

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Spartanburg County

J. Derham Cole, Circuit Court Judge

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SEP 17 2014

S.C. Supreme Court

CULLEN BLAKE CAMPBELL,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000635

APPENDIX

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NO EXHIBITS INTRODUCED

1 THE COURT: Alright, ladies and gentlemen, I'm gonna call
2 the names of everybody that I've been given. When I call your
3 name this time, just raise your hand and let me just eyeball
4 where you are. We have Kevin George, Victoria Mullenax,
5 Collen [sic] Campbell, Shasta Wilder, Ralph Monroe, Jordan
6 Garrett, Carol O'Sullivan, Shaudre [sic] Williams, Hari Bobo.
7 Alright, ladies and gentlemen, I have been informed that each
8 one of you has one or more matters that are presently pending
9 in the court of general sessions and I've also been told that
10 each one of you has expressed a desire or an intent to wanna
11 enter a plea to those matters. I wanna also let you know that
12 as part of every plea that is presented in fronta me we make a
13 recording. This lady that's sitting over here (indicating) to
14 my right she is a court reporter, she's taking down everything
15 that's said. I tell you that because if ever during this
16 process now or later today if you need to speak to me I need
17 you to speak up loud enough so that both she and I can hear
18 you; if we can't hear you, we cannot accept your plea.
19 Likewise, if ever during this process now or later today you
20 can't hear me, immediately let me know and I will speak up as
21 well. Now in just a few moments I'm gonna ask you a series of
22 questions and I'm gonna ask you these questions as a group but
23 I do not want you to think nor do I wish for you to to
24 conclude that for some reason because I'm asking you these
25 questions as a group that for some reason these questions are

1 not important because these questions are very important.
2 Questions that I ask you and the answers you give me to these
3 questions help me decide whether or not I can in fact accept
4 your plea so I need you to listen to 'em. If you need to
5 respond to the questions, I'm gonna ask that you stand up,
6 just don't speak out but stand up and let me call on you one
7 at a time. Now if ever during this process now you wanna
8 speak with your lawyer, you just let me know and we'll stop
9 and I'll let you speak with your lawyer in private. I'm now
10 gonna call your names again. Now this time when I call your
11 name I need for you to please stand up, remain standing.
12 After everybody's name's been called and the court reporter
13 has your names down, the lady on this (indicating) side of the
14 courtroom, the clerk of court, she is going to swear you in so
15 I need for you to listen to her, respond out loud when she
16 asks you to do so. Alright, we've got Kevin George (stood),
17 Victoria Mullenax (stood), Collen [sic] Campbell, Shasta
18 Wilder (stood), Ralph Monroe (stood), Jordan Garrett (stood),
19 Carol O'Sullivan (stood), Shondre Williams (stood), Hari Bobo
20 (stood). Please raise your right hand.

21 (Whereupon, the defendants were sworn.)

22 THE COURT: Thank you may be seated. Here are the
23 questions that I need for you to please listen to: During the
24 last twenty-four hours, have you consumed any type of
25 substance that is adversely or negatively affecting your

1 ability to understand what we're doing today, if you have then
2 I need for you to please stand at this time?

3 (No response.)

4 THE COURT: If you've ever received any type of substance
5 abuse treatment for any type of drug problem or alcohol
6 problem, I need for you to please stand at this time.

7 Alright, let's start over -- your name?

8 THE DEFENDANT: Jordan Garrett.

9 THE COURT: And, Mr. Garrett, did you receive treatment
10 for drugs, alcohol or both?

11 THE DEFENDANT: Both.

12 THE COURT: Do you remember where you received that last
13 treatment?

14 THE DEFENDANT: Last treatment was at Regional. I was
15 admitted to their program there. I was there for two weeks,
16 let go.

17 THE COURT: About how long ago was that ---

18 THE DEFENDANT: Uh, ---

19 THE COURT: --- approximately?

20 THE DEFENDANT: Maybe a year.

21 THE COURT: Was it successful?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Thank you, sir. You may sit down. Your
24 name?

25 THE DEFENDANT: Carol O'Sullivan.

1 THE COURT: Mr. O'Sullivan, did you receive treatment for
2 drugs or alcohol or both?

3 THE DEFENDANT: Uh, drugs.

4 THE COURT: You -- where did you receive that last
5 treatment?

6 THE DEFENDANT: It was in Greenville, a school back in
7 Greenville but it's been probly like ten years ago.

8 THE COURT: And was it successful at the time?

9 THE DEFENDANT: Yes.

10 THE COURT: Thank you, sir, you may be seated. Yes, sir,
11 your name?

12 THE DEFENDANT: Shondre Williams.

13 THE COURT: Mr. Williams, you received treatment for
14 drugs, alcohol or both?

15 THE DEFENDANT: Drugs.

16 THE COURT: And where did you receive that last
17 treatment?

18 THE DEFENDANT: At SADAC.

19 THE COURT: About how long ago was that?

20 THE DEFENDANT: 2004.

21 THE COURT: Was it successful at the time?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Thank you, sir, you may be seated. If you
24 are satisfied with the work that your lawyer has done for you
25 then I need for you to please stand at this time if you're

1 satisfied with the work that your lawyer has done. Let the
2 record reflect that everyone stood. Thank you very much, you
3 may be seated.

4 If anybody has come to you and promised you anything or
5 if they have threatened you in any way in order to get you to
6 make the decision to enter this plea then I need for you to
7 please stand at this time if you have been promised or
8 threatened in any way.

9 (No response.)

10 THE COURT: If the decision by you to enter the plea is a
11 free and voluntary decision then I need for you to please
12 stand at this time if this is a free and voluntary decision.
13 Let the record reflect that everyone stood. Thank you very
14 much, you may be seated.

15 I need for you to understand that under the law you are
16 presumed innocent of every charge that's presently against you
17 and you are entitled to have a jury trial on any or all of the
18 charges that are presently against you. At any jury trial
19 that would take place, it would be the State that has the
20 burden of proof and the State would have to convince all
21 twelve members of a jury that you are in fact guilty beyond a
22 reasonable doubt. Now in order to enter a plea however you
23 have to give up your right to that jury trial but if you wish
24 to have a jury trial on any of the charges that are against
25 you, that is fine, we will simply schedule a jury trial for

1 you. Is there, is there anyone who wishes to have a jury
2 trial on any of the charges against you? If you do wish to
3 have a jury trial, I need for you to please stand at this
4 time.

5 (No response.)

6 THE COURT: In addition to giving up your right to a jury
7 trial there are other very important constitutional rights
8 that you are entitled to but that you have to give up in order
9 to enter a plea: Ya have to give up your right to confront
10 and cross-examine the State's witnesses, you also have to give
11 up your right to present evidence which you or your lawyer may
12 feel would establish some tyra defense to the charge or
13 charges against and you have to give up your right of subpoena
14 and you have to give up your right to remain silent. Now if
15 you wish to give up all of those rights and go forward with
16 entering the plea at this time, I need for you to please
17 stand. Let the record reflect that everyone stood. Thank you
18 very much, you may be seated. Again, if any of you wish to
19 speak with your lawyer any time, just let me know and I'll
20 allow you to do so in private. Those of you on the front row
21 that joined us from the gallery you can return back to the
22 gallery.

23 MR. GRAY: May it please the Court, Your Honor. Before
24 you is Mr. Cullen Campbell on a number of indictments:
25 2010-GS-42-6686, Count Number 1, that's armed robbery, that's

1 a true bill indictment, he's pleading guilty to that charge,
2 Your Honor, there are no negotiations or recommendations,
3 Count 2 of that indictment is possession of a weapon durin' a
4 violent offense, that charge will be dismissed, Your Honor;
5 also 2010-GS-42-6684, Count 1 is armed robbery, Count 2 is
6 possession of a weapon during a violent crime, he's pleading
7 guilty to botha those charges, there are no negotiations or
8 recommendations on those, Your Honor; 2010-GS-42-6683, Count 1
9 is armed robbery, Count 2 is possession of weapon during a
10 violent crime, he's pleading guilty to both of those charges,
11 there are no nego -- negotiations or recommendations as far as
12 sentence on those and lastly, 2011-GS-42-5296, that's
13 malicious injury or wilful injury to a courthouse jail, that
14 case has not been presented to the grand jury, he's waiving
15 presentment, he's represented by Mr. James Cheek on all of
16 those, Your Honor. I apologize, I do not have a restitution
17 order for that charge, that cost is a hundred twenty-five
18 dollars to the county detention center. Mr. Cheek.

19 EXAMINATION BY THE COURT:

20 Q. You are Mr. Campbell?

21 A. Yes, sir.

22 Q. Sir, I need to remind you that you remain under oath. Do
23 you understand that?

24 A. Yes, sir.

25 Q. And, sir, were you able to hear the solicitor when he

1 announced the various charges that are against you that he has
2 presented to me?

3 A. Yes, sir.

4 Q. The manner in which he announced those charges is that
5 consistent and the same as what understand you'll be entering
6 pleas to today?

7 A. Yes, sir.

8 Q. And, sir, do you agree that the restitution on the
9 malicious injury or wilful injury to a courthouse or jail that
10 that restitution is a hundred and twenty-five dollars?

11 A. Yes, sir.

12 Q. Alright. How old are you, sir?

13 A. Twenty.

14 Q. How far did you go in school?

15 A. Ninth grade.

16 Q. I'm sorry?

17 A. Ninth grade.

18 Q. And did you ever obtain a GED?

19 A. No, sir.

20 Q. Are you married or single?

21 A. Single.

22 Q. Do ya have children?

23 A. No, sir.

24 Q. Prior to being arrested on these charges did you have a
25 job outside the home?

1 A. No, sir.

2 Q. How were you supporting yourself financially at the
3 time?

4 A. By my family.

5 Q. Ever serve in the military?

6 A. No, sir.

7 Q. And on these charges how long have you been in jail?

8 A. Three hundred and twenty-nine days.

9 Q. Alright, sir, if you would, I need for you to please
10 listen to the solicitor, he is going to tell us the facts that
11 are behind these cases and then when he's finished I'll have
12 some more questions for you so please listen to him.

13 MR. GRAY: Thank Your Honor. I know these are a number
14 of indictments but actuality it's three instances. First
15 instance is on September 24th afternoon, early evening at
16 Court Lot , mobile home, a number of gentlemen and
17 ladies were sittin' around havin' a little party playin'
18 cards, the defendant walked up to them pointed a black handgun
19 at 'em, it was four of them, demanded money, cell phone, etc.
20 from them, two of the victims in that case were a Lusina
21 Ortega and a Mr. Jose Lopez, the other two victims were Pedro
22 Saavedra and Jose -- excuse, me Soledad Tenjhay. The two
23 charges he's pleading -- two indictments he's pleading to
24 basically he used one gun on all individuals, that's why he
25 has the one gun count. He's pleading to two armed robberies

1 in that situation with the four individuals. State does
2 request restraining order for all in -- individuals if
3 necessary. Items were recovered for the most part in that
4 situation and they can be returned to the individuals 'cuz
5 basically they were taken into evidence when the defendant was
6 arrested. Also, once he left that location he walked over to
7 a Drive where the victim was a Mr. Jose
8 Trujillo. He was out there washing his car, he walked up to
9 the de -- victim, the defendant pointed his gun in his face
10 and said, Give me your money, Mr. Trujillo ran at that time
11 leaving his 2004 GMC Silverado truck there. The defendant got
12 in the truck basically using that as a get away vehicle.
13 Mr. Trujillo's cell phone and wallet were in the truck at that
14 time. He was later arrested along with some co-defendants who
15 are still in the county jail. He was basically the point man,
16 he had the weapon. They did not participate in the stealing
17 of the truck, he committed all of these armed robberies. He's
18 also pleading to a charge of using a weapon in a violent
19 offense against Mr. Trujillo with the truck. The third
20 offense has occurred since he's been in the jail, uh, July
21 10th of this year. Officer Gillespie was escorting another
22 prisoner back pr -- past his cell, there was some words
23 exchanged between the defendant and the officer, he -- this
24 defendant became belligerent and at that point broke the
25 sprinkler head in his cell, ha -- and then and started

1 flooding his cell basically at that point and that's why he
2 was charged with malicious injury to the courthouse or the
3 jail. I can tell the Court at the appropriate time his
4 criminal history and the victims' feelings on these matters,
5 Your Honor.

