 THE COURT: I notice that one armed
17 robbery has got -- well, on the armed robbery sheet
18 it does not reflect that it's a most serious offense
19 on mine.

20 MR. FRIEDMAN: Your Honor, I've got a
21 copy of my sentencing sheet. Do you have this one?

22 (The Court further reviews documents.)

23 THE COURT: He did indeed plead to two
24 counts of armed robbery?

25 MR. FRIEDMAN: Yes, sir, he did.

1 THE COURT: 846, do you have one for 846?

2 MR. FRIEDMAN: 846, yes.

3 THE COURT: See, that one doesn't have
4 it.

5 (The Court further reviews documents.)

6 THE COURT: Anything further,
7 Mr. Friedman?

8 MR. FRIEDMAN: Your Honor, I'd just put
9 on the record that from looking through the
10 transcript it appears that his codefendant,
11 Mr. Washington, he pled to burglary second, and the
12 court pointed out that the state had less evidence
13 against him, and he received a lesser sentence. But
14 I don't know if somehow the sentencing sheets could
15 have been confused and they wrote burglary second on
16 Mr. Bordeaux's sentencing sheets, because it's clear
17 from the transcript that he pled to burglary first.

18 I understand that's a -- that would be a
19 huge scrivener's error for it to have it on two
20 indictments, I'm not sure the likelihood of that,
21 but it could have been confusing based on his
22 codefendant pleading to burglary second.

23 THE COURT: Anything further,
24 Mr. Bordeaux?

25 MR. BORDEAUX: No, sir, Your Honor.

1 (The Court further reviews documents.)

2 THE COURT: Madam Court Reporter, I want
3 a copy of these exhibits since it's the only copy,
4 and I want a copy of those, all those exhibits.

5 Mr. Bordeaux, I'm going to review the
6 record, I'm going to review the law, and study this
7 and contemplate this a little bit. I will, indeed,
8 notify you as to my decision. Good luck to you.

9 MR. BORDEAUX: Yes, sir.

10 (Whereupon, the hearing is concluded at
11 approximately 10:50 a.m.)

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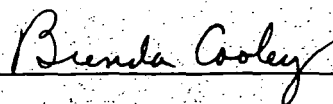
25

1 CERTIFICATE OF THE COURT REPORTER
2

3 I, the undersigned, Brenda Cooley, Court
4 Reporter for the Ninth Judicial Circuit of the State
5 of South Carolina, do hereby certify that the
6 foregoing is a true and accurate transcript of
7 record of the proceedings had and the evidence
8 introduced in the hearing of the captioned case,
9 pages 3 through 42, inclusive, relative to appeal,
10 in the Court of Common Pleas for Beaufort County,
11 South Carolina, on the 18th day of April 2008.

12 I do further certify that I am neither of
13 kin, counsel, nor interest to any party hereto.
14
15
16

17 November 28, 2008

18 
19 _____

20 Brenda Cooley

21 Circuit Court Reporter
22
23
24
25

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)
)
Antonio D. Bordeaux, #278545)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS

2006-CP-07-2548

**ORDER GRANTING
POST-CONVICTION RELIEF**

2008 MAY 15 PM 4:04
BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT, S.C.

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed September 29, 2006 and amended January 26, 2007. The Respondent made its Return on June 6, 2007. An evidentiary hearing into the matter was convened on April 18, 2008 at the Beaufort County Courthouse. The Applicant was present at the hearing and represented himself *pro se*. Matthew J. Friedman of the South Carolina Attorney General's Office represented the Respondent.

The Applicant and plea counsel Anthony O. Dore testified at the hearing. This Court had before it the transcript of the guilty plea hearing, the records of the Beaufort County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections, the application and amended application for post-conviction relief, the Respondent's Return thereto, Applicant's *pro se* notice of appeal, and the Order of Dismissal and Remittitur from the Court of Appeals.

PROCEDURAL HISTORY

The records before this Court indicate that the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Beaufort

Certified - A True Copy

Reda Stankurcicene
Elizabeth M. Smith - Clerk of Court
Beaufort County, SC

County Clerk of Court. The Applicant was indicted at the May 2004 term of the Beaufort County Grand Jury for murder, two counts of armed robbery (2004-GS-07-846, 847) and two counts of burglary – 1st degree (2004-GS-07-844, 845). Anthony O. Dore, Esquire, represented him. On October 15, 2005, the Applicant pled guilty to two counts of armed robbery and two counts of burglary – 1st. The Solicitor nolle prossed the murder charge. The Honorable Perry M. Buckner sentenced him to confinement for twenty-four (24) years for each armed robbery and twenty-five (25) years for each burglary- 1st degree, suspended upon the service of twenty (20) years and three (3) years probation. The sentences were to run concurrently.

Applicant filed a *pro se* notice of intent to appeal on October 31, 2005. By Order dated May 23, 2006, the South Carolina Court of Appeals dismissed the appeal for failure to provide a motion to file out of time and to order the transcript out of time. The Remittitur was issued on June 12, 2006.

ALLEGATIONS

The Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel in that plea counsel
 - a. Failed to request that an armed robbery indictment be amended after the victim's name was crossed out and another name was inserted.
 - b. Failed to file a timely appeal on behalf of Applicant.
 - c. Failed to object to sentence imposed.
2. Involuntary guilty plea.
3. Illegal sentence in that the sentencing sheets read "burglary – 2nd degree" but the sentence rendered was greater than the maximum penalty for burglary – 2nd degree.

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 his or her 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 / Involuntary Guilty Plea

The Applicant alleges his guilty plea was involuntary and that he received ineffective assistance of counsel. In a PCR action, “[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence.” Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms and (2) that he was prejudiced by his counsel’s ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). When there has been a guilty plea, the applicant must prove that counsel’s representation was below the standard of reasonableness and that, but for counsel’s unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59, 106 S. Ct. 366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing.

Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)). When a defendant pleads guilty on the advice of counsel, the plea may only be attacked through a claim of ineffective assistance of counsel. Roscoe, 345 S.C. at 20, 546 S.E.2d at 419 (citations omitted).

Applicant alleges that counsel was ineffective for failing to request that an armed robbery indictment be amended after the victim's name was crossed out and another name was inserted. Plea counsel testified that he could have requested that the indictment be amended, but the Applicant indicated to him that he understood the charges and wanted to plead guilty.

This Court finds that the allegations related to the insufficiency of the indictment are without merit. This Court finds that Applicant fully understood the nature of the charges against him. "[A]n indictment passes legal muster when it charges the crime substantially in the language of the statute prohibiting the crime or so plainly that the nature of the offense charged may be easily understood." State v. Tumbleston, 376 S.C. 90, 98, 654 S.E.2d 849, 853 (S.C. Ct. App. 2007) (citations omitted). Tumbleston establishes that an indictment is a notice document. Here, there is no question that the Applicant and plea counsel had adequate notice of what Applicant was being charged with and who the alleged victim of the robbery was before the plea. To the extent that Applicant raises the allegation of lack of subject matter jurisdiction, this Court finds that, under Gentry v. State, 363 S.C. 93, 610 S.E.2d 494 (2005), defects in the indictment do not affect subject matter jurisdiction.

Applicant also alleges that counsel was ineffective for failing to file an appeal on behalf of Applicant. Counsel testified that Applicant never asked him to file an appeal. Counsel asserted that he would have filed an appeal had Applicant asked him to do so.

