

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

\_\_\_\_\_  
Appeal from Spartanburg County  
Robin B. Stilwell, Circuit Court Judge  
\_\_\_\_\_

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S.C. Supreme Court

ANDREA WHITE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000788

\_\_\_\_\_  
APPENDIX  
\_\_\_\_\_

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INDEX

INDEX .....i

GUILTY PLEA TRANSCRIPT DATED AUGUST 22, 2011 ..... 1

APPLICATION FOR POST-CONVICTION RELIEF .....48

RETURN .....55

POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED NOVEMBER 14, 2013 .....60

ORDER OF DISMISSAL .....82

INDICTMENT .....89

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

3 The State, )  
4 -vs- ) TRANSCRIPT OF RECORD  
5 Andrea White and ) 2010-GS-42-4315  
6 Delonte Barnard Carroll, ) 2010-GS-42-4268  
7 Defendants. ) August 22, 2011  
Spartanburg, South Carolina

11 B E F O R E:

12 HONORABLE J. DERHAM COLE, JUDGE

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

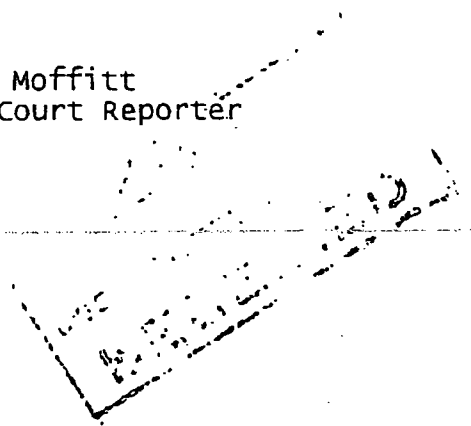
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Circuit Court Reporter

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INDEX

Guilty plea -- page 3.

No sworn testimony; no exhibits entered into evidence.

1 THE COURT: All right. These are Delonte Bernard  
2 Carroll and Andrea white.

3 Mr. Carroll, you are present and represented by Robert  
4 Hall.

5 Ms. white is present represented by Dick whelchel.

6 Each of you have indicated an intention to plead  
7 guilty to the charge of armed robbery.

8 Before I can accept your plea I've got some questions  
9 to ask each of you. The purpose of the questions is for me  
10 to determine whether or not your decision to plead guilty  
11 is freely and voluntarily made, that you understand fully  
12 what you're doing and you understand the consequences of  
13 that decision.

14 So as these questions are asked I need you to respond  
15 to them. If you don't understand a question, you need to  
16 let me know, and I'll try to rephrase it or ask it in such  
17 a way that you'll be certain to understand it.

18 Mr. Carroll and Ms. white, each of you are charged  
19 with having committed the crime of armed robbery, the state  
20 alleging that each of you did on or about May the 27th of  
21 2010 while armed with a deadly weapon or while alleging  
22 either by actions or words that you were armed with a  
23 representation of a deadly weapon or some object which a  
24 person present during the commission of the robbery  
25 reasonably believed to be a deadly weapon, that you took,

1 stole and carried away the personal property of Jasman  
2 Pearson.

3 They allege that that property was a purse, and/or a  
4 cell phone, and/or jewelry, and/or keys, and/or a sum of  
5 money, and that you committed that robbery by the use of  
6 force, violence, and/or intimidation and with an intent to  
7 deprive the true owner of use and possession of her  
8 property and that you did that while armed with a deadly  
9 weapon or a representation of one.

10 If those facts were proven in court to the  
11 satisfaction of a jury beyond a reasonable doubt you could  
12 receive a sentence up to 30 years in jail.

13 It requires a mandatory minimum sentence of not less  
14 than ten years in jail.

15 Count two of the indictment alleges that you did on or  
16 about May the 27th of 2010 possess or visibly display a  
17 firearm or what appeared to be a firearm during the  
18 commission of the crime of armed robbery.

19 MR. ELLIS: Your Honor, I'm sorry. The count two on  
20 each indictment they're not pleading guilty to. It's only  
21 the count one.

22 THE COURT: okay. And if you were convicted of count  
23 two of the indictment you could receive an additional  
24 sentence of up to five years in jail.

25 ~~The solicitor has indicated that upon my acceptance of~~

1 your plea of guilty in count one of the indictment, which  
2 is armed robbery, he intends to dismiss count two of the  
3 indictment, which is possession of a firearm during the  
4 commission of a violent crime.

