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S.C. Supreme Court

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Greenville County

R. Markley Dennis, Jr., Circuit Court Judge

RANDY JENNINGS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2012-213573

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STATE OF SOUTH CAROLINA
IN THE COURT OF GENERAL SESSIONS
COUNTY OF GREENVILLE

STATE OF SOUTH CAROLINA :
:
-vs- : TRANSCRIPT OF RECORD
:
RANDY JENNINGS :

March 3 2010
Greenville, South Carolina

B E F O R E:
HONORABLE ROBIN B. STILWELL, Judge.

A P P E A R A N C E S:
MARK MOYER, ESQ.
Attorney for the Plaintiff
TIMOTHY SULLIVAN, ESQ.
Attorney for the Defendant

MARY E. DIGIROLAMO
Court Reporter

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I N D E X

WITNESSES DIRECT CROSS REDIRECT RECROSS

N/A

EXHIBITS MARKED FILED

N/A

CHARGE OF THE COURT N/A

1 THE COURT: Would y'all like to come forward?

2 THE CLERK: Your Honor, this is case number
3 2009-GS-23-2422, Randy Erwin Jennings, indictment for
4 grand larceny, third property offense, pleading to the
5 same. It is a true bill. 2009-GS-23-2423, indictment
6 for burglary, first degree, pleading to the same. It is
7 a true bill. 2009-GS-23-3628, indictment for forgery,
8 two counts, pleading to the same. Forgery value less
9 than 5,000.

10 THE COURT: Would you swear him in?

11 THE CLERK: Would you raise your right hand, please?

12 RANDY JENNINGS

13 Having been first duly sworn, testified as follows:

14 THE COURT: All right. Mr. Sullivan, you represent
15 Mr. Jennings in this matter, sir?

16 MR. SULLIVAN: I do, Your Honor.

17 THE COURT: All right. And you had the opportunity
18 to discuss with him his Constitutional rights, to include
19 his right to trial by jury, and his right against
20 self-incrimination?

21 MR. SULLIVAN: I have, Your Honor.

22 THE COURT: All right. And you've also discussed
23 with him the maximum possible penalties that he can
24 receive under the law to the offenses to which he is
25 pleading guilty?

1 MR. SULLIVAN: I have, Your Honor.

2 THE COURT: All right. All these are true billed.
3 And it's you're understanding that he understands and
4 appreciates the ramifications of his plea, wishes to
5 waive his Constitutional rights this morning and enter a
6 plea of guilty, sir?

7 MR. SULLIVAN: That is my understanding, Your Honor.

8 THE COURT: Do you agree with decision, sir?

9 MR. SULLIVAN: I do.

10 THE COURT: Okay. Mr. Jennings, you recognize, sir,
11 that you have a right to a jury trial on these charges?

12 MR. JENNINGS: Yes, sir.

13 THE COURT: And you recognize that if you were to
14 have a jury trial that a jury of 12 of your peers would
15 be empaneled and in that proceeding the State would have
16 the burden of proving you guilty beyond a reasonable
17 doubt. Do you understand that?

18 MR. JENNINGS: Yes, sir.

19 THE COURT: And you further understand that in that
20 proceeding you would not have the burden of proving
21 yourself innocent. You wouldn't have the burden of
22 proving anything. You couldn't be compelled to testify,
23 or to say anything, or to put any evidence into the
24 record. You could remain silent throughout that
25 proceeding and require and compel the State to meet its

1 burden of proving each and every element of all of these
2 offenses beyond a reasonable doubt. Do you understand?

3 MR. JENNINGS: Yes, sir.

4 THE COURT: Okay. And even though you have that
5 right to remain silent, you could, if you wanted to, take
6 the stand and you could testify and you could tell the
7 jury your side of the story. You could put up witnesses
8 in your defense. You could present legal defenses to the
9 charges which have been levied against you. And you
10 could also cross-examine any of the State's witnesses, to
11 include those persons who are testifying against you. Do
12 you understand that, sir?

13 MR. JENNINGS: Yes, sir.

14 THE COURT: All right, sir. And, sir, do you wish
15 to waive those rights today and enter a plea of guilty?

16 MR. JENNINGS: Can I ask him a question?

17 THE COURT: Sure, absolutely.

18 (The defendant had a discussion with his attorney
19 off the record.)

20 MR. JENNINGS: I'll just go ahead and plead out.

21 THE COURT: All right. And understanding these
22 rights as I have explained them to you, do you wish to
23 waive those rights and proceed with a plea this morning,
24 sir?

25 MR. JENNINGS: Yes, sir.

1 THE COURT: All right. And in indictment 2009-3628,
2 you're charged with forgery, value less than \$5,000. And
3 you understand the maximum possible punishment that you
4 could receive under the law for that offense is five
5 years?

6 MR. MOYER: Yes, sir.

7 THE COURT: Is up to five years. Do you understand
8 that, sir?

9 MR. JENNINGS: Yes, sir.

10 THE COURT: And how do you wish to plead to that
11 offense, sir?

12 MR. JENNINGS: Guilty.

13 THE COURT: All right. And indictment number
14 2009-3628, you're charged with an additional count of
15 forgery. And you recognize that under the law you could
16 receive an additional and consecutive five years in jail?
17 Do you understand that, sir?

18 MR. JENNINGS: Yes, sir.

19 THE COURT: All right. And how do you wish to plead
20 to that offense?

21 MR. JENNINGS: Guilty.

22 THE COURT: In indictment 2009-2423, you're charged
23 with burglary, first degree. And under the law you
24 recognize that you could receive up to life in prison?
25 Do you understand that, sir?

1 MR. JENNINGS: Yes, sir.

2 MR. SULLIVAN: Answer.

3 MR. JENNINGS: Yes, sir.

4 THE COURT: All right. And how do wish to plead to
5 that offense, sir?

6 MR. JENNINGS: Guilty.

7 THE COURT: And in indictment 2009-2422, you're
8 charged with grand larceny, third property offense. And
9 under that indictment you could receive up to 10 years.
10 Do you understand that, sir?

11 MR. JENNINGS: Yes, sir.

12 THE COURT: All right. And how do you wish to plead
13 to that, sir?

14 MR. JENNINGS: Guilty.

15 THE COURT: And you understand that these, the
16 maximum possible penalties that you receive under all
17 these offenses, could be run consecutively and in
18 addition to one another? That is they could be combined.
19 Do you understand?

20 MR. JENNINGS: Yes, sir.

21 THE COURT: All right. And knowing that you wish to
22 continue with your plea of guilty this morning, sir?

23 MR. JENNINGS: Yes, sir.

24 THE COURT: All right. Has anyone forced,
25 threatened, or made you in any way enter into this plea,

1 sir?

2 MR. JENNINGS: No, sir.

3 THE COURT: And has anyone promised you anything in
4 exchange for that plea?

5 MR. JENNINGS: No, sir.

6 MR. MOYER: Are you pleading guilty of your own
7 freewill because you are guilty, sir?

8 MR. JENNINGS: Yes, sir.

9 THE COURT: And have you had the opportunity to
10 discuss this matter with Mr. Sullivan as much as you've
11 needed to, sir?

12 MR. JENNINGS: No, sir. Not that I feel -- I feel
13 that I haven't really. That was the grounds for me
14 wanting another attorney and I didn't feel that I had got
15 to discuss everything with him properly but you decided
16 against it, so ---

17 THE COURT: Okay. And do you feel like that you're
18 not satisfied with his services, sir?

19 MR. JENNINGS: Yes, sir.

20 THE COURT: How much time do you need to talk to
21 him?

22 MR. JENNINGS: I would like another attorney because
23 I feel like the reason -- I didn't know what to say a
24 while ago because I'm so shook about everything.

25 THE COURT: Yeah, understand.

1 MR. JENNINGS: I didn't know what to say because the
2 fact that it's a lot time I'm facing. And I was under
3 the impression, you know, that people says this, people
4 say that, you know, just how things go. And I just
5 figured he would be more out there to tell me, you know,
6 to explain things to me, and he wasn't there to tell me.
7 So therefore I missed a plea that could have got me a lot
8 less time.

9 THE COURT: Okay. All right. I understand... And
10 specifically your -- your complaints with Mr. Sullivan is
11 that he just hasn't explained things to you enough?

12 MR. JENNINGS: Yes, sir.

13 THE COURT: Okay. And chiefly and primarily you're
14 problem with that is that you feel like that didn't give
15 you the opportunity to -- to avail yourself of a plea
16 offer that was extended?

17 MR. JENNINGS: Yes, sir.

18 THE COURT: Okay. All right. Well, this is what
19 I'm going to do. You understand of course that I didn't
20 have to take the recommendation that the State set forth?
21 Do you understand that?

22 MR. JENNINGS: Yes, sir.

23 THE COURT: And they could have put into the record
24 a recommendation that I sentence in a certain way, in a
25 certain form, and I could have said no to that. Do you

1 understand that?

2 MR. JENNINGS: Yes, sir.

3 THE COURT: So ultimately whether you would come
4 before this Court or not with a recommendation it would
5 still be up to my discretion as what to sentence you to.
6 Do you understand that?

7 MR. JENNINGS: Yes, sir, I understand.

8 THE COURT: Okay. And do you feel like he hasn't
9 advised you of your Constitutional rights today?

10 MR. JENNINGS: He has.

11 THE COURT: He has?

12 MR. JENNINGS: I mean, he has advised me? I'm not
13 quite understanding what you mean.

14 THE COURT: Okay. All right. Well, this is what
15 I'm trying to determine, Mr. Jennings, and that is this,
16 whether he has been deficient in some meaningful way. I
17 hear a lot from people who are dissatisfied with their
18 attorneys for any number of reasons. Sometimes they're
19 dissatisfied for reasons that aren't necessarily material
20 and relevant. That is they're just not getting along
21 with their attorney. Doesn't sound to me like you're not
22 getting along with Mr. Sullivan.

23 MR. JENNINGS: Like I say, I've gotten along with
24 him fine. I don't mean to interrupt you, but ---

25 THE COURT: No, no, you're fine. You're fine. It

1 sounds to me like what you're telling me is that at some
2 point in time you started listening to people who didn't
3 know what they were talking about. And that's not
4 because you didn't -- that's not because Mr. Sullivan
5 wasn't there and available to disabuse you of
6 misconceptions that you were getting, it's just that you
7 were listening to them as opposed to Mr. Sullivan.

8 So I'm going to make a finding without -- without the
9 benefit of having heard anything that convinces me that
10 his representation has been deficient, I'm going to make
11 a finding on the record that his representation of you in
12 this matter has been competent and sufficient. I
13 recognize and take into consideration your misgivings
14 about him and about your opportunity to speak to him
15 about some material things. So after having gone through
16 that colloquy I'm going to ask you, has he done
17 everything you've asked him to do?

18 MR. JENNINGS: Yes, sir.

19 THE COURT: Has he answered all your questions?

20 MR. JENNINGS: To the best of his ability I believe
21 he has.

22 THE COURT: Okay. All right. Good enough. Have
23 you understood all the questions that I've asked you
24 today, sir?

25 MR. JENNINGS: Yes, sir.

1 THE COURT: Okay. And you understand that if you
 2 need some time to talk to him in the next 10, 20 minutes
 3 I'll give it to you. And you understand that I asked you
 4 questions regarding your right to a jury trial and I've
 5 got a jury pool downstairs that I haven't released. We
 6 can still go forward with a jury trial. Do you want to
 7 discuss that matter with Mr. Sullivan anymore, or do you
 8 have any additional questions you want to pose to him?

9 (The defendant had a discussion with his attorney
 10 off the record.)

11 MR. JENNINGS: Okay. Let's go ahead, sir.

12 MR. SULLIVAN: Judge, the bulk of that was there was
 13 a witness who could be very detrimental who was not here
 14 but she's being brought here by the officers as we speak.
 15 And with that witness it would be a high probability he
 16 would be convicted of burglary first.

17 THE COURT: Okay. All right. Mr. Jennings, you
 18 heard what Mr. Sullivan has indicated. Do you agree with
 19 that assessment?

20 MR. JENNINGS: Yes, sir.

21 THE COURT: All right. All right. Mr. Jennings,
 22 have you understood all the questions I've asked you
 23 today?

24 MR. JENNINGS: Yes, sir, Your Honor.

25 THE COURT: Okay. Do you have any additional

1 questions that you would like to ask me, or Mr. Sullivan,
2 regarding your rights before we proceed?

3 MR. JENNINGS: There's lots of questions I'd like to
4 ask but I don't want to ---

5 THE COURT: Well, you're welcome to ask me
6 something, Mr. Jennings.

7 MR. JENNINGS: There's no way I can get a plea out
8 of this like a plea that I had before, a chance that I
9 made a mistake of taking this road that I did and coming
10 this far along? There's no way to go back to a plea?