This Court finds that Applicant is not entitled to a belated direct appeal. The guilty plea

transcript reflects that Applicant told the plea court that he understood his right to appeal the plea or sentence within ten days. There is no evidence that the Applicant asked counsel to file an appeal on his behalf. In Roe v. Flores-Ortega, 528 U.S. 470, 120 S.Ct. 1029 (2000), the United States Supreme Court rejected a bright-line rule that counsel must always file an appeal in a criminal case. Here, the Applicant told the plea court that he understood his appeal rights, but he failed to exercise those rights.

With respect to the Applicant's claims of ineffective assistance of counsel, this Court finds that the Applicant has failed to meet his burden of proof. Since Applicant pled guilty to burglary – 1st degree, counsel was not ineffective in failing to object to the sentence imposed. The Applicant has failed to prove the first prong of the Strickland test, specifically that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that plea counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland, specifically that he was prejudiced by plea counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier, 351 S.C. at 389, 570 S.E.2d at 174.

Illegal Sentence

Applicant alleges that his sentence was illegal because his sentencing sheets read "burglary – 2nd degree" but his sentence exceeds the maximum penalty for burglary – 2nd. This Court agrees with the Applicant.

An examination of the guilty plea transcript reveals that the Applicant was pleading guilty to burglary – 1st degree. However, the sentencing sheets reflect that Applicant pled to

burglary – 2nd. The sentencing range for burglary – 1st is fifteen (15) years to life while the range for burglary – 2nd is zero (0) to fifteen (15) years. The Applicant was sentenced to twenty-five (25) years for each count of burglary.

This Court finds no case law directly on point to determine which takes precedent when a sentencing sheet and plea transcript conflict. This Court finds that the sentencing sheets take precedent over the plea transcript because a sentencing sheet is essentially a contract between the applicant, the applicant's trial counsel, and the court.

Accordingly, this Court finds that Applicant was illegally sentenced and grants Applicant a new trial with regard to the burglary plea.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant is entitled to a new trial based on his illegal sentence for burglary – 2nd degree. This Courts finds that since Applicant pled guilty to burglary – 1st degree, plea counsel was not ineffective for failing to object to the sentence that was imposed. Counsel was also not ineffective for failing to move to quash an armed robbery indictment or for failing to perfect an appeal on behalf on the Applicant.

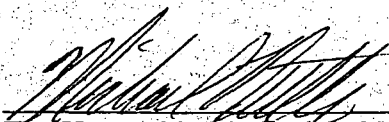
This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of written notice of entry of this Order to secure appropriate appellate

review. His attention is also directed to Rules 203, 206, and 227 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely served and filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be GRANTED; and
2. That the Applicant be granted a NEW TRIAL with regard to the burglary charges.

AND IT IS SO ORDERED this 13 day of May, 2008.


The Honorable Michael G. Nettles
Presiding Judge
14th Judicial Circuit

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF BEAUFORT)	2006-CP-07-2548
)	
)	
Antonio D. Bordeaux, #278545)	
)	
Applicant,)	
)	MOTION TO ALTER OR AMEND
v.)	JUDGMENT PURSUANT TO
)	SCRPC 59(e)
State of South Carolina,)	
)	
Respondent.)	
_____)	

Pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, the Respondent moves this Court to alter or amend the Order granting post-conviction relief, dated May 13, 2008 and received by the Respondent on June 2, 2008. The Respondent would respectfully show unto this Court:

1. The matter is before the Court by way of post-conviction relief (PCR) action filed September 29, 2006 and amended January 26, 2007.
2. An evidentiary hearing was convened on April 18, 2008 at the Beaufort County Courthouse.
3. The Applicant was present at the hearing and represented himself *pro se*. The Applicant testified on his own behalf and his plea attorney, Anthony O. Dore, Esquire, also testified.
4. After a full review of the evidence presented at the hearing, the PCR court issued an Order dated May 13, 2008 granting the Applicant's application for post-conviction relief. This Order was filed on May 15, 2008 and received by the Respondent on June 2, 2008.

5. The Respondent moves this Court to alter or amend the relief granted in the Order.
6. The Applicant was indicted for murder, two counts of burglary – 1st degree (2004-GS-07-844, 845), and two counts of armed robbery (2004-GS-07-846, 847). The Applicant pled guilty as indicted in exchange for a cap of twenty-five years (25), and the Solicitor dropped the murder indictment. (Plea transcript p. 4, lines 8-24). The burglary – 1st degree and armed robbery offenses were violent and most serious. (Plea transcript p. 4, line 25 – p. 5, line 8). The Applicant told the plea court that he understood the maximum penalties for armed robbery and burglary – 1st degree. (Plea transcript p. 22, lines 8-12; p. 26, lines 10-15). The Applicant also told the plea court that he was, in fact, guilty of burglary in the first degree. (Plea transcript p. 35, lines 6-10). The Honorable Perry M. Buckner sentenced Applicant to confinement for twenty-four (24) years for each count of armed robbery and twenty-five (25) years for each count of burglary – 1st degree, suspended upon the service of twenty (20) years and three (3) years probation. (Plea transcript p. 51, lines 13-22). The entire plea transcript is devoid of any indication that Applicant was pleading to burglary – 2nd degree.
7. The Applicant's two sentencing sheets for the burglary – 1st degree indictments read "burglary – 2nd degree" and refer to the Criminal Docket Report (CDR) Code for burglary – 2nd degree. The sentencing range for burglary – 2nd degree is zero (0) to fifteen (15) years. This Court ruled that the sentencing sheets take precedent over the plea transcript. Accordingly, this Court held that Applicant received an illegal sentence. This Court granted Applicant's PCR application and granted him a new trial with regard to the burglary plea.

8. In State v. Sosbee, 371 S.C. 104, 113, 637 S.E.2d 571, 575 (Ct. App. 2006), in which the sentencing sheet listed erroneous charges and CDR codes, the Court of Appeals found that the “sentencing sheet is not part of the indictment and does not affect the nature of the offense charged.” The Court in Sosbee found that the charges and CDR codes listed on the sentencing sheet were the result of scrivener’s errors. Id. Here, the Respondent submits that Applicant’s sentencing sheets for the burglary – 1st degree indictments listed the offense of burglary – 2nd degree as the result of scrivener’s errors. It is clear that the CDR code, the statute, the box for “most serious” offense, and the offense listed were all crossed-out and changed on the burglary sentencing sheets. Both sentencing sheets for burglary are marked “as indicted” and contain the original sentences that were handed down at the plea hearing for burglary – 1st degree. Moreover, both sentencing sheets indicate that the plea was negotiated. The negotiation discussed at the plea hearing was that the Applicant would plead as indicted in exchange for a cap of twenty-five (25) years and the Solicitor would drop the murder indictment.
9. The Respondent submits that the clerical errors may have arisen from confusion surrounding the co-defendant’s pleas. Applicant’s co-defendant, Wesley L. Washington, pled guilty at the same hearing as the Applicant. The co-defendant was indicted for the same offenses as Applicant, but the co-defendant pled guilty to the lesser-included offense of burglary – 2nd degree. (Plea transcript p. 2, lines 8-18). Applicant’s plea counsel requested that Applicant receive a comparable sentence to that of the co-defendant, but the plea judge noted that the Solicitor indicated a difference in accountability for the offenses between Applicant and co-defendant.