5 Now, as I ask these questions, Mr. Carroll, I'm going  
6 to ask you to respond first.

7 Ms. White, I'll ask you to respond secondly.

8 Understand your answers are not going to necessarily  
9 be the same. So don't just reply upon what the other says  
10 as being your answer. You have to answer the question  
11 based upon your own knowledge and how the facts and  
12 circumstances apply to you individually.

13 Do you understand that, Mr. Carroll?

14 DEFENDANT CARROLL: Yes, sir.

15 THE COURT: Do you understand that, Ms. White?

16 DEFENDANT WHITE: Yes, sir.

17 THE COURT: Mr. Carroll, Mr. Hall is representing you.  
18 How long has he been representing you?

19 DEFENDANT CARROLL: Been representing me for right at  
20 15 months now.

21 THE COURT: And have you been in jail those 15 months?

22 DEFENDANT CARROLL: Yes, sir.

23 THE COURT: And did he go over the indictment with you  
24 that I just read?

25 DEFENDANT CARROLL: Yes, sir.

1 THE COURT: Did he explain to you what the state has  
2 accused you of having committed?

3 DEFENDANT CARROLL: Yes, sir.

4 THE COURT: Do you understand the crime and charge of  
5 armed robbery?

6 DEFENDANT CARROLL: Yes, sir.

7 THE COURT: Did he explain to you what the state would  
8 have to prove in Court before you could be found guilty of  
9 that charge?

10 DEFENDANT CARROLL: Yes, sir.

11 THE COURT: Did you explain to him all of the facts  
12 and circumstances as you understand them to be that relate  
13 to the allegations?

14 DEFENDANT CARROLL: Yes, sir.

15 THE COURT: Did you and he discuss whether or not you  
16 have a defense to the charge of armed robbery?

17 DEFENDANT CARROLL: Yes, sir.

18 THE COURT: Do you know of any defense that you have  
19 to it?

20 DEFENDANT CARROLL: No, sir.

21 THE COURT: Are you satisfied with his representation?

22 DEFENDANT CARROLL: Yes, sir.

23 THE COURT: Do you need to talk with him any further  
24 before we continue with this guilty plea?

25 DEFENDANT CARROLL: No, sir.

1 THE COURT: All right. Ms. White, Mr. Welchel  
2 represents you. How long has he been representing you?

3 DEFENDANT WHITE: Fifteen months, sir.

4 THE COURT: And those 15 months have you been in jail?

5 DEFENDANT WHITE: Yes, sir.

6 THE COURT: And has he been over the indictment with  
7 you that I just read and explained to you the charge and  
8 what the state accuses you of having committed?

9 DEFENDANT WHITE: Yes, sir.

10 THE COURT: Did he explain to you what the state would  
11 have to prove in court before you could be convicted or  
12 found guilty of armed robbery?

13 DEFENDANT WHITE: Yes, sir.

14 THE COURT: Did you tell him everything you know about  
15 the facts and circumstances that relate to the allegations?

16 DEFENDANT WHITE: Yes, sir.

17 THE COURT: Did you and he discuss whether or not you  
18 have a defense to the charge?

19 DEFENDANT WHITE: Yes, sir.

20 THE COURT: Do you know of any defense that you have  
21 to the charge of armed robbery?

22 DEFENDANT WHITE: No, sir.

23 THE COURT: Are you satisfied with his representation?

24 DEFENDANT WHITE: Yes, sir.

25 THE COURT: Do you need any additional time to talk

1 with him before we continue with this guilty plea?

2 DEFENDANT WHITE: No, sir.

3 THE COURT: Mr. Carroll and Mr. [sic] White, have your  
4 lawyers explained to you each of the constitutional rights  
5 that you must give up if you want to plead guilty to armed  
6 robbery?

7 DEFENDANT CARROLL: Yes, sir.

8 DEFENDANT WHITE: Yes, sir.

9 THE COURT: Those rights include your right to remain  
10 silent. Do you understand that if you choose to plead  
11 guilty you'll have to give that right up? But you do have  
12 a right to remain silent and not to say anything about the  
13 case, not to answer any questions, even the ones I'm asking  
14 you right now, because you have a right to remain silent  
15 and to require the State to come into court with sufficient  
16 evidence to establish your guilt to the satisfaction of a  
17 jury beyond a reasonable doubt.

