

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Greenville County
D. Garrison Hill, Circuit Court Judge

RECEIVED

JUN 28 2011

S.C. Supreme Court

TYRONE PERRY EDWARDS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

WANDA H. CARTER
Deputy Chief Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

KAREN RATIGAN
Assistant Attorney General

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

ATTORNEYS FOR RESPONDENT

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF GREENVILLE) COURT OF GENERAL SESSIONS
3) 2008-GS-23-7120
4) 2008-GS-23-7121
5) 2008-GS-23-7119
6)

7 State of South Carolina) TRANSCRIPT OF RECORD
8)

9 -vs-)
10)

11 Tyrone Perry Edwards)
12)

13 -----

14 January 15, 2009
15 Greenville, South Carolina

16 B E F O R E:

17 THE HONORABLE EDWARD MILLER, Judge.

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

19 Doug Webb, Esquire
20 Solicitor for the State

21 Amanda Lackland, Esquire
22 Attorney for Defendant

23 CAROLINE HISKELL
24 Circuit Court Reporter
25

I N D E X

(There were no exhibits or witnesses
presented.)

STATE VERSUS EDWARDS

P R O C E E D I N G S

THE CLERK: Your Honor, Indictment No.

2008-GS-23-6022, Marquesh M.M. Miller, indicted for possession of cocaine base with intent to distribute, pleading to possession of less than one gram of cocaine base. It is a Waiver. Indictment 2008-GS-23-9499, indicted for possession of cocaine base with intent to distribute, pleading to possession of less than one gram of cocaine base. It is a Waiver.

Indictment 2008-GS-23-5080, Dana L. Martin, indicted for shoplifting third or above, pleading to the same. It is a Waiver. Indictment 2008-GS-23-9049 shoplifting third or above, pleading to the same. It is a Waiver.

Indictment 2008-GS-23-3288, 2008-GS-23-3289, 2008-GS-23-3290, Unika Mahone, indicted for unlawful conduct towards a child, pleading to the same on all three and they're all True Bills.

Indictment 2008-GS-23-7120, Tyrone Perry Edwards, Jr., indicted for possession of cocaine base, crack cocaine, pleading to possession of crack cocaine, second. It is a Waiver. Indictment 2008-GS-23-7121, indicted for unlawful carrying of a pistol, pleading to the same. It is a Waiver. Indictment 2008-GS-23-7119, indicted for armed robbery and possession of a weapon

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1 during the commission of a violent crime, pleading to
2 strong armed common law robbery. It is a Waiver.

3 DEFENDANT MARQUESZ M.M. MILLER, DANA L.
4 MARTIN, UNIKA MAHONE, TYRONE PERRY EDWARDS, having been
5 duly sworn, testified as follows:

6 Thank you.

7 THE COURT: How about jail days?

8 MR. WEBB: On Mr. Miller, 47. Ms. Martin, 1
9 day, Ms. Mahone, 19, and Mr. Edwards is 212.

10 THE COURT: In the last 24 hours have you had
11 any drugs, alcohol or medication? Mr. Miller.

12 DEFENDANT MILLER: No, sir.

13 THE COURT: Ms. Martin?

14 DEFENDANT MARTIN: Yes, sir.

15 THE COURT: What did you have?

16 DEFENDANT MARTIN: Ibuprofen and Adorax.

17 THE COURT: What is that?

18 DEFENDANT MARTIN: It's for anxiety.

19 THE COURT: Prescribed by a doctor?

20 DEFENDANT MARTIN: Yes, sir.

21 THE COURT: Have you taken the prescribed
22 dosage in the last two days?

23 DEFENDANT MARTIN: Yes, sir.

24 THE COURT: Does it limit your ability to
25 understand what you're doing?

STATE VERSUS EDWARDS

1 DEFENDANT MARTIN: No, sir.

2 THE COURT: How about you, Ms. Mahone?

3 DEFENDANT MAHONE: No. I had Loritabs for
4 when I got in a fight when my head was hurt.

5 THE COURT: When did you take it?

6 DEFENDANT MAHONE: Like two or three days
7 ago.

8 THE COURT: You okay today? Do you
9 understand what's going on?

10 DEFENDANT MAHONE: Yes, sir.

11 THE COURT: How about you, Mr. Edwards?

12 DEFENDANT EDWARDS: No, sir.

13 THE COURT: Have you ever been treated for
14 the abuse of alcohol, drugs, mental illness or emotional
15 problems? Mr. Miller?

16 DEFENDANT MILLER: No, sir.

17 THE COURT: Ms. Martin?

18 DEFENDANT MARTIN: No, sir.

19 THE COURT: Ms. Mahone?

20 DEFENDANT MAHONE: Yes, sir.

21 THE COURT: What?

22 DEFENDANT MAHONE: (Inaudible).

23 THE COURT: Are you sober today?

24 DEFENDANT MAHONE: Yes, sir.

25 THE COURT: How about you, Mr. Edwards?

STATE VERSUS EDWARDS

1 DEFENDANT EDWARDS: Yes, sir.

2 THE COURT: What did you get treated for?

3 DEFENDANT EDWARDS: I got a certificate right
4 here from --

5 THE COURT: From the jail?

6 DEFENDANT EDWARDS: Yes, sir.

7 THE COURT: For drugs?

8 DEFENDANT EDWARDS: Yes, sir.

9 THE COURT: What did you learn in that class?

10 DEFENDANT EDWARDS: A lot of things, sir.

11 THE COURT: Well, give me a little synopsis.

12 DEFENDANT EDWARDS: It was a Christian based
13 program, God being the focal point, that we should love
14 him and we should take him into your heart.

15 THE COURT: Okay. I guess another part of
16 that program is, don't do drugs.

17 DEFENDANT EDWARDS: Yes, sir.

18 THE COURT: Good to hear it. I understand
19 it's a good program.

20 Mr. Miller, Ms. Martin, and Mr. Edwards, you
21 each have one or more cases that have not been presented
22 to the grand jury. You have an absolute right to require
23 the State to present the cases to the grand jury where
24 they would have to prove more probably than not that a
25 crime was committed and you did it. You want to give that

STATE VERSUS EDWARDS

1 right up which would let you go forward today, Mr. Miller?

2 DEFENDANT MILLER: No, sir.

3 THE COURT: No.

4 DEFENDANT MILLER: I mean, yes, sir.

5 THE COURT: What do you want to do? Do you
6 want to do whatever I want you to do?

7 Listen, do you understand about the grand
8 jury? The grand jury consists of 18 people, and the State
9 is required to present every indictment to the grand jury.
10 At the grand jury hearing, they're allowed to put up
11 hearsay. All they have to show is more probably than not
12 that a crime was committed and you did it.

13 DEFENDANT MILLER: Yes, sir.

14 THE COURT: You're not allowed to be present.
15 You're not allowed to ask question, present evidence,
16 attorney there to represent you. It is a critical stage
17 in the criminal prosecution. The grand jury stands as a
18 barrier between the awesome power of the prosecutor's
19 office and the citizens in this State. Also, it is a
20 barrier between criminal activity and the good citizens in
21 this State.

22 You have a right to require the State to
23 present your cases to the grand jury, and I can't go
24 forward with this case unless it's indicted or you give up
25 your right to require them to present the case.

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1 Now, what do you want to do?

2 Do you want to give that right up?

3 DEFENDANT MILLER: No.

4 THE COURT: Did I confuse you, Mr. Miller?

5 MR. HAMILTON: Your Honor, he's confused. He
6 was in court last week and sat through a long process.

7 THE COURT: Okay. What do you want to do?
8 Why are you here today?

9 DEFENDANT MILLER: I just want to get it over
10 with.

11 THE COURT: How do you want to get it over?
12 How do you expect it to be disposed of today?

13 DEFENDANT MILLER: Come in front of you.

14 THE COURT: Okay, but how? What do you
15 intend to do with these cases?

16 DEFENDANT MILLER: Throw it out.

17 THE COURT: That's some creative thinking
18 there. Realistically, what do you intend to do with these
19 cases?

20 DEFENDANT MILLER: Plead guilty.

21 THE COURT: That's what I'm here to do, but I
22 tell you I can't let you do it because these cases are not
23 indicted unless we can do that and we can forward if you
24 waive your right to require the State to present the case
25 to the grand jury. Do you want to give up that right and

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1 go forward? That's a yes or no question.

2 DEFENDANT MILLER: Yes, sir.

3 THE COURT: How about you, Ms. Martin?

4 DEFENDANT MARTIN: Yes, sir.

5 THE COURT: And Mr. Edwards.

6 DEFENDANT EDWARDS: Yes, sir.

7 THE COURT: Mr. Miller, you're up here
8 08-6022, alleges you did in Greenville County, April 02,
9 '08 possess with intent to distribute a quantity of crack
10 cocaine, pleading to the possession of crack. That
11 carries up to three years, \$5000 fine, do you understand
12 that?

13 DEFENDANT MILLER: Yes, sir.

14 THE COURT: You're also up here 08-9499
15 alleges you did in Greenville County, August 5, '08,
16 possession with intent to distribute a quantity of crack
17 cocaine, pleading to possession of cocaine, and that
18 carries three years and a \$5,000 fine, do you understand
19 that?

20 DEFENDANT MILLER: Yes, sir.

21 THE COURT: Ms. Martin, you're up here on
22 08-5080, alleges that you did in Greenville County on or
23 about May 5, '08 with two prior property offense
24 convictions you shoplifted three Craftsman tool sets, all
25 that valued at less than \$1000 offered for sale by Kmart.

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1 That carries 10 years, do you understand that?

2 DEFENDANT MARTIN: Yes, sir.

3 THE COURT: You're also up here on Indictment
4 '08-6049. That alleges you did in Greenville County,
5 April 21, '08 with two prior property offense convictions
6 you shoplifted a case of Budweiser beer offered for sale
7 by Spinx and that carries 10 years. Do you understand
8 that?

9 DEFENDANT MARTIN: Yes, sir.

10 THE COURT: Ms. Mahone, you're up here on
11 08-3288 alleges you did in Greenville County between
12 January 25 and 29 of '08, being the legal custodian,
13 parent, or guardian placed the child KN in unreasonable
14 risk of harm. That carries 10, do you understand that?

15 DEFENDANT MARTIN: Yes, sir.

16 THE COURT: 08-3290 alleges you did in
17 Greenville County between January 25 and 29 of '08 being
18 the legal custodian, parent, or guardian, TS, you put that
19 child in unreasonable risk of harm. That's 10 years, do
20 you understand that?

21 DEFENDANT MARTIN: Yes, sir.

22 THE COURT: You're also here on 08-3289
23 alleges you did in Greenville County between January 25
24 and 29, '08, while being the legal custodian, parent or
25 guardian, you placed the child SK in unreasonable risk of

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1 harm. That's 10 years, do you understand that?

2 DEFENDANT MARTIN: Yes, sir.

3 THE COURT: Mr. Edwards, you're here on
4 08-7119 alleges you did in Greenville County, March 21,
5 '08 armed with a deadly weapon or alleging you were while
6 having a representation of a deadly weapon, you took by
7 force or intimidation goods or monies, that is US currency
8 from Amir Michael Al-Zaharnah, and that carries 15 years,
9 do you understand that?

10 DEFENDANT EDWARDS: I understand, Your Honor.

11 THE COURT: You're also here on '08-7121
12 alleges you did in Greenville County, June 16, '08
13 unlawfully carry a pistol. That carries a year, do you
14 understand that?

15 DEFENDANT EDWARDS: Yes, sir, Your Honor.

16 THE COURT: You're also up here on Indictment
17 '08-7120 alleges you did in Greenville County, June 16,
18 '08 unlawfully carry a quantity of crack cocaine. That's
19 a second offense carries five years, \$7500 fine, no
20 suspended sentence, no probation, do you understand that?

21 DEFENDANT EDWARDS: Not exactly, Your Honor.

22 THE COURT: Okay. What do you need
23 explained?

24 DEFENDANT EDWARDS: I never possessed crack
25 cocaine on this charge, Your Honor, but I have possession

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1 marijuana with intent to distribute. So I don't
2 understand.

3 THE COURT: You don't have to have the same
4 drug for it to be a second offense.

5 DEFENDANT EDWARDS: I understand.

6 THE COURT: Now, do you understand it?

7 DEFENDANT EDWARDS: Yes, Your Honor.

8 THE COURT: To each of you understanding the
9 nature of the charged against you and the maximum possible
10 punishment, how do you want to plead, Mr. Miller?

11 DEFENDANT MILLER: Guilty.

12 THE COURT: Ms. Martin?

13 DEFENDANT MARTIN: Guilty.

14 THE COURT: Ms. Mahone?

15 DEFENDANT MAHONE: Guilty.

16 THE COURT: Mr. Edwards?

17 DEFENDANT EDWARDS: Guilty.

18 THE COURT: Has anybody forced you in any
19 way, coerced you or threatened you or promised you
20 anything to get you to enter that plea, Mr. Miller?