11 THE COURT: That's not up to me. All right. It's
12 up to the State. The prosecution makes the determination
13 as to whether they're going to extend a plea or not.
14 Ordinarily in this circuit what happens is if you miss
15 the opportunity to enter your plea then they withdraw
16 that plea offer. And if you miss the deadline to accept
17 it then there's nothing the Court can do to -- to make
18 them put it pack on the table.

19 I can tell you this, one thing that I know, just
20 intuitively is that Mr. Sullivan has done his best to try
21 to get them to put it back on the table. And I think
22 that Mr. Moyer will state without equivocation, without
23 any hesitancy, that he has withdrawn his offer. Is that
24 correct, Mr. Moyer?

25 MR. MOYER: That is correct, Your Honor.

1 THE COURT: And the State is not considering putting
2 that offer back on the table?

3 MR. MOYER: That's correct.

4 THE COURT: And regardless of how much time Mr.
5 Sullivan spends with you attempting to persuade you, will
6 the State change its position in that regard?

7 MR. MOYER: That's correct, Your Honor, the State
8 would not.

9 THE COURT: Would any additional time with Mr.
10 Sullivan, or any additional time in anticipation of trial
11 cause you to change your mind in any way, shape or form?

12 MR. MOYER: No, Your Honor. As you just stated it's
13 our policy -- you stated our policy correctly. And even
14 if the defendant had received a new lawyer today it would
15 not have changed the fact, even if the case had been
16 continued. The -- we would be going forward with the
17 charges that are before the Court today.

18 THE COURT: Okay. Mr. Jennings, you understand
19 that, sir?

20 MR. JENNINGS: Not entirely, sir, but I have to.

21 MR. SULLIVAN: Let me tell you. He controls your
22 charge.

23 MR. JENNINGS: Right.

24 MR. SULLIVAN: Whether to go back to burglary second
25 and recommend concurrent, or leave you on the trial

1 docket for burglary first, that's his decision. And he's
 2 got bosses. About three years ago they made a
 3 determination about people jerking them around that if
 4 you refuse the plea office at the deadline it would go on
 5 the trial docket and the plea offer would be rejected,
 6 and you're subject to go whatever they decided. He has
 7 bosses that say, Mark, Mr. Moyer, your time is up in this
 8 case try it, and don't make another offer. So his
 9 position is even if you got rid of me, which wouldn't
 10 hurt my feelings, and got another lawyer, that you'd
 11 still be looking at burglary first with all the witnesses
 12 you saw on the list. So you'd be in the same boat you
 13 are now just maybe two months, three months from now.

14 THE COURT: And what he's saying even if Johnny
 15 Cochran came back from the grave he's not changing his
 16 mind.

17 MR. SULLIVAN: That's Mr. Moyer. I don't control
 18 the offers.

19 MR. JENNINGS: I understand that.

20 THE COURT: All right. Do you understand that, Mr.
 21 Jennings?

22 MR. JENNINGS: Yes, sir.

23 THE COURT: Any other questions?

24 MR. JENNINGS: I guess not.

25 THE COURT: Okay. All right. You have 10 days to

1 appeal any sentence that I may hand down. If you make --
 2 if you believe that in any way shape or form that I've
 3 done anything in this proceeding that has been contrary
 4 to your rights, or anything in this proceeding that has
 5 been procedurally deficient, or anything has been
 6 unlawful in any way you may file an appeal. It must be
 7 in writing filed with the Clerk of Court within 10 days
 8 of today's date. Do you understand that?

9 MR. JENNINGS: Yes, sir.

10 THE COURT: Okay. Mr. Moyer, I'll be happy to hear
 11 the facts, sir.

12 MR. MOYER: Thank you, Your Honor. May it please
 13 the Court? I'll start off with the forgery cases as they
 14 happened first chronologically. In October of 2008 the
 15 defendant was staying -- was living with the victim in
 16 the case who was actually considering himself the common
 17 law husband of this defendant's grandmother. During that
 18 time the defendant stole some checks from the victim. He
 19 forged and he presented them to BB&T Bank in Greenville.
 20 The checks were paid out in the amounts of 100 and \$150.
 21 When the victim discovered the forged checks he
 22 confronted the defendant with copies of them. And the
 23 defendant admitted to the victim that -- what he had
 24 done.

25 A short period after that the defendant started

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staying very briefly with some other relatives on South
Piedmont Highway near Piedmont. During that time in
October 30th of 2008, the victim's home was -- the door
was kicked into her mobile home on South Piedmont Highway
in Greenville County and property was stolen from her
mobile home, including a .22 caliber Browning rifle, a
small safe containing jewelry and a digital camera. The
victim discovered this when she came home from work about
1:30 in the afternoon. Officers discovered that within
hours of the burglary this defendant had been walking up
and down the road attempting to sell the property. He
actually did end up selling the rifle to a man ---

MR. SULLIVAN: At a business.

MR. MOYER: --- at a business right down the road.
And he then pawned jewelry on two different dates at
Williamson Pawnshop which is very close to where this
incident -- where the incident location was as well.

In addition to that the people that the defendant
were staying with saw the property in -- in their trailer
after the defendant did -- committed the crime. He had
the safe and the jewelry in the trailer. When -- when
the two individuals asked the defendant where this came
from he admitted to them that he had kicked in the door
and that he had stolen the property. The defendant was
arrested on November the -- I believe the 29th of 2008.

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THE COURT: All right. Mr. Jennings, is that what happened, sir?

MR. JENNINGS: There never was a safe, Your Honor.

THE COURT: Okay. With the exception of the safe is that substantially what happened, sir?

MR. JENNINGS: Basically, yes. I mean, I was walking up the road with the stuff but I wasn't alone.

THE COURT: Okay. All right. Okay. I do find that there is a substantial factual basis for the plea. The same has been entered freely and voluntarily with the advice of counsel with whom Mr. Jennings indicates he's satisfied.

Mr. Jennings, I have one additional set of questions that I need to ask to you with respect to the burglary first. You recognize that the burglary first degree is classified as a violent and most serious offense under the law, sir?

MR. JENNINGS: Yes, sir, Your Honor, I do.

THE COURT: You do. And you understand that because it's classified as a violent offense that it effects the way you do your time, that is the percentage of time you do under any sentence that you receive. You do understand that, sir?

MR. JENNINGS: Unfortunately, yes.

THE COURT: All right, sir. And you understand that

1 because it's classified as a most serious offense that if
 2 in the future at a later date and time you are convicted
 3 of a serious or -- another serious or most serious
 4 offense that you could potentially, under the two
 5 strikes, three strikes rule be facing and looking at a
 6 possible punishment of life without the possibility of
 7 parole?

8 MR. JENNINGS: Yes, sir.

9 THE COURT: Okay. Knowing that do you still wish to
 10 enter your plea to these offenses, sir?

11 MR. JENNINGS: Yes, sir.

12 THE COURT: All right. I will accept the plea. Mr.
 13 Moyer, just -- does Mr. Jennings have any prior record,
 14 sir?

15 MR. MOYER: He does, Your Honor. In 1998 he was
 16 convicted of petty larceny and burglary second degree;
 17 1999, petty larceny and two counts of burglary second
 18 degree, breaking into an automobile, possession of a
 19 controlled substance, failure to stop and resisting
 20 arrest. In 2000 he was convicted of open container; 2001
 21 he was convicted of grand larceny, malicious damage to
 22 personal property. In 2007 he was convicted of criminal
 23 domestic violence, petty larceny; and 2008, grand
 24 larceny, criminal domestic violence, possession of
 25 hypodermic needles.

1 THE COURT: All right. Mr. Jennings, is that a fair
2 recitation of ---

3 MR. JENNINGS: Never -- never had a hypodermic
4 needle in my possession ever in my life. My mother died
5 from needles and I never had a needle in my possession in
6 my life.

7 THE COURT: Okay. With the exception of that is
8 that a fair recitation?

9 MR. JENNINGS: Yes, sir.

10 THE COURT: All right. Good enough.

11 PROBATION AGENT: Your Honor, he is on probation for
12 the grand larceny. He was sentenced in Pickens County on
13 June 19th of '08. He had 10 years suspended to five
14 years probation. That probation began October first of
15 '08. So he had been out just a few weeks when this
16 offense happened. It would be a violation but since
17 there is a victim in the case they'll have to handle it
18 at a later date.

19 THE COURT: All right. Mr. Jennings, you recognize,
20 sir, that by pleading guilty to these offenses it does
21 amount to a violation of your previously imposed
22 probation?

23 MR. JENNINGS: Yes, sir.

24 THE COURT: All right, sir. And knowing that you
25 still want to proceed with the plea of guilty today?

1 MR. JENNINGS: Yes, sir.

2 THE COURT: All right. Good enough. Mr. Sullivan,
3 I'd be happy to hear from you, sir.

4 MR. SULLIVAN: Yes, sir. I've gotten to know Randy
5 some, his family members, his grandmother and his
6 step-granddad. This is I guess we've been reading a lot
7 in the paper about these crimes, but it's the underlying
8 drug abuse that's never been addressed. So he's got to
9 pay the consequences. He's -- he'll be 32 on April 16th?

10 MR. JENNINGS: 7th, sir.

11 MR. SULLIVAN: And so he's going to do about at
12 least 13 on the minimum sentence. He'll be 40 when he
13 gets out (sic). Hopefully while he's in the system they
14 can do something to treat the underlying problem.

15 This case escalated. He took some checks from Mr.
16 Smith, who's his grandmother's boyfriend. He admitted he
17 cashed them on 10/17/08 and another shortly thereafter.
18 And then couldn't do that any more. A trailer was broke
19 into and sold stuff out of it. It was all for drugs.
20 Like I said, he hadn't been out of prison long when this
21 happened.

22 Now, the case -- I saw him in December of '08 and we
23 discussed it. He knew the charges, pretty much the
24 facts. I got a letter. I was out for a while with some
25 illness. It was getting old and Mark e-mailed me and

1 said that here's the offer, we'll keep it open longer.
2 We'll let him plead to burglary second, violence, which
3 would be an 85 percent. Drop the safe cracking. Grand
4 larceny, two forgeries, recommend concurrent time, but no
5 cap or anything. Then he was looking at zero to 15
6 whatever the judge. Considering with his record he was
7 probably going to get the 10 to 15 I would figure in that
8 range.

9 But he came up on two occasions. I went over the
10 offer with him. I didn't know he was high. I thought he
11 understood. And I told him, I said, if you don't plea
12 you're going on the trail docket and then this is what
13 will happen. And maybe he didn't understand, maybe I
14 didn't recognize him being high. I'm not that close to
15 him. We don't converse every day. I sent him the trial
16 docket.

17 About three weeks ago he called me and I said,
18 Randy, you're on -- he said, what's this about. I said
19 you're on the trial dock. Well, I don't want a trial. I
20 said, well, you need to call me next week. And he didn't
21 call me. So I called his house and his grandmother told
22 me was picked up on a DUS. So he was in jail since last
23 week.

24 I went to see him -- tried to see him Friday and he
25 was angry and wouldn't see me. So I saw him yesterday

1 after we'd broken. I went over and I went over some of
2 this stuff with him. And I told him that if we weren't
3 reached today maybe I could grovel and go back to the
4 offer, but I didn't think so, but I would try. If we
5 were reached today it was going to be burglary first and
6 I couldn't do anything about it.

7 So I guess what I'm asking you is that you
8 consider -- there is a good time in his life, he will be
9 older when he gets out, maybe wiser, that you consider --
10 well, you got to give him 15. That's the law. Fifteen
11 to life in a burglary second. I would hope you would
12 consider 15 years, run everything else concurrent. When
13 he gets through the 15 he's going to have two years
14 community supervision, so he's not going to walk out
15 and -- he's got that hanging over him. After that I
16 don't know what they'll do with him. I suspect they may
17 just violate him and run it concurrent with what he's
18 doing now. Hopefully they wouldn't do consecutive. We
19 can't handle it today, that's down the road.

20 Mr. Moyer did say he would look into maybe trying to
21 get the DUS resolved also, be concurrent time or just get
22 it dismissed in view of this sentence. But I'd ask you
23 to consider 15 years and everything else concurrent, with
24 a minimum 15 on the burglary, 10 on the grand larceny and
25 two fives. So you've got a lot of range there.

1 THE COURT: I understand. All right. Good enough.
2 Thank you, Mr. Sullivan.

3 Mr. Jennings, I'd be happy to hear from you, sir, if
4 there's anything you'd like to tell me.

5 MR. JENNINGS: It's all apologies. I made mistakes.
6 I tried to straighten my life up, but it was a little too
7 late. That's all I got to say.

8 MR. SULLIVAN: Judge, he thinks -- he told me he
9 thinks, he's not sure, but he thinks his girlfriend is
10 expecting and he's going to miss some, if this is true,
11 some time he said. It made him rethink things. He's
12 going to miss a good bit of this child's life, the
13 formative years. But I told him I couldn't help that.
14 But that has effected him. I think that's one reason
15 he's so emotional.