(Plea transcript p. 51, lines 1-7). Co-defendant was sentenced to twelve (12) years for each armed robbery and fifteen (15) years for each count of burglary – 2nd degree, suspended upon twelve (12) years service and three (3) years probation. (Plea transcript p. 52, lines 15-24). Thus, the plea judge specifically declined to sentence Applicant and co-defendant comparably. The Respondent would argue that, in light of the co-defendant's plea negotiations, the plea judge mistakenly listed burglary – 2nd degree as the offense on the Applicant's sentencing sheets.

10. When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)). At the PCR hearing, Anthony O. Dore, plea counsel, testified that it was his understanding that Applicant was pleading to two counts of armed robbery and two counts of burglary – 1st degree in exchange for a cap of twenty-five (25) years and the Solicitor would drop the murder indictment. Counsel testified that he and the Applicant went over the indictments at length, and counsel believed that Applicant understood the nature of the charges and the consequences of the guilty plea. The guilty plea transcript reflects that Applicant and plea counsel were questioned about the terms of the plea negotiation and the nature of the charges. Applicant and plea counsel verified that the plea was as indicted.
11. This Court found that an applicant's sentencing sheet takes precedent over the plea transcript because a sentencing sheet is essentially a contract between the applicant, trial counsel, and the court. (Order p. 6). The Respondent would respectfully ask this

Court to alter or amend this ruling. While plea agreements are a matter of criminal jurisprudence, most courts have held that they are subject to contract principles. See, e.g., State v. Miller, 375 S.C. 370, 388, 652 S.E.2d 444, 453 (2007); Reed v. Becka, 333 S.C. 676, 686, 511 S.E.2d 396, 401 (Ct. App. 1999). A defendant accepts a plea “offer” by pleading guilty. Miller, 375 S.C. at 389, 652 S.E.2d at 454 (citing Reed, 333 S.C. at 688, 511 S.E.2d at 403). Here, the record reflects that the solicitor made a plea offer to Applicant in exchange for guilty pleas for burglary – 1st degree and armed robbery, and Applicant unambiguously accepted the offer by pleading guilty to burglary – 1st degree and armed robbery. The contract was completed at the guilty plea proceeding. The agreement became final as soon as the Applicant freely, voluntarily, and knowingly entered his guilty pleas. The Respondent submits that this Court should find that the errors on the sentencing sheet were scrivener’s errors and issue an order correcting the sentencing sheets.

12. WHEREFORE, the Respondent respectfully requests this Court to alter or amend the Order to reflect a finding that discrepancies in Applicant’s sentencing sheets were the result of scrivener’s errors. The Respondent submits that this Court should so find in order to adhere to the accepted plea negotiations. Accordingly, the application for post-conviction relief should be denied and dismissed.

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MATTHEW J. FRIEDMAN
Assistant Attorney General

By: Matthew J. Friedman
ATTORNEYS FOR RESPONDENT

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

6/10, 2008.

14 MF
137

2008 JUN 10 PM 12:52

BEAUFORT COUNTY
COURT
BEAUFORT, S.C.

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
COUNTY OF BEAUFORT)

ANTONIO BORDEAUX #278545) CA/No. 06-CP-07-2548
PETITIONER,)
-V-) NOTICE OF MOTION AND
STATE OF SOUTH CAROLINA; and) MOTION PURSUANT TO:
ATTORNEY GENERAL, HENRY McMASTER) 52(b) & 59(e) SCRPC
RESPONDENT,)
_____)

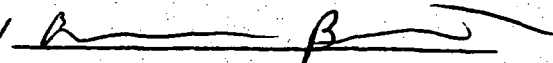
TO: The Honorable Michael G. Nettles, Presiding Judge for the
14th Judicial Circuit.

COMES NOW, Antonio Bordeaux, pro-se, herein after, as
Petitioner who respectfully moves for Your Honor to alter/amend
or reconsider it's Order dated May 13, 2008. The Order was
received on June 02, 2008. (copy of envelope attached).

Petitioner respectfully submits the Orders signed by You
Honor do not reflect the product of a complete review of the
proceedings that were held before Your Honor on April 18, 2008.

THEREFORE, due to the fair administration of justice coupled
with Petitioner's statement of facts and Memorandum of Law in
Support and attached exhibit (B) is prima facie
Petitioner's motion should be granted.

Certified - A True Copy
Elizabeth M. Smith
Elizabeth M. Smith - Clerk of Cou
Beaufort County, SC

Respectfully Submitted,
/s/ 
Antonio Bordeaux #278545

2000 JUN 10 PM 12:52

BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT, S.C.

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
COUNTY OF BEAUFORT)

ANTONIO BORDEAUX #278545) CA/No. 06-CP-07-2548
 PETITIONER,)
 -V-) **MEMORANDUM OF LAW IN SUPPORT**
 STATE OF SOUTH CAROLINA; and) **MOTION TO ALTER/AMEND**
 ATTORNEY GENERAL, HENRY McMASTER) **OR RECONSIDER PURSUANT**
 RESPONDENT,) **TO: 52(b) & 59(e) SCRCP.**

Petitioner, seeks relief in this Court pursuant to S.C.R.C.P. Rules 52(b) & 59(e). This action is imperative in nature due to this Court's order that was issued in the above captioned post conviction relief case number.

PROCEDURAL HISTORY

Petitioner is presently confined in the South Carolina Department of Corrections pursuant to commitment orders of the Beaufort County Clerk of Court.

Petitioner was indicted during the May term of Beaufort County Grand Jury. Petitioner was indicted for murder, two counts of armed robbery (04-GS-07-846,847) and two counts of burglary

1st degree (04-GS-07-844,845).

Petitioner was represented by Anthony Dore, Esq. and ultimately plead guilty to two counts of armed robbery and two counts of 1st degree burglary. The murder charge was nolle prossed.

The Honorable Perry M. Buckner sentenced Petitioner to twenty-four (24) years for each armed robbery, and twenty-five (25) for each 1st degree burglary, suspended upon service for twenty (20) years and three (3) years probation. All sentences were ordered to run concurrent.

Petitioner filed a for direct appeal pro-se, and the appeal was subsequently dismissed for failure to comply with SCACR's. Petitioner then filed for post conviction relief on September 29, 2006 and therein after amended his application on January 26, 2007. An evidentiary hearing was held before Your Honor on April 18, 2008, Petitioner represented himself pro-se. Your Honor therein after issued an order GRANTING post conviction relief. In the order Your Honor [only] granted a new trial on the burglary charges...but apparently Your Honor has over looked critical facts that were addressed at the PCR hearing. In Your Honor's orders on page 4 the order addresses Petitioner's claim of IAC because Counsel did not file an appeal. The order states that Counsel testified that Petitioner had never asked him to file an appeal. The order also says the Petitioner is not entitled to a belated direct appeal. On page 5 the order states that the plea transcript reflects that Petitioner told the plea court that he

understood his right to appeal the plea or sentence within ten days. The order further says there is no evidence that Petitioner never asked counsel to file an appeal. The order also concluded that Petitioner told the plea court that he understood his right to appeal, but he failed to exercise those rights. Your Honor has overlooked the facts of procedural history as outlined on page 2 of Your Honor's order. Petitioner did file a pro-se intent to appeal. And although it was summarily dismissed for deficiencies in the pleadings it in no wise changes the fact that Petitioner had exercised due diligence in trying to preserve what was left of Petitioner's inalienable rights.