21 DEFENDANT MILLER: No, sir.

22 THE COURT: Ms. Martin?

23 DEFENDANT MARTIN: No, sir.

24 THE COURT: Ms. Mahone?

25 DEFENDANT MAHONE: No, sir.

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1 THE COURT: Mr. Edwards?

2 DEFENDANT EDWARDS: No, sir.

3 THE COURT: Do you each understand that you
4 have an absolute right to a trial by jury where you would
5 be presumed innocent unless and until the State could
6 prove you guilty beyond any reasonable doubt of each and
7 every element of each and every offense that you are
8 charged with? You'd have a right to confront and cross-
9 examine the witnesses and the evidence put up against you
10 by the State. You would have a right to compel in court
11 all relevant and competent evidence in your own defense or
12 you could remain silent. Your silence could not be held
13 against you and you can never be compelled to incriminate
14 yourself. Do you understand all those rights, Mr. Miller?

15 DEFENDANT MILLER: Yes, sir.

16 THE COURT: Ms. Martin?

17 DEFENDANT MARTIN: Yes, sir.

18 THE COURT: Ms. Mahone?

19 DEFENDANT MAHONE: Yes, sir.

20 THE COURT: Mr. Edwards?

21 DEFENDANT EDWARDS: Yes, sir, Your Honor.

22 THE COURT: And do you want to give up all of
23 those right and enter this plea? Mr. Miller?

24 DEFENDANT MILLER: No, sir. I mean, yes,
25 sir.

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

2 DEFENDANT MILLER: I just go a lot on my
3 mind, Your Honor.

4 MR. MITCHELL: If they Court sees fit to
5 follow the recommendation ---

6 THE COURT: We're going to get there. I got
7 to make sure he knows what he's doing.

8 Do you know what you're doing?

9 DEFENDANT MILLER: Yes, sir.

10 THE COURT: Do you have a driver's license?

11 DEFENDANT MILLER: No, sir.

12 THE COURT: Do you work somewhere?

13 DEFENDANT MILLER: Yes, sir.

14 THE COURT: How old are you, 19?

15 DEFENDANT MILLER: Yes, sir.

16 THE COURT: You understand that you have
17 rights as a citizen, just as a person charged with a crime
18 in this country, you have all those rights that I
19 explained to you, do you understand that?

20 DEFENDANT MILLER: Yes, sir.

21 THE COURT: And you told me you want to plead
22 guilty. Do you want to give up all the rights that you
23 have an enter a plea of guilty?

24 DEFENDANT MILLER: Yes, sir.

25 THE COURT: How about you, Ms. Martin?

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1 DEFENDANT MARTIN: Yes, sir.

2 THE COURT: Ms. Mahone?

3 DEFENDANT MAHONE: Yes, sir.

4 THE COURT: Mr. Edwards?

5 DEFENDANT EDWARDS: Yes, sir, Your Honor.

6 THE COURT: Are you guilty, Mr. Miller?

7 DEFENDANT MILLER: Yes, sir.

8 THE COURT: Ms. Martin?

9 DEFENDANT MARTIN: Yes, sir.

10 THE COURT: Ms. Mahone?

11 DEFENDANT MAHONE: Yes, sir.

12 THE COURT: Mr. Edwards?

13 DEFENDANT EDWARDS: Yes, sir, Your Honor.

14 THE COURT: Are you totally and completely
15 satisfied with your lawyer, Mr. Miller?

16 DEFENDANT MILLER: Yes, sir.

17 THE COURT: Ms. Martin?

18 DEFENDANT MARTIN: Yes, sir.

19 THE COURT: Ms. Mahone?

20 DEFENDANT MAHONE: Yes, sir.

21 THE COURT: Mr. Edwards?

22 DEFENDANT EDWARDS: Yes, sir, Your Honor.

23 THE COURT: Do you have any complaints about
24 the way you were treated or have been treated in your
25 case, Mr. Miller?

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1 DEFENDANT MILLER: No, sir.

2 THE COURT: Ms. Martin?

3 DEFENDANT MARTIN: No, sir.

4 THE COURT: Ms. Mahone?

5 DEFENDANT MAHONE: No, sir.

6 THE COURT: Mr. Edwards?

7 DEFENDANT EDWARDS: No, sir.

8 THE COURT: And have you had enough time to

9 look at the evidence the State has against you,

10 Mr. Miller?

11 DEFENDANT MILLER: Yes, sir.

12 THE COURT: Ms. Martin?

13 DEFENDANT MARTIN: Yes, sir.

14 THE COURT: Ms. Mahone?

15 DEFENDANT MAHONE: Yes, sir.

16 THE COURT: Mr. Edwards?

17 DEFENDANT EDWARDS: Yes, sir.

18 THE COURT: Okay. The State's going to tell

19 us about your case.

20 MR. WEBER: As to Mr. Miller, on April 18th,

21 2008, members of the Greenville County Sheriff's Office

22 conducted a search warrant at 12 Elmwood Avenue, Lot 4, in

23 Greenville County. This defendant was located inside the

24 trailer and a bag containing white rock like substance was

25 located in the living room on the coffee table in close

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1 proximity to this defendant.

2 This defendant was the only one inside the
3 trailer at the time and the bag was laying near some
4 dental jewelry that the defendant claimed. The crack lab
5 tested positive as .16 grams of cocaine base.

6 Your Honor, on August 6, 2008, a deputy of
7 the Greenville County Sheriff's Office made contact with
8 the defendant at approximately 1:30 a.m. on Louis Avenue
9 in Greenville County. This defendant match and individual
10 that had just fled a car stop in the area.

11 This defendant was coming from the area of
12 the car stop and he appeared extremely sweaty and was out
13 of breath. This defendant consented to a search and the
14 deputy located an orange container in his pocket that
15 contained several rock like substances. The rock lab
16 tested positive as .70 grams of cocaine base.

17 There is a recommendation, Judge, and that is
18 YOA suspended to probation.

19 THE COURT: Does he have a record?

20 MR. WEBER: No, Your Honor.

21 THE COURT: Is all that true?

22 DEFENDANT MILLER: Yes, sir.

23 THE COURT: Don't just make it up to make me
24 happy.

25 DEFENDANT MILLER: Yes, sir.

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1 THE COURT: What were you doing out at 1:30
2 in the morning?

3 DEFENDANT MILLER: Nothing, sir.

4 THE COURT: Nothing. You were running from
5 the police. What were you running for?

6 DEFENDANT MILLER: He just came and stopped
7 me. I wasn't running from him.

8 THE COURT: Who were you running from? Why
9 were you sweating?

10 DEFENDANT MILLER: I forgot what I was doing
11 that night, sir.

12 THE COURT: Why would you have crack cocaine
13 in your pocket?

14 DEFENDANT MILLER: I was using it at the time
15 because I had lost my mother and I didn't know what to do.

16 THE COURT: Would your mother want you to use
17 cocaine?

18 DEFENDANT MILLER: No, sir, but it kept the
19 pain off my mind and stuff.

20 THE COURT: All right. What are you doing
21 now?

22 DEFENDANT MILLER: I'm going to school, got a
23 job, trying to do the right thing, take care of my
24 brother.

25 THE COURT: Are you the oldest?

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1 DEFENDANT MILLER: Yes, sir.

2 THE COURT: How many brothers you got?

3 DEFENDANT MILLER: Two.

4 THE COURT: Okay. How old are they?

5 DEFENDANT MILLER: 16 and 9.

6 THE COURT: Are you in school?

7 DEFENDANT MILLER: Yes, sir.

8 THE COURT: Where are you in school?

9 DEFENDANT MILLER: McCalister Square at the
10 Greenville Tech and trying to find me something I can do
11 like a major.

12 THE COURT: Have you graduated high school?

13 DEFENDANT MILLER: That's what they're
14 helping me with now.

15 THE COURT: You think you need a little bit
16 of voc rehab so they can train you up so you can do
17 something or do you want to just stay at Greenville Tech?

18 DEFENDANT MILLER: Stay at Greenville Tech.

19 THE COURT: I'm going to tell you this, you
20 only come into court one time with no prior record so let
21 me suggest you don't ever come back. Okay?

22 DEFENDANT MILLER: Yes, sir.

23 THE COURT: You'd be a lot better off, don't
24 you think?

25 DEFENDANT MILLER: Yes, sir.

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1 THE COURT: YOA not to exceed three,
2 suspended, probation, 30 months, get your GED, substance
3 abuse counseling, random drug and alcohol testing. YOA
4 not to exceed three during suspended during probation.

5 MR. MITCHELL: Your Honor, can you also add
6 house arrest and move so he can go back and forth to work?

7 THE COURT: Well, his bond it off so he can
8 -- he's automatically off of it.

9 DEFENDANT MILLER: Thank you, Your Honor.

10 MR. WEBB: On Mr. Martin, on April 21, 2008
11 at 1:00 a.m., the defendant took a case of beer from the
12 Sphinx station on Washington Street in Greenville County.
13 The clerk tried to stop the defendant but she ran from the
14 store without paying and got into a waiting car. The
15 officers traced the tag number to the defendant's husband.
16 The defendant then admitted her actions to the officer.

17 Then on May 5, 2008, approximately 6:00 p.m.,
18 the defendant took a weed-eater and other tools from Kmart
19 on Sulphur Springs Road in Greenville County. The total
20 value of the tools exceeded \$400. She took the tools and
21 shoved them under the fence in the Garden Center.

22 The loss prevention officer attempted to stop
23 the defendant but she fled and was arrested two blocks
24 away. There is no recommendation.

25 THE COURT: What's her record?

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1 MR. WEBB: 1999, two counts of shoplifting;
2 2002, shoplifting; 2003, shoplifting; 2004, grand larceny;
3 2007, shoplifting.

4 THE COURT: All right, is all that true.

5 DEFENDANT MARTIN: Yes, sir.

6 THE COURT: All right, what you want to tell
7 me, Mr. Warder?

8 MR. WARDER: My client is 37 years old. She
9 works for a cleaning company that cleans offices.
10 Everything at Kmart was really recovered. It was moved
11 and set over by the fence.

12 Your Honor, she has two children, an eight-
13 year-old and a six-month old. The eight-year-old, I got a
14 letter from the elementary school, is an A/B student.
15 She's doing good in that area. She's got a six-month year
16 old child that she has sole custody of.

17 Your Honor, I got letters from the school,
18 church, church members. Everybody thinks she's doing
19 better since this arrest.

20 THE COURT: Why did she did it? Why is she a
21 thief?

22 MR. WARDER: Your Honor, she's a thief, I
23 guess, because that's the way she's learned. She's had
24 some substance abuse problems and some adjustment
25 problems, and she had no money and everything. She

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1 envisioned she wasn't taking that much from people and
2 couldn't afford it, Your Honor.

3 I'd like to see home incarceration considered
4 one of the options for punishment. Obviously, she has to
5 be incarcerated. The benefit of being in society is her
6 six-month old child and being a wife, and trying to start
7 a sound relationship in trying to teach that child better
8 than she done would help a lot.

9 She's, by all appearances, has done a great
10 job with the eight-year-old. She regularly attends school
11 and gets good grades. I think there's something in her
12 family life that's worth saving. I would urge, Your
13 Honor, home incarceration as a way to do that.

14 THE COURT: What's the longest you spend in
15 jail?

16 DEFENDANT MARTIN: Thirty days. Can I speak?

17 THE COURT: Yeah.

18 DEFENDANT MARTIN: A lot of my life has been
19 nothing but shoplifting, Your Honor. The reason for being
20 is the way I was raised. I had two parents that weren't
21 parents other than (inaudible), but unfortunately, I
22 wasn't. When I was caught shoplifting and I got out of
23 jail, May 20th, I went to the doctor because I was hooked
24 on crack cocaine. That's been the biggest majority of the
25 shoplifting in my life also. September 28, crack cocaine.

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1 I tried getting into drug court but I was not accepted.

2 MR. WARDER: She was not excepted because
3 they said she had a mental problem.

4 DEFENDANT MARTIN: On May 20th, when I went
5 to the doctor, I was not only pregnant, but I had three
6 weeks to get ready for my daughter. I was 36 weeks
7 pregnant. I had no idea that I was pregnant. For 12
8 years I was told I could never have kids and June 7th of
9 2000, I was told I was pregnant and had eight weeks to get
10 ready for my first child. I have no one to take my kids.

11 THE COURT: Where's your husband?

12 DEFENDANT MARTIN: He's right here. He works
13 third shift seven days a week, and I am truly truly sorry
14 for my actions. I'm just now starting to live. I feel
15 like now that I've gotten to a family church that have
16 accepted me for who I am.