16 THE COURT: I understand. All right. Mr.
17 Jennings, it's obvious to me that you have a profound
18 drug problem. You've had it for a period of time. It's
19 caused you to do things that I don't know that you would
20 have otherwise done. You appear to me to be a fairly
21 intelligent fellow. You've responded to all my questions
22 in an intelligent manner. You understand, it seems to
23 me, clearly what's going on. Which would suggest to me
24 that you're smart enough to know better than to have done
25 something this dumb, because your burglary first degree

1 it sounds like you got caught because you were just
 2 hanging around on the same street and started running
 3 around selling the stuff right after you had committed
 4 the crime, which means you really didn't care whether you
 5 got caught or not, which tells me that you had to have
 6 been under the influence of drugs pretty badly.

7 MR. JENNINGS: I was.

8 THE COURT: And your prior record suggests to me as
 9 well that it's all about drugs.

10 MR. JENNINGS: It's, like I said, just a little too
 11 late.

12 THE COURT: Well, okay. On the burglary first, it
 13 rose to the level of burglary first because of the
 14 firearm?

15 MR. MOYER: Yes, sir.

16 MR. SULLIVAN: Yes, sir.

17 THE COURT: Okay.

18 MR. SULLIVAN: It was in the daytime but he took a
 19 rifle and it elevated it.

20 THE COURT: Okay. All right. Mr. Jennings, I'm
 21 going to recommend ATU so you can get some help for those
 22 drugs problems as Mr. Sullivan suggested. I will add all
 23 that with the -- with the burglary first. It seems to me
 24 that's just more of the same. You have a history of just
 25 getting into people's houses, or their stores, or places

1 of business and just taking their stuff so you could get
2 money for drugs.

3 The sentence of the Court is you be committed to the
4 State Department of Corrections for a period of 16 years.
5 It's concurrent. Any time? Has he done any time?

6 MR. MOYER: Just 30 days, Your Honor.

7 THE COURT: 30 days. All right. Credit for time
8 served for 30 days, recommend ATU. On the forgery, on
9 each forgery charge, five years, concurrent, credit for
10 time served of 30 days.

11 MR. SULLIVAN: Judge, I think all the goods were
12 recovered in this case. They went to the pawnshop and
13 found most of them and put a hold on them and got them
14 back. And they recovered the gun. I think Ms. Cartier
15 has most of the stuff back. Thank goodness.

16 THE COURT: All right. Good enough. On the grand
17 larceny, 10 years, concurrent, 30 days credit for time
18 served.

19 PROBATION AGENT: We're having hearings on March
20 22nd at the jail, can we just write on there to hold him
21 until that date and we can handle his violation of
22 probation then without having to send him down the road
23 and bring him back again?

24 MR. SULLIVAN: I'll be -- I'll see if Randy will go
25 along with that. And yes, sir, I'll be available. When?

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PROBATION AGENT: March 22nd.

THE COURT: Hold in Greenville County Detention Center until violation of probation hearing on March 22nd.

PROBATION AGENT: Right.

THE COURT: All right. Good luck to you, Mr. Jennings.

MR. JENNINGS: Thank you.

MR. SULLIVAN: Thank you.

MR. MOYER: Thank you, Your Honor.

- - -END OF TRANSCRIPT OF RECORD- - -

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C E R T I F I C A T E

I, the undersigned, Mary E. DiGirolamo, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 3rd day of March, 2010.

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

June 13, 2011

Mary DiGirolamo
Mary E. DiGirolamo
Official Court Reporter

FORM 5

STATE OF SOUTH CAROLINA)
County of Greenville)

IN THE COURT OF COMMON PLEAS

Randy Jennings # 259845
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)
)
)
)
)
)

APPLICATION FOR
POST-CONVICTION RELIEF

FILED
CLERK OF COURT
JAN 11 2011
11:33 AM
CLERK OF COURT

2011-CP-23- 1291

INSTRUCTIONS B READ CAREFULLY

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

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

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

- Place of detention Pen Correctional Inst
430 Oaktown Rd, Pelzer SC 29669
- Name and location of Court which imposed sentence Greenville
County General Sessions
- Name(s) of co-defendant(s) (if any) N/A
- The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2009-65-23-02423

RECORDED
INDEXED
CLERK OF COURT
JAN 11 2011
11:33 AM
CLERK OF COURT
ALLOMEX OFFICE

(b) Burglary First Degree
(c) _____

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

(a) 3-3-10, 16 yrs
(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 Ayes@ 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 Ano@ to (7), state your reasons for not so appealing:

(a) Did not know I could appeal

(b) _____
(c) _____

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

(a) see attached pages
(b) _____
(c) _____

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

(a) see attached pages
(b) _____
(c) _____

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

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

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

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

iv. _____

(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. _____

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

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

- (a) the name and address of each attorney who represented you:
 - i. Timothy Sullivan, esq
305 E. North St, Suite 123
Greenville SC 29601
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. plea hearing
 - ii. _____
 - iii. _____

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

vacate sentence / New Trial

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

no

Revised 3/2003

STATE OF SOUTH CAROLINA)
County of Greenville)

VERIFICATION

I, Randy Erin Jennings # 259845, 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.

Randy E. Jennings

SWORN to and subscribed before me this 30th day of March, 2010.

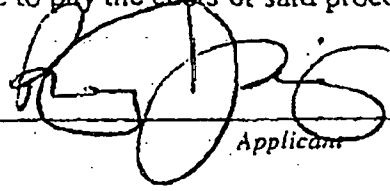
[Signature] (L.S.)
Notary Public

My Commission Expires: May 12th, 2014

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

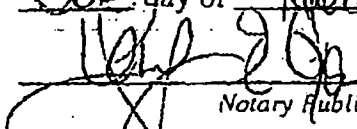
I, Randy Erin Jennings #259845, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

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



 Applicant

SWORN or affirmed to and subscribed before me this 20th day of November, 2013.



 Notary Public

My Commission Expires: May 24, 2014

Answers To Question #10 on C.R. Application

(A) My conviction was obtained by a plea of guilty which was unlawfully induced and not ~~made voluntarily~~ or with a complete understanding of the nature of the charge and the consequences of the plea.

(B) Applicant's guilty plea did not comply with the mandates set forth in Boykin v. Alabama, and therefore was not constitutionally valid.

(C) My conviction was obtained pursuant to a violation of the Constitution's Sixth Amendment guarantee of effective assistance of counsel.

(D) Applicant was denied effective assistance of counsel because he allowed malicious prosecution by the solicitors office.

(E) My conviction was obtained pursuant to a deliberate perversion of the South Carol. judicial process.

(F) I did not receive a full, fair, or constitutionally adequate hearing in the state court.

(G) involuntary plea

(H) Counsel failed to communicate the state's plea agreement

Answers To Question th 11 on The PCR Applica³⁷

1. My attorney failed to conscientiously discharge his professional responsibilities while he was handling my case.
2. My attorney failed to act as my diligent conscientious advocate.
3. My attorney failed to devote himself to my cause.
4. My attorney failed to give me his complete loyalty.
5. My attorney failed to serve my cause in good faith.
6. My attorney did not do the necessary factual investigation on my behalf.
7. My attorney did not have my best interest in mind while he was ~~suppose~~ to be investigating and preparing my case.
8. My attorney did not gather any information to protect my rights.
9. My attorney never discussed any defense with me.
10. My attorney never intended to offer a defense to the court in my behalf.

Legal Citation and Argument

This applicant contends that his counsel was ineffective because counsel never did investigate the case. His counsel's representation was not within the range and scope of competence relied upon in *State v. Pendergra* and also in *Marzullo v. Maryland*, 516 F.2d 5

A convicted defendant's claim that counsel's assistance was so defective as to require reversal of a conviction requires that the defendant show first, that the deficient performance prejudiced the defendant so as to deprive the defendant of a fair trial. *Sesebee v. Leeke*, 362 S.E.2d 221, citing *Strickland v. Washington*, 466 U.S. 6. See also *Butler v. State*, 334 S.E.2d 813 and *Hill v. Lockhart*, 106 S.Ct. 366.

The Sixth Amendment imposes on counsel a duty to investigate, because reasonable effective assistance must be based on professional decisions and informed legal choices can be made only after investigation procedures are offered and made.

An attorney's investigatory decision must be assessed in light of the information known at the time of the decisions, not in hindsight, and that the amount of pre-trial investigations work should be reasonable to defy precise measurement as it relates to the real evidence and the fantasy of the prosecutorial case.
 Strickland v. Washington, *supra*.

Although the fate of a criminal defendant is determined at trial, the course of that trial can be decisively affected by actions of defense counsel in preparing the case. Moore v. United States, 432 F.2d 730. The courts have therefore insisted that effective counsel conduct a reasonable amount of pretrial investigation, not just obtaining what the solicitor offers you. Washington v. Watkins, 655 F.2d 134; Davis v. Alabama, 596 F.2d 1214; Rummel v. Estelle, 790 F.2d 103. Finally, the courts are concerned that counsel's decisions affect informed, professional deliberation, rather than inexcusable ignorance or senseless disregard of their client's rights. *U.S. v. B.* 584 F.2d 1113, 1122.

In the case at bar, counsel failed to conduct a substantial investigation into any plausible line of defense. In this case counsel did not choose strategically or otherwise to pursue one line of defense over another. There was not a defense offered. Counsel abdicated his responsibilities to advocate the client's cause; *Bomez v. Beto*, 452 F.2d 161. A complete lack of preparation and investigation can not be deemed to be a tactical decision made by the attorney. The court will find ineffective assistance of course because counsel's choice of strategy was so patently unreasonable that no competent attorney would have made. *Robinson v. TC* 312 F.2d 161. When an attorney fails to conduct a substantial investigation, as in the case at bar, the attorney has failed to render effective assistance of course. The attorney equally fails to render effective assistance of course when he chooses among several plausible lines of defenses, thereby excluding certain of them for no strategic reasons. *Gaines v. Hopp* 575 F.2d at 1147; *Powell v. Alabama*, *Supra*,

41

when counsel fails to investigate or interview potential witnesses, and as a result, has no reason to believe they would not be valuable in securing relief his inaction is considered negligent rather than trial strategy. *Workman v. Tate*, 95 F.2d 1339, also *Osborne v. Schillinger*, 861 F.2d 612, *Crisp v. Duckworth*, 743 F.2d 580.

Due process of law requires that before a guilty plea can be entered voluntarily and intelligently, a defendant must be advised of his privileges against compulsory self-incrimination, the right to trial by jury, and the right to confront one's accuser. A valid waiver of these rights cannot be presumed from a silent record. *Boykin v. Alabama*, 89 S.Ct. 1709. In *State v. Armstrong*, 263 S.C. 594, 211 S.E.2d 889, the court held that the "essence" of *Boykin* was to make the requirements of Rule 1 of the Federal Rules of Criminal Procedure applicable to the states. In *State v. Tate* the court held that a valid waiver under the due process clause of the three main constitutional rights listed in *Boykin*, the record must clearly establish it.

trial counsel was ineffective for allowing the applicant to enter a guilty plea ~~upon~~ upon the trial judge's incorrect advice that the applicant had a right to appeal his plea and sentence.

During the plea colloquy, the trial judge told the applicant: Do you understand that you or your lawyer have the right to appeal this guilty plea and sentence that I am imposing, but you have to do that within ten

Contrary to the judge's statement, pleas guilty are unconstitutional and if an accused attempts to attach any condition or any qualifications thereto, the trial judge should direct a plea of not guilty. *State v. Truesdell*, 396 S.E. 528 (1982); *State v. Foster*, 471 S.E. 2d

Contrary to the judge's statement, there is no right to appeal a guilty plea. *Weather's State*, 459 S.E. 2d 838 (1995). Counsel is not required to inform a defendant of the right to appeal absent extraordinary circumstances. The effect of the judge's

advising the accused that he had a right to appeal was to render the plea conditional.

In *State v. O'Leary*, 393 S.E. 2d 686 This court reversed and remanded a guilty plea. In that case, the trial court permitted the accused to condition his guilty plea upon the right to appeal the constitutionality of the statute under which he was pleading. As this Court held, *Tuesdale, supra*, guilty pleas are unconstitutional and if an accused attempts to attach any condition the trial court must direct a plea of not guilty. This court went on to hold that it is thus, impermissible for a defendant to preserve constitutional issues while entertaining a guilty plea; the trial court must not accept the plea on such terms. The trial judge's advice to the accused in this case had a right to appeal had the same effect. Just like *O'Leary*, the applicant here entered his plea thinking he had the right to appeal, but it was a plea entered by an accused who thought based on what the judge told him, he had a right to appeal. This plea and sentence should

Counsel failed to challenge Rule 3(c). Action on warrant. Within ninety (90) days after receipt of an arrest warrant from the Clerk of Court, the solicitor shall take action on the warrant by (1) preparing an indictment for presentment to the Grand Jury, which indictment shall be filed with the Clerk of Court, assigned a criminal case number, and presented to the Grand Jury; (2) formally dismissing the warrant, noting on the face of the warrant the action taken; or (3) making other affirmative disposition in writing and filing.