6 MR. CHEEK: Your Honor, relative to the first matter
7 involving the four individuals or five individuals playing
8 cards, my client, there were four individuals playing cards.
9 Mr. Campbell will tell the Court that according to the
10 discovery there was some question about who might have been
11 pointing the gun because the description given by one of the
12 de -- one of the three defendants. He understands the hand of
13 one would be the hand of all in that situation and therefore
14 he's still entering the plea, Your Honor, because someone and
15 out of the three was pointing a gun and it all started. From
16 beginning to end he was present there and so he's pleading to
17 that charge, Your Honor, under the understanding the hand a
18 one is the hand of all. He denies that he was the one
19 actually pointin' the gun but he does understand that theory
20 of law, Your Honor.

21 EXAMINATION BY THE COURT:

22 Q. Do, Mr. Campbell, do you agree with what your lawyer just
23 stated?

24 A. Yes, sir.

25 Q. And, Mr. Campbell, you were able to hear the other facts

1 that were related by the solicitor?

2 A. Yes, sir.

3 Q. Now those other facts do you believe that he is
4 substantially correct in what he stated?

5 A. Yes, sir.

6 Q. That's a yes? You need to respond verbally.

7 A. Yes, sir.

8 Q. Thank you. Alright. And, sir, you do understand that on
9 the armed robbery charges that each one of those armed robbery
10 charges carries a sentence of between 10 and 30 years at the
11 Department of Corrections?

12 A. Yes, sir.

13 Q. And, sir, do you understand that each one of those armed
14 robbery charges is classified as both a violent and also a
15 most serious offense under the law?

16 A. Yes, sir.

17 Q. And you have been able to talk to your lawyer as to the
18 consequences and ramifications of those offenses being
19 classified as both a violent and most serious?

20 A. Yes, sir.

21 Q. And understanding those two classifications, the
22 ramifications of those two classifications and the possible
23 sentence I could impose on armed robbery charges, you still
24 wish to enter a plea to those charges?

25 A. Yes, sir.

1 Q. And, sir, do you understand that all of the possession of
2 weapons during a violent crime that those, that those carry up
3 to 5 years at the Department of Corrections?

4 A. Yes, sir.

5 Q. And you still wish to enter a plea to those charges?

6 A. Yes, sir.

7 Q. Sir, do you understand that the malicious injury or
8 wilful injury to a courthouse or jail that that charge carries
9 up to 3 years?

10 A. Yes, sir.

11 Q. And you still wish to enter a plea to that charge?

12 A. Yes, sir.

13 MR. GRAY: May we approach, Your Honor?

14 (Whereupon, a bench conference was held off the record.)

15 EXAMINATION BY THE COURT:

16 Q. And, Mr. Campbell, do ya understand that the 5-year
17 sentences on each of the weapons charges that those run
18 consecutive to the armed robbery charges?

19 A. Yes, sir.

20 Q. Alright. And you still wish to enter a plea to those
21 charges?

22 A. Yes, sir.

23 Q. Alright. Alright, sir, are you in fact guilty of the
24 armed robbery charge under Indictment 2010-6686?

25 A. I'm guilty of bein' there but I'm not guilty of bein' the

1 actual man. The victims' not stating me as being as to the
2 gunman.

3 Q. Alright, that I will -- you will be afforded an
4 opportunity to be able to explain the facts but I'm I'm asking
5 you now whether or not you wish to enter a guilty plea to
6 these charges.

7 A. Yes, sir.

8 Q. Alright. So, Mr. Campbell, are you in fact guilty of the
9 armed robbery charge that is found in Indictment 2010-6686?

10 A. Yes, sir.

11 Q. And are you also guilty of the armed robbery charge and
12 the accompanying possession of weapon during a violent crime
13 under Indictment 2010-GS-6684?

14 A. Yes, sir.

15 Q. Sir, are you also guilty of the armed robbery charge and
16 the accompanying possession of a weapon during a violent crime
17 charge as found under Indictment 2010-GS-6683?

18 A. Yes, sir.

19 Q. Sir, are you also guilty of the malicious injury or
20 wilful injury to a courthouse or jail charges found
21 un -- under Indictment 2011-5296?

22 A. Yes, sir.

23 Q. You been able to hear all a my questions so far?

24 A. Yes, sir.

25 Q. Have all of your answers been truthful and honest?

1 A. Yes, sir.

2 THE COURT: Discovery in all these cases been shared with
3 the defense?

4 MR. GRAY: Yes, sir, Your Honor.

5 THE COURT: Prior record?

6 MR. GRAY: Yes, sir, Your Honor. As a juvenile there's
7 2006 shoplifting; 2007 assault and battery on a school
8 official; 2008 entering premises after warning -- warning;
9 2009 four counts common law robbery and possession of a stolen
10 vehicle. And I will tell the Court, Your Honor, Mr. Cheek and
11 I have talked about some of the identification issues, that's
12 why Mr. Campbell's not pleading guilty to all four of the
13 armed robbery charges at the card game.

14 THE COURT: Alright. Now did you say you did have
15 information from the victims?

16 MR. GRAY: Yes, sir, Your Honor. All victims in this
17 case indicated they were terrified of all three individuals,
18 particularly the individual that had the gun. They were not
19 so concerned about the items that were taken, they were
20 concerned about their lives in this situation, that they
21 really wish for the defendant in this case to get jail time,
22 particularly Mr. Trujillo who had his truck stolen 'cuz
23 basically he was surprised from nowhere just washin' his truck
24 in the middle of the evening and this happened to him, Your
25 Honor.

1 THE COURT: And we have the restitution in the amount of
2 a hundred and twenty-five dollars. Is there anything else
3 from the detention facility?

4 MR. GRAY: No, sir, Your Honor, just, um, well, no, sir,
5 Your Honor.

6 (Pause.)

7 THE COURT: Yes, sir.

8 MR. CHEEK: May it please the Court, Your Honor. Your
9 Honor, present in the courtroom is Ms. Zena (phonetic)
10 Campbell who is Cullen Campbell's mother, his aunt, sister,
11 his brother Adrian and Adrian's friend. Your Honor, we'd ask
12 the Court to consider several things regarding Cullen Campbell
13 and the matter before the Court. Your Honor, I will tell the
14 Court the the solicitor has addressed prior criminal history
15 of my client which involved common law robbery, Your Honor, he
16 did that very young, he is still very young man. We'd ask the
17 Court to take that in consideration regarding sentencing in
18 this case. Your Honor, when this happened it was, it was a
19 situation where he was in the neighborhood where he lived or
20 where one of his friends lived, Zakarias Arostegui was his
21 friend, I have been very familiar with that family also, Your
22 Honor. Zakarias's family moved here from Miami, his father
23 was tragically killed in a boating accident so Zarias'
24 mother's from Guatemala so she moved here to be near some of
25 her husband's family because they did not have any kind of

1 other support 'cuz her family all still lives in Guatemala, so
2 they moved here, they be -- they befriended Adrian Gray and
3 and Grayson Ravenick (phonetic) befriended Cullen and they
4 were all very good friends. I address that, Your Honor,
5 because there was much publicity about all of this in an
6 attempt to make Cullen look as though he was some type of
7 predator in the community against Hispanic people because
8 these, a number of these victims were Hispanic individuals,
9 Your Honor, that's not at all the case. He was actually
10 involved in friendships of of people in that community,
11 activities in that community and Zakarias Arostegui, while he
12 does not have a name that sounds Hispanic, to most people he
13 is Hispanic also, Your Honor, so that's the situation and I
14 want the Court to be aware of that because at one point in
15 time there was an attempt to paint Cullen as being somebody
16 entirely different who he is.

17 Your Honor, Cullen comes from a very close-knit, very
18 productive family in this community. His mother's worked all
19 of her life, raised three children as a single parent.
20 Essentially, Cullen's father was in and out of his life and
21 then Cullen's father died about seven years ago. Cullen
22 throughout his educational pursuits in Spartanburg until the
23 ninth grade was in special education classes. I have no
24 reason to believe he does not comprehend and fully appreciate
25 the impact of his behavior in the community but I don't think

1 he understands it to the level that some other people might
2 understand that this was not a playful, joyful time or
3 somethin' to laugh about and run about and talk about which is
4 basically the attitude most of these three boys had in what
5 they, what they had done but, Your Honor, we just ask the
6 Court take all that into perspective regarding Cullen Campbell
7 'cuz now he's facing some serious time at a department of
8 corrections institution. He is beginning to fully comprehend
9 that this is not play time anymore, this is well as they say
10 over at the jail "big boy" situations and he now understands
11 and appreciates that this is very, very serious and he's got
12 to get things under control.

13 Your Honor, his family's been grieving about this, all of
14 his family's not here understandably so but he has some
15 cousins who are outstanding basketball players at Spartanburg
16 High School, twin girls, they're outstanding, his his his
17 great uncle was in this community the coach at Carver High
18 School, influenced a lot of, a lotta young man in this
19 community, the champ of football teams, his other relatives
20 have been valedictory, salutatory and he has one attorney, one
21 cousin an attorney here in Spartanburg. He he has lots of
22 people, Your Honor, who have tried to be a part of his life,
23 many of them come to me and said they wished they had been
24 more involved than they were, if they ever realized that
25 somethin' like this was goin' to develop as serious as it has

1 in Cullen's life. He also from information his mother's given
2 me had a mentor in the community, Mr. Rodney Johnson, who
3 tried to work with him in junior high school through the girls
4 and boys club. He's had some help but I don't think he ever
5 fully appreciated what has happened and brought him to this
6 point, Your Honor, but I think now he realizes that this is
7 very serious. Your Honor, we ask the Court to take in
8 consideration his age, that these people did not come forward
9 sooner but they're all committed now, they wish they had done
10 more in his life and they're willin' do whatever they can once
11 he serves his time at the Department of Corrections to still
12 be there providing a network of support for him. As far as he
13 still has that resource, Your Honor, did not avail himself of
14 it as I wish he had, I'm sure he wishes that he had, I know
15 his mother wishes that he had sooner but, Your Honor, it's now
16 available to him, we'd ask the Court to take that in
17 consideration that part of these sentences will require
18 consecutive sentencing. We just plead mercy, Your Honor. I
19 don't think he fully comprehended what this course of action
20 and activity could lead to as far as the maximum or even a
21 minimal sentences could arise in this case.