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

18 DEFENDANT MARTIN: I'm like eight units from
19 having my diploma, and I'm supposed to got the United
20 Ministries between a Monday and a Wednesday. If I come
21 out of this, okay, I can take a placement test for GED or
22 my diploma. I went to the 11th grade at Easley High
23 School.

24 THE COURT: This is No. 6 & 7 shoplifting.

25 DEFENDANT MARTIN: Yes, sir.

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1 THE COURT: Putting on quite a show. Fool me
2 once, shame on you, fool me twice, shame on you, and I
3 will put you under the jail if you come back in front of
4 me.

5 DEFENDANT MARTIN: I won't be back, Your
6 Honor, I promise.

7 THE COURT: I'm just telling you. I'm going
8 to give you eight years provided upon one year in the home
9 incarceration program. Tell me now if you can't do this.
10 It costs \$56 a week.

11 DEFENDANT MARTIN: No, sir. I have no
12 problems with it. I spoke to my lawyer about it.

13 THE COURT: You're in jail in your own house.
14 If you can't do it there, put your toothbrush in your
15 pocket. I got a zero tolerance. You get a year home
16 incarceration, 30 months probation. Get your GED,
17 substance abuse counseling, random drug and alcohol
18 testing, mental health counseling if need; eight suspended
19 during probation.

20 DEFENDANT MARTIN: Thank you, Your Honor.

21 THE COURT: Don't come in here next time
22 using your kids as an excuse.

23 MR. WEBB: Your Honor, on Mr. Mahone, on
24 January 25, 2008, law enforcement was provided information
25 that the defendant's three children, ages 4, 3, and 3

STATE VERSUS EDWARDS

1 months had all tested positive for cocaine. The defendant
2 admitted using powdered cocaine for approximately four
3 years. She indicated that she completed a program but
4 relapsed in November of 2007 and had started back using
5 cocaine and marijuana.

6 The defendant claimed she never used the
7 drugs around her children, but according to a chemist, the
8 defendant repeated touching of the children could cause
9 the children to absorb the drugs through her pores.

10 The defendant tested positive for cocaine.
11 This crime occurred in Greenville County, and there is a
12 recommendation.

13 THE COURT: What is that?

14 MR. WEBB: Six months in jail with probation
15 to follow and credit for time serve, which would be 19
16 days.

17 THE COURT: What's her record?

18 MR. WEBB: She has unlawful use of a
19 telephone in 2004 and 2005, malicious injury to personal
20 property.

21 THE COURT: Is all that true?

22 DEFENDANT MAHONE: Yes, sir.

23 THE COURT: Ms. Manigault.

24 MS. MANIGAULT: Your Honor, we're going to
25 ask you to consider the six months on home incarceration.

STATE VERSUS EDWARDS

1 The solicitor said she wouldn't recommend but she wouldn't
2 object to it if recommended.

3 The children are not with her. They were
4 taken from her for a period of time. They were back with
5 her for approximately three or four months, and they are
6 not with her aunt.

7 She is complying with DSS court orders
8 through family court and her child neglect case is going o
9 be ended with DSS. She has an 11th grade education at
10 Greenville High School. She's 24 years old. Greenville
11 County is her lifelong home, and she has no previous
12 substantial record. Those records that were read were
13 magistrate court charges.

14 We're asking the Court to consider a six
15 month home incarceration followed by probationary
16 sentence.

17 THE COURT: Are you appointed?

18 MS. MANIGAULT: Appointed, Your Honor.

19 THE COURT: What do you want to tell me?

20 DEFENDANT MAHONE: I just made bad decisions
21 over the course of a life and I just want to get my life
22 back together for me and my kids.

23 THE COURT: You don't love your babies?

24 DEFENDANT MAHONE: Yes, sir, I do.

25 THE COURT: How much do you love them?

STATE VERSUS EDWARDS

1 DEFENDANT MAHONE: A lot.

2 THE COURT: Enough for you to change your bad
3 habits?

4 DEFENDANT MAHONE: Yes, sir.

5 THE COURT: Who hit you in the eye?

6 DEFENDANT MAHONE: My boyfriend.

7 THE COURT: Where is he?

8 DEFENDANT MAHONE: He at home I guess.

9 THE COURT: You still with him?

10 DEFENDANT MAHONE: No, sir.

11 THE COURT: Get rid of him. He hit you once,
12 you'll hit you again. Okay.

13 DEFENDANT MAHONE: Yes, sir.

14 THE COURT: Take my word on that. Five years
15 provided upon six months home incarceration. What did you
16 do at Greenville High School?

17 DEFENDANT MAHONE: Nothing.

18 THE COURT: You didn't go to class?

19 DEFENDANT MAHONE: I went to school.

20 THE COURT: At 24, what year would you have
21 graduated?

22 DEFENDANT MAHONE: 2001.

23 THE COURT: Six months home incarceration,
24 balance suspended during probation, two years, get your
25 GED; substance abuse counseling, random drug and alcohol

STATE VERSUS EDWARDS

1 testimony, obey all DSS orders, and \$500 Public Defender
2 Fund, five suspended on probation on the other.

3 MS. MANIGAULT: Thank you, Your Honor.

4 THE COURT: Don't hang around somebody that's
5 going to hit you.

6 MR. WEBB: On Mr. Edwards, on March 21, 2008,
7 the defendant approached the victim in the Sterling area
8 of Greenville County and began punching him in the head.
9 Defendant then through the victim to the ground, produced
10 a dark colored handgun and pressed it to the victim's
11 head. The defendant then continued to hit the victim in
12 the head and told him, "give me your f'ing money."

13 The defendant was joined by three other males
14 who attacked him until he finally gave them his wallet
15 which contained over \$100 and credit cards.

16 The defendant was known to this victim prior
17 to this incident and believes him to be a member of a
18 gang. There are all sorts of noted injuries to the
19 victim's head and his clothing was torn.

20 Then on June 16, 2008 at approximately
21 11:30 p.m., the defendant was stopped on White Horse Road
22 in Greenville County for driving a moped with no lights on
23 it. The officer noticed that wires were exposed on the
24 moped and the defendant did not have any identification so
25 the officer patted him down for weapons and felt that he

STATE VERSUS EDWARDS

1 immediately recognized, through his training and
2 experience, a chunk of crack cocaine in a plastic baggie
3 in the defendant's right front pocket.

4 At this point, the defendant was handcuffed
5 and the officers located a .380 handgun in his left
6 pocket. The substance in the plastic bag turned out to be
7 fake, but in that same pocket was also located a small
8 container with .52 grams of crack cocaine inside.

9 THE COURT: Let me get this straight, he
10 patted him down and the container of the fake drugs, but
11 he didn't feel the gun?

12 MR. WEBB: That's right, Judge.

13 THE COURT: Okay. Is that essentially true
14 what he's told me?

15 DEFENDANT EDWARDS: The beginning, I will not
16 -- if I can elaborate?

17 THE COURT: Yes, sir. Tell me what you did?
18 What did you do in the robbery thing?

19 DEFENDANT EDWARDS: The victim owed money.

20 THE COURT: To who?

21 DEFENDANT EDWARDS: To me because ---

22 THE COURT: You sold him drugs.

23 DEFENDANT EDWARDS: Yeah and he owed money.

24 THE COURT: Okay.

25 DEFENDANT EDWARDS: Yes, sir. I want to

STATE VERSUS EDWARDS

1 change my life ---

2 THE COURT: Wait a minute, I'm going to allow
3 you to tell me all that, but tell me what you did in this
4 thing.

5 DEFENDANT EDWARDS: He owed money. He was
6 going to and fro ignoring me. I was telling him to pay me
7 my money, he wouldn't. I held him by the shirt collar and
8 smacked him a couple of times, and he finally gave me my
9 money and I let him go.

10 THE COURT: Okay. I think that qualifies as
11 a strong armed robbery.

12 DEFENDANT EDWARDS: And the second part was
13 true.

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

15 DEFENDANT EDWARDS: Some college.

16 THE COURT: What college did you go to?

17 DEFENDANT EDWARDS: USC; Upstate it's called
18 now.

19 THE COURT: Does he have a record?

20 MR. WEBBER: Yes, Your Honor. 1999
21 shoplifting; 2004 PWID of a controlled substance. That's
22 it.

23 PROBATION CLERK: He's also on probation for
24 accessory after the fact of murder, PWID, and you
25 sentenced him in 2003. You gave him 10 years suspended on

STATE VERSUS EDWARDS

1 the service of one year HIP with five years probation so
2 there would be a victim in that crime. PWID, two years
3 suspended during probation. There's currently a violation
4 and there's a warrant.

5 THE COURT: Since when?

6 PROBATION CLERK: March of '08 and he got
7 arrested on this one June 17, '08.

8 THE COURT: He got 212 days in jail.

9 PROBATION CLERK: That would be June 17, '08.

10 DEFENDANT EDWARDS: If I may elaborate?

11 THE COURT: Yeah.

12 DEFENDANT EDWARDS: I've been on probation
13 since the age of 19, I think. I did seven years and eight
14 months probation. I didn't complete it so it wasn't good
15 enough. I had acquired Larry Crane at the age of 19 for
16 \$7500, and I bonded out of jail at \$75,000 with the help
17 of my parents.

18 It was an armed robbery. I was the driver.
19 My co-defendant decided to take something out my house and
20 try to rob an innocent victim.

21 I don't know how I charged with accessory to
22 a murder after attempted armed robbery, but that's what
23 happened. It sounds terrible but I haven't attempted to
24 kill anyone.

25 THE COURT: You don't have to be the one

STATE VERSUS EDWARDS

1 killing, you just to got to help somebody out in order to
2 get the charge.

3 DEFENDANT EDWARDS: Nobody died or anything
4 like that.

5 THE COURT: Somebody died.

6 DEFENDANT EDWARDS: If you could investigate,
7 that's why I'm wondering ---

8 THE COURT: No, no, no.

9 DEFENDANT EDWARDS: I'm going to have to do
10 something later on in life as far as that's concerned.

11 THE COURT: What are you going to do?

12 DEFENDANT EDWARDS: No. 1, expunge my record,
13 and No. 2, figure out how I'm getting charged with
14 accessory after a murder when there was no murder case.
15 What it is, is it's classified as being a murder in the
16 book under the statute and the codes or whatever. I don't
17 really understand. I guess I'm going to have to go to law
18 school.

19 THE COURT: That would be great. You'd have
20 to work real hard to get in.

21 DEFENDANT EDWARDS: Thank you, Your Honor.

22 PROBATION CLERK: I says accessory after the
23 fact to murder.

24 THE COURT: Well, it could have been
25 accessory to armed robbery. That's just the way it's laid

STATE VERSUS EDWARDS

1 out, probably not a murder.

2 DEFENDANT EDWARDS: Yes, Your Honor.

3 THE COURT: Well, you're a soft spoken man.

4 DEFENDANT EDWARDS: Just working on being
5 meek so I can be recompensed back to the earth.

6 THE COURT: I'm going to let your mouth piece
7 talk.

8 MS. LACKLAND: Thank you, Your Honor. May it
9 please the Court, Tyrone is 26 years old. He's a lifelong
10 Greenville resident. Like he said, he did attend SC
11 Upstate for a couple of years. He worked at Sunland(ph)
12 Staffing for five years. I think he could potentially go
13 back to that job. He's single. He has one child whose
14 six years old.

15 He told me what he told you about the
16 incident. The victim here owed him some money. He lost
17 his temper. He does tell me now he wouldn't have reacted
18 in the same way, and I have seen his demeanor change
19 dramatically since he was first arrested.

20 He, I think, has made up with the victim.
21 The victim's mother works at the Detention Center. I
22 think they're on good terms as well.

23 He has used drugs in the past, primarily
24 marijuana. He done that for about 10 years, but he did
25 complete Celebrate Recovery. I think he brought his

STATE VERSUS EDWARDS

1 certificate with him here today.

2 He would return to live with his parents upon
3 his release. He has been in jail since June 17th of 2008,
4 and he would respectfully request the Court consider home
5 incarceration for him.

6 THE COURT: No, I don't think I can do that.
7 He's got the probation and you're doing all this on
8 probation. You make big strides and that's impressive.
9 You've got a lot of potential.

10 DEFENDANT EDWARDS: Thank you.

11 Your Honor, may I speak?

12 THE COURT: Yeah.

13 DEFENDANT EDWARDS: If you could extinguish
14 or do away with the current probation and put me back on
15 probation even if you want to give me 30 years of
16 probation and I can't get that completed, that would show
17 some kind of gumption. I'm positive I can complete that.
18 I'll do an internship in your office or anywhere else.