Now, in turning to Your Honor's order on page 5 the order states that Petitioner has not met his burden of showing that Counsel was ineffective for failing to object to the sentences imposed by the Court. The order also states that Petitioner failed to present specific and compelling evidence or omissions in Counsel's representation of Petitioner. The order further states that the Your Honor also finds that Petitioner failed to prove the second prong of Strickland, specifically that Petitioner was prejudiced. The order further discusses the "illegal sentence", and the Court [AGREES] with Petitioner. Clearly if the Court agrees with Petitioner that the sentences imposed are illegal, then clearly Counsel was ineffective for failing to "object" to the sentences imposed. Therefore, Petitioner has carried both the burden of showing Counsel's performance when Counsel did not object, also the prejudice prong

is easily met when looking at the illegal sentences themselves.

Now in turning to the heart of Petitioner's issue. Petitioner respectfully asks Your Honor to reconsider the judgement entered in the instant case because of Petitioner's detrimental reliance upon the plea agreement. Your Honor has over turned the burglary sentences for new trial, yet the order does not address the armed robbery charges. With all due respect when Petitioner entered into the plea agreement a contractual basis attached itself to finality. Petitioner gave the State their benefit by pleading guilty...it was a [...]package deal...(emphasis added). When this Court agreed in the order that the sentences for the burglary were illegal, then the whole conviction is wrong and should be vacated. A defendant who relies upon a solicitor's plea agreement by taking some substantial step or accepting serious risk of an adverse result following acceptance of the plea offer. see State v. Vixamar 687 So.2d 300 (Fla. Dist. Ct. App. 1997). Detrimental reliance may be demonstrated where the defendant performed "some part of the bargain". State v. O'Leary 128 N.H. 661, 517 A.2d 117 (1986). This Circuit relied on tent examples of the detrimental reliance standards in Reed v. Becka 511 S.E.2d 396. Analyzing the issue, the North Carolina Supreme Court, in State v. Collins 300 N.C. 142, 265 S.E.2d 172, explicated: "The State may withdraw from a plea agreement at anytime "but not after the defendant has actually entered the plea. While plea agreements are a matter of criminal jurisprudence, most courts have held they are subject to

contract principles. See United States v. Ringling 988 F.2d 504 (4th Cir.), State v. Crocket 110 Nev. 838, 877 P.2d 1077 (1994)(applying general contract principles). Consistently South Carolina case law clearly recognizes that a defendant has the right to enforce a plea agreement. Becka (supra) relying on State v. Gates 299 S.C. 92, 382 S.E.2d 886 (1989) and Jordan v. State 297 S.C. 52, 374 S.E.2d 683 (1988). Although Gates and Jordan are distinguishable from the instant case. In Gates the Solicitor did not attempt to unilaterally withdraw from the plea agreement. The Court ruled the State and the defendant were [bound] by the agreement. The decision by the Supreme Court turned upon a proper interpretation of the plea bargain agreement. Additionally in Jordan the prosecution reneged on the plea bargain after the defendant plead guilty. While in the instant case the threshold question then becomes..."if half of Petitioner's sentence is illegal to the point of reversal then the [entire] sentence and conviction should be vacated".

CONCLUSION

WHEREFORE, Petitioner believes that through the issues of fact and citations of authorities relied on that he has shown Your Honor that he is entitled to the granting of this motion to alter/amend or reconsider as out lined in 52(b) & 59(e) SCRPC.

For the requested relief Petitioner will forever pray.

Respectfully Submitted,

/s/ 

Antonio Bordeaux #278545

STATE OF SOUTH CAROLINA
COUNTY OF Beaufort

IN THE COURT OF COMMON PLEAS
 FAMILY COURT

Antonio Bordeaux #278545 2008 JUN 10 PM 12:51
 Plaintiff

CASE NO.
06-CP-07-2548

BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT, S.C.

v.
State of South Carolina
 Defendant

MOTION INFORMATION FORM
AND COVER SHEET

check box above indicating submitting party

<u>name, S.C. Bar no. and address of plaintiff's attorney</u> Antonio Bordeaux #278545 Pro-Se Petitioner Lieber Corr. Inst. telephone: _____ fax: _____ e-mail: _____ other: _____	<u>name, S.C. Bar no. and address of defendant's attorney</u> S.C. Attorney General P.O. Box 11549 Columbia, SC. 29208 29211 telephone: _____ fax: _____ e-mail: _____ other: _____
---	---

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: _____
Estimated Time Needed: _____ Court Reporter Needed: YES / NO

SECTION II: Motion Type

- Written motion attached
 Form Motion -

I hereby move for relief or action by the court as set forth in the attached proposed order.

Antonio Bordeaux 6-9-08
Signature of Attorney for Plaintiff / Defendant Date submitted

SECTION III: Motion Fee

- PAID - AMOUNT: _____
 EXEMPT: (check reason) Rule to Show Cause in Child or Spousal Support
 Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRPC)
 Proposed order submitted at request of the court; or,
 reduced to writing from motion made in open court per judge's instructions
 Name of Court Reporter: _____
 Other: _____

JUDGE'S SECTION

- Motion Fee to be paid upon filing of the attached order.
 Other: _____

JUDGE _____
CODE: _____ Date: _____

CLERK'S VERIFICATION

DATE FILED

Collected by: _____
(print name)

- MOTION FEE COLLECTED: _____
 CONTESTED - AMOUNT DUE: _____

Antonio Bordeaux #278545
Lieber Corr. Inst.
P.O. Box 205 EA-52
Ridgeville, SC. 29472

RE: CA/No. 06-CP-07-2548

Dear Clerk,

Enclosed for filing please find the original and one copy of my motion and memorandum of law to be filed in the above captioned case number.

Also, a copy of the aforesaid was also served upon the Respondent.

I thank you very much for your time and consideration in this matter.

kindest Regards,

Antonio Bordeaux #278545



STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF BEAUFORT

CA/No. 06-CP-07-2548

ANTONIO D. BORDEAUX #278545.....PETITIONER,

-v-

STATE OF SOUTH CAROLINA; and

ATTORNEY GENERAL, HENRY McMASTER.....RESPONDENT,

2008 JUN 10 PM 12:51
CLERK OF COURT
BEAUFORT, S.C.

**MOTION AND MEMORANDUM OF LAW
IN SUPPORT OF MOTION TO
ALTER/AMEND OR RECONSIDER BROUGHT
PURSUANT TO: 52(b) & 59(e) SCRPC**

Respectfully Submitted,

/s/ 

Antonio Bordeaux #278545

Antonio Bordeaux

State of South Carolina

Plaintiff(s)

Defendant(s)

Check one:

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT** This action came to trial or hearing before the court. The issues have been tried or heard and decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41 (a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate modify arbitration award; Other _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order. (Formal order to follow) Statement of Judgment by the court:

All 59(e) motions are denied without the necessity of a hearing.

Dated at Florence, South Carolina, this 3 day of October 2008

ELIZABETH M. SMITH
BEAUFORT COUNTY S.C.
CLERK OF COURT

2008 OCT -6 PM 1:51

Michael Matthews
PRESIDING JUDGE

This judgment was entered on the 6 day of October 2008, and a copy mailed first class this 20 day of October 2008, to attorneys of record or to parties (when appearing pro-se) as follows.