22 His aunt would like an opportunity to address the Court
23 at the appropriate time, Your Honor. His mother has told me
24 she's too distraught to address the Court today. She loves
25 her son, she wishes he would not have to be here for something

1 like this but she wanted the Court to know he still has a
2 loving family. His brother has expressed concern about the
3 cases, about the elements of the crime, about these
4 activities. Everybody wishes that there were another way to
5 resolve this. They understand we could go to trial on it but
6 they also understand the impact of what a trial would mean in
7 this case particularly regarding the future of sentencing him
8 because he's comin' forward avoiding trials in two major
9 cases, Your Honor, hoping and praying the Court would show
10 extreme mercy in this case, Your Honor, with concurrent
11 sentencing on this charge, they run concurrent and concurrent
12 on the gun charges which would have to be consec -- concurrent
13 with each other but consecutive to the principal charge of
14 armed robbery, Your Honor, just plead mercy.

15 THE COURT: Do you agree with what your lawyer just
16 stated?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Did you say you -- the -- did have some
19 people that wished to address the Court?

20 MR. CHEEK: Yes, sir, the aunt would like to address the
21 Court.

22 THE COURT: If you will just come up here, ma'am.

23 (Whereupon, Ms. Harris came forward.)

24 THE COURT: Ma'am, I just need to let you know we are
25 making a recording of everything that happens here so when you

1 speak, speak up loud enough so that both the court reporter
2 and I can hear you and if you would just start by givin' us
3 your full name.

4 MS. HARRIS: Beverly Campbell Harris.

5 THE COURT: Yes, ma'am, Ms. Harris.

6 MS. HARRIS: I just wanna reiterate on what Mr. Cheeks
7 has said, ya know. Cullen does have a lotta support in the
8 family, ya know, he has had issues dur -- during school with,
9 ya know, ya know, bein' classified as special ed but we've
10 always been there to support him and we're still here and and
11 we'll be here to support him and, ya know, he did lose his
12 father at a early age and, ya know, without that, ya know,
13 influence I think that had a lot to do with it as well, not
14 offering it as a excuse but, ya know, we do care about him, we
15 love him and and still are here to support him. His mother
16 just was diagnosed a couple years with congestive heart
17 failure and, ya know, she just wanna see him do the right
18 thing and we we wanna make sure that that he knows that we are
19 there to support him and and and we're gonna be there for him
20 and also, ya know, let you know and and again, ya know, we
21 just plead mercy of the Court that you would, ya know, just
22 have mercy on him and and sen -- sentence him to the least
23 amounta time in this case, ya know, so...

24 THE COURT: Thank you, ma'am.

25 MR. CHEEK: Thank Your Honor.

1 THE COURT: Mr. Mr. Campbell, is there anything that you
2 would like to say or would want me to know or consider?

3 THE DEFENDANT: Sorry (crying) for to the community, I'm
4 sorry for my family too for to have put 'em through the pain
5 but I just ask for mercy.

6 THE COURT: Thank you, sir.

7 (Pause.)

8 THE COURT: I'll find that there's a substantial factual
9 basis for the plea, I'll find that the defendant's decision to
10 enter the plea has been made freely, voluntarily, knowingly
11 and intellectually by him, I'll find that he has received the
12 services from a very competent and able legal counsel,
13 services he has indicated to the Court he is satisfied with
14 and has relied on in reaching the decisions that he has made,
15 therefore I I will accept the plea.

16 On the armed robbery charges, all three of them, that'll
17 be a 15-year sentence, that'll be he'll receive credit for the
18 329 days on those charges, it's a 5-year sentence on the two
19 that have the weapons charges, that'll run consecutive to each
20 of the armed robbery charges but concurrent with each other
21 and it's a 3-year sentence on the malicious injury to
22 courthouse or jail, that'll run concurrent with the other
23 charges all of which he will receive the 329 days worth a
24 credit, restitution has been ordered in the amount of a
25 hundred and twenty-five dollars on the malicious injury to

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jail charge. Good luck to you, sir.

MR. CHEEK: Thank Your Honor.

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CERTIFICATE OF REPORTER

I, Margaret A. Woods, Court Reporter in and for the State of South Carolina at Large, hereby certify that I reported the preceding case on August 23, 2011 at the time and place heretofore set forth; and that the foregoing pages numbered from 3 through 25, inclusive, constitute a true and accurate transcription of my stenographic notes of the said proceeding.

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

May 21, 2012

Margaret A. Woods

Margaret A. Woods, Court Reporter
in and for the State of South Carolina at Large.

FORM 5

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

County of Spartanburg

Cullen Blake Campbell

Full name and prison number (if any) of Applicant

v.

State of South Carolina

APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Spartanburg County Jail
2. Name and location of Court which imposed sentence Spartanburg County Court House
3. Name(s) of co-defendant(s) (if any) Zacharias Avostegu, Adrian Giron
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2010 GS 4226082, 2010 GS 4226084, 2010 GS 4226086
 - (b) _____

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SPARTANBURG COUNTY
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M. H. D. P. B. L. A. L. L. Y.
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DM

2012-CP-42-1444

(c) _____

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

(a) ~~August 23, 2011~~ August 23, 2011; 25 years

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

NO

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

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

i. N/A

ii. _____

iii. _____

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

i. N/A

ii. _____

iii. _____

(c) the date of each such result:

i. N/A

ii. _____

iii. _____

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

i. N/A

ii. _____

iii. _____

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

(a) I BEEN UNDER ALOT OF DISTRESS AND DIDNT

(b) UNDERSTAND

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STAMBOURG COUNTY
2012 MAR 30 AM 9:28
M. BOPE BLANCHLEY

2012-CP-42-1444

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

- (a) INEFFECTIVE ASSISTANCE OF COUNSEL
- (b) _____
- (c) _____

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

- (a) IT WAS MATERIAL THAT WASN'T ENCLOSE IN MY RULES.
- (b) _____
- (c) _____

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

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

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

(a) the specific nature thereof:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(b) the name and location of the Court in which each was filed:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

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STANBURY COUNTY
2012 MAR 30 AM 9:28
M. HOPE BLANKLEY

(c) the disposition thereof:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

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

- i. N/A
- ii. _____
- iii. _____
- iv. _____

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?

N/A

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

(a) which grounds have been presented:

- i. N/A
- ii. _____
- iii. _____

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

- i. N/A
- ii. _____
- iii. _____

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2012-CP-42-1444

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

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

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

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

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

- i. JAMES CHEEKS
- ii. RICHARD WHELCHER
- iii. _____

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

- i. JAMES CHEEKS, REPRESENTATION FOR PLEA
- ii. RICHARD WHELCHER, PUBLIC DEFENDER OFFICE
- iii. _____

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MARTINBURG COURT

2012-CP-42-1444

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

REVERSAL, AND SET FOR NEW TRIAL

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

N/A

STATE OF SOUTH CAROLINA)

County of Spaulding SC)

VERIFICATION

I, C, 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.

Cynthia Campbell

SWORN to and subscribed before me this 27 day of Mar 2012

J. Bracey (L.S.)
Notary Public

My Commission Expires: 5-16-14

2012 MAR 30 AM 9:28
M. HOPE BLANCHLEY
CLERK OF COURT
SPAULDING COUNTY

2012-CP-42-1444

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

I, _____, 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.

Caitlin Campbell

Applicant

SWORN or affirmed and subscribed before me this
 27 day of *March* 2012
J. Bracey Pina
 Notary Public

My Commission Expires: 5-16-11

FILED
 CLERK OF COURT
 LEBANON COUNTY
 2012 MAR 30 AM 9:28
 M. HOPE BLANKLEY

17

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)
)
 Cullen B. Campbell, #332961,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)
)
 _____)

IN THE COURT OF COMMON PLEAS
 SEVENTH JUDICIAL CIRCUIT

2012-CP-42-1444

RETURN

In response to the post-conviction relief application filed March 30, 2012, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Applicant was indicted at the November 2010 term of the Spartanburg County Grand Jury for three (3) counts of armed robbery and possession of a weapon during the commission of a violent crime (10-GS-42-6683, -6684, -6686). The charge of possession of a weapon during the commission of a violent crime (10-6684) was *nolle prossed* upon Applicant's plea. Applicant also waived presentment to the Grand Jury for the charge of malicious or willful injury to a courthouse jail (11-GS-42-5296)¹. James A. Cheek, Esquire, represented the Applicant. On August 23, 2011, the Applicant pled guilty to the charges as indicted. The Honorable J. Mark Hayes II, sentenced the Applicant to concurrent terms of fifteen (15) years imprisonment for each armed robbery and concurrent terms of five (5) years imprisonment for each possession of a weapon during the

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commission of a violent crime, with the weapons possession terms to be served consecutively to the armed robbery terms. Applicant was also sentenced to a concurrent three (3) year term for the malicious injury charge. The Applicant did not appeal his conviction or sentences.

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

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, in that;
 - a. "It was material that wasn't enclose in my Rule 5."

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."

Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 28 S.C. 44

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¹ Respondent notes that the Applicant appears to only raise allegations against the three indictments for armed robbery/possession of a weapon in his post-conviction relief application.

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 "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625. (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 265, 266, 300 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

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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.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

SUZANNE WHITE
Assistant Attorney General

By:

[Handwritten Signature]
Attorneys for Respondent
P.O. Box 11549
Columbia, S.C. 29211
(803) 734-3737

April 17, 2013

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SPARTANBURG COUNTY
2013 APR 19 AM 9:17
M. HOPE BLACKLEY



STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

Cullen B. Campbell,)

2012-CP-42-1444

Applicant,)

v.)

CERTIFICATE OF SERVICE BY MAIL

State of South Carolina,)

Respondent.)

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

Ransome A. Coleman, Esquire
 Johnson Smith Hibbard & Wildman, LLP
 P.O. Drawer 5587
 Spartanburg, South Carolina 29304-5587

Anne Mueller
 Anne A. Mueller
 Legal Assistant for the Respondent

FILED COURT
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 SPARTANBURG COUNTY
 APR 19 2013
 AM 9:17
 W. HOBBS
 BLACKLEY

DATED this 17th day of April, 2013.

109

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

COUNTY OF SPARTANBURG)

Case No. 2012-CP-42-1444

Cullen B. Campbell (#332961),)

Applicant,)

AMENDMENT TO P.C.R. APPLICATION

v.)

State of South Carolina,)

Respondent.)

Cullen B. Campbell ("Applicant") hereby amends his Application for Post-Conviction Relief ("Application") in the above-referenced matter to assert a failure to conduct sufficient investigation as a further basis for Applicant's allegation of ineffective assistance of counsel. Additionally, Applicant further amends his Application to assert that his guilty plea was involuntary on the basis that Applicant failed to have a full and correct understanding of the consequences of his plea and the charges against him due to misleading and insufficient communication with Applicant's counsel regarding the consequences of Applicant's guilty plea and Applicant's charges.