The solicitor never made any kind of affirmative disposition in writing or oral. In Rule 3(c), shall is mandatory language. Solicitor's failure to comply with Circuit Court Rule 95 does not invalidate warrant, however, solicitor should be held in contempt of Court. *State v. Calbreath*, 316 S.E. 2d 681

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The records of this case show that the trial court failed to do this.

Counsel failed to protect the rights of the applicant when he failed to withdraw the guilty plea and did not file a motion regarding this when another sentence was given than agreed upon. See *Jordan v. State*, 374 S.E. 2d 683. See also *Nelson v. Peete*, 415 F.2d 1154.

In this application, the applicant asserts ineffective assistance of counsel due to the attorney failing to interview the alleged victim, the state's chief witness, before advising him to plead. If the applicant's case had gone to trial rather than to the original plea proceeding, the victim's testimony could have changed the outcome, or at least changed his decision to plead to the charges.

This evidence demonstrates that counsel was ineffective for not interviewing the victim. Applicant states that this prejudiced the outcome of the case. *Strickland v. Washington*, 466 U.S. 688;

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 Randy Erin Jennings,)
 S.C.D.C. No. 259845,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS
 C.A. No. 2011-CP-23-1291

RETURN

In response to the post-conviction relief application filed February 21, 2011, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the July 2009 term of General Sessions for grand larceny, third or greater property offense (2009-GS-23-2422), first-degree burglary (2009-GS-23-2423), and two counts of forgery, value less than \$5000 (2009-GS-23-3620, counts 1 and 2). C. Timothy Sullivan, Esquire represented the Applicant.

On March 3, 2010, the Applicant pled guilty as indicted. The Honorable Robin B. Stilwell sentenced the Applicant to concurrent terms of ten (10) years for grand larceny, third or greater property offense, sixteen (16) years for first-degree burglary, and five (5) years for each count of forgery, value less than \$5000. The Applicant did not appeal.

Attached herewith and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding the subject convictions and the Applicant's records from the

South Carolina Department of Corrections. The plea transcript will be forwarded upon receipt.

II.

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

1. Ineffective assistance of counsel.
2. Involuntary guilty plea.
3. Malicious prosecution.

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 defense attorney.

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

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel "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 an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Applicant's assertion that his guilty plea was involuntary is without merit. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999) (citing Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993)). An Applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the Applicant would not have pled guilty and would have insisted on going to

trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted). An Applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985); Bennett v. State, 371 S.C. 198, 204, 638 S.E.2d 673, 675 (2006).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. See Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969). In Boykin, the United States Supreme Court held that before a court can accept a guilty plea, a criminal defendant must be advised of the constitutional rights he is waiving. Id. at 243, 89 S. Ct. at 1712. Specifically, the accused must be aware of the privilege against self-incrimination, the right to a jury trial, and the right to confront one's accusers. Id. Moreover, a criminal defendant entering a guilty plea "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999) (citation omitted). A criminal defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "must be established by a complete record, and may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)).

When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief

hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000).

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

V.

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

VI.

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

Respectfully submitted,

ALAN WILSON
Attorney General

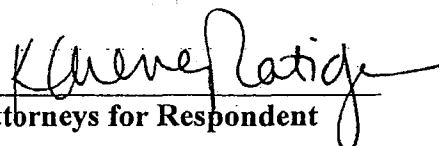
JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

KAREN C. RATIGAN
Assistant Attorney General

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

By:


Attorneys for Respondent

May 26, 2011

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

2011-CP-23-1291

RANDY ERIN JENNINGS, 259845)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA,)

Respondent.)

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

**Randy Erin Jennings, 259845
 Perry Correctional Institution
 430 Oaklawn Road
 Pelzer SC 29669**

DATED this 26th day of May, 2011.



 Judy A. C. Carey, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 Randy Jennings, SCDC # 259845,)
 Applicant,)
 vs.)
)
 THE STATE OF SOUTH CAROLINA,)
 Respondent.)
 _____)

IN THE COURT OF COMMONS PLEAS
 CASE NO: 2011-CP-23-1291

AMENDMENTS TO
 POST CONVICTION
 RELIEF APPLICATIONS

FILED-CLERK OF COURT
 GREENVILLE CO. S.C.
 PAUL B. WICKENSIMMER
 2012 OCT -14 A 8:57

The applicant hereby amends answers to number 9 and number 10 of his Application for Post-Conviction Relief to state the following:

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

(A) The Applicant was denied effective assistance of counsel in violation of the Sixth Amendment to the United States Constitution and Article I, Section 14 of The South Carolina Constitution.

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

(a) The applicant was provided with deficient representation by his attorney, in that the conduct of his attorney was objectively unreasonable under the circumstances. Strickland v. Washington, 466 U.S. 668 (1984). The outcome of the applicant's proceeding was prejudiced, and it is reasonable probable that the outcome would have been different had counsel's performance not been deficient. Strickland, 466 U.S. at 694. Defense counsel was ineffective based on one or more of the following:

1. My defense attorney failed to conscientiously discharge his professional responsibilities while he was handling my case.
2. My defense attorney failed to effectively challenge the arrest and seizure of Applicant.
3. My defense attorney failed to act as my diligent, conscientious advocate.
4. My defense attorney failed to give me his complete loyalty.
5. My defense attorney did not have my best interest in mind while he was supposed to be investigating and preparing my case.
6. My defense attorney failed to serve my cause in good faith.
7. My defense attorney neglected the necessary investigations and the preparation of my case.
8. My defense attorney did not do the necessary factual investigations on my behalf.
9. My defense attorney did not do the necessary legal research.
10. My defense attorney did not conscientiously gather any information to protect my rights.
11. My defense attorney did not try to have my case settled in a matter that would have been to my best advantage.
12. My defense attorney did not advise me of all my rights or take any of the actions that were necessary to protect preserve them; knowing that I was not versed in the law.
13. My defense attorney, knowing I was illiterate in the law, never properly ascertained whether or not I actually understood or comprehended all of the issues that were involved in my case.
14. My defense attorney never properly consulted with me or kept me informed with what was going on as far as my case was concerned.

15. My defense attorney never explained to me or discussed with me any of the elements of the crime charged.
16. My defense attorney never made any attempt to ascertain whether or not I actually knew what the elements fo the crime charged were or whether or not I understood exactly what the term "criminal" element" actually meant.
17. My defense attorney never explained to me or discussed with me how the elements of the crime charge and the evidence that the prosecution planned to introduce into evidence against me related to one another and did not discuss how the sentencing would be done especially as it related to the elements of the crime as in State V. Boyd.
18. My defense attorney never informed me of any of the defenses that were available to me.
19. My defense attorney never intended to offer any defense to the court on my behalf.
20. My defense attorney never explained to me or discussed with me any kind of defense strategy.
21. My defense attorney never explained to me or discussed with me any of the tactical choices that they either made or were planning to make.
22. My defense attorney dictated to me exactly how my case was going to be handled and offered no alternative options.
23. My defense attorney failed to properly acquaint themselves with the law and the facts surrounding my case and as a direct result of their intentional negligence, there was a very serious error in their assessment of both the law and the facts.
24. Because of my defense attorney's gross neglect and his many legal errors no defense at all was put in issue for me during the Court proceedings.
25. My defense attorney did not subject the prosecution's case to any adversarial testing.
26. My defense attorney failed to oppose the prosecution's case with

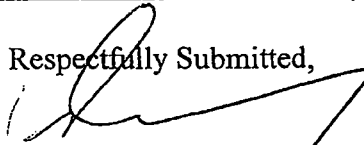
any adversarial litigation.

27. My defense attorney failed to function as the government's adversary in any sense of the word.
28. My defense attorney failed to pursue any of the legal recourse that were available to him.
29. The attorney that represented me on this charge in Court failed to function as the counsel that the Constitution's Sixth Amendment Guarantees.
30. My defense attorney failed to call alibi witnesses on my behalf which would have proven my innocence.
31. My defense attorney failed to appeal my case after I was convicted when I wanted to appeal.

His counsel's representation was not within the range and scope of competence demanded by Strickland and its progeny.

A convicted defendant's claim that counsel's assistance was so defective as to require reversal of a conviction requires that the defendant show first, that the deficient performance prejudiced the defense so as to deprive the defendant of a fair trial. Sosebee v. Leeke, S.C. 362, F. 2nd 221 (1987), citing Strickland v. Washington 46 S.E.2D. 813 (1984), See also Butler v. State 286 S.C. 441, 334 S.E. 2d 813 (1985), also, Hill v. Lockhart 474 U.S. 88 (1985).

Respectfully Submitted,



Rodney Richey
Richey and Richey, P.A.
Post Office Box 10916
Greenville, South Carolina 29603
Attorney for the Applicant

October 2, 2012

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 Randy Jennings, SCDC # 259845,)
)
 vs.)
)
 THE STATE OF SOUTH CAROLINA)

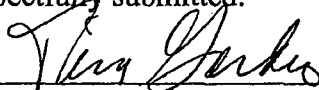
IN THE COURT OF COMMONS PLEAS
 CASE NO: 2011-CP-23-1291

AFFIDAVIT OF SERVICE

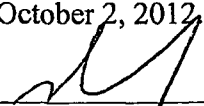
FILED-CLERK OF COURT
 GREENVILLE CO. S.C.
 PAUL B. WICKENSIMER
 2012 OCT -4 A 8:50

I certify that I have served the Amendments to PCR Application on the State of South Carolina by depositing copy of it in the United States Mail, postage prepaid, on October 2, 2012, addressed to their attorney of record, Office of Attorney General State of South Carolina, Post Office Box 11549, Columbia, SC 29211-1549.

Respectfully submitted:


 Tina Garduno, paralegal
 Richey and Richey, P.A.
 Post Office Box 10916
 Greenville, South Carolina 29603

Sworn to before me on
 October 2, 2012


 Notary Public of South Carolina
 My Commission Expires: 3-16-14

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
) 2011-CP-23-1291
 COUNTY OF GREENVILLE)
)
)
)
 Randy Jennings) TRANSCRIPT OF RECORD
)
)
 -vs-)
)
 State of South Carolina)

October 30, 2012
 Greenville, South Carolina

B E F O R E:

THE HONORABLE R. MARKLEY DENNIS, JR, Judge.

A P P E A R A N C E S

Rodney Richey, Esquire
 Attorney for the Applicant

Karen Ratigan, Esquire
 Assistant Attorney General
 Attorney for the State

CAROLINE HISKELL
 Thirteenth Circuit Court Reporter

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I N D E X

WITNESSES

DIR

CROSS

Randy Jennings

8

11

Tim Sullivan

16

17

(There were no exhibits presented).

Robert Jennings versus State of South Carolina

P R O C E E D I N G S

1
2 THE COURT: Ms. Ratigan.

3 MS. RATIGAN: Thank you, Your Honor, may it
4 please the Court.

5 This is the case of Randy Jennings versus the
6 State. The Docket No. is 2011-CP-23-1291. Mr. Jennings
7 is indicted for grand larceny as a third or greater
8 property offense, burglary first, and two counts of
9 forgery of a value less than \$5,000.

10 He was represented on those charges by
11 Mr. Sullivan seated to my right.

12 On March 3rd of 2010, he pled guilty to the
13 charges as indicted. Judge Stilwell levied concurrent
14 sentences of ten years for grand larceny third or greater
15 property offense, 16 years for burglary first, five years
16 for each of the forgery counts.

17 He did not file an appeal and the State is
18 ready to proceed.

19 THE COURT: Thank you.

20 Mr. Jennings, you talked with your lawyer
21 about your application, sir. You can remain seated.

22 APPLICANT JENNINGS: Yes, sir.

23 THE COURT: And he has advised you and you
24 understand what the options are and that the best outcome
25 for you is to start all over again?

Robert Jennings versus State of South Carolina

1 APPLICANT JENNINGS: Yes, sir.

2 THE COURT: And that's all I can do for you,
3 do you understand that?

4 APPLICANT JENNINGS: Yes, sir.

5 THE COURT: Are you prepared to go forward
6 with this application?

7 MR. RICHEY: He wants to withdraw, Your
8 Honor.

9 THE COURT: You do want to withdraw?

10 APPLICANT JENNINGS: Yes, sir.

11 THE COURT: Your lawyer has discussed with
12 you, first of all, if you do that that could possibly
13 prevent your reconsidering that decision at a later date
14 because it would become successive applications as well as
15 it could be beyond the statute of limitations for filing a
16 post conviction relief, do you understand that?

17 APPLICANT JENNINGS: Yes, sir. I'm afraid
18 I'm going to get a lot more time.

19 THE COURT: Well, that's the catch and that's
20 what the gentlemen that just preceded you, I looked at his
21 and I looked at yours and it's just one year more than 15,
22 but it carries a potential life sentence and when I see
23 somebody getting close to the minimum it's one of the
24 things that I do -- I practiced law before I came a judge
25 and I had the pleasure of representing persons who filed

Robert Jennings versus State of South Carolina

1 applications -- it's a big risk. The best might not be
2 the best for you and that's a concern.