Antonio Bordeaux

J.C. Van Girkon Alister

Attorney(s) for Plaintiff(s)

Attorney(s) for Defendant(s)

[Signature]
Florence County Clerk of Court

STATE OF SOUTH CAROLINA)
 COUNTY OF Beaufort)
 STATE VS.)
Antonio Dane Bordonar)
 AKA:)
 Race: B Sex: M Age: 21)
 DOB: 11-29-83 SS#: [REDACTED])
 Address: [REDACTED])
 City, State, Zip [REDACTED])
 DL# [REDACTED] SID# [REDACTED])

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2004 -GS- 07 - 00844
 A/W#: H-559058
 Date of Offense: April 16, 2004
 S.C. Code §: 16-11-311
 CDR Code #: 0 / 0 / 7 / 1 / 9
 CASE RESTORED
 SENTENCE
 PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Burglary 2nd Degree in violation of § 16-11-311(b) of the S.C. Code of Laws, bearing CDR Code # 0 / 0 / 8 / 6
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

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

ATTEST [Signature] Solicitor [Signature] Defendant [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 25 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of 20 days/months/years and/or payment of \$ _____, plus costs and assessments as applicable*; the balance is suspended with probation for 3 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 04-05-07-845 847 and 846
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 set by SCDPPPS _____

PTUP _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling
 Random Drug/Alcohol Testing
 Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Recipient:	
*Fine:	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211(A)(1) (Conv. Surcharge)	\$100 <u>\$100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§ 35.13 (Public Def/Prob)	\$500 \$ _____
§73.3, 1B TP (Law Enforce. Funding)	\$25 <u>\$25.00</u>
§33.7, 1B TP (Drug Court Surcharge)	\$100 \$ _____
§50-21-114(BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	<u>\$3.75</u>
TOTAL	<u>\$128.75</u>

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

PRESIDING JUDGE [Signature]
 Judge Code: 019 1 2 1 2
 Sentence Date: 10-15-05

[Signature] Clerk of Court/ Deputy Clerk
 Court Reporter: Annette T. Note

Certified - A True Copy
[Signature]
 Elizabeth M. Smith - Clerk of Court
 Beaufort County, SC
 Green - Corrections Canary - Probation

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT
2004-GS-07-00844

At a Court of General Sessions, convened on 05/27/2004 the
Grand Jurors of BEAUFORT COUNTY present upon their oath:

Burglary-1st Deg
=====
16-11-0311

THAT ANTONIO DANE BORDEAUX DID IN BEAUFORT COUNTY ON OR ABOUT APRIL 16, 2004
WILLFULLY AND UNLAWFULLY ENTER THE DWELLING OF JOSE VILLA WITHOUT CONSENT
AND WITH THE INTENT TO COMMIT A CRIME THEREIN AND THE DEFENDANT OR ANOTHER
PARTICIPANT IN THE CRIME WAS ARMED WITH A DEADLY WEAPON. THIS INCIDENT
OCCURRED IN BEAUFORT COUNTY, SC.

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

Randolph Munday

SOLICITOR

ARREST WARRANT

149

H- 559058

STATE OF SOUTH CAROLINA

XX County/ Municipality of Beaufort

THE STATE 200404160411 against

Antonio Dane Bordeaux

Address: [Redacted]

Phone: [Redacted] SSN: [Redacted]

Sex: M Race: B Height: 507 Weight: 165

DL State: NA DL#: NA

DOB: 11-29-83 Agency ORI#: 070000

Prosecuting Agency: BCSO

Prosecuting Officer: C. L. Wilson

Offense: Burglary First Degree

Offense Code:

Code/Ordinance Sec. 16-11-311 CDR: 79

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

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

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Antonio Dane Bordeaux on 5-6-04

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA

XX County/ Municipality of Beaufort

AFFIDAVIT

S.C. Attorney General July 20, 1960 SCCA 518

Personally appeared before me the affiant C. L. Wilson who being duly sworn deposes and says that defendant Antonio Dane Bordeaux did within this county and state on April 16, 2004 violate the criminal laws of the State of South Carolina (or ordinance of XX County/ Municipality of Beaufort) in the following particulars:

DESCRIPTION OF OFFENSE: Burglary First Degree

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

That at approximately 2130 hours on April 16, 2004, the defendant did, at 39 Possum Hill Rd, Burton, SC, commit the offense of Burglary First Degree. The defendant acted with co-defendants in carrying out an armed robbery scheme at said residence. A co-defendant who is familiar with the occupants of said residence knocked on the door and was permitted inside. Once inside, she ascertained that Jose Villa and other occupants had money. She returned outside, signaling the defendant and other co-defendants, who forcibly entered said residence wielding handguns and demanding money. The armed defendant and co-defendants acquired money from the victims at gunpoint. Affiant and others are witnesses to prove the charge.

Sworn to and subscribed before me on 4/23/04 Signature of Issuing Judge (L.S.)

Signature of Affiant Affiant's Address 2001 Duke St Beaufort, SC 29902 Affiant's Telephone 470-3213

STATE OF SOUTH CAROLINA

XX County/ Municipality of Beaufort

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that on April 16, 2004 defendant Antonio Dane Bordeaux did violate the criminal laws of the State of South Carolina (or ordinance of

XX County/ Municipality of Beaufort) as set forth below

DESCRIPTION OF OFFENSE: Burglary First Degree

Now, therefore, you are empowered and directed to arrest the said defendant and bring him before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Signature of Issuing Judge (L.S.) Judge's Address P.O. Box 4865 Beaufort, SC 29903 Judge's Telephone 470-5207 Issuing Court: XX Magistrate Municipal Circuit

RECEIVED

APR 26 2004

Beaufort City Sheriff's Office

ORIGINAL

STATE OF SOUTH CAROLINA)
)
 COUNTY OF Beaufort)
 STATE VS.)
Antonio Done Barbout)
 AKA:)
 Race: B Sex: M Age: 21)
 DOB: 11-29-83 SS#: [REDACTED])
 Address: [REDACTED])
 City, State, Zip [REDACTED])
 DL# [REDACTED] SID# [REDACTED])

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2004 -GS- 07 - 00845
 A/W#: H-559071
 Date of Offense: April 17, 2004
 S.C. Code §: 16-11-311
 CDR Code #: 6 / 6 / 7 / 9
 CASE RESTORED
 SENTENCE
 PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Bursky 2nd Degree
 in violation of § 16-11-311(B) of the S.C. Code of Laws, bearing CDR Code # 0 / 0 / 8 / 6
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

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

ATTEST:
[Signature] Solicitor [Signature] Defendant [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of 30 days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 3
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
 which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 09-GS-07-844, 846, and 847
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
 Department of Corrections.

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms:
 set by SCDPPPS

PTUP _____ days/hours Public Service Employment

Recipient:	
*Fine:	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§ 35.13 (Public Def/Prob)	\$500 \$ _____
§73.3, 1B TP (Law Enforce. Funding)	\$25 \$ <u>25.00</u>
§33.7, 1B TP (Drug Court Surcharge)	\$100 \$ _____
§50-21-114(BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	\$ <u>3.75</u>
TOTAL	\$ <u>128.75</u>

Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling
 Random Drug/Alcohol Testing
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: PROBATION TO START
AFTER SAYING JUDICIAL
ON 2004-GS-07-00846 +
2004-GS-07-0847

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

[Signature] Clerk of Court/ Deputy Clerk
 Court Reporter: [Signature]

PRESIDING JUDGE [Signature]
 Judge Code: 0 / 1 / 1 / 2 / 2
 Sentence Date: 10-19-05

Certified - A True Copy
[Signature]
 Elizabeth M. Smith - Clerk of Court
 Beaufort County, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT
2004-GS-07-00845

151

At a Court of General Sessions, convened on 05/27/2004 the
Grand Jurors of BEAUFORT COUNTY present upon their oath:

Burglary-1st Deg
=====
16-11-0311

THAT ANTONIO DANE BORDEAUX DID IN BEAUFORT COUNTY ON OR ABOUT APRIL 17, 2004
WILLFULLY AND UNLAWFULLY ENTER THE DWELLING OF JUAN ARTURO SANCHEZ-JIMINEZ
WITHOUT CONSENT AND WITH THE INTENT TO COMMIT A CRIME THEREIN AND THE
DEFENDANT OR ANOTHER PARTICIPANT IN THE CRIME WAS ARMED WITH A DEADLY WEAPON
(A GUN). THIS INCIDENT OCCURRED IN THE COUNTY OF BEAUFORT, SC.