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SPARTANBURG COUNTY
JUN -4 PM 2:38
JOSE BLANCO

William Reid Wildman

Reid Wildman (S.C. Bar No. 00266)
Johnson, Smith, Hibbard & Wildman
Law Firm, L.L.P.
220 North Church Street, Suite 4 (29306)
P.O. Drawer 5587
Spartanburg, SC 29304
Telephone: (864) 582-8121
Facsimile: (864) 585-5328
Attorney for Applicant

Spartanburg, South Carolina
June 4, 2013

M

WOW

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

Cullen B. Campbell (#332961),)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

Case No. 2012-CP-42-1444

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that a copy of the Amendment to P.C.R. Application was served upon the following via United States Mail this date, with sufficient postage affixed thereto, and addressed as follows:

**South Carolina Attorney General's Office
c/o Suzanne White
P.O. Box 11549
Columbia, SC 29211**



Reid Wildman (S.C. Bar No. 100266)
Johnson, Smith, Hibbard & Wildman
Law Firm, L.L.P.
220 North Church Street, Suite 4 (29306)
P.O. Drawer 5587
Spartanburg, SC 29304
Telephone: (864) 582-8121
Facsimile: (864) 585-5328
Attorney for Applicant

Spartanburg, South Carolina
June 4, 2013

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SPARTANBURG COUNTY
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WILKIE BLACKBURN

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STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)
)
Cullen B. Campbell (#332961),)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

Case No. 2012-CP-42-1444

SECOND AMENDMENT TO P.C.R.
APPLICATION

Cullen B. Campbell ("Applicant") hereby amends his Application for Post-Conviction Relief ("Application") in the above-referenced matter to add Indictment 11-GS-42-5296 for the charge of malicious or willful injury to a courthouse jail to Section 4 of his Application for Post-Conviction Relief.

William Reid Wildman

Reid Wildman (S.C. Bar No. 100266)
Johnson, Smith, Hibbard & Wildman
Law Firm, L.L.P.
220 North Church Street, Suite 4 (29306)
P.O. Drawer 5587
Spartanburg, SC 29304
Telephone: (864) 582-8121
Facsimile: (864) 585-5328
Attorney for Applicant

Spartanburg, South Carolina
June 21, 2013

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N HOPE BLACKLEIN

SCANNED

hr

WON

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)
)
 Cullen B. Campbell (#332961),)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 SEVENTH JUDICIAL CIRCUIT

Case No. 2012-CP-42-1444

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that a copy of the Second Amendment to P.C.R.
 Application was served upon the following via United States Mail this date, with sufficient
 postage affixed thereto, and addressed as follows:

South Carolina Attorney General's Office
c/o Suzanne White
P.O. Box 11549
Columbia, SC 29211

Reid Wildman

Reid Wildman (S.C. Bar No. 100266)
 Johnson, Smith, Hibbard & Wildman
 Law Firm, L.L.P.
 220 North Church Street, Suite 4 (29306)
 P.O. Drawer 5587
 Spartanburg, SC 29304
 Telephone: (864) 582-8121
 Facsimile: (864) 585-5328
 Attorney for Applicant

Spartanburg, South Carolina
 June 21, 2013

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 HOPE BLACKLETT

SCANNER

1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF SPARTANBURG) IN THE COMMON PLEAS COURT
 3 Cullen Blake Campbell,)
 4 Applicant,) TRANSCRIPT OF RECORD
 5) 2012-CP-42-1444
 6 -vs-)
 7 The State.) October 1, 2013
) Spartanburg, South Carolina

10 B E F O R E :

11 HONORABLE J. DERHAM COLE, JUDGE

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

15 RANSOME A. COLEMAN, ESQUIRE
 16 W. REID WILDMAN, ESQUIRE
 17 Attorneys for the Applicant

18 SUZANNE H. WHITE, ESQUIRE
 19 Attorney for the State

22 Linda D. Moffitt
 23 Circuit Court Reporter

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16	No exhibits entered into evidence.	
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1 THE COURT: Okay.

2 MS. WHITE: Your Honor, we're starting this afternoon
3 with Cullen Campbell vs. the State. It's case
4 No. 2012-CP-42-1444. He's represented today by Mr. Reid
5 Wildman.

6 Mr. Campbell was indicted November 2010, three counts
7 of armed robbery, possession of weapon during commission of
8 a violent crime. He also waived presentment to a charge of
9 malicious injury to the jail.

10 He pled on August 23rd of 2011 to the three counts of
11 armed robbery, to two of the possession of a weapon
12 charges. One was ultimately nolle prossed, and pled to the
13 malicious injury charge.

14 He got three concurrent 15-year sentences for armed
15 robbery, two consecutive five years for the possession of a
16 weapon and a 3-year concurrent for malicious injury. So an
17 aggregate total of 20 years.

18 He's alleged ineffective assistance of counsel in that
19 there was material not disclosed pursuant to Rule 5. And
20 then there was also an amendment or two to the application.
21 I just want to clarify. And that should be in your packet.

22 I know that one was that essentially an involuntary
23 guilty plea because counsel -- I mean, applicant failed to
24 have a full correct understanding of the consequences of
25 his plea during -- due to misleading communication with

Cullen Blake Campbell
Direct examination by Mr. Wildman

1 applicant's counsel.

2 And then also a charge, I think an issue of subject
3 matter jurisdiction.

4 So I will turn it over at this time to Mr. Wildman.

5 THE COURT: All right. Mr. Wildman.

6 MR. WILDMAN: Yes. Thank you, Your Honor. Reid
7 Wildman on behalf of the applicant, Cullen Campbell. We'd
8 like to go ahead and call Mr. Campbell to the stand.

9 THE COURT: Okay.

10 CULLEN BLAKE CAMPBELL, having
11 been first duly sworn, testified as follows:

12 DIRECT EXAMINATION BY MR. WILDMAN

13 Q Mr. Campbell, good afternoon. If you could, please
14 state your full name for the record.

15 A Cullen Campbell.

16 Q And what charges are you serving time for today?

17 A Three counts of armed robbery and the count of
18 possession of a weapon.

19 Q All right. And then there's also one for --

20 A Malicious damage.

21 Q Right. Did you plead guilty to those charges?

22 A Yes, sir.

23 Q And do you remember about when that was?

24 A August the 23rd of 2011.

25 Q Okay. Did you have an attorney representing you when

Cullen Blake Campbell
Direct examination by Mr. Wildman

1 you pled guilty to those charges?

2 A Yes, sir.

3 Q Who was that?

4 A James Cheeks.

5 Q And is he here today in the courtroom?

6 A Yes, sir.

7 Q Did you have any other attorney helping you with your
8 case before Mr. Cheek got involved?

9 A I was speaking with Richard Whelchel from the public
10 defender's office.

11 Q And is Mr. Whelchel here today as well?

12 A Yes, sir.

13 Q Okay. When was it that Mr. Whelchel started assisting
14 you with your case?

15 A In the month of October.

16 Q Okay.

17 A He was presented to me.

18 Q And was that near the time of your arrest?

19 A Yes, sir, like right after I got arrested. The month
20 after he was given to me by the public defender.

21 Q And that was in 2010?

22 A Yes, sir.

23 Q Okay. About how long did he represent you before
24 Mr. Cheek became involved?

25 A I want to say about around eight -- about eight

Cullen Blake Campbell
Direct examination by Mr. Wildman

1 months. I want to say so.

2 Q Okay. And during that time period did Mr. Welchel
3 meet with you to talk about your case?

4 A Yes, sir. He met with me one time. Supposed to be at
5 a preliminary hearing, which I thought supposed to be a
6 preliminary hearing. And we spoke about the armed
7 robberies. And he was presented to me, a Rule 5, that was
8 given to me. And he was explaining to me about the hands
9 of one, the hands of all, armed robbery, and we all going
10 to be charged with the same crime, given the same sentence.

11 He misled me by not giving me the direct way to go
12 through a preliminary hearing by escorting me to the back
13 and discussing my case.

14 Q Okay. Let's -- we'll get back to that in just a
15 second, but let me clarify some of what you've told us. So
16 you said Mr. Welchel met with you one time prior to --

17 A Yes, sir.

18 Q -- your plea.

19 A No. Actually -- excuse me. Two times.

20 Q Two times. Okay. And tell us again what it was that
21 his advice was to you at that -- at that meeting about your
22 case.

23 A He was explaining to me the hands of one, the hands of
24 all, and what do it -- carries and all of this and that,
25 and the third or whatever. But he also told me that I will

1 be given a life sentence if I was to go to trial.

2 Q Okay. Now, this hand of one, hand of all you're
3 referring to, did you understand what that was about, what
4 that meant?

5 A My understanding that he was giving to me, that the
6 hands of one, the hands of all is we do a crime together,
7 it's the same time is given, no charges getting dropped.

8 Q Okay. And when you say we, you're referring to your
9 codefendants?

10 A Yes, sir.

11 Q And what were their names?

12 A Adrian Gray and Kakarias Arostequi.

13 Q Okay. And when you talked with Mr. Welchel did you
14 talk with him at all about the issue of a gun involved in
15 the incidents?

16 A Yes, sir.

17 Q What was that discussion about?

18 A That the victims was never discussing my name as
19 being no gunman, and they was discussing Adrian Gray as
20 being the gunman. And I was asking him how could I have
21 been indicted of a possession of a weapon when there is no
22 one being -- giving my name as being as a gunman to none of
23 these charges.

24 Q Okay. So you're saying that -- did you -- did you
25 tell Mr. Welchel that you were not the gunman, or did you

Cullen Blake Campbell
Direct examination by Mr. Wildman

1 admit to being the gunman?

2 A I did not -- never did not -- I mean, I never stated
3 that I was the gunman.

4 Q Okay. Okay. To your knowledge did Mr. Welchel ever
5 do any other interviews with anyone other than you about
6 the case or do any kind of investigating?

7 A No, sir. He never told me anything about no
8 investigation or nothing.

9 Q Okay. You mentioned something as well a moment ago
10 about a life sentence. What was that again that you told
11 us?

12 A Around the same time that the mishila [sic] -- the
13 malicious damage and injury to state property in the county
14 jail, we didn't even discuss nothing about the property
15 that was damaged at the county jail. He spoke to me about
16 the armed robbery charges. And he told me that I could be
17 looking at a life sentence if taking these charges to
18 trial.

19 Q Okay. And did that influence your decision to
20 ultimately plead guilty?

21 A Yes, sir, it did.

22 Q Okay.

23 A Because if I would have known that it could have been
24 a 10-year nonviolent, as well that my codefendant has
25 received by him telling me the hands of one over the hands

Cullen Blake Campbell
Direct examination by Mr. Wildman

1 of all, of my understanding of the hands of one, the hands
2 of all, we all going to get charged at the same crime,
3 armed robbery. Nothing was getting dropped -- possession
4 of a weapon. And we all would get the same time.

5 Q So your codefendants, what charges did they -- were
6 they charged with?

7 A Armed robbery.

8 Q Okay. And did they receive the same sentence?

9 A No, sir. They received ten years nonviolent.

10 Q Okay. Okay. And you were saying just a moment ago
11 you thought that you would all get the same sentence?

12 A Yes, sir. I did.

13 Q And is that because you were told that?

14 A Yes, sir, because we all -- he -- Richard Welchel
15 specifically said we all is going to get charged with the
16 same thing.

17 And I specifically asked him could I get a bond
18 reduction. He was like get a bond reduction for what, get
19 a bond reduction, that means your charges will get dropped.

20 Okay. Then go back to the armed robbery and
21 possession of a weapon. Possession of a weapon is a
22 possession in your area, somebody point you out as the
23 gunman. And no one is pointing me out as no gunman. No --
24 no one has said anything about me, Mr. Campbell.

25 Q Okay. To your knowledge was there any conflicting

Cullen Blake Campbell
Direct examination by Mr. Wildman

1 evidence in your case about who actually was the gunman?

2 A Yes, sir. In my motion discovery, Rule 5, it says
3 Adrian Gray, the victim pointed out Adrenia Gray as the
4 gunman. He also stated that he shot himself with the gun
5 after we ran from the scene.

6 Q Okay. And Adrian Gray, again, is one of your
7 codefendants in this case?

8 A Codefendants, yes, sir.

9 Q Okay. Go back a minute to something you said earlier
10 about a preliminary hearing. Did you attend the
11 preliminary hearing?