18 And you don't have to assist the state in their  
19 efforts to prove your guilt by you taking the witness stand  
20 and testifying or answering questions or making statements  
21 that might tend to prove your own guilt. So you do have an  
22 absolute right to remain silent if you wish to. If you  
23 want to plead guilty you have to give that right up.

24 Mr. Carroll, do you understand that right?

25 DEFENDANT CARROLL: Yes, sir.

1 THE COURT: Do you wish to give it up?

2 DEFENDANT CARROLL: Yes, sir.

3 THE COURT: Ms. White, do you understand the right?

4 DEFENDANT WHITE: Yes, sir.

5 THE COURT: Do you wish to give it up?

6 DEFENDANT WHITE: Yes, sir.

7 THE COURT: Each of you also have a right to confront  
8 any witness that would offer evidence against you. That  
9 simply means that you have a right to require the state to  
10 prove your guilt in court and do so by calling their  
11 witnesses into the courtroom, having those witnesses take  
12 the witness stand and testifying in your presence under  
13 oath so that you can see each witness, you can hear what  
14 the witness says. And your lawyers can examine those  
15 witnesses on their testimony in order to test those  
16 witnesses' credibility and the reliability of the  
17 information they're providing.

18 Now, when you plead guilty there may be some person  
19 who will come to court. There may be some person who would  
20 be a witness. There may be some person who is going to  
21 provide me with some information about the case. But that  
22 witness will not take the witness stand and that witness  
23 will not testify under oath. And you and your lawyer will  
24 not be able to cross-examine them on their statements.

25 Do each of you understand your right to confront any

1 witness offering evidence against you?

2 Mr. Carroll?

3 DEFENDANT CARROLL: Yes, sir.

4 THE COURT: Ms. White?

5 DEFENDANT WHITE: Yes, sir.

6 THE COURT: And do you understand that when you plead  
7 guilty you give up your right to that confrontation?

8 Mr. Carroll?

9 DEFENDANT CARROLL: Yes, sir.

10 THE COURT: Ms. White?

11 DEFENDANT WHITE: Yes, sir.

12 THE COURT: And do each of you wish to give that right  
13 up?

14 Mr. Carroll?

15 DEFENDANT CARROLL: Yes.

16 THE COURT: Ms. White?

17 DEFENDANT WHITE: Yes, sir.

18 THE COURT: Do each of you also understand that you  
19 have a right to have a jury trial and have a jury decide  
20 whether or not you're guilty or not?

21 If you elect to have a jury decide your guilt you help  
22 select the jury. Twelve are chosen from a larger panel or  
23 pool of jurors. And once those 12 are selected they sit  
24 over there in the jury box. They listen to all of the  
25 testimony. They consider all of the evidence in the case.

1 They decide the facts and they apply the law. They  
2 determine whether or not you're guilty.

3 You can have a jury trial in this case and still not  
4 give up your right to remain silent. In other words, you  
5 can put the state to the test of proving your guilt, but  
6 you don't have to take the witness stand and testify or  
7 answer any questions.

8 The burden is not upon you to prove that you're not  
9 guilty. The burden is on the state to prove that you are  
10 guilty.

11 Now, before a jury can find you guilty all 12 jurors  
12 have to be convinced of your guilt beyond a reasonable  
13 doubt. In other words, the verdict has to be unanimous.  
14 And all must be convinced beyond a reasonable doubt.

15 Do each of you understand your right to have a jury  
16 trial?

17 DEFENDANT CARROLL: Yes, sir.

18 THE COURT: Mr. Carroll?

19 DEFENDANT CARROLL: Yes, sir.

20 THE COURT: Mr. [sic] white?

21 DEFENDANT WHITE: Yes, sir.

22 THE COURT: Do you understand if you plead guilty you  
23 give that right up?

24 Mr. Carroll?

25 DEFENDANT CARROLL: Yes, sir.

1 THE COURT: Ms. white?

2 DEFENDANT WHITE: Yes, sir.

3 THE COURT: And do each of you wish to give that right  
4 up?

5 Mr. Carroll?

6 DEFENDANT CARROLL: Yes, sir.

7 THE COURT: Ms. white?

8 DEFENDANT WHITE: Yes, sir.

9 THE COURT: Other than the fact that the state has  
10 agreed to dismiss count two of this indictment in return  
11 for your pleading guilty to count one of the indictment,  
12 were you promised anything other than that that induced you  
13 to make your decision to plead guilty?