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

Randolph M. Munday

SOLICITOR

ARREST WARRANT

152 H-559071

STATE OF SOUTH CAROLINA

XX County/ Municipality of Beaufort 206 4041700 29

THE STATE against

Antonio Dane Bordeaux

Address: [REDACTED]

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 507 Weight: 165

DL State: NA DL#: NA

DOB: 11-29-83 Agency ORI#: 070000

Prosecuting Agency: BC SO

Prosecuting Officer: C. L. Wilson

Offense: Burglary First Degree

Offense Code:

Code/Ordinance Sec. 16-11-311 CDR: 79

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

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

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Antonio Dane Bordeaux on 5-6-04

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA

XX County/ Municipality of Beaufort

AFFIDAVIT

Personally appeared before me the affiant C. L. Wilson being duly sworn deposes and says that defendant Antonio Dane Bordeaux did within this county and state on April 17, 2004 violate the criminal laws of the State of South Carolina (or ordinance of XX County/ Municipality of Beaufort) in the following particulars:

DESCRIPTION OF OFFENSE: Burglary First Degree

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

That just before 0100 hours on April 17, 2004, the defendant did, at 327 Shanklin Rd, Lot #36 (Bent Pines MHP), Burton, SC, commit the offense of Burglary 1st Degree. The defendant acted with co-defendants in carrying out an armed robbery scheme at said residence. A co-defendant who is familiar with the occupants of said residence knocked on the door and was permitted inside. Once inside, she ascertained that the occupants of said residence had money. She returned outside, signaling the defendant and other co-defendants, who forcibly entered said residence wielding handguns and demanding money. The armed defendants acquired money from the victims at gunpoint. During the robbery, one of the victims, Juan Arturo Sanchez-Jiminez, was shot and killed. Affiant and others are witnesses to prove the charge.

Sworn to and subscribed before me on 4/23/04 Signature of Issuing Judge (L.S.)

Signature of Affiant Affiant's Address 2001 Duke St Beaufort, SC 29903 Affiant's Telephone 470-3213

STATE OF SOUTH CAROLINA

XX County/ Municipality of Beaufort

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that on April 17, 2004 defendant Antonio Dane Bordeaux did violate the criminal laws of the State of South Carolina (or ordinance of XX County/ Municipality of Beaufort) as set forth below:

DESCRIPTION OF OFFENSE: Burglary First Degree

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

Signature of Issuing Judge (L.S.) Judge's Address 2001 Duke St Beaufort, SC 29903 Judge's Telephone 470-5207 Issuing Court: X Magistrate

RECEIVED

APR 26 2004

Beaufort Cty. Sheriff's Office

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Beaufort)
STATE VS.)

INDICTMENT/CASE#:

Antonio Dane Bordeaux)

2004 -GS- 07 - 00846

AKA:)
Race: B Sex: Male Age:)

AW#: H-559070

Date of Offense: April 17, 2004

DOB: 11-29-83 SS#: [REDACTED])

S.C. Code §: 16-11-330

CDR Code #: 0 / 1 / 3 / 9

Address: [REDACTED])

CASE RESTORED

City, State, Zip [REDACTED])

SENTENCE

DL# [REDACTED] SID# [REDACTED])

PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Armed Robbery

in violation of § 16-11-330 of the S.C. Code of Laws, bearing CDR Code # 0 / 1 / 3 / 9

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

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

ATTEST:

[Signature]
Solicitor

[Signature]
Defendant

[Signature]
Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 24 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 04-65-07-844, 845, and 847

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

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
Total: \$ _____ plus 20% fee: \$ _____

PTUP _____ days/hours Public Service Employment

Payment Terms:
 set by SCDPPPS _____

Obtain GED _____
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling _____
Random Drug/Alcohol Testing _____
Fine may be pd. in equal, consecutive weekly/monthly
prmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____

Recipient:	
*Fine:	\$ _____
\$14-1-206 (Assessments 107.5%)	\$ _____
\$14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ <u>100.00</u>
\$14-1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
\$56-5-2995 (DUI Assessment)	\$12 \$ _____
\$ 35.13 (Public Def/Prob)	\$500 \$ _____
\$73.3, 1B TP (Law Enforce. Funding)	\$25 \$ <u>25.00</u>
\$33.7, 1B TP (Drug Court Surcharge)	\$100 \$ _____
\$50-21-114(BUI Breath Test Fee)	\$50 \$ _____
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	\$ <u>3.75</u>
TOTAL	\$ <u>128.75</u>

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

PRESIDING JUDGE [Signature]
Judge Code: 0 / 1 / 1 / 2 / 1 / 2
Sentence Date: 10-19-05

Court Reporter: Annette [Signature]
Certified - A True Copy

[Signature]
Elizabeth M. Smith - Clerk of Court
Beaufort County, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT
2004-GS-07-00846

At a Court of General Sessions, convened on 05/27/2004 the
Grand Jurors of BEAUFORT COUNTY present upon their oath:

Robbery/Armed Robbery
=====

16-11-0330(A)

THAT ANTONIO DANE BORDEAUX DID IN BEAUFORT COUNTY, SC, ON OR ABOUT APRIL 17,
2004, WHILE ARMED WITH A DEADLY WEAPON (A GUN), FELONIOUSLY TAKE FROM THE
PERSON OR PRESENCE OF THE VICTIM, Eleazar Munoz ~~JUAN ARTURO SANCHEZ JIMINEZ~~, BY MEANS OF
FORCE OR INTIMIDATION GOODS OR MONIES OF SAID VICTIM.

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

Randolph Munday

SOLICITOR

ARREST WARRANT

H- 559070

STATE OF SOUTH CAROLINA

XX County/ Municipality of

Beaufort

THE STATE 200404170029 against

Address: Antonio Dane Bordeaux

Phone: SSN:

Sex: M Race: B Height: 507 Weight: 165

DL State: NA DL#: NA

DOB: 11-29-83 Agency ORI#: 070000

Prosecuting Agency: BCSO

Prosecuting Officer: C. L. Wilson

Offense: Armed Robbery Offense Code:

Code/Ordinance Sec. 16-11-330 CDR. 139

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

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

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Antonio Dane Bordeaux on 5-6-04

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA

XX County/ Municipality of

Beaufort

Affiant C. L. Wilson personally appeared before me the affiant being duly sworn deposes and says that defendant Antonio Dane Bordeaux did within this county and state on April 17, 2004 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Beaufort) in the following particulars:

DESCRIPTION OF OFFENSE: Armed Robbery

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

That just before 0100 hours on April 17, 2004, the defendant did, at 327 Shanklin Rd, Lot #36 (Bent Pines MHP), Burton, SC, commit the offense of Armed Robbery. The defendant acted with co-defendants in carrying out an armed robbery scheme at said residence. A co-defendant who is familiar with the occupants of said residence knocked on the door and was permitted inside. Once inside, she ascertained that the occupants of said residence had money. She returned outside, signaling the defendant and other co-defendants, who forcibly entered said residence wielding handguns and demanding money. The armed defendants acquired money from the victims at gunpoint. During the robbery, one of the victims, Juan Arturo Sanchez-Jiminez, was shot and killed. Affiant and others are witnesses to prove the charge.