12 A Yes, sir. I signed up for preliminary hearing. And
13 when Richard -- Richard approached me at the preliminary
14 hearing he told me he was going to talk to me in the back.
15 I never knew that my -- I mean excuse me. I never knew
16 that my case could have been heard in front of a judge. If
17 I would have known that I would have let my case be heard
18 in front of a judge.

19 Q Okay. Now, when you say the back, do you mean the
20 back of the courtroom?

21 A Conference room.

22 Q The conference room.

23 A Yes, sir.

24 Q And who was there at this -- at this preliminary
25 hearing?

Cullen Blake Campbell
Direct examination by Mr. Wildman

1 A Just me. My codefendant, Adrian, he was there too,
2 but he was there for his preliminary hearing dealing with
3 the same charges with a different attorney.

4 Q Okay. And to clarify something you just mentioned,
5 was a judge there at this hearing?

6 A I didn't see no judge.

7 Q Okay.

8 A I was never presented to no judge.

9 Q Okay. And other than that was there any other
10 preliminary hearing that you went to about your charges?

11 A No, sir. He also told me that I was supposed to be
12 going back to a new preliminary hearing because they did
13 not have my codefendants' statements that they voluntarily
14 gave in my Rule 5.

15 Q And did you ever go to that?

16 A No, sir, I did not.

17 Q Were you ever notified of that hearing?

18 A No, sir.

19 Q Okay. Now, let's talk for a minute about Mr. Cheek.
20 Mr. Cheek you said took over when you -- at your plea
21 hearing, is that right?

22 A Yes, sir.

23 Q Okay. And what was his advice about your case?

24 A Well, I actually asked to speak to James Cheeks
25 because James Cheeks represented me on a common-law robbery

Cullen Blake Campbell
Direct examination by Mr. Wildman

1 that I caught a Y.O.A. sentence for back in '09.

2 Q Okay.

3 A And he knew some of my relatives. And I requested to
4 speak to him the first time about a bond reduction, and he
5 told me I would never get a bond reduction. Bond reduction
6 wasn't going the way that I thought the bond reduction
7 would go.

8 so we talked about the case a little bit. And I told
9 him that they charged me with four armed robberies -- well,
10 five armed robberies. Excuse me. They charged me with
11 five armed robberies dealing with the two codefendants.

12 And I told them that the victims never stated to me at
13 the scene -- no gunman, no nothing. They just pointed
14 Adrian Gray out, everything, the two -- two of the victims
15 never said that they was robbed.

16 Q Okay.

17 A But they charged everybody with four armed robberies
18 and four possession of a weapon. They said it was only one
19 gun, one man holding one gun and holding everybody up.

20 Q Okay. So did Mr. Cheek talk with you about what your
21 sentence might be if you decided to go to trial?

22 A Yes, sir. He said I'll be looking at a life sentence
23 as well.

24 Q And, again, did that influence your decision to plead
25 guilty?

Cullen Blake Campbell
Direct examination by Mr. Wildman

1 A Yes, sir.

2 Q Okay. What would you have done if he had not told you
3 that you might have a life sentence?

4 A Insisted of going to trial.

5 Q Okay. Okay. Now, let's also talk more about your
6 codefendants that we mentioned earlier. Were they -- did
7 they plead guilty?

8 A Yes, sir.

9 Q Okay.

10 A Adrian Gray and Arostequi.

11 Q Okay. And were they represented by an attorney?

12 A Adrian Gray was by a paid attorney and James Cheeks
13 represented Arostequi.

14 Q Okay. So Mr. Cheek represented one of your other
15 codefendants.

16 A Yes, sir.

17 Q Okay. Did Mr. Cheek tell you that he was representing
18 one of your codefendants?

19 A No, sir. Never stated that.

20 Q Okay. What were your thoughts about the fact that he
21 was representing a codefendant when you learned of that?

22 A Okay. I found out -- I found that out after I caught
23 my sentence that he was representing Arostequi. And the
24 situation with me catching 20 years, sentence, and the man
25 is catching ten years nonviolent, is he told me the hands

Cullen Blake Campbell
Direct examination by Mr. Wildman

1 of one, the hands of all as well. And the whole time with
2 the hands of one, hands of all was given to both of these
3 attorneys was everybody is getting charged with the same
4 thing, no time reduction, nobody is getting no nothing
5 less, everybody's getting the same thing.

6 Q Okay. Did you -- did Mr. Cheek ever have you sign any
7 kind of written waiver or document --

8 A No, sir.

9 Q -- waiving any kind of conflict of interest that might
10 exist since he represented you and your codefendant?

11 A No, sir.

12 Q Okay. Did you feel that he could fully represent you
13 and your codefendant simultaneously?

14 A No, sir.

15 Q You didn't. Okay. To your knowledge did Mr. Cheek
16 ever do any sort of interviews with anyone other than you
17 and your codefendant?

18 A No, sir.

19 Q Or any other kind of investigation about the facts in
20 the case or anything?

21 A I brought my own -- I brought my motion discovery to
22 see him, and I showed him what I had in my motion
23 discovery, and that was it.

24 Q Okay. Is there anything else you want to share with
25 us today about the case or why you ended up choosing to

Cullen Blake Campbell
Cross-examination by Ms. White

1 plead guilty other than what we've talked about?

2 A No, sir. Only reason why I pled guilty, because a
3 life sentence that was said to both of these attorneys that
4 I would be receiving if I take it to trial. And like I
5 say, no victim never said anything about Campbell.

6 He rep -- James Cheek represented me and Arostequi.
7 And no statement has been considered in my Rule 5, which
8 whelchel presented to my attorney at the preliminary
9 hearing. We supposed to had another preliminary hearing --
10 that what was told to me -- through Richard whelchel. None
11 of that never came about.

12 Q Okay. Thank you. No further questions.

13 CROSS-EXAMINATION

14 BY MS. WHITE

15 Q Mr. Campbell, you remember the day that you pled
16 guilty, don't you, on August 23rd?

17 A Yes, ma'am.

18 Q And when the Court went over with you the facts that
19 the solicitor read you didn't disagree with them, did you?

20 A No, sir.

21 Q Okay. So you told the Court you were pleading guilty
22 because you were guilty.

23 A Yes, sir.

24 Q Okay.

25 A Yes, ma'am. Excuse me.

Cullen Blake Campbell
Cross-examination by Ms. White

1 Q That's all right.

2 They asked you if anybody had threatened you or
3 promised you or anything like that, and you told them no.

4 A Yes, ma'am.

5 Q Okay. And you were advised about it being a violent
6 and most serious.

7 A Yes, ma'am.

8 Q You made a statement, and Mr. Cheek made statements on
9 your behalf, isn't that right?

10 A Yes, ma'am.

11 Q So you essentially are upset because you got more time
12 than the codefendants.

13 A Yes, sir, I mean, yes, ma'am. Excuse me.

14 Q Okay. And you were facing up to 30 years on three
15 separate armed robbery charges, and you got 15 on those, is
16 that right?

17 A Yes, ma'am, but I never knew that the charges was
18 carrying up to ten, I mean, 30.

19 Q Okay. So when the Court read to you the fact that it
20 carried ten to 30 on each of those charges, you don't
21 recall that?

22 A No, ma'am.

23 Q Okay. But if the transcript reflects that the Court
24 did tell you that the cases of armed robbery -- and he told
25 you about the facts and the charges and the -- let's see.

Cullen Blake Campbell
Cross-examination by Ms. White

1 Pages 14 and 15. He said, "Do you understand on the armed
2 robbery each of them carries between ten and 30 years?"

3 You don't recall that?

4 A I was up under a lot of stress at that moment of time,
5 and the time that was -- that they said I was looking at, I
6 was not really comprehending and understanding.

7 Q Okay. And do you recall signing the sentencing sheets
8 for that?

9 A Yes, I do.

10 Q Okay. And those had also that armed robbery carried
11 ten to 30 written on there. Do you recall that?

12 A Like I say, I was up under the impression of
13 distressing and was not understanding at that moment in
14 time.

15 Q Okay. But ultimately on that day you were willing to
16 plead guilty to avoid getting more time --

17 A Yes, ma'am.

18 Q -- than you were -- what you were facing originally.

19 A Yes, ma'am.

20 Q Okay.

21 MS. WHITE: Your Honor, that's all I have for this
22 witness.

23 MR. WILDMAN: No redirect.

24 THE COURT: You may step down.

25 MR. WILDMAN: Your Honor, the applicant will now call

Richard H. Welchel
Direct examination by Mr. Wildman

1 Richard Welchel to the stand.

2 RICHARD H. WHELCHEL, having
3 been first duly sworn, testified as follows:

4 DIRECT EXAMINATION BY MR. WILDMAN

5 Q Mr. Welchel, good afternoon. If you could give us
6 your full name for the Court, please.

7 A Richard H. Welchel.

8 Q And what was your involvement with Mr. Campbell's
9 case?

10 A I was the public defender assigned to Mr. Campbell
11 when his case first came to the public defender's office.

12 Q Okay. And about how long did you represent him?

13 A I think it was assigned in late October, sometime in
14 October, and he pled the following September, I think.

15 Q Okay. And did you meet with Mr. Campbell to talk
16 about his case during that time?

17 A Yes, sir.

18 Q How many times did you meet with him?

19 A I can't tell you that. I know I met with him at the
20 preliminary hearing.

21 We reviewed his -- the discovery that he had at that
22 time. And I don't know if I had the actual discovery from
23 the solicitor's office or if I had the computer that they
24 provide us if we don't have the actual discovery.

25 But we went into the -- what we call the back room.

Richard H. Welchel
Direct examination by Mr. Wildman

1 There's a little conference room on the back side of the
2 courtroom where the preliminary hearings are conducted.
3 And I met with him there and discussed what evidence they
4 had. And I explained to him that a probable cause -- a
5 preliminary hearing is a probable cause hearing and that
6 they had sufficient evidence in there to establish probable
7 cause.

8 Q Okay.

9 A We reviewed that, and I asked him if he understood
10 that. He indicated that he did.

11 Q Okay.

12 A I think I waived the preliminary hearing. I'm not
13 sure.

14 Q Okay. So was there anyone else there in this back
15 room?

16 A Other than the two of us?

17 Q Right.

18 A No, sir.

19 Q Okay. At your meeting or your meetings with
20 Mr. Campbell what was your advice to him about his case?

21 A At the preliminary hearing I just told him that they
22 had sufficient evidence for probable cause.

23 At that hearing I also informed him that at the second
24 appearance or prior to the second appearance if we're going
25 to get an offer from the state that is when they're

Richard H. Welchel
Direct examination by Mr. Wildman

1 required to give us the offer, and if and when I get an
2 offer I would get with him or, you know, send a copy to him
3 at the jail if he was still incarcerated, or send it to him
4 at his home.

5 Q Okay. So did -- did you ever have discussions with
6 him about whether or not he should plead guilty to the
7 charges against him?

8 A I may have. To tell you the truth, I just do not
9 remember. It's been a long time.

10 Q Okay. Do you recall if you conducted any sort of
11 other investigation about the case or did any kind of
12 interviews with anyone?

13 A Not off the top of my head. I mean, I reviewed the
14 discovery and talked to him about it.

15 Q Okay. Do you recall any of the substance of that
16 conversation?

17 A Excuse me?

18 Q Do you recall any of the substance of those
19 conversations that he had?

20 A He did say that he was not the gunman, and we did talk
21 about the hand of one being the hand of all, and the fact
22 that he was charged with multiple armed robberies.