14 Mr. Carroll?

15 DEFENDANT CARROLL: No, sir.

16 THE COURT: Ms. white?

17 DEFENDANT WHITE: No, sir.

18 THE COURT: Has anyone threatened you, coerced you or  
19 pressured you in any fashion whatsoever that resulted in  
20 your decision to plead guilty?

21 Mr. Carroll?

22 DEFENDANT CARROLL: No.

23 THE COURT: Ms. white?

24 DEFENDANT WHITE: No, sir.

25 THE COURT: Are each of you pleading guilty freely and

1 voluntarily understanding the consequences? Because you  
2 are guilty of the crime as it is described in the  
3 indictment?

4 Mr. Carroll?

5 DEFENDANT CARROLL: Yes, sir.

6 THE COURT: Ms. White?

7 DEFENDANT WHITE: Yes, sir.

8 THE COURT: Now, as I have told each of you, the  
9 charge carries up to 30 years in jail. In other words, I  
10 can impose a sentence of 30 years if I deem it appropriate.

11 It requires a mandatory minimum sentence of not less  
12 than ten years in jail whether I think you ought to get ten  
13 years or not. I can't sentence you to anything less than  
14 ten years in jail. But I could sentence you to anything  
15 between ten years and 30 years, whatever I think is  
16 appropriate.

17 Do each of you understand that that is the sentencing  
18 range and that is my decision to make?

19 Mr. Carroll?

20 DEFENDANT CARROLL: Yes, sir.

21 THE COURT: Ms. White?

22 DEFENDANT WHITE: Yes, sir.

23 THE COURT: Do each of you understand that armed  
24 robbery is classified as a violent offense?

25 Mr. Carroll?

1 DEFENDANT CARROLL: Yes, sir.

2 THE COURT: Ms. white?

3 DEFENDANT WHITE: Yes, sir.

4 THE COURT: Do each of you understand that armed  
5 robbery is classified as a most serious offense?

6 Mr. Carroll?

7 DEFENDANT CARROLL: Yes, sir.

8 THE COURT: Ms. white?

9 DEFENDANT WHITE: Yes, sir.

10 THE COURT: Do each of you understand that armed  
11 robbery is classified as a no-parole offense?

12 Mr. Carroll?

13 DEFENDANT CARROLL: Yes, sir.

14 THE COURT: Ms. white?

15 DEFENDANT WHITE: Yes, sir.

16 THE COURT: And do each of you understand the  
17 significance of the designations of violent, most serious  
18 and no-parole.

19 Mr. Carroll?

20 DEFENDANT CARROLL: Yes, sir.

21 THE COURT: Ms. white?

22 DEFENDANT WHITE: Yes, sir.

23 THE COURT: Have either you ever been convicted or  
24 found guilty of a violent offense or a most serious  
25 offense?

1 Mr. Carroll?

2 DEFENDANT CARROLL: No, sir.

3 THE COURT: Ms. White?

4 DEFENDANT WHITE: Yes, sir.

5 THE COURT: What have you been convicted of that is a  
6 violent offense or is a most serious offense?

7 DEFENDANT WHITE: Assault of aggravated nature.

8 THE COURT: Well, assault and battery of a high and  
9 aggravated nature is not a violent offense nor is it a most  
10 serious offense.

11 DEFENDANT WHITE: Oh, well, no, sir.

12 THE COURT: All right. Mr. Carroll, you're 28 years  
13 old.

14 DEFENDANT CARROLL: Yes, sir.

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

16 DEFENDANT CARROLL: The 8th -- 8th grade.

17 THE COURT: Are you able to read and write?

18 DEFENDANT CARROLL: Yes, sir.

19 THE COURT: Do you understand fully what you're doing  
20 here today?

21 DEFENDANT CARROLL: Yes, sir.

22 THE COURT: Have you understood all of the questions  
23 I've asked you up to this point?

24 DEFENDANT CARROLL: Yes, sir.

25 THE COURT: Have you understood all of your

1 discussions with your lawyer in preparation for your case  
2 coming to court?