Sworn to and subscribed before me

on 4/23/04

Signature of Affiant

Affiant's Address 2001 Duke St

Beaufort, SC 29903

Affiant's Telephone 470-3213

Signature of Issuing Judge (L.S.)

STATE OF SOUTH CAROLINA

XX County/ Municipality of

Beaufort

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY POLICE AGENCY:

It appearing from the above affidavit that there are reasonable grounds to believe that defendant Antonio Dane Bordeaux did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Beaufort) as set forth below:

DESCRIPTION OF OFFENSE: Armed Robbery

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

Signature of Issuing Judge (L.S.)

Judge's Address 2001 Duke St

Beaufort, SC 29903

Judge's Telephone 470-5207

Judge Code: 112

Issuing Court: [X] Magistrate [] Municipal [] Circuit

Beaufort Cty. Sheriff's Office

ORIGINAL

S.C. Attorney General July 28, 1980 SCCA 618

AFFIDAVIT

RECEIVED

APR 26 2004

STATE OF SOUTH CAROLINA)
)
 COUNTY OF Beaufort)
 STATE VS.)
Antonio Dore Bordeaux)
 AKA:)
 Race: B Sex: M Age:)
 DOB: 11-29-83 SS#: [REDACTED])
 Address: [REDACTED])
 City, State, Zip)
 DL# [REDACTED] SID# [REDACTED])

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2004 -GS- 07 - 0847
 A/W#: H-559054
 Date of Offense: April 17, 2004
 S.C. Code §: 16-11-330
 CDR Code #: 0 / 1 / 3 / 19
 CASE RESTORED
 SENTENCE
 PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Armed Robbery
 in violation of § 16-11-330 of the S.C. Code of Laws, bearing CDR Code # 0 / 1 / 3 / 19
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
 ATTEST: [Signature] Solicitor [Signature] Defendant [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 or a determinate term of 24 days/months/years or under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
 which are incorporated by reference.
 CONCURRENT or CONSECUTIVE to sentence on: 04-05-07-844, 845, and 846
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
 Department of Corrections.

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
 Total: \$ plus 20% fee: \$
 Payment Terms:
 set by SCDPPPS
 Recipient:
 Fine: \$
 14-1-206 (Assessments 107.5%) \$
 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
 14-1-211(A)(2) (DUI Surcharge) \$100 \$
 56-5-2995 (DUI Assessment) \$12 \$
 35.13 (Public Def/Prob) \$500 \$
 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00
 33.7, 1B TP (Drug Court Surcharge) \$100 \$
 50-21-114(BUI-Breath-Test Fee) \$50 \$
 56-5-2942(J) (Vehicle Assessment) \$40/ea \$
 1% to County (if paid in installments) \$ 3.75
 TOTAL \$ 128.75

PTUP days/hours Public Service Employment
 Obtain GED
 Attend Voc. Rehab. or Job Corp.
 May serve W/E beginning
 Substance Abuse Counseling
 Random Drug/Alcohol Testing
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ beginning
 \$ paid to Public Defender Fund
 Other:

Appointed PD or appointed other counsel, \$35.13 TP
 Requires \$500 be paid to Clerk during probation.
 PRESIDING JUDGE [Signature]
 Judge Code: 01011212
 Sentence Date: 10-19-05

[Signature] Clerk of Court Deputy Clerk
 Court Reporter: [Signature]
 Certified - A True Copy
[Signature]
 Elizabeth M. Smith - Clerk of Court
 Beaufort County, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT
2004-GS-07-00847

At a Court of General Sessions, convened on 05/27/2004 the
Grand Jurors of BEAUFORT COUNTY present upon their oath:

Robbery/Armed Robbery
=====

16-11-0330

THAT ANTONIO DANE BORDEAUX, DID IN BEAUFORT COUNTY, SC ON OR ABOUT APRIL 16,
2004, WHILE ARMED WITH A DEADLY WEAPON, (A GUN) FELONIOUSLY TAKE FROM THE
PERSON OR PRESENCE OF THE VICTIM, JOSE VILLA, BY MEANS OF FORCE OR
INTIMIDATION GOODS OR MONIES OR SAID VICTIM.

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

Randolph M. Munday

SOLICITOR

ARREST WARRANT

H- 559054

STATE OF SOUTH CAROLINA

County/ Municipality of Beaufort

THE STATE against

Antonio Dane Bordeaux

Address: Phone: SSN: Sex: M Race: B Height: 507 Weight: 165 DL State: NA DL #: NA DOB: 11-29-83 Agency ORI#: 070000 Prosecuting Agency: BCSO Prosecuting Officer: C. L. Wilson Offense: Armed Robbery Offense Code: Code/Ordinance Sec. 16-11-330 CDR: 139

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

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

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Antonio Dane Bordeaux on 5-6-04

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA

County/ Municipality of Beaufort

AFFIDAVIT

Personally appeared before me the affiant C. L. Wilson who being duly sworn deposes and says that defendant Antonio Dane Bordeaux did within this county and state on April 16, 2004 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Beaufort) in the following particulars:

DESCRIPTION OF OFFENSE: Armed Robbery

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

That at approximately 2130 hours on April 16, 2004, the defendant did, at 39 Possum Hill Rd, Burton, SC, commit the offense of Armed Robbery. The defendant acted with co-defendants in carrying out an armed robbery scheme at said residence. A co-defendant who is familiar with the occupants of said residence, knocked on the door and was permitted inside. Once inside, she ascertained that Jose Villa and the other occupants had money. She returned outside, signaling the defendant and other co-defendants, who forcibly entered said residence wielding handguns and demanding money. The armed defendant and co-defendants acquired money from the victims at gunpoint. Affiant and others are witnesses to prove the charge.

Sworn to and subscribed before me on Signature of Issuing Judge (L.S.)

Signature of Affiant Affiant's Address 2001 Duke St Beaufort, SC 29902 Affiant's Telephone 470-3213

STATE OF SOUTH CAROLINA

County/ Municipality of Beaufort

ARREST WARRANT

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

It appears from the above affidavit that there are reasonable grounds to believe that on April 16, 2004 defendant Antonio Dane Bordeaux did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Beaufort) as set forth below.