23 Q So you said that he denied being the gunman?

24 A I don't remember if he did or not. I mean, if he says
25 he did, I'm assuming that he did. I just don't recall that

Richard H. Welchel
Direct examination by Mr. Wildman

1 myself.

2 Q Okay. And when was it that Mr. Cheek ended up taking
3 over?

4 A I can't tell you that either. A lot of times what
5 will happen is that the client in the jail will see
6 Mr. Cheek a lot more than he sees me because Mr. Cheek's at
7 the jail every day.

8 And I think -- and I'm not sure about this -- but I
9 think because of their prior relationship he wanted to talk
10 to Mr. Cheek, which is fine with me, because I tell
11 Mr. Campbell and anybody else that I represent that wants
12 to talk to Mr. Cheek that that's fine with me. He's been
13 practicing law longer than I have. So I tell them I don't
14 get my feelings hurt if they want to talk to Mr. Cheek.

15 And I don't know if that came about from Mr. Campbell
16 wanting to talk to Mr. Cheek or the solicitor's office
17 making an offer. Sometimes they'll make an offer through
18 Mr. Cheek because they know the defendant's in jail. I
19 don't know which one of those happened.

20 Q Okay.

21 A But he came to represent him. That's -- I do know
22 that.

23 Q Okay. And do you recall if you had any discussions
24 with Mr. Campbell about saying he would get life in prison
25 if he went to trial?

Richard H. Welchel
Cross-examination by Ms. White

1 A No, sir. What he may have misunderstood is that there
2 were multiple armed robberies, and there was the potential
3 for that if they wanted to do it the way I saw it. And I
4 told -- I would have told him I can't tell you that they
5 are or they aren't but the potential is there.

6 Q Okay.

7 MR. WILDMAN: No further questions.

8 CROSS-EXAMINATION

9 BY MS. WHITE

10 Q Just real quickly, Mr. Welchel.

11 During your representation of Mr. Campbell did -- to
12 your understanding was it always that he was interested in a
13 plea, did he want to take it to trial, or do you recall?

14 A I don't remember him wanting to take it to trial. I
15 don't remember him strongly pushing for it wanting to go to
16 trial. But that just may be because I don't remember. I
17 just do not recall that.

18 Q And you said that you don't have any independent
19 recollection of whether or not he denied being the gunman
20 to you or agreed with the facts of the case or anything, is
21 that right?

22 A I don't know if he did or he didn't. I just can't --
23 I can't tell you.

24 Q All right.

25 Q Thank you.

James A. Cheek
Direct examination by Ms. White

1 MS. WHITE: That's all I have for this witness, Your
2 Honor.

3 MR. WILDMAN: No redirect.

4 THE COURT: You may step down.

5 MR. WILDMAN: May the witness be excused, Your Honor?

6 THE COURT: He may be.

7 MR. WILDMAN: Thank you.

8 THE WITNESS: Thank you, Your Honor.

9 (Whereupon, the witness was excused.)

10 THE COURT: Anything else on behalf of the applicant?

11 MR. WILDMAN: No, Your Honor.

12 MS. WHITE: Your Honor, the state would call James
13 Cheek.

14 JAMES A. CHEEK, having been
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION BY MS. WHITE

17 Q Mr. Cheek, you heard Mr. Campbell testify earlier that
18 he had requested to speak to you while he was in jail about
19 the case. Is that the same recollection you have as to how
20 you got involved?

21 A It is. Mr. Campbell had approached me about
22 investigating the possibility of bond reduction in his
23 charges.

24 Q And specifically about a bond reduction, do you recall
25 conversations with him and what you may or may not have

James A. Cheek
Direct examination by Ms. White

1 told him?

2 A I talked with him about investigating a bond
3 reduction. I explained to him that there would have to be
4 a material change in circumstances I believe in order to
5 even file a motion expecting a bond reduction hearing to
6 have any kind of success.

7 I explained to him that contrary to the opinion of
8 many inmates in the jail there's not an automatic 90-day
9 filing of bond reductions, every 90 days. That was not
10 going to happen. We don't file motions based upon that
11 unless there's some reason that the Court has said bring
12 them back in 90 days and I'll reconsider a bond on this
13 person or a change of bond on this person.

14 Other than that, we don't routinely file bond
15 reduction motions every 90 days. We don't do that.

16 Q Okay. Now, do you recall the case? Did you get a
17 file from Mr. Whelchel or did you get the solicitor's file?

18 A I got the solicitor -- and I will admit that I did go
19 to the solicitor's office, and I pulled Mr. Gray's file. I
20 talked with Mr. Gray about this whole situation and whether
21 or not there would be any forthcoming offers.

22 It was my recollection that in addition to the armed
23 robbery that Mr. Cullen Campbell has talked about here
24 today, which was one that involved an assault and robbery
25 at some people's home, to the trailer over in the Una area,

James A. Cheek
Direct examination by Ms. White

1 that there had been a robbery there involving several
2 people who were playing cards outside of a trailer. That's
3 where Adrian Gray and Zakarias Arostequi were involved in
4 that.

5 There was also a robbery of another gentleman who
6 lived in that area whose truck was taken. That robbery
7 involved just one person who generally met the description
8 of Mr. Campbell. And Mr. Campbell's fingerprints were
9 actually found in that gentleman's truck once it was
10 recovered by law enforcement.

11 I told Mr. Campbell that based upon all of that I just
12 thought it was not going to be any possibility of being
13 successful at a bond reduction hearing.

14 I told him that Mr. Gray was not making any kind of
15 offer beyond what Mr. Whelchel had talked about. And
16 really there was no real offer in the case. We'd go in and
17 plead and try to get everything run concurrent among the
18 two separate incidents.

19 Q : And in regards to the facts of the case as you've
20 explained them do you recall he -- saying that he denied
21 that he was ever in possession of a gun? And in the
22 transcript you appear to reference that. Do you recall any
23 conversations with him about that?

24 A I do. And I agree with Mr. Campbell that there could
25 be a strong argument made he wasn't the gunman but given

James A. Cheek
Direct examination by Ms. White

1 that he was going to be identified as the gunman in a
2 separate armed robbery when they come back at trial, that
3 he needed to think about if he beats one, all well and
4 good. He's still got another armed robbery he's going to
5 be facing trial on and he's going to be looking at the
6 situation where the people who are robbed really couldn't
7 specifically exclude him as being the one that was the
8 gunman.

9 There was a lot of confusion out there, and those were
10 Hispanic speaking people. Somebody was interpreting for
11 them. And I just wasn't confident that at trial he was
12 going to be able to really escape conviction. And I
13 reaffirmed that the theory of law of the hand of one being
14 the hand of all who were placed there at that scene, what
15 would happen at trial in that case, greater likelihood that
16 he'd still be found guilty with participation in the armed
17 robbery of those people.

18 Q And in your conversations with him did you feel from
19 his reaction or his statements that he understood that and
20 wanted to proceed with pleading guilty?

21 A Well, now, Mr. Campbell initially didn't want to
22 plead -- did not want to plead. Anyway, he had gotten
23 advice from Mr. Welchel.

24 He was more concerned about us doing our job and
25 following through with the policy of 90-days-bond-reduction

James A. Cheek
Direct examination by Ms. White

1 hearings. And it took me a while to him to explain and
2 understand it doesn't happen, that's no policy.

3 The other thing we had difficulty him accepting was
4 the fact that he was going to be tried. And I explained he
5 was going to be tried.

6 He was thinking if he waited long enough there'd be an
7 offer. I explained to him that there was a lot of
8 publicity regarding the case, that the sheriff's office was
9 not going to allow the solicitor's office to make any
10 offers in the case, that there's a great large Hispanic
11 community in Una.

12 Our sheriff was operating under the misimpression that
13 these are probably some African-Americans who were
14 targeting Hispanics. And he was seeing that as being a
15 racial issue. And those were headlines in the paper.

16 I explained to the prosecutor's office that -- no
17 disrespect to the sheriff -- but he might want to
18 understand that one of the alleged assailants was himself
19 Hispanic and that while he appeared to be a white male,
20 he's a white-colored Hispanic. He was Hispanic.

21 And I think that kind of softened things a bit, and we
22 were able to at least talk about moving forward with the
23 plea and them not asking for consecutive sentences on the
24 armed robberies, let's try to go in there and put it all up
25 as not one incident but very close in existence and let's

James A. Cheek
Direct examination by Ms. White

1 try to go forward with the plea and avoid anything other
2 than looking at the five years to run consecutive for
3 possession of a weapon during the commission of a violent
4 crime.

5 And initially we were hoping to just go in there and
6 hope the court would just go ahead and also not make
7 consecutive sentencing on the possession of a weapon during
8 the commission of a violent crime. And we moved forward
9 with that theory and hopefully maybe -- maybe my client
10 would get something between ten to 30 and just suffering,
11 just the one incident as far as penalty is concerned and
12 sentencing is concerned.

13 Q Did you feel like -- had you had a conversation with
14 him about the fact that he was facing up to 30 years on
15 each armed robbery?

16 A Absolutely, we did.

17 Q And did you discuss with him the fact that the judge
18 could run them concurrently or consecutively?

19 A Yes. Then I also told him if he went to trial you've
20 got to look at the fact they're going to -- they try them
21 one by one, what we might be facing.

22 Q Okay. Did you feel like at the plea that he pled of
23 his own free will?

24 A Yes. In fact, I remember that after having a late
25 night discussion I was counting this through -- Adrian

James A. Cheek
Cross-examination by Mr. Wildman

1 said, well, you know, it is what it is, let's go ahead and
2 get this over with, and that's what we did, arranged for
3 the plea.

4 Q Okay. Thank you, Mr. Cheek.

5 MS. WHITE: That's all I have for this witness, Your
6 Honor.

7 CROSS-EXAMINATION

8 BY MR. WILDMAN

9 Q Mr. Cheek, you represented Mr. Campbell's codefendant
10 as well when he did his plea hearing, is that right?

11 A Yes. My understanding, after Mr. Campbell entered his
12 plea we then arranged to bring Arostequi over and talk with
13 him and enter his plea.

14 Q Okay. So would you agree that you owed a duty to both
15 Mr. Campbell and his codefendant to represent their
16 interests?

17 A Oh, absolutely, to represent their best interest.

18 Q Right. Okay. Now, did you have any sort of
19 discussion with Mr. Campbell about the fact that you also
20 represented his codefendant?

21 A No. In fact, I'm not confident when I had my first
22 conversation with Arostequi -- I don't think I went in
23 there to talk to him about representing at a plea. I have
24 to go back and check my files on that. But we represented
25 Mr. Campbell. Mr. Campbell really wanted to do all he

James A. Cheek
Cross-examination by Mr. Wildman

1 could to help Arostequi because he has a great deal of
2 integrity, and Mr. Campbell has a great deal of respect for
3 himself as a man. And he knew and believed that very
4 possibly Zakarias Arostequi would not have been involved in
5 this had it not been for his influence.

6 Q And you also I presume didn't get Mr. Campbell or his
7 codefendant to sign any kind of waiver of a potential
8 conflict of interest that might come about with your
9 simultaneous representation.

10 A I don't -- I did not do that. That would be a correct
11 presumption because I didn't -- I didn't anticipate and did
12 not see one.