19 THE COURT: Thank you.

20 DEFENDANT EDWARDS: I was telling her with
21 Ph.D from an Ivy League school you probably could handle
22 it.

23 THE COURT: I have a Ph.D? Maybe in a former
24 life.

25 When do y'all got him scheduled for the

STATE VERSUS EDWARDS

1 violation?

2 PROBATION CLERK: As far as I know, he hasn't
3 been.

4 DEFENDANT EDWARDS: My understand, Your
5 Honor, it was today. It was September the 19th and we
6 rescheduled it to today.

7 THE COURT: Let me just think about it.

8 DEFENDANT EDWARDS: Can I get on my knees and
9 beg?

10 THE COURT: No, I'm not letting you do that.
11 You've done all the begging you need to do. I'm going to
12 defer the sentencing and I'll hear the violation of
13 probation and we'll do it all at one time.

14 Ms. Lackland, Larry Crane was the attorney on
15 that case. He may remember something about it. Get me
16 the information on that.

17 MS. LACKLAND: I will do that.

18 THE COURT: I'll see you again.

19 DEFENDANT EDWARDS: Thank you, Your Honor.

20 ---END OF TRANSCRIPT RECORD---

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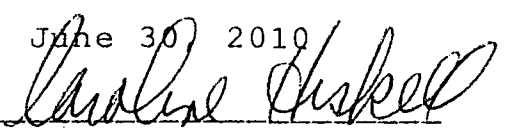
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STATE VERSUS EDWARDS

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I, the undersigned Caroline Hiskell, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court of Greenville County, South Carolina on the 15th day of January, 2009.

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

June 30, 2010

Caroline Hiskell

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

STATE OF SOUTH CAROLINA,

vs.

TYRONE PERRY EDWARDS, JR.,
DEFENDANT.

COURT OF GENERAL SESSIONS

2004-GS-23-7492

2008-GS-23-7119

2008-GS-23-7120

2008-GS-23-7121

TRANSCRIPT OF RECORD

ORIGINAL

March 23, 2009

Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, JUDGE.

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

ALLEN O. FRETWELL, ESQ.
Assistant Solicitor

AMANDA H. LACKLAND, ESQ.
Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits introduced.)

P R O C E E D I N G S

THE COURT: You are Tyrone Perry Edwards?

DEFENDANT EDWARDS: Yes, sir.

THE COURT: Raise your right hand.

WHEREUPON,

TYRONE PERRY EDWARDS,

after first having been duly sworn, testified as follows:

THE COURT: All right. Now, you're here on a couple of matters. You're here, actually, on -- we've got three indictments up here.

But before we get started on that, I want to know, in the last 24 hours, have you had any drugs, alcohol, or medication?

DEFENDANT EDWARDS: No, Your Honor.

THE COURT: You're going to have to speak up.

DEFENDANT EDWARDS: Excuse me. I'm sorry. Yes, sir.

THE COURT: Have you ever been treated for the abuse of alcohol, drugs, mental illness, or emotional problems?

DEFENDANT EDWARDS: Yes.

THE COURT: All right. Tell me.

DEFENDANT EDWARDS: I think there's three different programs I've attended here in the last nine and a half months of being here.

THE COURT: All right. Well, so what are your issues? Are they drugs -- drug related?

1 DEFENDANT EDWARDS: Yeah, substance abuse.

2 THE COURT: All right. Is there any competency
3 questions?

4 MS. LACKLAND: No, Your Honor.

5 THE COURT: None of these indictments have been
6 presented to the Grand Jury. You have an absolute right
7 to require the State to present -- I've already been
8 through all this, haven't I?

9 MS. LACKLAND: Yes, you have, Your Honor.

10 THE COURT: This is a deferred sentencing.

11 MS. LACKLAND: Yes.

12 THE COURT: It has been more than 212 days, though.

13 MR. FRETWELL: Yes, sir. It's 280 days.

14 THE COURT: 280. Now, let me ask you, you've got a
15 couple of probation cases. Have you had a chance to
16 review these reports, probation reports?

17 DEFENDANT EDWARDS: Yes.

18 THE COURT: All right. Do you admit the violations
19 they allege in here?

20 DEFENDANT EDWARDS: Sure.

21 THE COURT: Well --

22 DEFENDANT EDWARDS: Yes.

23 THE COURT: All right. Do you have a legal reason
24 why you violated?

25 DEFENDANT EDWARDS: No.

1 THE COURT: All right. I find he's in willful
2 violation.

3 Now, tell me what the agreement was. Is there an
4 agreement?

5 MR. FRETWELL: No, sir.

6 MS. LACKLAND: No, Your Honor, there's not.

7 THE COURT: All right. Anything you need to tell me
8 about the probation?

9 THE PROBATION AGENT: Well, both of his cases were
10 supposed to end on 11-28-08. So they can't be continued.
11 That's the only thing about whatever sentence you --

12 THE COURT: He's looking at -- he's got -- it looks
13 like one -- he's got nine on one of them and two on the
14 other; is that right?

15 THE PROBATION AGENT: Yes, sir, it is.

16 THE COURT: Okay. Ms. Lackland, what do you want to
17 tell me?

18 MS. LACKLAND: Thank you, Your Honor.

19 May it please the Court?

20 Mr. Edwards is 26 years old. He's a lifelong
21 Greenville resident. He did attend USC Upstate. He's
22 single with one child, who's six years old.

23 Judge, as to the violations, we went over the report.
24 And he tells me that, at the time, he just wasn't fully
25 committed to probation. He was at a different point in

1 his life where he was still using drugs. He doesn't have
2 a real good excuse.

3 He has dramatically changed in his attitude since his
4 arrest on June 17th of this past year. He's completed
5 Celebrate Recovery with Ms. Zeitz [phonetic]. He attends
6 substance abuse counseling. He has a job, he tells me,
7 awaiting for him with Sunland. He worked there five years
8 prior to his arrest. And he has a stable residence with
9 his parents where he would return following his release.

10 Judge, he would respectfully request the Court
11 consider house arrest and continue him on probation
12 following that. He has really changed in attitude. I
13 think he would -- he's really changed.

14 THE COURT: Well, what's his prior record?

15 MR. FRETWELL: Your Honor, starting in 1999, he has a
16 shoplifting; 2003, he has possession of drug
17 paraphernalia, four counts of fraud check --

18 THE COURT: Wait a minute. Okay. Fraud check times
19 four.

20 MR. FRETWELL: And accessory after the fact to an
21 A,B,C felony; 2004, four counts of fraud check, possession
22 of controlled substance with intent to distribute, also,
23 no state driver's license; 2008, false information and
24 failure to use headlights.

25 THE COURT: And the accessory was -- what was the

1 Thank you.

2 THE COURT: All right. Anything else?

3 MR. FRETWELL: No, sir.

4 THE COURT: Tell me, Mr. Fretwell, the facts behind
5 the strong armed robbery.

6 MR. FRETWELL: Your Honor, this was March 21st where
7 the Defendant approached a victim in the Sterling area.
8 He began punching him in the head. The Defendant threw
9 the victim to the ground, produced a dark-colored handgun,
10 and pressed it to the victim's head.

11 The Defendant then continued to hit the victim in the
12 head and told him to give him his fucking money.
13 According to the victim, the Defendant was then joined by
14 three other males, who attacked him until he, finally,
15 gave them his wallet, which contained over \$100 and a
16 credit card.

17 The Defendant was known to the victim prior to the
18 incident and believes him to be the member of a gang. The
19 officers noted injuries to the victim's head and that his
20 clothing was ripped.

21 THE COURT: Okay.

22 MR. FRETWELL: Judge. Just for the Court's
23 information, if he's convicted of accessory after the fact
24 to an A,B,C felony, that would have to be armed robbery.
25 It couldn't be strong armed robbery. Strong armed robbery

1 is a Class D felony.

2 THE COURT: All right. Well, I hope you're sincere
3 about what you've said about your spiritual beliefs, and
4 it will serve you well for the rest of your life.

5 I'm going to give you eight years on the possession
6 of -- excuse me, eight years on the strong armed robbery.
7 I'll give you five on the crack case and one on the other.
8 They're all concurrent. Revoke eight and run it all
9 together. And credit for 280 days.

10 Good luck to you.

11 THE PROBATION AGENT: Your Honor, do you want the
12 time to satisfy the fines?

13 THE COURT: Yes. Time satisfies all his fines.

14 *****END OF TRANSCRIPT OF RECORD*****
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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 23rd day of March, 2009.

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

September 16, 2009



Hollie M. Jenkins, Court Reporter

My Commission Expires: 11-17-10

STATE OF SOUTH CAROLINA)

County of GREENVILLE)

IN THE COURT OF COMMON PLEAS

TYRONE PERRY EDWARDS JR.)

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

v.)

State of South Carolina)

2009-CP-23- 6608

APPLICATION FOR
POST-CONVICTION RELIEF2009 AUG 25
A 11:19
CLERK OF COURT
JULIE CO. S.C.**INSTRUCTIONS B 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 ALLENDALE CORRECTIONAL
INSTITUTION, P.O. BOX 1151, FAIRFAX SC 29227
2. Name and location of Court which imposed sentence GREENVILLE COUNTY
COURTHOUSE, EAST NORTH STREET SUITE 219
3. Name(s) of co-defendant(s) (if any) NONE
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a)

~~2009-CP-23-6608~~ 2009-CP-23-6608 (b)

(b) 2008 2307120; 2008 GS24 1119;

(c) 03 GS2302289; 04 GS2307492

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

(a) MARCH 23 2009

(b) 8 YEARS (NON-VIOLENT)

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ☒

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

NO

8. If you answered Ayes@ to (7), list:

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

i. NONE

ii. _____

iii. _____

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

i. NONE

ii. _____

iii. _____

(c) the date of each such result:

i. NONE

ii. _____

iii. _____

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

i. NONE

ii. _____

iii. _____

9. If you answered Ano@ to (7), state your reasons for not so appealing:

(a) UNDER COUNSEL ADVISEMENT

- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) INEFFECTIVE ASSISTANT COUNSEL
- (b) INVOLUNTARY GUILTY PLEA
- (c) INSUFFICIENT GUIDANCE TO CONVICT
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) PROPERLY CHARGED APPLICANT WAS NOT
- (b) PLEA DEAL WAS NOT SUFFICIENTLY
- (c) ACKNOWLEDGED
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NONE
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NONE
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NONE
- (d) any other petitions, motions or applications in this or any other Court? NONE
13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. NONE
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. NONE
- ii. _____
- iii. _____

iv. _____

(c) the disposition thereof:

i. _____ NONE _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____ NONE _____

ii. _____

iii. _____

iv. _____

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

i. _____ NONE _____

ii. _____

iii. _____

iv. _____

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

_____ NONE _____

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

(a) which grounds have been presented:

i. _____ NONE _____

ii. _____

iii. _____

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

i. _____ NONE _____

ii. _____

iii. _____

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

(a) NONE

(b) _____

(c) _____

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

(a) your arraignment and plea? THROUGHOUT PLEA AND SENTENCING

(b) your trial, if any? _____

(c) your sentencing? YES

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NONE

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

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

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

i. AMANDA H. LACKLAND

OFFICE OF THE PUBLIC DEFENDER

ii. 13TH JUDICIAL CIRCUIT

GREENVILLE COUNTY COURTHOUSE

iii. 305 EAST NORTH STREET SUITE 123

GREENVILLE, SC 29601

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

i. BOND HEARING

ii. PLEA DEALING

iii. SENTENCING

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

CORRECTION OF IMPROPER CHARGE

REDUCTION OF SENTENCE

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

NONE

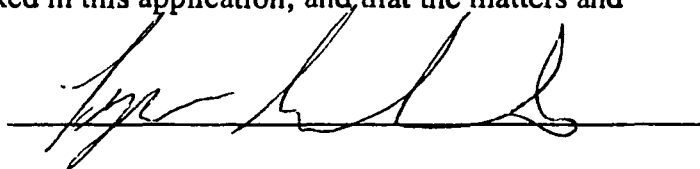
Revised 3/2003

STATE OF SOUTH CAROLINA)

County of GREENVILLE)

VERIFICATION

I, TYRONE PERRY EDWARDS JR., being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.



SWORN to and subscribed before me this 28
day of July, 2009.

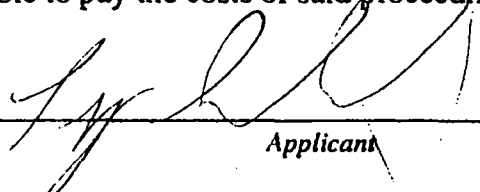
Helen P. Freeman (L.S.)
Notary Public

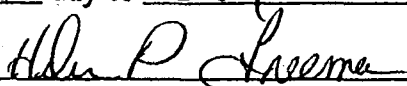
My Commission Expires: 5/18/14

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

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

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

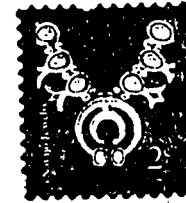

Applicant

SWORN or affirmed to and subscribed before me this
28 day of July, 2009.