3 But you've decided for yourself that you
4 don't want to run that risk?

5 APPLICANT JENNINGS: Yes, sir.

6 THE COURT: And that's a decision that you
7 are comfortable with, sir?

8 APPLICANT JENNINGS: I'm not really
9 comfortable with it but it might be in my best interest
10 but I'm scared to go forward.

11 THE COURT: Has anyone forced you to take
12 that position, sir?

13 APPLICANT JENNINGS: No, sir.

14 THE COURT: And have you had sufficient time
15 to think about what you're doing?

16 APPLICANT JENNINGS: Yeah.

17 THE COURT: Are you satisfied with the manner
18 in which your lawyer has advised you concerning this
19 matter?

20 APPLICANT JENNINGS: Not really.

21 THE COURT: Do you need additional time to
22 talk with him?

23 APPLICANT JENNINGS: No, sir.

24 THE COURT: Unfortunately in this setting,
25 and I remember the frustrations as an attorney, post

Robert Jennings versus State of South Carolina

1 conviction relief is so well defined and so limited as to
2 what you can do. You're not asking for this but I
3 remember some of the first ones I got and I been at it for
4 a long enough time to be there when it started, the first
5 one had a pretty good deal too. And I said I can get you
6 back and -- he pled to voluntary manslaughter and got a
7 12-year sentence. This was before it was any 85 percent
8 situation. I said the best I can do is go back and be
9 tried for murder. He said, I don't want that, I just want
10 my sentenced reduced. He said that's what they told me I
11 could go none.

12 I said, I don't know who told you that but
13 that's not what I can do for you. I think a lot of times
14 when you file, you don't really have a chance to give
15 thought to what the downside could be and that's what
16 we're talking about. There is a significant downside.
17 It's not complicated. You can always -- you might get the
18 same deal and you might get, and it's only a year less,
19 but if burg first goes forward but that's your chance and
20 you have that right if you want to proceed.

21 Do you want to go forward with it, sir?

22 Let me explain something to you. It's not
23 exactly like a guilty plea but it's pretty darn close.
24 When you withdraw it, you have to satisfy me that that's
25 what you really want to do and right now I hear what

Robert Jennings versus State of South Carolina

1 you're saying but your body language is telling me
2 something else.

3 APPLICANT JENNINGS: I'm just concerned about
4 the issue of Mr. Sullivan coercing me and telling me that
5 I was going to get a life sentence so basically I lied.

6 THE COURT: Well, then you need to come
7 forward because the bottom line is, and I appreciate you
8 using the term coerced, but one of the things that I used
9 to tell my clients and I still believe this to be the
10 case, a lawyer, while it would be nice to tell you some
11 things that are good, a lawyer has an obligation to tell
12 you what they believe to be reality and you make the call.

13 I told lots of people if it were me I
14 wouldn't take the chance, but it's your case. I bet
15 Mr. Sullivan told you this it's your case and if you want
16 to try it, I'll try it. I've had the pleasure of working
17 with Mr. Sullivan as a trial judge, I am confident he
18 could have tried that case without any problem and would
19 have done an excellent job. But the exposure is dramatic
20 and you minimize your exposure, but I'll be happy to hear
21 it. I've got the transcript and I'll hear the testimony
22 and make a decision on that.

23 So we probably need to go forward unless you
24 want to withdraw it.

25 APPLICANT JENNINGS: I just don't think that

Robert Jennings versus State of South Carolina

1 it's (inaudible) because I don't want to get no more time
2 than I already got.

3 THE COURT: Can't promise you that you will
4 and I can't promise you that you won't. We're back
5 exactly where Mr. Sullivan was, it's our call. You have
6 to make the decision and that's why you have to convince
7 me that's what you want to do. You've filed it and you've
8 alleged certain things and I looked at the transcript
9 briefly about it and I'll continue to look at it and I'll
10 hear your testimony. I don't know what I'm going to do
11 but if I find that you were coerced and I find that the
12 plea was involuntary, then you start over again.

13 So you make the call.

14 APPLICANT JENNINGS: (No response.)

15 THE COURT: Call your first witness.

16 MR. RICHEY: I call Mr. Jennings.

17 THE CLERK: Place your left hand on the Bible
18 and raise your right hand.

19 RANDY JENNINGS, having been duly sworn,
20 testified as follows:

21 Thank you. You may be seated. Please state
22 your full name for the record.

23 THE WITNESS: Randy Aaron Jennings.

24 DIRECT EXAMINATION

25 BY MR. RICHEY:

Robert Jennings versus State of South Carolina

1 Q. Mr. Jennings, are you in the Department of
2 Corrections at this point?

3 A. Yes, sir, I am.

4 Q. You have to speak up.

5 A. Yes, sir, I am.

6 Q. And what are you in the Department of Corrections
7 for, what charges?

8 A. First degree burglary, grand larceny. I also had
9 forgery charge?

10 Q. Who represented you on these charges?

11 A. Mr. Sullivan.

12 Q. And you filed an application for post conviction
13 relief in that you believe that Mr. Sullivan didn't
14 effectively present you; is that correct?

15 A. That's right.

16 Q. One of the issues is, as stated in your
17 preliminary discussion with the Court, is that
18 Mr. Sullivan coerced to plead guilty; is that correct?

19 A. Yes, sir.

20 Q. And in what way are you alleging that he coerced
21 you to plead guilty?

22 A. Mr. Sullivan told me -- he took me to the holding
23 cell and he told me that I would more than like, if this
24 were to come to trial, that the jury put in the box it was
25 a very very high chance that I would get a life sentence

Robert Jennings versus State of South Carolina

1 and that I needed to plead out while I still had a chance.

2 Q. So the lawyer told you -- your case was on the
3 trial docket. Were you set to be tried?

4 A. (No response.)

5 Q. You were set to be tried on that day? Your case
6 at that point the solicitor had placed it on the trial
7 roster. It was on the roster to be tried, right?

8 A. Yes, sir.

9 Q. And you had had a previous offer; is that
10 correct?

11 A. Yes, sir.

12 Q. And what was that offer, do you remember?

13 A. It was 15 years.

14 Q. Was that to a reduced charge or something?

15 A. I believe so. I didn't feel like it was
16 accurate. It was too much.

17 Q. At the plea itself there was some discussion in
18 court about the previous plea offer, correct?

19 A. Excuse me?

20 Q. There was some discussions about that previous
21 plea offer, correct?

22 A. At the trial?

23 Q. At the time of the plea. At the time you pled
24 guilty, do you recall Mr. Sullivan and you and the Court
25 talking about the previous offer that you had?

Robert Jennings versus State of South Carolina

1 A. No.

2 MS. RATIGAN: Could he speak up.

3 THE COURT: Yes. Speak into that mic, I'm
4 having trouble hearing you.

5 BY MR. RICHEY:

6 Q. It's your position that if Mr. Sullivan had not
7 coerced you to plead you would have gone to trial?

8 A. I really don't know how to answer that question.
9 Probably, but I feel that if Mr. Sullivan would have
10 adequately done his job, I would have never went to trial.

11 Q. It's your position that Mr. Sullivan would have
12 had the charges dismissed or something?

13 A. Not necessarily dismissed but lesser.

14 Q. You believe he didn't accurately represent you
15 because he didn't get you a more favorable plea offer; is
16 that correct?

17 A. Yes, sir.

18 Q. So at the time of your guilty plea because you
19 were on the spot, you feel like the plea was coerced
20 because of time than you think you should have gotten?

21 A. Yes, sir.

22 Q. Thank you. Answer any question Ms. Ratigan may
23 have for you.

24 CROSS-EXAMINATION

25 BY MS. RATIGAN:

Robert Jennings versus State of South Carolina

1 Q. Did you meet with Mr. Sullivan to review the
2 facts of the charges against you?

3 A. I only met with Mr. Sullivan twice, once was at
4 my bond hearing when I was waiting for a bond, and the
5 second time I can't recall. After that I never did meet
6 with him any more. I believe he was sick. Every time I
7 came up for roll call, it was a solicitor who I spoke
8 with.

9 One time I tried to get into drug court and I
10 was denied. From there I just went to phone calls.

11 Q. Did you ever discuss the evidence against you
12 with your lawyer?

13 A. No, ma'am. I tried to get a motion of discovery
14 from him and he told me I didn't need one.

15 Q. Did you tell him your version of what happened
16 with these charges?

17 A. Yes, ma'am, when I was at the bond hearing when I
18 was in the county. I told to him about getting a bond.

19 Q. And did you at that point tell him that you
20 wanted him to talk to the State about a plea offer?

21 A. I don't believe I did.

22 Q. So he just negotiated on your behalf?

23 A. I just wanted a bond.

24 Q. And the State did make a plea offer. Did
25 Mr. Sullivan explain that to you?

Robert Jennings versus State of South Carolina

1 A. What do you mean?

2 Q. Well, you had a prior plea offer in this case,
3 correct, to reduce it down to second degree burglary.

4 A. Apparently I did, but that was the first time I
5 went up for roll call and I felt like I could get lesser
6 time.

7 Q. Let me ask you a different way. When the State
8 made this offer to reduce the charge to burglary second,
9 is that something that Mr. Sullivan told you about?

10 A. Yes, ma'am.

11 Q. And you thought that you wanted a better offer;
12 is that correct?

13 A. I wanted less time, yes, ma'am.

14 Q. That's what you told Mr. Sullivan I think it's
15 too much time?

16 A. Yes, ma'am.

17 Q. Did he ever come back to you with a new offer
18 from the State?

19 A. No, ma'am. I had contacted his office numerous
20 times and was never able to get in touch with him. When
21 it did come up to trial, it turned out that he did receive
22 it.

23 Q. And when you were in court that day to plead
24 guilty, you knew at that point there was no kind of
25 recommendation, no kind of plea offer?

Robert Jennings versus State of South Carolina

1 A. I'm not --

2 Q. When you came to court that day, you knew the
3 State wasn't going to have a plea offer for you, you were
4 just coming to plead guilty.

5 A. The day of the trial?

6 Q. Yes, sir.

7 A. No, ma'am. I didn't know what was going on. I
8 was lost.

9 Q. So you didn't even know you were pleading guilty
10 that day?

11 A. No, ma'am. Just like I am now, I really don't
12 know what to say. I'm like a deer in headlights I'm
13 scared to death.

14 Q. When the judge asked you if you had been coerced
15 or pressured in any way, you told him that you had not.
16 Are you saying now that you were lying to the judge so you
17 can just go ahead and plead?

18 A. Yes, ma'am, because I felt it would be in my best
19 interest because I didn't want to get a life sentence like
20 I do now. I'm scared to death and I think this is a bad
21 idea.

22 Q. And when you told the judge you were guilty, you
23 were also lying just to try to get the plea over with?

24 A. Yes, ma'am, I was scared of a life sentence.

25 Q. Now, did Mr. Sullivan say to you you would

Robert Jennings versus State of South Carolina.

1 receive a life sentence?

2 A. Yes, ma'am.

3 Q. Or you could receive a life sentence?

4 A. He said I would. He said the Mr. Moyer was
5 pushing for a life sentence and it was likely I would get
6 it.

7 Q. Why didn't you tell Judge Stilwell that day that
8 you felt that Mr. Sullivan had kind of pressured you with
9 this talk of a life sentence?

10 A. I tried to fire Mr. Sullivan at the beginning the
11 process. I wanted another attorney and Judge Stilwell
12 told me that it was in his best interest -- Mr. Sullivan
13 was adequate and to go on with the trial.

14 Q. And that's why you didn't tell the judge you
15 thought that Mr. Sullivan was pressuring you?

16 A. Yes, ma'am, I was scared to death of getting a
17 life sentence as I am now.

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

19 THE COURT: Any redirect?

20 MR. RICHEY: No, Your Honor.

21 THE COURT: You may come down, sir. Thank
22 you.

23 MR. RICHEY: We call Mr. Sullivan.

24 THE CLERK: Mr. Sullivan, could you place
25 your left hand on the Bible and raise your right.

Robert Jennings versus State of South Carolina

1 C. TIMOTHY SULLIVAN, having been duly sworn,
2 testified as follows:

3 Thank you. You may be seated. Please state
4 your full name for the record.

5 THE WITNESS: C. Timothy Sullivan.

6 DIRECT EXAMINATION

7 BY MR. RICHEY:

8 Q. Mr. Sullivan, you represented Randy Jennings; is
9 that correct?

10 A. Yes, I did.

11 Q. And you were in the courtroom during his
12 testimony; is that correct?

13 A. Yes.

14 Q. And you understand is the issue that he's raising
15 is that you coerced him to plead guilty. Can you tell me
16 any explanation that you would have for him thinking that
17 you coerced him to plead guilty?