13 Mr. Campbell is not pointing the finger at Mr.
14 Arostequi, and as far as I knew Mr. Arostequi was not
15 pointing the finger at Mr. Campbell.

16 And they were going by -- the state's theory would
17 have been based upon the victims, and then in the separate
18 case it would have been based upon the robbery having been
19 alleged perpetrated by someone who was a single black male,
20 heavysset, whose fingerprints were found in the vehicle that
21 was stolen.

22 Q And --

23 A Which didn't involve Mr. Arostequi at all, or
24 Mr. Gray.

25 Q Okay. Now, you mentioned a moment ago that you agreed

James A. Cheek
Cross-examination by Mr. Wildman

1 that there were some issues regarding whether Mr. Campbell
2 was actually the individual with the gun, is that -- is
3 that correct?

4 A Based upon Mr. Campbell's assertions I could not deny
5 that one way or the other, I mean.

6 Q Okay. And yet you still encouraged him to plead
7 guilty on the basis that he had the gun. Is that -- is
8 that accurate to say?

9 A No, sir, that would not be accurate at all. I don't
10 know anything I would have said that even was closely akin
11 to that.

12 Q Okay. Whether --

13 A He had a gun. He had a gun when he robbed that truck.
14 And I did not see how he was going to get out of that. So
15 maybe that's where the confusion arose.

16 But in the other incident there's a very real
17 likelihood that Adrian Gray was the person that pointed the
18 gun. Adrian Gray shot himself, I believe, and reported
19 himself to the hospital.

20 So Adrian Gray had have had a gun in the early
21 incident in the -- in the incident involving the robbery at
22 the -- the party. So I don't believe that Mr. Campbell had
23 the gun then.

24 Q Okay. Now, when you negotiated the plea for
25 Mr. Campbell's codefendant was part of that negotiation.

James A. Cheek
Cross-examination by Mr. Wildman

1 that that codefendant did not have the gun?

2 A Arostequi never had a gun.

3 Q Okay. So would it be --

4 A But that was not why Arostequi was allowed to plead to
5 a lesser charge.

6 The state, the prosecutor's office, felt that
7 Mr. Campbell was the person that arranged all of this,
8 particularly since there was a gun involved in the robbery
9 of the truck driver, the truck owner on his property.

10 And Mr. Campbell was the one that they saw as being
11 the person that was the most dangerous to this community.
12 And after Mr. Campbell manned up and pled guilty they
13 offered Mr. Arostequi a different charge.

14 Q Okay. And --

15 A I had no control over that, no influence in that.
16 That was a decision strictly by the solicitor's office.

17 Q Okay. But you do concede that perhaps had
18 Mr. Campbell gone to trial based on this -- the
19 inconsistencies perhaps among the evidence about who had
20 the gun that the jury could possibly have determined he
21 didn't have the gun?

22 A They would have tried them all together, hand of one,
23 hand of all. And they would have all marched to prison
24 together if the jury decided that there was a robbery and
25 these three individuals were confederates in that robbery.

James A. Cheek
Cross-examination by Mr. Wildman

1 Q Well, why would it be that you would not have -- that
2 you selected Mr. Campbell to be the one that would be
3 responsible for having the gun under that theory?

4 A Because understand, I haven't said that. I haven't
5 said that. I did not select anybody. I never asserted
6 Mr. Campbell had the gun.

7 I believe, as I testified earlier, that Adrian Gray
8 had the gun. Mr. Campbell was there. Arostequi was there.
9 And the people were robbed. I did not select anyone.

10 Q All right. And you don't feel that there was any
11 possible issue involving your simultaneous representation
12 of his codefendant that would be problematic?

13 A I don't know of any simultaneous representation I had
14 of his codefendants. I am not aware of any that I had.

15 Q Well, you then later represented his codefendant.

16 A Mr. Campbell's case had been resolved.

17 Q Okay.

18 MR. WILDMAN: No further questions.

19 THE WITNESS: Okay.

20 MS. WHITE: Nothing further, Your Honor.

21 THE COURT: Step down.

22 MS. WHITE: The state has no other witnesses, Your
23 Honor.

24 THE COURT: All right. Anything further?

25 MR. WILDMAN: Nothing further, Your Honor.

1 THE COURT: All right. I'll review the transcript and
2 the record and issue an order.

3 END OF REQUESTED TRANSCRIPT OF RECORD
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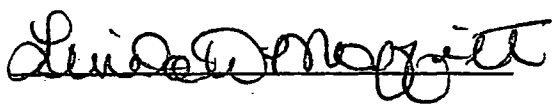
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh 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 cause, relative to appeal, in the Common Pleas Court for Spartanburg County, South Carolina, on the 1st day of October 2013.

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

May 17, 2014



Linda D. Moffitt
Circuit Court Reporter

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

Cullen Campbell, #332961,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2012-CP-42-1444

ORDER OF DISMISSAL

RECEIVED

MAR 25 2014

S.C. Supreme Court

This matter comes before the Court by way of an Application for Post-Conviction Relief filed March 30, 2012, and amendments filed June 4, 2013, and June 21, 2013. The Respondent made its Return on or about April 17, 2013. An evidentiary hearing into the matter was convened on October 1, 2013, at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by W. Reid Wildman, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. Richard Whelchel, Esquire and James A. Cheek, Esquire, also testified. This Court also had before it a copy of the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the Return, and the plea transcript.

PROCEDURAL HISTORY

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Applicant was indicted at the November 2010 term of the Spartanburg County Grand Jury for three (3) counts of armed robbery and possession of a weapon during the commission of a violent crime (10-GS-

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SPARTANBURG COUNTY
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42-6683, -6684, -6686). The charge of possession of a weapon during the commission of a violent crime (10-6684) was *nolle prossed* upon Applicant's plea. Applicant also waived presentment to the Grand Jury for the charge of malicious or willful injury to a courthouse jail (11-GS-42-5296)¹. James A. Cheek, Esquire, represented the Applicant. On August 23, 2011, the Applicant pled guilty to the charges as indicted. The Honorable J. Mark Hayes II sentenced the Applicant to concurrent terms of fifteen (15) years imprisonment for each armed robbery and concurrent terms of five (5) years imprisonment for each possession of a weapon during the commission of a violent crime, with the weapons possession terms to be served consecutively to the armed robbery terms. Applicant was also sentenced to a concurrent three (3) year term for the malicious injury charge. The Applicant did not appeal his conviction or sentences.

ALLEGATIONS

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

1. Ineffective assistance of counsel, in that;
 - a. "It was material that wasn't enclose in my Rule 5,"
 - b. Counsel failed to conduct sufficient investigation.
2. Involuntary guilty plea, in that;
 - a. Applicant did not have a full and correct understanding of the consequences of his plea and the charges against him due to misleading and insufficient communication with Counsel regarding those consequences and the charges.

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J. HONE BLAOKLEY

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

¹ Respondent notes that the Applicant appeared to only raise allegations against the three indictments for armed robbery/possession of a weapon in his post-conviction relief application; however, amended his application to

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) (citing Rule 71.1(e), SCRPC). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

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

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different."

include the charge of malicious injury to jail.

Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland).

Applicant testified that pled guilty on August 23, 2011, while represented by James Cheek ("Counsel"). Applicant also testified that he had met with Richard Welchel of the Seventh Circuit Public Defender's Office twice. Applicant testified that Welchel explained the concept of "hands of one, hands of all," and the possibility that Applicant could face a life sentence if he proceeded to trial on each of the charges. Applicant testified that because the victims never gave statements that Applicant had a gun, he did not think that he could be convicted of possession of a weapon. Additionally, Applicant testified that his co-defendant received a sentence of ten years, nonviolent. Applicant testified that he requested to speak with Counsel because Counsel had previously represented him and knew family members. Applicant testified that Counsel also advised him that he faced a possible life sentence. Applicant testified that he pled guilty because he did not want to receive more time, but would have taken the case to trial if he had not been facing a possible life sentence. Applicant testified that he discovered that Counsel also represented another co-defendant, Zakarias Arostegui, but Applicant never signed a form waiving the conflict. Applicant also testified that he is not aware of Counsel doing any additional investigation.

Welchel testified that he met with the Applicant several times. Welchel testified that he reviewed the discovery materials with the Applicant and spoke with him about the case. Welchel testified that he has no independent recollection, but according to his notes, the Applicant did deny that he was the gunman. Welchel also testified that he did not tell the Applicant that he faced a life sentence, but did explain the possibility of the State trying him

separately for the multiple armed robberies, which could lead to multiple strikes.

Counsel testified that the Applicant first approached him about a possible bond reduction and appeared to be more concerned about filing for a bond reduction every ninety days than his case. However, Counsel testified that Applicant did have a hard time accepting the fact that he was going to be tried on the charges and did not want to plead guilty initially. Counsel testified that he received Solicitor's file and reviewed that with Applicant, as well as discussed possible plea offers. Counsel testified that he thought their best hope was that Applicant would not receive consecutive time because the State made no real offer. Counsel also testified that he did represent the other co-defendant and did not have a waiver signed, but did not feel there was a conflict of interest. There was evidence that several people had been robbed at a trailer and then there was a robbery of a truck and the Applicant's fingerprints were found on the truck and his description was given. The victim made a statement indicating that the Applicant had a gun when the robbery of the truck occurred, but there was a question as to if Applicant had a gun at the robbery at the trailer. However, no one ever gave a statement indicating that the co-defendant ever had a gun, so the State offered him a lesser-included charge.

This Court finds the testimony of both Whelchel and Counsel to be more credible than the testimony of the Applicant. The Applicant's allegation that Counsel did not conduct an adequate pre-trial investigation is without merit. Following testimony and review of the transcript, it is clear that Counsel had reviewed the facts and evidence, as well as the options that Applicant faced. The "brevity of time spent in consultation; without more, does not establish that counsel was ineffective." Easter v. Estelle, 609 F.2d 756, 759 (5th Cir. 1980). To establish counsel was inadequately prepared, an Applicant must present evidence of what counsel could have discovered or what other defenses could have been pursued had counsel been more fully

prepared. Jackson v. State, 329 S.C. 345, 495 S.E.2d 768 (1998); Skeen v. State, 325 S.C. 210, 481 S.E.2d 129 (1997) (applicant not entitled to relief where no evidence presented at PCR hearing to show how additional preparation would have had any possible effect on the result at trial). The Applicant failed to point to any specific matters Counsel failed to discover, or any defenses that could have been pursued had Counsel been more fully prepared. Furthermore, the Applicant failed to show any prejudice that may have resulted from Counsel's alleged inadequate preparation. Accordingly, this allegation is dismissed.

In Hill v. Lockhart, 474 U.S. 52 (1985), the United States Supreme Court held that the two-part standard adopted in Strickland v. Washington, *supra*, for evaluating claims of ineffective assistance of counsel applies, as well, to guilty plea challenges based on ineffective assistance of counsel. To meet the Court's "prejudice" requirement, a criminal defendant must show that there is a reasonable probability that, but for counsel's errors, he would not have pled guilty and would have insisted on going to trial. Hill at 59. Not only did the Applicant fail to establish that Counsel offered incorrect advice, but the Applicant has failed to establish that he would have proceeded to trial, but for, these alleged deficiencies of Counsel. Therefore, this claim is denied and dismissed.

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Involuntary Guilty Plea

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. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

The transcript reflects that the guilty plea was knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, [an Applicant's] right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621 (1977). Statements made during a guilty plea should be considered conclusively, unless an [Applicant] presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975) overruled on other grounds by U.S. v. Whitley, 759 F.2d 327 (4th Cir.1985). This Court finds that the Applicant presented no reasons to show that he should be allowed to depart from the truth of the statements he made during his guilty plea hearing.