Notary Public

My Commission Expires: 5/18/14

Tyrone Edwards # 293186
Allendale Correctional Inst.,
1057 Revolutionary Trail
P.O. Box 1151 F4-882
Fairfax, SC 29827

RECEIVED
JUL 29 2009
MAILROOM
ACI



USA 42

Paul B. Wichersimmer
Greenville County Clerk of Court
305 East North Street
Greenville, South Carolina
29601



2960132121 CCL

LEGAL

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2009-CP-23-6608
COUNTY OF GREENVILLE	)	
	)	
Tyrone Perry Edwards, Jr.,	)	
S.C.D.C. No. 293186,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

In response to the post-conviction relief application filed August 5, 2009, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The waived presentment to the Greenville County Grand Jury on charges of strong arm robbery (2008-GS-23-7119), possession of crack cocaine (2008-GS-23-7120), and unlawful carrying of a pistol (2008-GS-23-7121). Amanda H. Lackland, Esquire represented the Applicant.

On January 15, 2009, the Applicant pled guilty before the Honorable Edward W. Miller. Sentencing was deferred until a later date.

On March 23, 2009, the Applicant appeared before Judge Miller for sentencing. Judge Miller levied concurrent sentences of eight (8) years for strong arm robbery, five (5) years for possession of crack cocaine, second offense, and one (1) year for unlawful carrying of a pistol. Judge Miller also revoked the Applicant's probation for possession with intent to distribute marijuana (2004-GS-23-7492) and levied a concurrent term of two (2) years imprisonment. The

Applicant did not appeal.

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

II.

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

1. Ineffective assistance of counsel.
2. Involuntary guilty plea.
3. "Insufficient evidence to convict."

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a criminal defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel

one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999) (citing Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993)). An Applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the Applicant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted). An Applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985); Bennett v. State, 371 S.C. 198, 204, 638 S.E.2d 673, 675 (2006).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. See Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969). In Boykin, the United States Supreme Court held that before a court can accept a guilty plea, a criminal defendant must be advised of the constitutional rights he is waiving. Id. at 243, 89 S. Ct. at 1712. Specifically, the accused must be aware of the privilege against self-incrimination, the right to a jury trial, and the right to confront one's accusers. Id. Moreover, a criminal defendant entering a guilty plea "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999) (citation omitted). A criminal defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "must be established by a complete record, and may be accomplished by colloquy

between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)).

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)).

The Respondent submits the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. at 265, 305 S.E.2d at 248 (1983).

V.

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

VI.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.

Respectfully submitted,

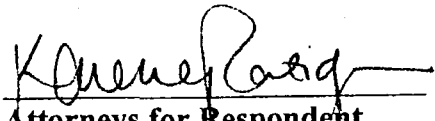
HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

KAREN C. RATIGAN
Assistant Attorney General

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

By: 
Attorneys for Respondent

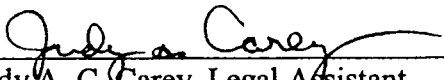
November 23, 2009

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	
	)	2009-CP-23-6608
	)	
TYRONE PERRY EDWARDS, JR., 293186	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
_____	)	

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

Tyrone Perry Edwards, Jr., 293186
Manning Correctional Institution
502 Beckman Drive
Columbia SC 29203

DATED this 23rd day of November, 2009.



 Judy A. C. Carey, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	2009-CP-23-6608
	)	
	)	
	)	
	)	
TYRONE EDWARDS,	)	
APPLICANT,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
STATE OF SOUTH CAROLINA,	)	
RESPONDENT.	)	
_____	)	

ORIGINAL

August 26, 2010
Greenville, South Carolina

B E F O R E:

THE HONORABLE D. GARRISON HILL, JUDGE.

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

CAROLINE M. HORLBECK, ESQ.
Attorney for the Applicant

KAREN C. RATIGAN, ESQ.
Assistant Attorney General

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(AW) - Denotes Applicant's Witness
(RW) - Denotes Respondent Witness

Page No.

(AW) TYRONE EDWARDS:

Direct Examination by Ms. Horlbeck.....4

(RW) AMANDA LACKLAND:

Direct Examination by Ms. Ratigan.....34

E X H I B I T S

(There were no exhibits introduced.)

P R O C E E D I N G S

THE COURT: Yes, ma'am, Ms. Ratigan.

MS. RATIGAN: Yes, Your Honor.

May it please the Court.

This is the case of Tyrone Edwards v. the State. The docket number is 2009-CP-23-6608. Mr. Edwards waived presentment to the Grand Jury on charges of strong armed robbery, possession of a weapon during the commission of a violent crime, possession of crack cocaine, and unlawful carrying of a pistol. He was represented on these charges by Ms. Lackland of the Public Defender's Office.

On January 15th, 2009, the Applicant pled guilty to all the charges, except the weapons charge, before Judge Miller. Sentencing was deferred to a later date. He appeared back before Judge Miller on March 23rd of 2009. He received concurrent sentences of eight years for strong armed robbery, five years for possession of crack cocaine second offense, and one year for unlawful carrying of a pistol. At that time, he, also, had his probation revoked and received a concurrent two-year term. He did not file an appeal.

And the State is ready to proceed.

THE COURT: Yes, ma'am, Ms. Horlbeck.

MS. HORLBECK: Your Honor, we would call Tyrone Edwards to the stand.

1 THE CLERK: Mr. Edwards, you can step around here to
2 the Bible, please.

3 Place your left hand on the Bible and raise your
4 right hand.

5 MR. TYRONE EDWARDS: I don't want to, but I will.

6 My left hand on the Bible and raise my right hand.

7 WHEREUPON,

8 TYRONE EDWARDS,

9 after first having been duly sworn, testified as follows:

10 THE CLERK: Thank you.

11 You may be seated.

12 State your full name for the record.

13 THE WITNESS: Tyrone Edwards.

14 THE CLERK: Thank you.

15 DIRECT EXAMINATION

16 BY MS. HORLBECK:

17 Q Mr. Edwards, you're, currently, serving an eight-year
18 sentence on strong armed robbery; is that correct?

19 A An eight-year non-violent sentence, yes, ma'am.

20 Q And a five-year sentence for possession of crack
21 cocaine second offense?

22 A Well, all in all, I know I'm serving an eight-year
23 non-violent sentence.

24 Q Okay. And the charges were for strong armed robbery,
25 possession of crack cocaine, and unlawful carrying of a

1 pistol?

2 A Those were the charges, yes, ma'am.

3 Q Okay. Where are you incarcerated?

4 A Currently, my incarceration is at Kershaw
5 Correctional Institution.

6 Q Okay. Who represented you when you pled guilty to
7 the strong armed robbery, and possession of crack cocaine,
8 and the unlawful carrying of a pistol charges?

9 A That would be Miss Amanda Lackland.

10 Q And, as a result of your guilty plea, did you file a
11 post-conviction relief petition?

12 A I have. That's true.

13 Q All right. Let's talk about the allegations in your
14 petition. One of the allegations -- one of the things you
15 allege is ineffective assistance of counsel. Is it your
16 position today that you should have pled guilty to a first
17 offense drug charge and not a second offense?

18 A That's true.

19 Q And tell us -- explain why that is your position.

20 A Okay. It is -- it's obvious. Because in the NCIC
21 report, which is here, it shows that it was a first
22 possession. And it says, Possession of less than one gram
23 of ice/crack cocaine first. And there's an asterisk
24 beside it. And that's one point.

25 And another point is here with the drug analysis

1 report. It shows that there was cocaine base found and it
2 was .52 grams C/2. However, that's another point.

3 Q But those are the reasons that you think this offense
4 that you pled to should have been a first offense, and not
5 a second offense?

6 A Exactly. And the warrant, clearly, states that it
7 was drug possession with -- it says, Possession with
8 intent to distribute crack cocaine first on the warrant.
9 Yet, in the briefing, it states, And weight being in
10 excess of one gram. I take that to mean more than one
11 gram. Yet, the drug analysis report shows, clearly, it
12 was under one gram. So that would be another point.

13 Q Okay. Did you explain all this to Ms. Lackland?

14 A Of course, I probably did. Now, how thorough is
15 definitely something we should investigate. Because,
16 obviously, I wasn't wrong. It was a misunderstanding.

17 Q And when you explained all this to Ms. Lackland, did
18 she look at your record, and look at the arrest warrant,
19 and compare the charge on the arrest warrant to what you
20 were, actually, pleading to?

21 A Well, there's no way for me to be certain that I've
22 been thorough. Because some of the material has only been
23 given to me since the actual sentencing.

24 Q Okay. Did you ask her to go over those things?

25 A There's no way for us to have contact, except by

1 letter. And I'm indigent, one. So my financial means
2 would not allow me to have lots of mail coming or going
3 out.

4 Q Were you in the jail -- in the Greenville jail the
5 whole time waiting to go to court on these charges?

6 A Okay. So, yes, I was.

7 Q Okay. So you had to rely -- you had to visit her
8 when she came down to see you; right?

9 A That's true.

10 Q Okay. And, regardless of what your discussions were
11 with her, you, ultimately, pled guilty to a second offense
12 drug conviction; right?

13 A That's correct to a degree.

14 Q All right. Well, it's either "yes" or "no." You
15 pled guilty to a possession second; correct? I'm not
16 saying that that's --

17 A No. I'm looking for the evidence on that so we can
18 be certain. I don't want to feel like exploiting or being
19 exploited. So let me find out.

20 I want to be certain that you are a defendant [sic]
21 for me. Or are you a prosecutor? I'm not understanding
22 right now. Could you answer that for me?

23 THE COURT: Why don't you just answer her questions.
24 And, that way, we'll be able to determine the facts and
25 the issues that are up here today. I don't -- I mean, if

1 you've got something you want to talk to me about --

2 THE WITNESS: I do.

3 THE COURT: Okay. I'll be glad to give you the
4 opportunity to do that. But when she's asking the
5 questions, the witness can't ask questions back.
6 Otherwise, we have a very disorderly process.

7 So if you want to state something for the record,
8 I'll be glad to let you do that now.

9 THE WITNESS: Sure. It would probably speed this up.
10 Because I'm sure we all want to get back to things that we
11 love to do.

12 The Bible, which is the foundation of everything that
13 is today, God is. You are a judge, you know. And I am
14 someone who's learning, you know, to be as civil as
15 possible so I can enjoy things that I should be able to
16 enjoy. For instance, freedom in society.

17 Your Honor, for my beliefs, you are capable of
18 discerning or granting however you feel. Now, with court
19 procedures and things of that nature, I'm not too sure.

20 So I'm just asking for something to be made clear.

21 THE COURT: Okay.

22 THE WITNESS: Because I'm missing things that I need.
23 Okay. And I understand that because of a
24 miscalculation that -- these things happen. Computers
25 aren't perfect. And I know we have made those. The only

1 one I know to be perfect is those who God sees fit for
2 such. I know I'm not, because I'm stuttering over my
3 words, you know, when I think of him. I'm sure he judges
4 whether I am perfect or not.

5 Now, I believe that you can do whatever you feel like
6 wanting to do --

7 THE COURT: Well, that's not really true. I mean, I
8 can't -- I've got to follow the law.

9 THE WITNESS: I understand that.

10 THE COURT: It doesn't have anything to do with my
11 feelings. Sometimes, I don't feel like I should be
12 limited to driving below 55. But I have to do it anyway,
13 because that's the law.

14 So that's kind of the way I have to operate here.

15 THE WITNESS: I understand that.

16 And, see, I'm not fully aware of the law as far as
17 the Ten Commandments and after that, you know. Those are
18 the only ones that I feel like I should abide by. Yet,
19 you know, when I am judged or when I am facing wrong, or
20 when I'm being under the wrath, or when I'm being
21 disciplined, or when I'm being proved from corrected, I
22 feel as if there should be a reward since I am doing the
23 right things. Yet, some people don't understand, you
24 know, the sincerity that I have, you know.

25 And, you know, I love God, you know. I love Jesus

1 Christ. I believe in that. So for me to even allow one
2 to hurt themselves in a way that wouldn't be pleasing to
3 God is against the law for me.

4 So, with that, I'm wanting some resolve, you know.
5 I'm wanting to be free, period, you know. I'm wanting a
6 judgment of, you know, Mr. Edwards, we understand that you
7 have learned your lesson, you know. We understand that
8 you do love the law. Okay. But if there's something that
9 I need to be told, then that is something I'm wanting to
10 hear after that.