18 A. I don't tell people -- I tell them what they're
19 ranges are. He and I went over the discovery. He knew
20 what they had. There was a gun involved, pawn shop
21 tickets and they had cases on him. He had burglary first,
22 grand larceny, a forgery. He had a bucket load of stuff
23 and he knew what and I told him that Mark offered a
24 burglary second.

25 Q. When you say Mark, who are you referring to?

Robert Jennings versus State of South Carolina

1 A. Mark Moyer, the solicitor. Burglary second and
2 the rest of it would run concurrent -- burglary second
3 would carry 0 to 15. Randy was already on probation. He
4 had just gotten out of jail two months before this
5 happened and the first time I met with him and he gave me
6 a story. And then I got the discovery and it just didn't
7 jive. I told him the ranges, burglary first minimum of 15
8 to life. It's not a LWOP and the others were 10 or 5 or
9 whatever. I never told him that he was going to get a
10 life sentence. I told him that he was exposed to one but
11 there was nobody injured. I think he kicked in a trailer
12 door and took a some jewelry or something like that.
13 Nobody was home in the trailer.

14 I told him that you could because it was 15
15 to life and burglary second is 0 to 15 and everything else
16 falls in place concurrent. I was sick at that time and I
17 had some cancer problems.

18 I don't how the time got by but Mark withdrew
19 the offer. In the transcript, I think Page 13, you can
20 see where there was a discussion between Randy and the
21 Judge and I about they would not re-instate the offer.

22 Q. Thank you. Answer any questions Mr. Ratigan has.

23 CROSS-EXAMINATION

24 BY MS. RATIGAN:

25 Q. Mr. Sullivan, you were appointed in this case?

Robert Jennings versus State of South Carolina

1 A. Yes, I was.

2 Q. You filed the usual discovery motions?

3 A. Yes. I have a file and I think they have it right
4 now in the courtroom.

5 Q. Do you need your file?

6 A. Yes. I would like to look at it.

7 MS. RATIGAN: May I approach, Your Honor.

8 THE COURT: You may.

9 BY MS. RATIGAN:

10 Q. Mr. Sullivan, does your file reflect that you
11 received discovery from the State?

12 A. I got the discovery with the description of all
13 the things that were missing, the pawn shops they went to.
14 There were two places they went to try and sell the gun
15 according to the discovery and Randy knew all of that.
16 You don't go to trial without going over discovery with
17 your client.

18 The time passed for the offer to be accepted
19 and the policy here is if you don't accept within the time
20 limit, it goes on the trial docket. If you want to then
21 plea, it's straight up to the regular charge. You can not
22 go back to the offer.

23 Q. The offer wasn't for a specific time. It was to
24 reduce it down to a burglary second.

25 A. Burglary second and Mark was going to push for

Robert Jennings versus State of South Carolina

1 the higher end and let me argue what I could?

2 Q. And you explained to Mr. Jennings that there was
3 no specific time recommendation but that the State was
4 going to push for the max?

5 A. Yes, I told them they were going to try for the
6 15 and I would argue for lower than that but I couldn't
7 guarantee it.

8 Q. And did you explain to Mr. Jennings the minimum
9 and maximum for both the burglary second and burglary
10 first?

11 A. Yes. Burglary second 0 to 15 mandatory and
12 burglary first mandatory 15 up to life. I didn't think
13 he'd get life on this because of no injuries, nobody home.

14 Q. And once Mr. Jennings rejected the offer it got
15 put on the trial docket?

16 A. It got put on the trial docket. I don't remember
17 why the time went by. I do know I was sick and I do know
18 he didn't accept it.

19 Q. So when he went to plead before Judge Stilwell,
20 it was straight up with no recommendation?

21 A. Yes. If it goes on the trial docket, it's a
22 straight up plea with the original charge.

23 Q. Did you explain to Mr. Jennings when he went to
24 court that day to plead guilty there would not be a
25 recommendation?

Robert Jennings versus State of South Carolina

1 A. This was not to plead guilty, this was a trial.
2 I even had him clothes. They keep a wardrobe, John
3 Mauldin, to keep clothes for people that don't have them.
4 We were going to pick a jury that day.

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

6 THE COURT: Redirect?

7 MR. RICHEY: No, Your Honor.

8 THE COURT: You can step down.

9 MR. RICHEY: That's all the witnesses we
10 have, Your Honor.

11 THE COURT: State has any witnesses.

12 MS. RATIGAN: The State would rest on the
13 record, Your Honor.

14 THE COURT: Mr. Richey.

15 MR. RICHEY: Your Honor, I think the Court
16 has heard the testimony and I'll let the Court weigh it in
17 its ruling.

18 MS. RATIGAN: And we would rest on the record
19 and State Stickling has not been met, Your Honor.

20 THE COURT: Well, in reviewing the transcript
21 it's clear that Mr. Jennings was very reluctant to plead
22 guilty. I don't fault Judge Stilwell, I think there was
23 an abundance of evidence and the whole proceeding in it's
24 totality justified his taking and accepting the plea.

25 I just probably would not have accepted it

Robert Jennings versus State of South Carolina

1 and you would have gone to trial that day and faced what a
2 jury would have said and faced a sentence that would have
3 exposed him to that which he has said prior to and again
4 on the witness stand what he didn't want to run the risk
5 of.

6 But clearly he admitted he was guilty by
7 acknowledging the facts that was stating in the record.
8 So notwithstanding his statements and discussions and
9 equivocations, I find that he entered a plea voluntarily,
10 knowingly and intelligently. With his prior record, I am
11 certain that he understood what he was doing. I think the
12 Judge even acknowledged that and commented about that in
13 the record.

14 Clearly it seems to be the theme of the day
15 because the applicant before rejected an offer thinking he
16 could get a better deal. In a lot of way it's gambling in
17 waiting for the decision because the Court has not decided
18 and gambling is not allowed in this state but you gamble
19 every day when you come in general sessions. You take a
20 chance. The gambling, unfortunately, the stakes are
21 pretty high.

22 You gambled that you could get a better deal
23 and that was not a good move. Hindsight is 20/20 but I
24 don't think that's an indication that Mr. Sullivan did
25 anything wrong or failed to do anything. He succinctly

Robert Jennings versus State of South Carolina

1 stated the problems and Mr. Jennings was aware of the
2 problems. Mr. Jennings, in reading those comments, was
3 aware of those problems and understood the risk.

4 Quite frankly with your record, you were very
5 aware of those problems created with respect to
6 sentencing. All of us do. I can only speak for me, I
7 don't know about anybody else, but I know that I do. I
8 look at everybody's prior records and I understand the
9 drug issues but by the same token if you've had as many
10 shots as you've had, it could have been a life sentence.

11 I don't disagree with your lawyer's
12 assessment. I don't think he told you that you were going
13 to get it. I think he told you that you very well could
14 but given everything you probably wouldn't, and that's
15 consistent with everything that I read in the record.
16 It's consistent with what I read in the record and
17 consistent with what he told you and what he accomplished
18 even though 15 under the first is not the same as 15 under
19 the second. That's where you may have mad a big mistaken
20 but it's not your lawyer's fault and you can't blame him
21 for that because he can't accept it for you. That's not
22 permitted. You have to accept it or reject it.

23 Nothing wrong with the State. They made an
24 offer and just as Mr. Sullivan articulated and that's the
25 case with every case manager in the State. You get an

Robert Jennings versus State of South Carolina

1 offer, it's extended, you have an opportunity to consider
2 it and if you are put on the trial docket then that offer
3 is rejected.

4 Now, sometimes there may be occasion where
5 they change. I'm not going to tell you that doesn't
6 happen, but that's up to the individual solicitor. So I'm
7 going to protect you against yourself. I'm going to deny
8 your application. I don't think it has met the prongs and
9 if Ms. Ratigan you would prepare the order.

10 MS. RATIGAN: Yes, Your Honor.

11 ---END OF TRANSCRIPT RECORD---

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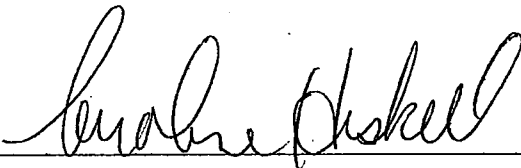
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Robert Jennings versus State of South Carolina

1 I, the undersigned Caroline Hiskell, Official
2 Court Reporter for the Thirteenth Judicial Circuit of the
3 State of South Carolina, do hereby certify that the
4 foregoing is a true, accurate, and complete transcript of
5 record of all the proceedings had and evidence introduced
6 in the trial of the captioned case, relative to appeal, in
7 the Court of Common Pleas, Greenville, South Carolina on
8 the 30th day of October, 2012.

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

11
12
13 

14 Caroline Hiskell
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25

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 Randy Erin Jennings,)
 S.C.D.C. No. 259845,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 C.A. No. 2011-CP-23-1291

ORDER OF DISMISSAL

2012 DEC - 5 A 10:16
 CLERK OF COURT
 GREENVILLE CO S.C.
 WICKENSIMMER

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed February 21, 2011. The Respondent made its return on May 26, 2011. An evidentiary hearing into the matter was convened on October 31, 2012 at the Greenville County Courthouse. The Applicant was present at the hearing and represented by Rodney W. Richey, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

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

PROCEDURAL HISTORY

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Applicant was indicted at the July 2009 term of the Greenville County Grand Jury for grand larceny, third or greater

pmj/jk

property offense (2009-GS-23-2422); first-degree burglary (2009-GS-23-2423), and two counts of forgery, value less than \$5000 (2009-GS-23-3620, counts 1 and 2). C. Timothy Sullivan, Esquire represented the Applicant.

On March 3, 2010, the Applicant pled guilty as indicted. The Honorable Robin B. Stilwell sentenced the Applicant to concurrent terms of ten (10) years for grand larceny, third or greater property offense, sixteen (16) years for first-degree burglary, and five (5) years for each count of forgery, value less than \$5000. The Applicant did not appeal.

ALLEGATIONS

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

1. Ineffective assistance of counsel.
2. Involuntary guilty plea.
3. Malicious prosecution.

The Applicant, through counsel, submitted an amendment to his application dated October 2, 2012, in which he alleged the following:

1. Ineffective assistance of counsel:
 - a. Failed to conscientiously discharge professional responsibilities.
 - b. Failed to effectively challenge search and seizure.
 - c. Failed to act as a diligent and conscientious advocate.
 - d. Failed to give complete loyalty.
 - e. Did not have Applicant's best interest in mind.
 - f. Failed to serve the cause in good faith.
 - g. Neglected necessary investigations and preparation.
 - h. Did not do necessary factual investigations.
 - i. Did not do necessary legal research.
 - j. Did not conscientiously gather information to protect rights.
 - k. Did not try to have the case settled in a manner that would have been to my best advantage.
 - l. Did not advise me of all my rights or take any of the actions that were necessary to protect and preserve them.
 - m. Never properly ascertained whether or not I actually understood or comprehended all of the issues involved in the case.

Rm 07/12

- n. Never properly consulted with me or kept me informed.
- o. Never explained to me or discussed with me any of the elements.
- p. Never made any attempt to ascertain whether or not I actually knew the elements of the crime charge or whether or not I understood exactly what "criminal element" meant.
- q. Never explained or discussed with me how the elements of the crime charged and the evidence that the prosecution planned to introduce into evidence against me related to one another and did not discuss how the sentencing would be done especially as it related to the elements of the crime as in State v. Boyd.
- r. Never informed me of any of the defenses that were available to me.
- s. Never intended to offer any defense to the court on my behalf.
- t. Never explained to me or discussed with me any kind of defense strategy.
- u. Never explained to me or discussed with me any of the tactical choices that were made or planned to be made.
- v. Dictated to me exactly how my case was going to be handled and offered no alternative options.
- w. Failed to properly acquaint herself with the law and facts surrounding my case and, as a result, there was a very serious error in the assessment of both the law and the facts.
- x. No defense at all was put in issue for me during the Court proceedings.
- y. Did not subject the prosecution's case to any adversarial testing.
- z. Failed to oppose the prosecution's case with any adversarial litigation.
- aa. Failed to function as the government's adversary in any sense of the word.
- bb. Failed to pursue any of the legal recourse that was available.
- cc. Failed to function as the counsel that the Constitution's Sixth Amendment guarantees.
- dd. Failed to call alibi witnesses on my behalf.
- ee. Failed to appeal my case.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

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

Ineffective Assistance of Counsel/Involuntary Guilty Plea

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

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

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)).

RMP/14

The Applicant stated he only had two meetings with plea counsel and they never reviewed the evidence in his case. The Applicant stated plea counsel conveyed a fifteen year plea offer from the State but that he rejected it because he wanted a lesser sentence. The Applicant stated if plea counsel had done a better job, he would have received a better offer from the State. The Applicant stated plea counsel coerced him into pleading guilty because counsel stated he would receive a life sentence if he was found guilty at trial. The Applicant stated he lied to the plea judge when he said he had not been coerced and was guilty of the charges.