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

Summary

This Court finds in regards to the allegation of ineffective assistance of counsel, the Applicant's testimony is not credible. This Court further finds Counsel adequately conferred with the Applicant, conducted a proper investigation, was thoroughly competent in his representation, and that Counsel's conduct does not fall below the objective standard of reasonableness.

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

This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by Counsel's performance. This Court concludes the Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance. See Frasier, *supra*. Therefore, this allegation is denied.

CONCLUSION

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

This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCR, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 20 day of February, 2013.



J. Derham Cole
Presiding Judge

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M. HEATH BLACALOVY

WITNESSES

Spartanburg County Sheriff's Office

[Signature]

1. SENTENCE MADE

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

5. CHECKED FOR PARTS

6. CHECKED BY NUMBER
ARREST WARRANT NUMBER

7. ASSESSMENT AND FINE CARD MADE

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M123031

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ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury *[Signature]*
Date: NOV 24 2010

VERDICT

Foreperson of Petit Jury
Date:

10-GS-42-6683(A)
The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

NOV 24 2010

TERM

THE STATE
vs.

Cullen Blake Campbell

Indictment for
COUNT ONE ARMED ROBBERY

SC Code: 16-11-330 (A)

CDR Code: 139

Class FEL/A

POSSESSION OF FIREARM DURING COMMISSION OF A
VIOLENT CRIME

SC Code: 16-23-490

CDR Code: 549

Class FEL/F

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SPARTANBURG COUNTY

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M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on NOV 24 2010 the Grand Jurors of Spartanburg County present upon their oath:

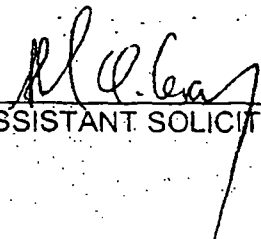
COUNT ONE- ARMED ROBBERY

That Cullen Blake Campbell did in Spartanburg County on or about, September 24, 2010, committ a robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other 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 reasonably believed to be a deadly weapon, and did feloniously take from the person or presence of Jose Antonio Acosta-Trujillo by means of force, violence, and/or intimidation, goods or monies of Jose Antonio Acosta-Trujillo to wit: a 2004 GMC truck, with the intent to deprive the owner permanently of such property in violation of §16-11-330 (A), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

POSSESSION OF FIREARM DURING COMMISSION OF A VIOLENT CRIME

That Cullen Blake Campbell did in Spartanburg County on or about September 24, 2010, possess or visibly display a firearm during the commission or attempted commission of a violent crime, to-wit: Armed Robbery(M123028), all in violation of §16-23-490, *CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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



ASSISTANT SOLICITOR

COUNTY OF SPARTANBURG VS Cullen Blake Campbell AKA Race: B Sex: M Age: 20 DOB: SS#: Address: City, State, Zip: Spartanburg, SC 29303-0000 DL#: SID#:

INDICTMENT/CASE#: 2010GS4206683 A/W#: M123028 Date of Offense: 9/24/2010 S.C. Code § 16-11-0330(A) CDR Code #: 0139

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon. Sports Contractive

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-4 w/minor 1st or Lowd Act)

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

ATTEST: GRAY, ABIL SC Bar# Defendant Cullen Campbell Defendant Attorney for Defendant 120 SC Bar

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed year and/or to pay a fine of \$ provided that upon the service of days/months/years and/or payment of \$ plus costs and assessments as applicable*, the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on: The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 329 days The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-1

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms: Obtain GED Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling

Random Drug/Alcohol testing Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender Fund

Other: no contact with victim

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

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Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$3.90, TOTAL \$133.40

Clerk of Court/Deputy Clerk Court Reporter: A. Brady M. Woods

Presiding Judge Judge Code: 2132 Sentence Date: 8/23/11

WITNESSES

10-65-42-0007 (M)

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

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SPARTANBURG COUNTY

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M. HOPE BLACKLEY

Spartanburg County Sheriff's Office

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COURT OF GENERAL SESSIONS

NOV 29 2010

TERM

ARREST WARRANT NUMBER

Printer

THE STATE
vs.

Cullen Blake Campbell

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury NOV 24 2010
Date:

VERDICT

Indictment for
COUNT ONE ARMED ROBBERY

SC Code: 16-11-330 (A)

CDR Code: 139

Class FEL/A

POSSESSION OF FIREARM DURING COMMISSION OF A
VIOLENT CRIME

SC Code: 16-23-490

CDR Code: 549

Class FEL/E

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

NOV 24 2010

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


COUNT ONE- ARMED ROBBERY

That Cullen Blake Campbell did in Spartanburg County on or about, September 24, 2010, committ a robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other 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 reasonably believed to be a deadly weapon, and did feloniously take from the person or presence of Jose Lopez by means of force, violence, and/or intimidation, goods or monies of Jose Lopez to wit: US Currency and/or a wallet and/or a cell phone, with the intent to deprive the owner permanently of such property in violation of §16-11-330 (A), THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

POSSESSION OF FIREARM DURING COMMISSION OF A VIOLENT CRIME

That Cullen Blake Campbell did in Spartanburg County on or about September 24, 2010, possess or visibly display a firearm during the commission or attempted commission of a violent crime, to-wit Armed Robbery(M123090), all in violation of §16-23-490, CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

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



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

Computer

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
 STATE VS.
Cullen Blake Campbell
 AKA: _____
 Race: B Sex: M Age: 20
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: Spartanburg, SC 29303-0000
 DL#: _____ SID#: _____

INDICTMENT/CASE#: 2010GS4206684
 A/W#: M123090
 Date of Offense: 9/24/2010
 S.C. Code §: 16-11-0330(A)
 CDR Code #: 0139

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon (10-30 years)

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS (CSC §17-25-45 w/minor 1st or Lawd Act)

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

ATTEST: Abel Gray 1216-4 Cullen Campbell Abel Gray 1207
 GRAY, ABEL SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/month/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated as app
 by the State Department of Corrections. 329 days
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-35.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
 Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____
 Set by SCDPPPS _____
 Obtain GED
 Attend Voc. Rehab. or Job Corp. _____

Recipient: _____
 May serve W/E beginning _____
 Substance Abuse Counseling

*Fine: \$ _____
 § 14-1-206 (Assessments 107.5%) \$ _____
 § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____
 § 56-5-2995 (DUI Assessment) \$12 \$ _____
 § 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____
 § 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
 § 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____
 § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
 Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 390
 TOTAL \$ 133.90

Other: NO contact with victim
 Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk A. Brady
 Court Reporter: M. Woods
 Presiding Judge _____
 Judge Code: 21337
 Sentence Date: 8/22/11

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 APR 2 AM 2011
 HOPKINS BLAKEY

WITNESSES

Spartanburg County Sheriff's Office

- 1. SENTENCE MADE
- 2. REPORT ENDED
- 3. CARD PULLED
- 4. INDEXED
- 5. CHECKED WARRANTS
- 6. CHECKED SIGNATURE
- 7. ASSESS AND FINE CARD MADE
- 8. TRAFFIC VIOLATION COPY

Computer

M123089
M123094

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury NOV 24 2010
Date:

VERDICT

Foreperson of Petit Jury
Date:

10-GS-42-668 (H)

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

NOV 29 2010

TERM

THE STATE
vs.

Cullen Blake Campbell

Indictment for
COUNT ONE ARMED ROBBERY

SC Code: 16-11-330 (A)
CDR Code: 139
Class FEL/A

POSSESSION OF FIREARM DURING COMMISSION OF A
VIOLENT CRIME

SC Code: 16-23-490
CDR Code: 549
Class FEL/F

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2010 DEC -2 PH 1:44

M. HOPE BLACKLEY

Nolle Prossed. Defendant p
Count #2
Poss. of a Firearm
During the Commission
of a Violent Crime
Silty an
received 2
on other
chairs.

8-23-2014

Abel A. Gray

M. HOPE BLACKLEY

2011 AUG 23 PH 5:30

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

NOV 24 2010

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


COUNT ONE- ARMED ROBBERY

That Cullen Blake Campbell did in Spartanburg County on or about, September 24, 2010, commit a robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other 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 reasonably believed to be a deadly weapon, and did feloniously take from the person or presence of Pedro Saavedra by means of force, violence, and/or intimidation, goods or monies of Pedro Saavedra to wit: US Currency and/or a wallet and/or a cell phone, with the intent to deprive the owner permanently of such property in violation of §16-11-330 (A), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

POSSESSION OF FIREARM DURING COMMISSION OF A VIOLENT CRIME

That Cullen Blake Campbell did in Spartanburg County on or about September 24, 2010, possess or visibly display a firearm during the commission or attempted commission of a violent crime, to-wit: Armed Robbery(M123089), all in violation of §16-23-490, *CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

Computer

COUNTY OF SPARTANBURG VS. STATE

Cullen Blake Campbell

AKA:

Race: B Sex: M Age: 20

DOB: SS#:

Address:

City, State, Zip: Spartanburg, SC 29303-0000

DL#: SID#:

*CDL Yes [] No [] CMV Yes [] No [] Hazmat Yes [] No []

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

[] NON-VIOLENT [X] VIOLENT [] SERIOUS [X] MOST SERIOUS [] Mandatory GPS(CSC w/minor 1st or Lewd Act) [] §17-25-

The charge is: [] As Indicted, [] Lesser Included Offense, [] Defendant Waives Presentment to Grand Jury, (defendant's in The plea is: [X] Without Negotiations or Recommendation, [] Negotiated Sentence, [] Recommendation by the Sta

ATTEST: GRAY, ABEL (SC Bar#), Cullen Campbell (Defendant), Attorney for Defendant (SC Bar# 120)

WHEREFORE, the Defendant is committed to the [X] State Department of Corrections, [] County Detention Center

for a determinate term of 15 days/months/years or [] under the Youthful Offender Act not to exceed ___ year and/or to pay a fine of \$ ___; provided that upon the service of ___ days/months/years and/or payment of \$ ___; plus costs and assessments as applicable*; the balance is suspended with probation for ___

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

[X] CONCURRENT or [] CONSECUTIVE to sentence on:

[X] The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 329 days

[] The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 16-25-15

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

SPECIAL CONDITIONS:

[] RESTITUTION: [] Deferred [] Def. Waives Hearing [] Ordered PTUP Total: \$ ___ plus 20% fee: \$ ___

Payment Terms:

[] Set by SCDPPPS

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like Assessments (107.5%), Conv. Surcharge (\$100), DUI Surcharge (\$100), DUI Assessment (\$12), DUI Breath Test (\$25), Public Def/Prob (\$500), Law Enforce. Funding (\$25), Drug Court Surcharge (\$150), BUI Breath Test Fee (\$50), Vehicle Assessment (\$40/ea), SCCJA Surcharge (\$5), 3% to County (3.40), TOTAL (\$133.40).

___ days/hours Public Service Employment

Obtain GED []

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling []

Random Drug/Alcohol testing []

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ ___ beginning

\$ ___ paid to Public Defender Fund

Other:

recontact with victims

[] Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 213

Sentence Date: 2/14

Clerk of Court/ Deputy Clerk

Court Reporter: M. Woods

FILED IN COURT CLERK OF COURT SPARTANBURG COUNTY 2010 MAR -2 AM 9:48 M. HOPE BLACKBERRY