11 Now, I will answer questions. I mean, I have no
12 problem with answering questions with -- I just want to be
13 clear about who it is that -- who is she, you know, if
14 that's -- is that a defense lawyer for me. Then under my
15 understanding, I expect to be defended and not "badgered."
16 But if that's a Prosecutor, then I would like to be aware
17 that that's a Prosecutor, so.

18 But will you help me out?

19 THE COURT: Well, she's not a -- she's your lawyer.
20 You brought this case against the State; right? You're
21 saying that you are being held wrongfully because of
22 something that happened at your trial -- or your plea
23 and --

24 THE WITNESS: That's true.

25 THE COURT: -- so Ms. Horlbeck is your lawyer. And

1 she's helping you bring your case against the State.

2 And --

3 THE WITNESS: I don't like that. I just don't like
4 it. Because the State hasn't wronged me. It's a computer
5 error. It's obvious, you know.

6 And, with that, I want to bring the case up against
7 how this happened, you know. I don't want to exploit the
8 Judge, you know. I hate using that word. But I don't
9 want to do that. I don't want to assassinate his
10 character, you know, mine, or
11 Miss Lackland's. Because they've done a good job.

12 THE COURT: Right.

13 THE WITNESS: I mean, these things were available for
14 me. So for me to be like -- because I know she's going to
15 take the stand. And I don't want her to be like -- I'm
16 sure her degree of knowledge supercedes mine, you know,
17 with that.

18 THE COURT: Well, I understand what you're saying.
19 And I respect that --

20 THE WITNESS: Okay.

21 THE COURT: -- but --

22 THE WITNESS: Thank you.

23 THE COURT: -- if there's something wrong with your
24 sentence, this is the way you correct it. And nobody is
25 going to take it personally. Everybody is doing their

1 job.

2 So if there's something wrong with your sentence that
3 you want to bring to my attention, and there's something I
4 can do about it under the law, I'll do what I'm authorized
5 to do under the law.

6 THE WITNESS: Okay. That's correct.

7 THE COURT: And Ms. Horlbeck does an excellent job.
8 And she's just trying to help me understand the issues by
9 having you tell me, under oath, what the issues are, and
10 what you feel like should be brought to my attention.

11 So does that help you?

12 THE WITNESS: Sure.

13 And I would love to just go and give you these -- not
14 even -- let's see, one, two, three, four, five, six
15 points, and probably seven. There's seven points that I
16 want to make. And I could go through them. And it would
17 be on record. And then it will probably save a lot of
18 time, if you allow me.

19 THE COURT: Well, I don't know anything about your
20 case. And she's the expert. And you just need to rely on
21 how she tells you to present it. I mean, if she wants you
22 to present it that way and doesn't have any problem with
23 that, that's fine. That's up to y'all.

24 BY MS. HORLBECK:

25 Q Mr. Edwards, if you want to -- why don't you just

1 start with your first point. And we'll just follow
2 your --

3 A That's cool.

4 Q -- outline.

5 A Thank you.

6 Q Yeah. Sure. Go ahead.

7 A Thank you.

8 Q What's your first point that you want to make?

9 A I'm sure the record shows the three points about the
10 discrepancy with the possession of crack cocaine issue.
11 Okay. Let's see.

12 Like I stated, the NCIC report, clearly, shows that
13 it's cocaine first. The warrant states -- and it says,
14 Possession of cocaine first on the NCIC report. Let's
15 see.

16 Thank you, Miss Tripp.

17 COURTROOM OFFICER TRIPP: You're welcome.

18 THE WITNESS: But, on the warrant, it states that
19 it's possession with intent to distribute. Those -- these
20 are the discrepancies that I would like to resolve. And,
21 on the warrant, it states that it is the first offense.
22 So that's inapplicable.

23 And it states the weight is over or in excess of one
24 gram. That's inapplicable. Because the evidence,
25 clearly, shows on the analysis report here --

1 BY MS. HORLBECK:

2 Q And, Mr. Edwards --

3 A -- that it was .52 grams. Yes, ma'am.

4 Q Is it your position that Ms. Lackland should have
5 noticed these discrepancies before you pled guilty?

6 A Yes, ma'am.

7 Q But she didn't notice those discrepancies; right?

8 A Not to my awareness.

9 Q And the result was that you think you've pled to a
10 second offense when you shouldn't have; right?

11 A Exactly.

12 Q Okay. And if you'd known that you shouldn't have
13 been pleading to a second offense, would you still have
14 pled, or would you have asked Ms. Lackland to set you up
15 for a trial?

16 A Well, we would have definitely had to reconsider
17 these guilty pleas. I probably wouldn't have signed it.
18 Because the sentence was deferred in January. And I was
19 sentenced in March.

20 Now, Allen Fretwell is the Solicitor. And his
21 presence was not even at the initial sentencing. So
22 that's another issue that we should address.

23 Also, there's the drug court program. We had wanted
24 home incarceration or the drug court program, of course.
25 And there was a reinstatement that we were wanting to

1 have. So these three things are something that we should,
2 also, look at.

3 Q Okay. When you say "reinstatement," are you talking
4 about reinstatement of probation?

5 A Exactly.

6 Q And you and Ms. Lackland -- well, Ms. Lackland, also,
7 represented you on a probation violation that day?

8 A True. Everything was ran concurrent. And that's a
9 good thing. So, you know, I'm glad for that. Yet, a lot
10 of the charges wouldn't even have existed because of the
11 obvious.

12 Q All right. Now, when you say "we" wanted home
13 incarceration and reinstatement of probation or drug
14 court, who is "we"? That's you and who else?

15 A That would be the Solicitor, Allen Fretwell. That
16 would be the attorney, myself. That would be the Judge
17 who sentenced me and everybody else under the sun, as far
18 as I'm concerned.

19 Q Okay. Are you saying that there was a recommendation
20 for home incarceration, or drug court, or are you saying
21 that Ms. Lackland promised those things would happen?

22 A Well, it's not that she promised them. These are
23 things that we had signed the sentencing sheet for. I
24 mean, Judge Miller should have, obviously, granted that
25 because I was surcharged [sic] for that program.

1 Q Okay. When you signed -- when you made the decision
2 to plead guilty, did you make that decision because you
3 thought you would either get home incarceration or drug
4 court?

5 A Or reinstatement, yes.

6 Q Okay. Did anybody -- did your attorney tell you that
7 no one was going to be able to promise what your sentence
8 would be? Did you understand that?

9 A No.

10 Q Okay. If you had understood that, would you still
11 have pled guilty?

12 A (There was no response.)

13 Q If you had understood that no one was going to be
14 able to promise you your sentence, no one was going to be
15 able to promise that you'd get home incarceration, or
16 reinstatement of probation, or drug court, would you still
17 have pled?

18 A That depends. That depends.

19 Q Okay. What's your next point?

20 A Okay. My next point is, since we're opening
21 everything up, there was a charge of possession with
22 intent to distribute within a school zone. All right.

23 Q Okay.

24 A And, to be cut and dry on that, I have a tracking
25 sheet here by a magistrate judge who has dismissed that,

1 Insufficient guidance [sic] to convict. And that would,
2 obviously, be evidence. And that's been notarized. That
3 warrant was invalid or void.

4 Q Okay. Do you believe that if there wasn't enough
5 evidence to convict you on the half mile charge, then
6 there may not have been enough evidence to convict you on
7 the possession of crack charge? Is that what you're
8 saying?

9 A No, I'm not. Because there's -- I had the -- I was
10 in possession of an illegal substance. So I should be
11 charged for that.

12 Q But are you saying that if the school zone charge got
13 dismissed, then the other drug charge should have been
14 dismissed because there was not enough evidence?

15 A No. I just -- no, I'm just wanting the drug charge
16 straightened out, if you will. Because it wasn't a second
17 offense. It was a first. And it wasn't possession with
18 intent to distribute. It was just possession.

19 Q Okay.

20 A So, you know, I'll go up for -- I wrote the mayor or
21 the Governor, you know. And I want a pardon on all of
22 these things. And I'll do what I have to do looking into
23 the future just doing what I must, according to the law.

24 Q Okay. What's your next point?

25 A My next point would be -- okay. I want to jump into

1 the bond setting. I was incarcerated on June the 16th,
2 2008. And there was a bond -- there was no bond set. I
3 had no bond. And I had no bond for roughly like four or
4 five months. And then Amanda did get me in front of a
5 judge. It probably wasn't even four or five months. She
6 got me in front of a judge before Thanksgiving. So it was
7 about four or five months.

8 So when I did get a bond, it was set for like 70
9 grand. The bond was set. And I did put in a motion for a
10 bond reduction. And that document is here, and it's been
11 notarized, also. I never did hear anything back about
12 that. And the bond I was requesting was like a \$5,000
13 bond. Because I knew in my heart, I was like, well, I
14 know I did do this and I did do that. I don't have any
15 financials. But I do have a daughter out there. And I do
16 need to support her. And she's still needing support.
17 And she's getting it. Thank God for the State.

18 So, with that, I've got a couple of issues. My issue
19 with that, you know, is that three of the warrants -- and
20 these warrants are the major warrants, ones like weapons
21 during a violent crime. I got that dismissed by a
22 magistrate. It's here. And that warrant has been
23 dropped.

24 Q Okay.

25 A There's another warrant that's been dropped. And

1 that would be the possession with intent to distribute
2 crack cocaine in the school zone. These warrant numbers
3 are 51767 -- 637, warrant number 803241, and warrant
4 number 803242. These all are invalid, yet, voided
5 warrants. To be more certain, I know that the possession
6 with intent in school zone, that's a dismissed warrant.
7 And the weapons during a violent crime, that's a dismissed
8 warrant.

9 Now, the possession second, I'm sure that boosted my
10 bond and allowed me to have to pay more. So I'm sure if
11 that was like a first -- and then it was possession with
12 intent to distribute, not possession. So I'm sure if
13 those two issues would have been -- they should have been,
14 then the bond would have dropped tremendously. So that's
15 another point there.

16 Okay. The third point was the drug court. It's the
17 drug court. That's obvious since right here it states
18 that I've been surcharged for the drug court program.
19 Yet, I never was never given the opportunity. I'm still
20 looking at that, you know. And I don't know if that would
21 expunge my record. But, if it will, then I would
22 definitely appreciate that. And I'll complete that and
23 whatever else I need to do to make things right.

24 So is there any questions yet?

25 Q Was there an appeal filed in the case?

1 A I -- there was an appeal attempted to file. On the
2 date of March the 23rd, the sentencing, I got this form
3 right here laid out of how an appeal should be filed.
4 I've got two notarized letters here written, one to
5 Miss Lackland and one to appellate defense. And they are
6 both notarized stating, you know, that I filed an appeal,
7 that I'm looking forward to making parole.

8 By the way, I was supposed to go up for parole on the
9 25th. That would have been -- that was yesterday.

10 THE COURT: Yesterday.

11 THE WITNESS: But I didn't get to make it, because I
12 stayed overnight. My mom says my dad was present at the
13 parole hearing. But I was sitting in front of the window
14 ready to go in there and display how much I've been civil,
15 and loving the law, and am going to abide by the law, and
16 things of that nature. Parole, I'm looking forward to
17 being granted that privilege and cherishing, you know,
18 everything the world has to offer for me, you know.

19 So it hurt me that I had to follow orders to get on
20 the bus, and do things of that nature, you know. I had a
21 problem with it. But I bit the bullet and I'm here. So I
22 prayed about it. Now that I've got here, I'm glad I'm
23 here. But, yet, I would love to be granted parole. And,
24 that way, I could get out and handle this issue still, you
25 know.

1 But whatever you decide, Judge, I'm sure you can
2 do -- God knows what I know that I feel in my heart you
3 can do, you know. And I definitely would like that. And
4 what that would be is something I want to talk about
5 later.

6 But does that answer your question, Ms. Horlbeck?

7 BY MS. HORLBECK:

8 Q Well, I think you had mentioned that some -- you felt
9 like some documents were missing from your appeal.

10 A Oh, yeah. Here is a letter that Miss Lackland, she
11 did send me here. She says, I'm in receipt of your letter
12 of April the 15th, 2009, following your sentencing on
13 March 23rd, 2009. I filed a motion to reconsider the
14 guilty plea and probation revocation sentences on your
15 behalf on April the 2nd, 2009. On April 13th, Judge
16 Edward W. Miller denied this motion. I understand from
17 your letter that you have filed an appeal. I am unable to
18 represent you in the action at this point. You may
19 represent yourself on appeal. I would not recommend it --
20 no, which I would not recommend. You may, also, hire an
21 attorney to represent you. However, if you are unable to
22 afford one, you may contact appellate defense regarding
23 representation on your appeal, et cetera.