3 DEFENDANT CARROLL: Yes, sir.

4 THE COURT: And in preparation for you pleading  
5 guilty?

6 DEFENDANT CARROLL: Yes, sir.

7 THE COURT: Are you married?

8 DEFENDANT CARROLL: No.

9 THE COURT: Do you have children?

10 DEFENDANT CARROLL: No.

11 THE COURT: Do you work?

12 DEFENDANT CARROLL: No, not right now, no.

13 THE COURT: Well, were you working before the 15  
14 months that you have been in jail?

15 DEFENDANT CARROLL: Off and on.

16 THE COURT: What were you doing?

17 DEFENDANT CARROLL: Postal work.

18 THE COURT: Working at the -- well, what? Doing what?

19 DEFENDANT CARROLL: As a mail clerk. I worked in a  
20 mail -- a mailroom sorting mail, stamping, shipping them  
21 out.

22 THE COURT: All right. Have you ever been treated for  
23 any type of substance abuse or addiction?

24 DEFENDANT CARROLL: Yeah.

25 THE COURT: When?

1           DEFENDANT CARROLL: Like before I came down here, like  
2 15 months ago. That was before I came down here.

3           THE COURT: Before you came down where?

4           DEFENDANT CARROLL: South Carolina.

5           THE COURT: Where were you before?

6           DEFENDANT CARROLL: Washington, D. C.

7           THE COURT: Is that where you were treated?

8           DEFENDANT CARROLL: Yes, sir.

9           THE COURT: What were you treated for?

10          DEFENDANT CARROLL: Depression.

11          THE COURT: And did you finish with the treatment?

12          DEFENDANT CARROLL: Yeah. I took my medicine.

13          THE COURT: Sir?

14          DEFENDANT CARROLL: I took my medicine.

15          THE COURT: Are you taking it now?

16          DEFENDANT CARROLL: No. They haven't -- they -- I  
17 told -- I talked to the psychiatrist, and he's supposed to  
18 be calling trying to get my medicine now.

19          THE COURT: Well, does the lack of taking medication  
20 for what you say is a depressive disorder, does that affect  
21 your ability to understand fully what you're doing here  
22 today?

23          DEFENDANT CARROLL: No, sir.

24          THE COURT: What kind of drug treatment did you have?

25          DEFENDANT CARROLL: It's a new type of drug.

1 THE COURT: well, I asked you if you were -- if you  
2 had ever been treated for any type of substance abuse or  
3 addiction, and you said yes.

4 DEFENDANT CARROLL: You talking about --

5 THE COURT: And then you got into that depressive  
6 disorder.

7 DEFENDANT CARROLL: You talking about like drinking  
8 and stuff like that?

9 THE COURT: Drinking alcohol, smoking marijuana,  
10 snorting cocaine, smoking crack, anything.

11 DEFENDANT CARROLL: No, sir.

12 THE COURT: You've never been treated for that?

13 DEFENDANT CARROLL: No. I mean, when I was little,  
14 but not recently, no.

15 THE COURT: well, do you have any addiction to any  
16 type of a drug?

17 DEFENDANT CARROLL: well, I don't think so.

18 THE COURT: well, have you had any drugs in the last  
19 15 months?

20 DEFENDANT CARROLL: Yeah.

21 THE COURT: what have you had?

22 DEFENDANT CARROLL: Marijuana, pills and alcohol.

23 THE COURT: And where did you get those drugs?

24 DEFENDANT CARROLL: No. Talking about before I --

25 MR. HALL: He thought you meant before this past.

1 THE COURT: I said within, so that would mean from  
2 today back 15 months, within the last 15 months. In other  
3 words, since the day that you went into the Spartanburg  
4 County Detention Facility --

5 DEFENDANT CARROLL: No, sir.

6 THE COURT: -- have you taken any drugs?

7 DEFENDANT CARROLL: No, sir.

8 THE COURT: Okay. And you said you had been treated  
9 for some type of mental illness or emotional disturbance,  
10 that being depression?

11 DEFENDANT CARROLL: Yes.

12 THE COURT: But you're not being treated for that now?

13 DEFENDANT CARROLL: No.

14 THE COURT: You're not taking your medication now.

15 DEFENDANT CARROLL: No.

16 THE COURT: But you say the lack of medication is not  
17 affecting your ability to understand what you're doing here  
18 today?

19 DEFENDANT CARROLL: No, sir.

20 THE COURT: All right. Ms. White, you are 25 years  
21 old?

22 DEFENDANT WHITE: Yes, sir.

23 THE COURT: And y'all need to complete the sentencing  
24 sheet.

25 The purpose of a form is to provide information, and I

1 don't know how many times I have to say it. Y'all should  
2 be educated enough to know it.