DESCRIPTION OF OFFENSE: Armed Robbery

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

Signature of Issuing Judge Judge Code: 812

Judge's Address P.O. Box 4865 Beaufort, SC 29903 Judge's Telephone 470-5207 Issuing Court: Magistrate Municipal Circuit

Form Approved by S.C. Attorney General July 28, 1990 SCCA 518

RECEIVED

APR 26 2004

Beaufort Cty. Sheriff's Office

CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 11/28/06
 OMCOMITA RELEASE DATE SCREEN C024686
 SCDC# > 278545 LOC: LIEBER
 BORDEAUX, ANTONIO D SCDC CLASSIFICATION..: VIOLENT
 SEXUAL REGISTRY..: N
 SEXUAL PREDATOR..: NOT APP
 OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE DNA STATUS.....: COMPLETED
 GPS REQUIREMENT...: N
 CURRENT SENTENCE: 024-00-000 CONSECUTIVE SENTENCE ...: N
 CURRENT SENT START DATE: 05/06/2005
 PROJECTED COMPLETION DATES
 MAXOUT DATE: 09/23/2025 CURRENT EWC ..: 3 F 5
 YOA SIX YEAR DATE: / / CURRENT EEC ..: NOT CURRENTLY EARNING EEC
 INITIAL PAROLE DATE: 00/00/0000 NEXT PAROLE HEARING DATE: 00/00/0000
 TOTAL GT DAYS EARNED: 000000 LABOR CREW/WORK PROG DATE: 99/99/9999
 TOTAL EARNED WORK CREDITS ...: 000134 LABOR CREW DISQ REASON:
 TOTAL EDUCATION CREDITS: 000000 CATEGORY 4 OR 5 OFFENSE
 TOTAL EXTRA EARNED CREDITS ..: 000
 TOTAL SERVICE TIME EARNED ...: 000562

PFKEYS: 5:HISTORY OF DATE CHANGES
 4-© 1 Sess-1 167.7.50.33 TNET1409 3/11

278545 BORDEAUX, ANTONIO D
OFFENSE TYPE: ADULT-STRAIGHT SENTENCE
INSTITUTION: LIEBER CORRECTIONAL INST.
SECURITY/CUST.: 3 MINIMUM IN
INCARC SENT.: 24 YRS 0 MOS 0 DYS
REAL MONITORING: NO
CLASS: 2 MED PROB/NO WORK RESTRICT
AL CLASS: NMH (NO MENTAL HEALTH TRE
TMENT PROGRAM.: COURT-ORD ATU
... 22

DORM.....: EA0061A
TOBACCO USER....: Y
PROJ MAXOUT DATE: 09/23/2025
PROJ PAROLE DATE: 00/00/0000
EWC JOB.: CARPENTER HELPER
EDUC PGM.: NO CURR EDUC PROGRAM
EWC LEVEL: 3F5 EEC LEVEL:
ASSIGNMENT.: MAINTENANCE

ADDITIONAL NUMBERS:
78545

SENTENCE	SENTENCE
YRS MOS DYS COUNTY	START U/VU CAT INDICT
24 0 0 BEAUFORT	05/06/2005 U 4 04GS07-0846
20 0 0 BEAUFORT	05/06/2005 U 4 04GS07-0844
OFFENSES UNDER PREVIOUS NUMBER: Y00278545	
0 0 0 BEAUFORT	09/18/2001 N 3 01GS07-1683
4 0 0 BEAUFORT	07/11/2001 N 2 01GS07-2087

NO COMMITMENTS OVER 90 DAYS:
INMATE HAS NO PRIORS*

CRIMINALS (HOLD, WANTED, NOTIFY):	NOTIFY	OPEN ARREST NOTIFICATION	CATEG:
MURDER	NOTIFY	OPEN ARREST NOTIFICATION	CATEG: 5
ESCAPE FROM JUSTICE	NOTIFY	OPEN ARREST NOTIFICATION	CATEG: 4
ASSAULT & BATT W/INTNT KILL	NOTIFY	OPEN ARREST NOTIFICATION	CATEG: 4
ARMED ROBBERY	NOTIFY	OPEN ARREST NOTIFICATION	CATEG: 4
BURGLARY-1ST DEGREE	NOTIFY	OPEN ARREST NOTIFICATION	CATEG: 4

REMARKS:
04/28/04 OTHER ESCAPE RELATED CODE NOT IN TABLE

ADDITIONAL CHARGES:
NO CRIMINAL CHARGES HISTORY*

MULTI DISCIPLINARIES:		
2/07/05 POSSESSION OF A WEAPON	DROPPED	MAJOR
ASSAULTIVE DISCIPLINARIES:		
2/23/05 DISRESPECT	CONVICTED	ADMIN
2/23/05 OUT OF PLACE	CONVICTED	ADMIN
1/26/03 OUT OF PLACE		OTHER
1/16/03 OUT OF PLACE		OTHER
2/09/02 FALSE STATEMENT TO HARM	CONVICTED	MAJOR
9/02/02 SAFETY REGULATIONS	CONVICTED	MINOR
3/01/02 USE OBSCENE, VULGAR, PROFA	CONVICTED	MINOR
7/24/02 REFUSING OR FAILING OBEY		OTHER
5/07/02 REFUSING OR FAILING OBEY		OTHER
4/30/02 REFUSING OR FAILING OBEY		OTHER
3/13/02 REFUSING OR FAILING OBEY	CONVICTED	MINOR
3/13/02 SAFETY REGULATIONS	CONVICTED	MINOR
3/13/02 REFUSING TO WORK		OTHER
3/11/02 FALSE STATEMENT TO HARM	DROPPED	MAJOR
3/06/02 REFUSING OR FAILING OBEY		OTHER
3/01/02 OUT OF PLACE		OTHER
2/21/02 USE OBSCENE, VULGAR, PROFA		OTHER
2/21/02 USE OBSCENE, VULGAR, PROFA		OTHER
2/21/02 USE OBSCENE, VULGAR, PROFA		OTHER
2/21/02 OUT OF PLACE		OTHER
1/23/02 EVADING A SECURITY DEVIC		OTHER
1/22/02 REFUSING OR FAILING OBEY		OTHER
1/11/02 REFUSING OR FAILING OBEY		OTHER
2/22/01 USE OBSCENE, VULGAR, PROFA		OTHER

278545

BORDEAUX, ANTONIO D

(CONTINUED)

161

1/17/01 INCITING/CREATING A DIST
1/15/01 USE OBSCENE, VULGAR, PROFA CONVICTED

OTHER
MINOR

HISTORY OF MOVEMENTS:

DATE	NAME	STATUS	REASON
11/08/05	LIEBER	INCARCERATED	ADMINISTRATIVE
10/20/05	KIRKLAND	INCARCERATED	R&E PROCESSING
10/20/05	LIEBER	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
PENTER HELPER	06/14/06	00/00/00		3F5
LER	06/13/06	06/13/06	INMATE REQUEST	3F5
LER	03/31/06	06/02/06	INMATE REQUEST	3F5
K	11/17/05	01/11/06	UNSAT JOB PERFORM	3F5
WAKEKEEPER ASSISTANT	10/01/02	01/31/03	RELEASED/PAROLED	3F5
CKMASON HELPER	08/13/02	09/30/02	LATERAL TRANSFER	3F5
WAKEKEEPER ASSISTANT	05/17/02	08/12/02	LATERAL TRANSFER	3F5
CKMASON HELPER	01/15/02	02/18/02	LATERAL TRANSFER	3F5

HISTORY OF EARNED EDUCATION CREDITS:

DESCRIPTION	START DATE	END DATE	TERMINATION REASON
3 - FULL TIME(NO EWC)	04/18/02	05/16/02	COMPLETED EDUC PROGRAM
3 - FULL TIME(NO EWC)	02/19/02	03/16/02	PLACED IN ST/SP CUSTODY
3 - FULL TIME(NO EWC)	11/02/01	01/14/02	LATERAL TRANSFER
3 - FULL TIME(NO EWC)	10/25/01	11/01/01	MI ELIGIBLE FOR LEVEL 2

***** END OF REPORT *****