24 That is -- and I did do that. I did contact the
25 appellate office for like inquiry on -- and this letter

1 here, I contacted them and I said, Upon being informed by
2 the Office of the Public Defender, the Appellant --
3 okay -- Tyrone Edwards comes requesting confirmation and
4 notification acknowledging receipt of motion filed. Also,
5 the Appellant requests any and all available information
6 needed to obtain an appeal.

7 Okay. The only reason I really contacted the appeals
8 office is because I'm sitting in -- what's that -- R & E
9 bored. And I'm like, well, I need to work on my cases or
10 do something. I was just like I'll write Amanda to send
11 me like a transcript or something, you know. But, boom,
12 right here, I did contact appellate defense. And they
13 were like, Dear Mr. Edwards, I am in receipt of your
14 recent letter inquiring about a motion. We do not have a
15 case for you. And we do not have any motion that I can
16 find. I'm sorry we're unable to help you at this time.

17 That was like totally unacceptable, you know, for me.
18 Because I was like, well, you know, she told me from the
19 beginning that I could do it. And the Judge even stated
20 at sentencing that I can appeal this. I've got 10 days to
21 do it. So I did it. So when I got back to the dorm --
22 and there's cameras in there. I don't know why Paul
23 didn't get it or it wasn't filed. Yet, if it was with
24 appellate defense -- I don't know. See, that's getting
25 into higher levels of negligence. And maybe we should

1 search those things afterwards.

2 Q Okay. But you told Ms. Lackland that you wanted to
3 appeal; right?

4 A We -- that was an opportunity that would definitely
5 have been wanted by me, if I had chosen it. I was
6 weighing what I should do and what I shouldn't do. I was
7 getting information from her. And then I was getting it
8 from the law library, and people that's been in there, law
9 clerks, and things of that nature.

10 So the PCR came through for me. I was like, well,
11 since the appeal didn't and the PCR did, maybe that's a
12 good thing. So, right now, I don't know yet.

13 Q Okay. And Ms. Lackland wrote you a letter saying
14 that she understood that you had appealed; right?

15 A That's right.

16 Q Did she send you any kind of notice where she had
17 filed an appeal on your behalf?

18 A (There was no response.)

19 Q No?

20 A No.

21 Q So it was totally up to you to file an appeal?

22 A From my knowledge, yes.

23 Q And you said you filed it; right?

24 A Right.

25 Q But, for some reason, the Appellate Court just --

1 they said they never received it?

2 A Well, when something is filed by the Clerk of Court,
3 there's a stamp on it that says, Clerk of Court of
4 Greenville County, you know. There's a stamp on it. And
5 I've never received anything from the Appellate Court
6 saying that they've received something. The only thing I
7 received was this letter. And I got that back in June,
8 almost three months after I mailed it off. It was the
9 same day -- the day after I mailed Amanda's letter off,
10 which was April the 27th.

11 Q What date did you mail your appeal?

12 A April the 23rd -- no, no, no, March the 23rd, 2009.

13 Q Okay. And you told Ms. Lackland that you were going
14 to appeal?

15 A Well, we didn't get to talk really.

16 Q But, in your letter, did you tell her that --

17 A Oh, yes.

18 Q Okay.

19 A She was aware of it. I notified her before -- I even
20 informed her that I was doing it.

21 Q Okay. And, in her letter to you, did she tell you,
22 hey, I will file the appeal for you? Did she do any of
23 that?

24 A No, not at all.

25 Q Okay. And you tried to file your own appeal and it

1 never got to the Court of Appeals; right?

2 A That's correct.

3 Q And it was --

4 A Well, it was never found. Now, whether it's there or
5 not, that's an issue. They say, We do not have a case for
6 you and we do not have any motions that I can find.

7 Q Okay.

8 A So it could be there. Maybe she just couldn't find
9 it.

10 Q Okay. What's your next point?

11 A Oh, okay. There's a -- there's the armed robbery
12 incident, armed robbery. And then there's the weapons
13 during a violent crime. These two warrants are a big part
14 in this whole ordeal. And these are incidents which I
15 regret. Because I do know what happened. And I have
16 played some part in it. Yet, the display of atrociousness
17 of the incident is definitely an overstatement by me even.
18 Because it never existed in such a manner. I mean, I'm
19 trying to use words to display how I feel like or to be
20 intellectual. But what the alleged victim stated happened
21 didn't.

22 I'm upset about it. Yet, I'm so forgiving about it,
23 because I know that he still is where he is. And I don't
24 need any kind of feelings of nervousness or anxiety, I
25 mean, from anyone that's associated with him.

So here is a victim witness statement. And if I must read it, I'll try. It says, I, Michael [phonetic] Harmon, do hereby give freely and voluntarily this statement to Corey M. Brown -- these are officers that were at the preliminary hearing, I reckon -- who have identified themselves to me to be deputies of the Greenville County Sheriff's Office, Greenville, South Carolina.

And it reads, I am 21 years old. And I reside at Greenville County, South Carolina, I was riding around in my friend's Jeep when he got out at a friend's house. And while we got out of the car, Tyrone Edwards hit from the rear and pulled a gun out, and threw me to the ground, and put the gun to my head, and started punching me in the head and said, Give me your F-ing money. I was yelling that he wouldn't get it when he called his B homies that were with us. And they all started hitting me and ripping my shirt. I gave them my wallet and jumped back in my friend's car, and we left. I went home and called the police.

Is there any questions?

O No.

A No. Not at this point?

Q I don't have any, no.

A Okay. I would like to present this evidence here.
This is a form that shows photo identities, unlabeled

1 photo lineups, labeled photos, and it says, NCIC. And it
2 says, No, no, no. There's a "no" on all of those. You
3 may be more aware of that than I am. So that's one issue.

4 Now, I want to read off the officers report to cover
5 that base, if I can find it.

6 Q Do you want to just -- Mr. Edwards --

7 A Yes, ma'am.

8 Q -- may I suggest that we just put that into evidence
9 and the Judge can review it, rather than read it into the
10 record?

11 A It's extremely important. Because the officer states
12 in his statement that the victim would not inform him of
13 where the friend's house was, or what car the friend was
14 driving, or who his friends were. And that's something --
15 you know, I'm in jail on this.

16 So I would definitely like to read this for you, if
17 you'll allow it.

18 THE COURT: What is it you want to read?

19 THE WITNESS: It is the officer's report.

20 THE COURT: The incident report?

21 THE WITNESS: The incident report, yes, sir.

22 And I've got several issues underlined. I've got a
23 mess here.

24 COURTROOM OFFICER TRIPP: Is that it?

25 THE WITNESS: That's not it. But it's something

1 similar.

2 These handcuffs are so uncomfortable. If you'll bear
3 with me.

4 (Pause.)

5 THE WITNESS: Maybe it would be better for me not to
6 read that.

7 THE COURT: So --

8 THE WITNESS: I can't -- sir?

9 THE COURT: So tell me what -- the report said
10 something that was different than what was said in court?
11 Is that what you're trying to tell me?

12 THE WITNESS: Well, it's -- the officer is,
13 basically, exemplifying, from my understanding, that the
14 witness would not allow him to help him. Because the
15 witness wouldn't take him to where the incident happened,
16 or even tell him who the suspects were. Because he stated
17 there's four of them, you know. And that's a big issue
18 for me, you know. That's big evidence that would allow me
19 my freedom, so.

20 THE COURT: So how would that help you out? Explain
21 that to me.

22 THE WITNESS: Well, because what happened is this, if
23 you will. The -- Michael, his name is, he was assaulted
24 by me. He was. Why? My friend betrayed me. Instead of
25 allowing it to happen, I assaulted him. How? It's

1 completely evident that it wasn't with any type of weapon,
2 you see. So for his statement to be valid, it's, clearly,
3 not.

4 THE COURT: Okay.

5 THE WITNESS: So I think that would clear that up to
6 further examination, if necessary.

7 MS. HORLBECK: Mr. Edwards, that's all I have.

8 If you want to answer any questions that Ms. Ratigan
9 may have for you.

10 THE COURT: Yes, ma'am, Ms. Ratigan.

11 MS. RATIGAN: Mr. Edwards has listed out his issues
12 pretty thoroughly. I have no questions, Your Honor

13 THE COURT: Okay. Thank you, Mr. Edwards.

14 THE WITNESS: Okay. Oh, I guess I'm going to sit
15 down and we'll proceed?

16 THE COURT: Yes.

17 We'll see what the State has to put up.

18 Thank you, sir.

19 THE WITNESS: And I had some requests. If you'll
20 allow me to give you like something that I felt that would
21 help.

22 THE COURT: Do you want me to look at it, do you
23 mean?

24 THE WITNESS: Yes, sir.

25 THE COURT: Sure. Yes, sir.

1 We'll make it a Court's Exhibit. And we'll put it in
2 the record. And I will review it.

3 THE WITNESS: That's great.

4 Right here is a request. I've served two years in
5 the Department of Corrections.

6 THE COURT: Yes, sir.

7 THE WITNESS: And in order for me to get into
8 college, it's -- there's a privilege that someone who's
9 been incarcerated can -- because my GPA has dropped
10 tremendously, you know. And I was doing things that I
11 shouldn't have been doing in '08, you know. And, now, in
12 2010, I'm well balanced. Right now, I'm, actually,
13 nervous, anxious, and things of that nature.

14 Yet, I'm requesting -- you know, I was hoping to make
15 parole. And I was wanting my probation reinstated. Yet,
16 I was wanting like a five-year non-violent sentence. I'll
17 accept that, you know. And that would allow me to do away
18 with parole. Maybe I could have probation reinstated.
19 That way, they could supervise me for two years, you know.
20 And I'll be in school. I'll be taking care of my
21 daughter, and things of that nature. And I'll work
22 overtime, you know.

23 Yet, maybe, in the first year, I need to work and
24 then -- I've got a couple jobs already. I've been talking
25 to this -- a chaplain, who has been contacting my old

1 employer that I worked for him for five years. And
2 that's -- it shows motive that I didn't have any kind of
3 motive to want to hurt anybody and then receive some kind
4 of financial gain from them, you know.

5 I wasn't on child support or anything like that until
6 I was arrested, you know. My probation wasn't -- what's
7 that -- revoked or whatever until I was arrested, you
8 know. So the only thing that would cause me to be
9 financially in need of something would just be, you know,
10 the fact that I'm incarcerated, and I need to make some
11 money some kind of way to provide for my family.

12 But, you know, if you will have that for me --
13 because drug court would not -- okay. I could -- does
14 drug court expunge my record? That's what I was wanting
15 to ask. Does it? If it does, then you can give me the
16 max 50 years, but in completion of drug court and they
17 would expunge my record. I would love that, you know.
18 But would that let me get my Pell grant and my -- to get
19 into school?

20 THE COURT: I don't know anything about that.

21 THE WITNESS: See, but that's -- okay. But I
22 don't -- I do know that being incarcerated in the
23 Department of Corrections will allow me to have my
24 schooling back like my loans. They've been deferred, you
25 know, for my family and things of that nature.

1 THE COURT: Okay.

2 THE WITNESS: They've been deferring year after year,
3 you know. So I've been taking care of that. So I'm
4 wanting to get back in school. It's, what, August now.
5 And I think I should just work a year, you know. And I'm
6 hoping I did make parole. That would be great. And that
7 way --

8 THE COURT: Okay. I understand.

9 THE WITNESS: Do you understand what I'm saying?

10 THE COURT: Yes, sir.

11 THE WITNESS: So I'm just requesting that, you know,
12 you'll do that for me. But if there's some kind of way
13 you see that I need to do something else, then I'm hoping
14 that my bond will be redacted [sic] so I can make bond on
15 my own recognizance. That would be great.

16 THE COURT: Okay, sir.

17 THE WITNESS: Thanks.

18 THE COURT: Thank you.

19 THE WITNESS: Thanks for your patience everybody. I
20 know there's an inmate back there. I hope he's being
21 patient as well.

22 THE COURT: Yes, sir, Mr. Edwards.

23 THE WITNESS: I don't mind if you want to help me.

24 COURTROOM OFFICER TRIPP: Well, I just didn't know
25 what order you wanted it in.

1 THE WITNESS: It's all torn up now, I reckon.

2 COURTROOM OFFICER TRIPP: Well, you can get it back
3 in order when you get back.

4 THE WITNESS: Yes, ma'am.

5 Thank you.

6 COURTROOM OFFICER TRIPP: I'll take it for you.

7 THE WITNESS: Thank you, ma'am.

8 Thank you for your patience.

9 THE COURT: Thank you, sir.

10 Okay. Yes, ma'am, Ms. Ratigan.

11 MS. RATIGAN: I believe the Applicant has rested. So
12 the State would call Ms. Lackland.

13 MS. HORLBECK: Your Honor, we have rested, just for
14 the record.

15 THE COURT: All right.

16 THE CLERK: Ms. Lackland, if you'll place your left
17 hand on the Bible and raise your right hand.

18 WHEREUPON,

19 AMANDA LACKLAND,
20 after first having been duly sworn, testified as follows:

21 THE CLERK: Thank you.

22 You may be seated.

23 And state your full name for the record, please.

24 THE WITNESS: Amanda Lackland.

25 THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. RATIGAN:

Q Do you recall representing Mr. Edwards on these charges?