Plea counsel testified he filed discovery motions, received those materials from the State, and reviewed the State's evidence with the Applicant. Plea counsel testified he reviewed the sentence ranges for the charges and the lesser-included offenses of those charges. Plea counsel testified the State made an offer to reduce the charge to second-degree burglary and recommend concurrent time but did not make a specific sentence recommendation. Plea counsel testified he explained the plea offer to the Applicant, the Applicant rejected it, and the case was put on the trial docket. Plea counsel testified the Applicant knew he was pleading guilty that day without a plea offer or recommendation. Plea counsel testified he never told the Applicant he would receive a life sentence at trial but did advise him the maximum sentence for first-degree burglary was life imprisonment.

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

The Applicant admitted to the plea judge both that he was guilty and that the majority of

RMP/15

the facts recited by the solicitor were true. (Plea transcript, p.8; p.18). The Applicant also told the plea judge that he understood the trial rights he was waiving in pleading guilty and had not been coerced in any way. (Plea transcript, pp.4-5; pp.7-8).

This Court finds the Applicant failed to meet his burden of proving plea counsel's representation was deficient. Plea counsel testified he reviewed the discovery materials, the Applicant's version of events, and the possible sentences with the Applicant. This Court finds plea counsel's testimony on this matter is credible. Both plea counsel and the Applicant testified plea counsel conveyed the plea offer and the Applicant chose to reject it because he wanted a better recommendation. Plea counsel testified he discussed the offer with the Applicant and explained the sentence range for the reduced charge of second-degree burglary. This Court finds plea counsel fulfilled his obligation to convey and discuss the plea offer and the Applicant made an informed decision to reject it. Cf. Davie v. State, 381 S.C. 601, 675 S.E.2d 416 (2009) (holding counsel's failure to convey the State's plea offer to defendant constituted deficient performance). This Court further finds there was no error in plea counsel advising the Applicant he could receive a life sentence if found guilty of first-degree burglary because this was the maximum sentence for the charge. See Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999) (finding that, before a defendant can enter a guilty plea, he "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived").

This Court finds the Applicant failed to meet his burden of proving his guilty plea was involuntary. This Court finds that, while the plea transcript indicates the Applicant's reluctance to plead guilty, nevertheless the guilty plea colloquy was thorough and the Applicant's guilty plea was entered knowingly and voluntarily. See Boykin v. Alabama, 395 U.S. at 243-44, 89 S.

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Ct. at 1712; see also Stalk v. State, 375 S.C. 289, 300, 652 S.E.2d 402, 407 (Ct. App. 2007) (finding the Applicant's allegations were refuted by the guilty plea transcript).

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

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

All Other Allegations

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

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner and the Applicant was not prejudiced by counsel's representation. Furthermore, the Applicant's guilty plea was entered

RM/ST/7

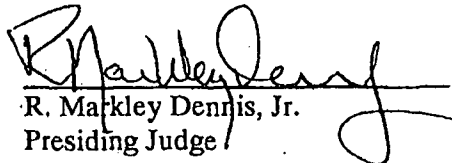
knowingly and voluntarily within the mandates of Boykin. Therefore, this PCR application must be denied and dismissed with prejudice.

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

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 29 day of November, 2012.


R. Markley Dennis, Jr.
Presiding Judge

Moncks Corner, South Carolina.

ARREST WARRANT

Code 8
459

1-368450

STATE OF SOUTH CAROLINA
County of Greenville Municipality of Greenville

Greenville

THE STATE 08-157811
against

Randy Erin Jennings

Address:

Phone: SSN: Sex: M Race: W Height: 5 9 Weight: 160
DL State: DL #: DOB: Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office
Prosecuting Officer: R B Ballenger - 502

Offense: Burglary / Burglary (After June 20, 1985) - First degree

Offense Code: 0079
Code/Ordinance Sec: 16-11-0311

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

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Randy Jennings on 11/30/08

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

West Greenville Summary Court
6247 White Horse Road
Greenville, SC 29611

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA
 County/ Municipality of
Greenville

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 516

Personally appeared before me the affiant R B Ballenger who being duly sworn deposes and says that defendant Randy Erin Jennings did within this county and state on or about 10/30/2008 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Greenville) in the following particulars:

DESCRIPTION OF OFFENSE Burglary / Burglary (After June 20, 1985) - First degree

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

Affiant has a report of a Burglary 1st Degree which took place at [redacted] where the Victim, Sarah Cartee, reported the unlawful entry to her residence and the theft of property, which included a Browning .22 Rifle, Serial #3171492 and a Safe. The defendant is implicated as a party to this crime and he became armed with a gun during this burglary. A Witness identified the defendant as the person who traded the gun the same day as the theft took place. The defendant was also identified, by his state identification card, when he sold a portion of the Victim's stolen property to Foothills Gun and Pawn Shop, within 24 hours of the theft. This incident took place in Greenville County.

Signature of Affiant

[Signature]

STATE OF SOUTH CAROLINA
 County/ Municipality of
Greenville

Affiant's Address 4900 Old Buncombe Road
Greenville, SC 29617
Affiant's Telephone (864)371-3619

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 10/30/2008 defendant Randy Erin Jennings did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Greenville) as set forth below:

DESCRIPTION OF OFFENSE: Burglary / Burglary (After June 20, 1985) - First degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the above defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable Sworn to and subscribed before me

on 11/03/2008
Signature of Issuing Judge
Diane D. Cagle (L.S.)
Judge Code: 5531

Judge's Address 6247 White Horse Road
Greenville, SC 29611-3845
Judge's Telephone (864)294-4810

Issuing Court: Magistrate Municipal Circuit

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NOV 04 2008

GREENVILLE COUNTY SHERIFF'S OFFICE

544
Entered on 368451
ARREST WARRANT
454
12/11/08

STATE OF SOUTH CAROLINA
County of Greenville
Municipality of Greenville

THE STATE 08-157811
against
Randy Erin Jennings

Address: [REDACTED]

Phone: [REDACTED] SSN: [REDACTED]
Sex: M Race: W Height: 5 9 Weight: 160
DL State: [REDACTED] DL #: [REDACTED]
DOB: [REDACTED] Agency ORI #: SC0230000
Prosecuting Agency: Greenville County Sheriffs Office
Prosecuting Officer: R B Ballenger - 502
Offense: Larceny / Grand Larceny, value more than \$1,000 but less than \$5,000

Offense Code: 0478
Code/Ordinance Sec: 16-13-0030(B)(1)

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of
The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)
Signature of Judge

Date: _____

RETURN
A copy of this arrest warrant was delivered to defendant Randy Jennings on 11/30/08

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
West Greenville Summary Court
6247 White Horse Road
Greenville, SC 29611

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
Greenville)

AFFIDAVIT ORIGINAL Form Approved by S.C. Attorney General April 21, 2002 S.C.G.A. 518

Personally appeared before me the affiant R-B Ballenger who being duly sworn deposes and says that defendant Randy Erin Jennings did within this county and state on or about 10/30/2008 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Greenville) in the following particulars:

DESCRIPTION OF OFFENSE Larceny / Grand Larceny, value more than \$1,000 but less than \$5,000

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

Affiant has a report of a Grand Larceny which took place at [REDACTED] SC. 29673 where the Victim, Sarah Cartee, reported the theft of property valued greater than \$1000. The defendant is implicated as a party to this crime because a Witness identified him as the person who traded some of the victim's property the same day as the theft took place. The defendant was also identified, by his state identification card, when he sold a portion of the Victim's stolen property to Foothills Gun and Pawn Shop, within 24 hours of the theft. This incident took place in Greenville County.

Signature of Affiant Robert Ballenger

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
Greenville)

Affiant's Address 4900 Old Buncombe Road
Greenville, SC 29617-
Affiant's Telephone (864)371-3619

ARREST WARRANT
TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY COUNTY OF THIS COUNTY:
It appearing from the above affidavit that there are reasonable grounds to believe that on or about 10/30/2008 defendant Randy Erin Jennings did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Greenville) as set forth below:

DESCRIPTION OF OFFENSE: Larceny / Grand Larceny, value more than \$1,000 but less than \$5,000

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

Sworn to and subscribed before me on 11/03/2008 (L.S.)
Signature of Issuing Judge [Signature]
Judge D. Cagle
Judge Code: 5531

Judge's Address 6247 White Horse Road
Greenville, SC 29611-3845
Judge's Telephone (864)294-4810

Issuing Court: Magistrate Municipal Circuit

COPIES FILED
NOV 04 2008
GREENVILLE COUNTY SHERIFF'S OFFICE

ARREST WARRANT 5031
1-477138 1-16-09

STATE OF SOUTH CAROLINA
 County/ Municipality of
Greenville
THE STATE 08-174152
against

Randy Erin Jennings
Address: [REDACTED]
Phone: [REDACTED] SSN: [REDACTED]
Sex: M Race: W Height: 5 5 Weight: 150
DL State: SC DL #: [REDACTED]
DOB: [REDACTED] Agency ORI #: SC0230000
Prosecuting Agency: Greenville County Sheriff's Office
Prosecuting Officer: J T Martin - 0224
Offense: Forgery / Forgery, value less than \$5,000

Offense Code: 2427
Code/Ordinance Sec: 16-13-0010(B)(2)

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of
The accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)
Signature of Judge
Date:

RETURN
A copy of this arrest warrant was delivered to
defendant Randy Jennings
on 1/16/09
[Signature] #2401667
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
City Magistrate 2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA
 County/ Municipality of
Greenville

Personally appeared before me the affiant J T Martin who
being duly sworn deposes and says that defendant Randy Erin Jennings
did within this county and state on or about 10/22/2008 violate the criminal laws of the
State of South Carolina (or ordinance of County/ Municipality of Greenville)
in the following particulars:

DESCRIPTION OF OFFENSE Forgery / Forgery, value less than \$5,000

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

AFFIANT HAS EVIDENCE IMPLICATING DEFENDANT IN THIS CRIME. AFFIANT HAS A STATEMENT FROM
VICTIM IMPLICATING DEFENDANT. DEFENDANT DID TAKE CHECK #226, BB&T ACCT# 5125517244, AND MADE IT
PAYABLE TO HIMSELF AND CASHED IT AT BB&T BANK LOCATED IN GREENVILLE COUNTY. THE AMOUNT OF
THIS CHECK WAS \$100.00

Signature of Affiant [Signature] #224
STATE OF SOUTH CAROLINA
 County/ Municipality of
Greenville
Affiant's Address 4 Mcgee Street
Greenville, SC 29601-
Affiant's Telephone (864)271-5210

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

It appearing from the above affidavit that there are reasonable grounds to believe that
on or about 10/22/2008 defendant Randy Erin Jennings
did violate the criminal laws of the State of South Carolina (or ordinance of
 County/ Municipality of Greenville) as set forth below:

DESCRIPTION OF OFFENSE: Forgery / Forgery, value less than \$5,000

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me

on 12/24/2008
Judge's Address 4 Mcgee Street, Room 116-B
Greenville, SC 29601-
Judge's Telephone (864)467-5302

(L.S.)
[Signature]
Signature of Issuing Judge
James E. Hudson
Judge Code: 5031

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AFFIDAVIT ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

COMPLETED
DEC 1 2008
SHERIFF'S OFFICE

ARREST WARRANT 5031
1-477139 1-16-09

STATE OF SOUTH CAROLINA
 County/ Municipality of
Greenville

THE STATE 08-174152
against

Randy Erin Jennings

Address: [REDACTED]

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: W Height: 5 5 Weight: 150

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriff's Office

Prosecuting Officer: J T Martin - 0224

Offense: Forgery / Forgery, value less than \$5,000

Offense Code: 2427

Code/Ordinance Sec: 16-13-0010(B)(2)

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

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

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant Randy Jennings
on 12/24/08

[Signature] +224/667
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
City Magistrate 2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
Greenville)

Personally appeared before me the affiant J T Martin who

being duly sworn deposes and says that defendant Randy Erin Jennings
did within this county and state on or about 10/17/2008 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Greenville)
in the following particulars:

DESCRIPTION OF OFFENSE Forgery / Forgery, value less than \$5,000

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

AFFIANT HAS EVIDENCE IMPLICATING DEFENDANT IN THIS CRIME. AFFIANT HAS A STATEMENT FROM
VICTIM IMPLICATING DEFENDANT. DEFENDANT DID TAKE CHECK#221, BB&T ACCT# 5125517244, AND MADE IT
PAYABLE TO HIMSELF AND CASHED IT AT BB&T BANK LOCATED IN GREENVILLE COUNTY. THE AMOUNT OF
THIS CHECK WAS \$150.00

Signature of Affiant

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
Greenville)

[Signature] #224
Affiant's Address: 4 Mcgee Street
Greenville, SC 29601-
Affiant's Telephone: (864)271-5210

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 10/17/2008 defendant Randy Erin Jennings

did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Greenville) as set forth below:

DESCRIPTION OF OFFENSE: Forgery / Forgery, value less than \$5,000

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me

on 12/24/2008 Judge's Address 4 Mcgee Street, Room 116-B

[Signature] (L.S.))
Greenville, SC 29601-

Signature of Issuing Judge)
James E. Hudson) Judge's Telephone (864)467-5302

Judge Code: 5031) Issuing Court: Magistrate Municipal Circuit

WITNESSES

R. B. Ballenger

Greenville County Sheriffs Office

11/30/2008

ARREST WARRANT NUMBER

1368450

ACTION OF GRAND JURY

TRUE BILL

Nicki Cummings
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-23-

LMM

002423

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

July

TERM 2009

THE STATE

vs.