A I do.

Q Were you appointed through the Public Defender's Office?

A I was.

Q Did you file the appropriate discovery motions?

A I did.

Q Did you review those materials with your client?

A I did.

Q And do you recall what the State's evidence was against your client?

A It was witness statements. I think they had the drugs in property and evidence, that sort of thing.

Q And you reviewed the impact of these items on the case?

A Yes.

Q Did you, also, receive an NCIC?

A Yes.

Q And did you review that with him?

A Yes.

Q And, in your opinion, was the current possession of crack cocaine charge properly enhanced to a second

1 offense?

2 A Yes, it was.

3 Q And you explained that to Mr. Edwards, how his prior
4 could be used to enhance him?

5 A Yes. Because it was a PWID marijuana. And so
6 there's some confusion that it was a crack charge. But we
7 went over that.

8 Q And you got him before a judge for a bond hearing; is
9 that correct?

10 A That is correct, on July 11th, 2008.

11 Q Now, he testified that he asked for a bond reduction.
12 Do you recall ever moving for a bond reduction at some
13 point?

14 A I'm sure that prior to that July 11th hearing, I
15 filed a motion for bond.

16 Q But you don't recall making a specific motion for
17 reduction once he did get the bond?

18 A I don't recall going over that with him.

19 Q Did you ever discuss with him the possibility that he
20 could go to drug court?

21 A We did talk about that.

22 Q And what did those discussions entail?

23 A We discussed what drug court was. And I went back
24 and asked the Solicitor if he would be willing to have
25 Mr. Edwards screened for drug court. And he told me, No.

1 Q And did you explain this conversation to Mr. Edwards?

2 A Yes.

3 Q Did you ever promise him if he pled guilty that drug
4 court would be an option?

5 A No.

6 Q What about home incarceration? Did you ever bring
7 that up to the State?

8 A I did ask him about that, and he was unwilling to
9 recommend it. But I told Mr. Edwards that we, certainly,
10 could advocate for that.

11 Q What about the idea of reinstating probation. Is
12 that something you discussed with the State?

13 A I think -- I don't recall discussing probation --
14 reinstating the probation with Mr. Edwards probation
15 agent. I think we had talked about house arrest and maybe
16 some additional probation. But I don't think we talked
17 about a straight probationary sentence.

18 Q And I assume in terms of reviewing the discovery, you
19 read the warrants in this case?

20 A Yes.

21 Q Did you see -- were there any legal issues with the
22 warrants?

23 A No.

24 Q And did you discuss with Mr. Edwards, prior to the
25 plea, the idea of waiving presentment of the charges

1 before the Grand Jury?

2 A Yes.

3 Q Did Mr. Edwards -- was he okay with waiving
4 presentment and going forward?

5 A Yes.

6 Q Now, you filed a motion for reconsideration; is that
7 correct?

8 A I did.

9 Q And did you inform Mr. Edwards of the results of that
10 motion?

11 A I did by a letter.

12 Q Did you ever discuss with him the right to file a
13 direct appeal?

14 A I don't remember if we, specifically, went over that.
15 I do remember getting a letter from him after he had been
16 sentenced. And I -- it appeared to me that he had already
17 filed his own appeal.

18 Q In your opinion, were there any legal errors or
19 omissions made -- any appeal issues from the guilty plea?

20 A No.

21 Q Did he ever, specifically, ask you to file an appeal?

22 A No.

23 MS. RATIGAN: That's all I have, Your Honor.

24 THE COURT: Cross-examination.

25 MS. HORLBECK: I've got no questions, Your Honor.

1 Thank you.

2 THE COURT: All right. Thank you, Ms. Lackland.

3 MS. RATIGAN: The State would rest at this time, Your
4 Honor.

5 THE COURT: Any reply testimony or argument from --

6 MS. HORLBECK: No, Your Honor.

7 We would rely on the Applicant's testimony.

8 THE COURT: Okay. Does the State have any?

9 MS. RATIGAN: We'd waive any argument, Your Honor.

10 THE COURT: Is there any -- what about the issue of
11 the second offense? Is there any --

12 MS. HORLBECK: Judge, I don't have anything further
13 to argue, other than what Mr. Edwards has already
14 presented in his testimony.

15 THE COURT: Okay. Well, thank you very much.

16 I'll look over the record in light of what I've heard
17 here today and let you know my decision in the next
18 several weeks.

19 Thank you.

20 MR. TYRONE EDWARDS: Thank you, sir.

21 And your last name, Judge?

22 THE COURT: Hill, H-I-L-L.

23 MR. TYRONE EDWARDS: Thank you, sir.

24 THE COURT: Yes, sir.

25 *****END OF TRANSCRIPT OF RECORD*****

CERTIFICATE OF REPORTER

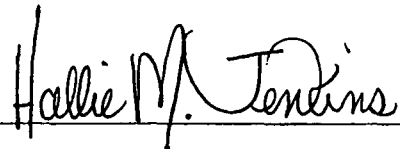
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 26th day of August, 2010.

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

February 2, 2011



Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2009-CP-23-6608
COUNTY OF GREENVILLE	)	
	)	
Tyrone Perry Edwards, Jr.,	)	
S.C.D.C. No. 293186,	)	
	)	
Applicant,	)	
	)	
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

ORDER OF DISMISSAL

FILED
OCT 27 PM 3:48
CLERK OF COURT
GREENVILLE
SOUTH CAROLINA

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed August 5, 2009. The Respondent made its return on November 23, 2009. An evidentiary hearing into the matter was convened on August 26, 2010 at the Greenville County Courthouse. The Applicant was present at the hearing and represented by Caroline Horlbeck, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying was the Applicant's plea counsel, Amanda H. Lackland, Esquire. The Court had before it the guilty plea transcript, the sentencing transcript, the records of the Greenville County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, and the Respondent's return.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Applicant waived presentment to the Greenville County Grand Jury on charges of strong arm robbery

1 x 6

9/14

(2008-GS-23-7119, count 1), possession of a weapon during commission of a violent crime (2008-GS-23-7119, count 2), possession of crack cocaine (2008-GS-23-7120), and unlawful carrying of a pistol (2008-GS-23-7121). He was represented by Amanda H. Lackland, Esquire.

On January 15, 2009, the Applicant pled guilty to all of the charges except for possession of a weapon during commission of a violent crime. The Honorable Edward W. Miller deferred sentencing to a later date.

On March 23, 2009, the Applicant appeared before Judge Miller for sentencing. Judge Miller levied concurrent sentences of eight (8) years for strong arm robbery, five (5) years for possession of crack cocaine, second offense, and one (1) year for unlawful carrying of a pistol. Judge Miller also revoked the Applicant's probation for possession with intent to distribute marijuana (2004-GS-23-7492) and levied a concurrent term of two (2) years imprisonment. The Applicant did not appeal.

ALLEGATIONS

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

- 1. Ineffective assistance of counsel.
- 2. Involuntary guilty plea.
- 3. "Insufficient evidence to convict."

At the PCR hearing, the Applicant proceeded upon several grounds of ineffective assistance of plea counsel.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their

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credibility. This Court has weighed the testimony accordingly.

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. 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).

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).

The Applicant stated he should not have been charged with a second offense of possession of crack cocaine. The Applicant stated that, since the associated proximity charge was dismissed by a magistrate, the warrant for the possession of crack cocaine charge was invalid. The Applicant stated he pled guilty because he believed he would receive a sentence of either drug court or home incarceration. The Applicant stated he did not understand when plea counsel told him she could not promise he would receive one of these alternatives. The Applicant stated that, regardless of plea counsel's recommendation that he not file an appeal, he

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wanted to appeal his guilty plea.

Plea counsel testified she filed discovery motions and reviewed the materials with the Applicant. Plea counsel testified she and the Applicant discussed the impact the State's evidence had on the case. Plea counsel testified she reviewed the Applicant's NCIC records and that the current drug charge was a true second offense. Plea counsel testified she asked the assistant solicitor for a recommendation of either drug court or house arrest but he refused. Plea counsel stated she filed a motion to reconsider the Applicant's sentence, which was denied. Plea counsel stated the Applicant never asked her to file an appeal but that, regardless, there were no appealable issues from the guilty plea or sentencing hearings.

Regarding the Applicant's claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds the Applicant's testimony is not credible, while also finding plea counsel's testimony is credible. This Court further finds plea counsel adequately conferred with the Applicant, conducted a proper investigation, and was thoroughly competent in her representation.

The Applicant admitted to the plea judge that he was guilty of these charges. (Plea transcript, p.15; pp.29-30). The Applicant also told the plea judge that he understood the trial rights he was waiving in pleading guilty, was satisfied with counsel, and had not been coerced in any way. (Plea transcript, pp.12-16).

This Court finds the Applicant failed to meet his burden of proving plea counsel was ineffective. This Court finds plea counsel reviewed the discovery materials with the Applicant and discussed how the State's evidence would impact the defense case. This Court finds plea counsel reviewed the Applicant's rap sheet and confirmed he was facing a second offense. This Court finds the Applicant has failed to present any evidence to the contrary. This Court finds the

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Applicant failed to meet his burden of proving he was promised a sentence of home incarceration or drug court, especially as he told the plea judge that no promises had been made to induce his plea. (Plea transcript, pp.12-13). This Court finds the Applicant failed to prove he was entitled to a belated appeal. This Court finds credible plea counsel's testimony that the Applicant never asked her to file an appeal. This Court further agrees with plea counsel's statement that there were no legal errors or omissions from the guilty plea or sentencing hearings that would have merited an appeal.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that plea counsel committed either errors or omissions in her representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by plea counsel's performance.

This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

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 has not

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established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner, nor was the Applicant prejudiced by counsel's representation. Therefore, this application for PCR must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 25th day of OCTOBER, 2010.



D. Garrison Hill
Presiding Judge
Thirteenth Judicial Circuit

Greenville, South Carolina.

WITNESSES

C. Horrell

Greenville County Sheriffs Office

6/17/2008

ARREST WARRANT NUMBER

I517636 and I517637

ACTION OF GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2008-GS-23-

AOF

007119

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

TERM 2008

THE STATE

vs.

TYRONE PERRY EDWARDS, JR.

FILED GUILTY

Lachlan

0139

Indictment for

0139 and 0549

ARMED ROBBERY and POSSESSION OF A
WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME

VIOLATION §16-11-0330 and §16-23-0490

ENTERED
JACCO

[illegible]

INDICTMENT FOR
ARMED ROBBERY and POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on _____
County present upon their oath:

the Grand Jurors of Greenville

COUNT I

That TYRONE PERRY EDWARDS, JR. did in Greenville County, on or about the 21st day of March 2008, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: U.S. currency, from the person or presence of AMEER MICHAEL AL-ZAHARNAH. This is in violation of §16-11-330 of the South Carolina Code of Laws (1976) as amended.

COUNT II

That TYRONE PERRY EDWARDS, JR. did in Greenville County, on or about the 21st day of March, 2008, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: ARMED ROBBERY. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as amended.

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

to the statute in such case made and provided

Allen F. Russell
SOLICITOR

WITNESSES

DOCKET NO. 2008-GS-23-
AOF

007121

The State of South Carolina

County of Greenville

C. McCalmont

Greenville County Sheriffs Office

6/17/2008

COURT OF GENERAL SESSIONS

TERM 2008

THE STATE

vs.

TYRONE PERRY EDWARDS, JR.

PLEAD GUILTY

ARREST WARRANT NUMBER

1803243

ACTION OF GRAND JURY

Foreperson of Grand Jury

VERDICT

Indictment for

0044

UNLAWFUL CARRYING OF A PISTOL

VIOLATION § 16-23-0020

Foreperson of Petit Jury

Date:

ENTERED
ACCT

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
UNLAWFUL CARRYING OF A PISTOL

At a Court of General Sessions, convened on _____ the Grand Jurors of Greenville
County present upon their oath:

That TYRONE PERRY EDWARDS, JR. did in Greenville County, on or about the 16th day of June 2008,
willfully and unlawfully carry about his person a pistol. This is in violation of §16-23-20 of the South Carolina
Code of Laws (1976) as amended.

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

SOLICITOR