RANDY ERIN JENNINGS

Indictment for

0079

BURGLARY FIRST DEGREE

VIOLATION § 16-11-0311

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

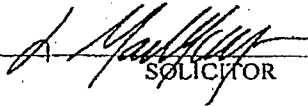
INDICTMENT FOR
BURGLARY FIRST DEGREE

At a Court of General Sessions, convened on JUL 28 2009 the Grand Jurors of Greenville

County present upon their oath:

That RANDY ERIN JENNINGS did in Greenville County, on or about the 30th day of October, 2008, willfully and unlawfully enter the dwelling of SERAH CARTEE located at [REDACTED], South Carolina, without consent and with the intent to commit a crime therein and while armed with a deadly weapon. This is in violation of §16-11-0311 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

WITNESSES

R B Ballenger

Greenville County Sheriffs Office

11/30/2008

ARREST WARRANT NUMBER

1368451

ACTION OF GRAND JURY

TRUE BILL

Nicki Cummins

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-23-002422

LMM

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

July

TERM 2009

THE STATE

vs.

RANDY ERIN JENNINGS

Indictment for

2367

GRAND LARCENY
3rd PROPERTY OFFENSE

VIOLATION § 16-13-0030 and §16-1-0057

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

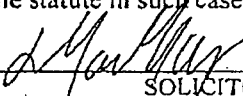
INDICTMENT FOR
GRAND LARCENY
3rd PROPERTY OFFENSE

At a Court of General Sessions, convened on JUL 28 2009 the Grand Jurors of Greenville

County present upon their oath:

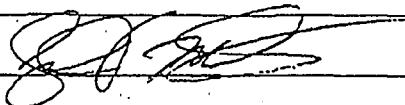
That RANDY ERIN JENNINGS did in Greenville County, on or about the 30th day of October, 2008, having previously been convicted of at least two offenses for which the term of imprisonment is contingent upon the value of the property involved, feloniously take and carry away the personal property of SERAH CARTEE of the value of more than Five Thousand Dollars described as follows: Firearm, knife, safe, camera, and/or jewelry, with intent to deprive the owner permanently of such property. This is in violation of §16-13-0030 and § 16-1-0057 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

WITNESSES

John Martin



Greenville County Sheriffs Office

12/24/2008

ARREST WARRANT NUMBER

1477138 and 1477139

ACTION OF GRAND JURY

TRUE BILL



FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-23-
LMM

003620

✓ The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

July

TERM 2009

THE STATE

vs.

RANDY ERIN JENNINGS

✓ Indictment for

2427

FORGERY

VIOLATION §16-13-0010

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

INDICTMENT FOR
 FORGERY

At a Court of General Sessions, convened on JUL 28 2009 the Grand Jurors of Greenville
 County present upon their oath:

COUNT I

That RANDY ERIN JENNINGS did in Greenville County on or about the 22nd day of October 2008 with intent to defraud, falsely make, forge, counterfeit, cause or procure to be falsely made, forged, or counterfeited utter and publish as true, or willfully act or assist in any of the foregoing, in regard to an instrument of writing, to wit: a check numbered 226 in the amount of One Hundred and no/100 Dollars (\$100.00) on the account of Charles Smith drawn on BB&T Bank and presented to BB&T Bank. This is in violation of §16-13-10 of the South Carolina Code of Laws (1976) as amended.

COUNT II

That RANDY ERIN JENNINGS did in Greenville County on or about the 17th day of October 2008 with intent to defraud, falsely make, forge, counterfeit, cause or procure to be falsely made, forged, or counterfeited utter and publish as true, or willfully act or assist in any of the foregoing, in regard to an instrument of writing, to wit: a check numbered 221 in the amount of One Hundred Fifty and no/100 Dollars (\$150.00) on the account of Charles Smith drawn on BB&T Bank and presented to BB&T Bank. This is in violation of §16-13-10 of the South Carolina Code of Laws (1976) as amended.

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


 SOLICITOR

STATE OF SOUTH CAROLINA)
 COUNTY OF Greenville)
 STATE VS.)
Randy Erin Jennings)
 AKA:)
 Sex: M Age: 31)
 SS#: [REDACTED])
 Address: [REDACTED])
 City, State, Zip: [REDACTED])
 DL#: 999999999 SID#: [REDACTED])

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS2302423
 A/W#: 1368450
 Date of Offense: 10/30/2008
 S.C. Code §: 16-11-0311
 CDR Code #: 0079

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was
 TO: Burglary first degree

CONVICTED OF or PLEADS

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

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

ATTEST: [Signature] Moyer, Mark SC Bar# 64155 [Signature] Defendant [Signature] Attorney for Defendant SC Bar# 5425

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 16 days/months/years or under the Youthful Offender Act not to exceed — years
 and/or to pay a fine of \$ —; provided that upon the service of — days/months/years and/or payment
 of \$ —; plus costs and assessments as applicable; the balance is suspended with probation for —

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

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 at the State Department of Corrections. 30 DAYS
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
 Total: \$ — plus 20% fee: \$ —
 Payment Terms: —
 Set by SCDPPPS —

PTUP — days/hours Public Service Employment

Recipient: —

*Fine:	\$
§ 14-1-206 (Assessments 107.5%)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ (W.O.)
§ 14-1-211(A)(2) (DUI Surcharge)	\$100 \$
§ 56-5-2993 (DUI Assessment)	\$12 \$
§ 56-1-286 (DUI Breath Test)	\$25 \$
§ 47.12 (Public Def/Prob)	\$500 \$
§ 14-1-212 (Law Enforce. Funding)	\$25 \$
§ 14-1-213 (Drug Court Surcharge)	\$100 \$
§ 50-21-114(BUI Breath Test Fee)	\$50 \$
§ 56-5-2942(J) (Vehicle Assessment)	\$10/cn \$
§ 90.7 (SCCA Surecharge)	\$5 \$
County (if paid in installments)	\$
TOTAL	\$

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: —

Returned Atty.
Held in CDR until 2009
Holdings on 22 MAR 2009
 Appointed PD or appointed other counsel.
 § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk [Signature]
 Court Reporter: [Signature]
 SCCA/217 (11/2009)

Presiding Judge [Signature]
 Judge Code: 2158
 Sentence Date: 3-3-10

STATE OF SOUTH CAROLINA)
 COUNTY OF Greenville)
 STATE VS.)
Randy Erin Jennings)
 AKA: _____)
 DOB: W Sex: M Age: 31)
 SS#: _____)
 Address: _____)
 City, State, Zip: _____)
 DL#: 999999999 SID#: _____)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS2302422
 A/W#: 1368451
 Date of Offense: 10/30/2008
 S.C. Code § : 16-13-0030(B)(1)
 CDR Code #: 0478

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was
 TO: Grand Larceny, 3rd property offense

CONVICTED OF or PLEADS

in violation of § 16-13-0030(B)(1) of the S.C. Code of Laws, bearing CDR Code # 2367
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45
 w/minor 1st or Lewd Act)

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

ATTEST: Mark Moyer 64155 [Signature] 5425
 Moyer, Mark 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 10 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ 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
 to the State Department of Corrections. 30 DAYS

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
 Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____
 Set by SCIDPPPS _____

Recipient: _____	
*Fine:	\$ _____
§ 14-1-206 (Assessments 107.5 %)	\$ _____
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
§ 56-5-2995 (DUI-Assessment)	\$12 \$ _____
§ 56-1-286 (DUI Breath Test)	\$25 \$ _____
§ 47.12 (Public Def/Prob)	\$500 \$ _____
§ 14-1-212 (Law Enforce. Funding)	\$25 \$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$100 \$ _____
§ 50-21-114(BUI Breath Test Fee)	\$50 \$ _____
§ 56-5-2942(J) (Vehicle Assessment)	\$40/en \$ _____
§ 90.7 (SCCA) Surcharge)	\$5 \$ <u>5.00</u>
County (if paid in installments)	\$ _____
TOTAL	\$ _____

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

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

Clerk of Court/ Deputy Clerk Paul B. Wickens
 Court Reporter: Diana Williams
 SCCA/217 (11/2009)

Presiding Judge _____
 Judge Code: 2158
 Sentence Date: 3-3-10

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
STATE VS.

INDICTMENT/CASE#: 2009GS2303628

Randy Erin Jennings

A/W#: 1477138

AKA:

Date of Offense: 10/22/2008

Age: 31

S.C. Code §: 16-13-0010(B)(2)

Sex: M

CDR Code #: 2427

Address:

City, State, Zip:

DL#: 007537797 STD#:

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indicment comes now the Defendant who was
TO: Forgery, value less than \$5,000

CONVICTED OF or PLEADS

in violation of § 16-13-0010(B)(2) of the S.C. Code of Laws, bearing CDR Code # 2427
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted. Lesser Included Offense. Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: Without Negotiations or Recommendation Negotiated Sentence. Recommendation by the State.

ATTEST: [Signature] 64155 [Signature] 5425
Moyer, Mark 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 5 days/months/years or under the Youthful Offender Act not to exceed ___ years
and/or to pay a fine of \$ ___; provided that upon the service of ___ days/months/years and/or payment
of \$ ___; plus costs and assessments as applicable*; the balance is suspended with probation for ___

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

CONCURRENT or CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied

The State Department of Corrections. 30 Mths

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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 (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

Set by SCDPPPS Attend Voc. Rehab. or Job Corp. ___

Recipient: May serve W/E beginning ___

*Fine: Substance Abuse Counseling

§ 14-1-206 (Assessments 107.5 %) Random Drug/Alcohol testing

§ 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 \$

§ 47.12 (Public Def/Prob) \$500 \$

§ 14-1-212 (Lay Enforce. Funding) \$25 \$

§ 14-1-213 (Drug Court Surcharge) \$100 \$ 25.00

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(I) (Vehicle Assessment) \$40/ea \$

§ 90.7 (SCCJA Surcharge) \$5 \$ 5.00

County (if paid in installments) \$

TOTAL \$

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: ___

Other: ___

Other: ___

Other: ___

Other: ___

Other: ___

Other: ___

Other: ___

Other: ___

Other: ___

Other: ___

Other: ___

Other: ___

Other: ___

Other: ___

Other: ___

Clerk of Court/ Deputy Clerk Paul B. Wilkinson

Court Reporter: [Signature]

SCCA/217 (11/2009)

Presiding Judge [Signature]

Judge Code: 2158

Sentence Date: 3-3-10

STATE OF SOUTH CAROLINA)
 COUNTY OF Greenville)
 STATE VS.)
 Randy Erin Jennings)
 AKA:)
 Sex: W Sex: M Age: 31)
 DOB: [redacted] SS#: [redacted])
 Address: [redacted])
 City, State, Zip: [redacted])
 DL#: 007537797 SID#: [redacted])
 *CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was
 TO: Forgery, value less than \$5,000

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS2303628
 A/W#: 1477139
 Date of Offense: 10/17/2008
 S.C. Code § : 16-13-0010(B)(2)
 CDR Code #: 2427

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-13-0010(B)(2) of the S.C. Code of Laws, bearing CDR Code # 2427
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted. Lesser Included Offense. Defendant Waives Presentation to Grand Jury. (defendant's initials)
 The plea is: Without Negotiations or Recommendation. Negotiated Sentence, Recommendation by the State.
 ATTEST: Mark Moyer 64155 [Signature] [Signature] 5425
 Moyer, Mark 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 5 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*: the balance is suspended with probation for _____

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

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 in the State Department of Corrections. 30 days
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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 (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
 Set by SCDPPPS _____ Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____

Recipient:	
*Fine:	\$ _____
§ 14-1-206 (Assessments 107.3 %)	\$ _____
§ 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 \$ _____
§ 47.12 (Public Def/Prob)	\$500 \$ _____
§ 14-1-212 (Law Enforce. Funding)	\$25 \$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$100 \$ _____
§ 50-21-114 (DUI Breath Test Fee)	\$50 \$ _____
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
§ 90.7 (SCCJA Surcharge)	\$5 \$ 5.00
County (if paid in installments)	\$ _____
TOTAL:	\$ _____

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

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

Clerk of Court/Deputy Clerk Paul B. Wickham
 Court Reporter: [Signature]
 SCCA217 (11/2009)

Presiding Judge [Signature]
 Judge Code: 2456
 Sentence Date: 3-3-10