3 (Pause.)

4 THE COURT: All right. Ms. White, you are 25 years  
5 old. How far did you go in school?

6 DEFENDANT WHITE: Eleventh grade.

7 THE COURT: And are you married?

8 DEFENDANT WHITE: No, sir.

9 THE COURT: Do you have children?

10 DEFENDANT WHITE: No, sir.

11 THE COURT: And did you work before you went to jail  
12 15 months ago?

13 DEFENDANT WHITE: Yes, sir.

14 THE COURT: Where?

15 DEFENDANT WHITE: At R.P.I. on Reidville Road.

16 THE COURT: What did you do there?

17 DEFENDANT WHITE: Put together and distribute vacuum  
18 cleaners, sir.

19 THE COURT: Put together and distribute what?

20 DEFENDANT WHITE: Vacuum cleaners.

21 THE COURT: What kind of vacuum cleaner?

22 DEFENDANT WHITE: Kirby.

23 THE COURT: Kirby?

24 DEFENDANT WHITE: Yes, sir.

25 THE COURT: Are they any good?

1 DEFENDANT WHITE: Yes, sir.

2 THE COURT: Where are they sold?

3 DEFENDANT WHITE: Where? They take us out to -- it's  
4 like commission.

5 THE COURT: You sell them yourself.

6 DEFENDANT WHITE: Yes, sir.

7 THE COURT: Okay. Have you ever been treated for any  
8 type of substance abuse or addiction?

9 DEFENDANT WHITE: No, sir.

10 THE COURT: Do you suffer from any addiction to drugs  
11 today?

12 DEFENDANT WHITE: No, sir.

13 THE COURT: Have you ever been treated for any type of  
14 mental illness or emotional disturbance?

15 DEFENDANT WHITE: No, sir.

16 THE COURT: Do you suffer from any such condition  
17 today?

18 DEFENDANT WHITE: No, sir.

19 THE COURT: All right. Mr. Carroll and Ms. White, I'm  
20 going to ask the solicitor to tell me about the facts that  
21 relate to this charge of armed robbery, that is what they  
22 contend each of you did that would make you guilty of armed  
23 robbery and what they would tend to show or prove if your  
24 case went to court before a jury.

25 So listen to what they tell me because when he's

1 through I'll ask you if you agree or disagree with his  
2 version of those facts.

3 He'll also tell me about any prior criminal history  
4 that you have. So I need to know if that's accurate also.  
5 Mr. Ellis.

6 MR. ELLIS: Thank you, Your Honor.

7 This occurred May 27th of 2010. On that date Ms.  
8 Terica Mayes that with me today, Your Honor -- Ms. Jasman  
9 Pearson who is also present -- were driving back to  
10 Ms. Pearson's residence which is at Crown Point Apartments  
11 located 201 Powell Mill Road in the city and county of  
12 Spartanburg.

13 Your Honor, once they arrived there in Ms. Mayes' car  
14 they were sitting in the parking at Ms. Pearson's building,  
15 and basically Mr. Carroll first approached them and asked  
16 for a cigarette. They said they did not have one. He then  
17 walked away.

18 He came back, and Ms. White came with him.  
19 Mr. Carroll went to Ms. Pearson's door, to the passenger  
20 door. Ms. White went to the driver's-side door.

21 And, Your Honor, basically the doors were basically  
22 opened by the defendants. And Ms. White pointed a gun at  
23 Ms. Mayes, the driver's, head. Mr. Carroll then began to  
24 search Ms. Pearson and her bag and her vehicle. They also  
25 I believe stole some items from Ms. Mayes.

1           Your Honor, this went on for some amount of time as  
2 they went through the car. Your Honor, once they had  
3 finished taking items they wanted, which were numerous,  
4 Your Honor, they then left the scene on foot.

5           Ms. Mayes followed the defendants a short distance and  
6 basically saw the direction they were headed, and a 9-1-1  
7 officer was called. Officers with the city police  
8 department responded to the robbery, Your Honor.

9           Officer Ash Smith who is also present responded and  
10 set up basically to see if she could see anyone that  
11 resembled the defendants or the suspects in that area, Your  
12 Honor.

13           She saw these two individuals, Mr. Carroll and  
14 Ms. White, walking down a street just a short distance from  
15 Crown Point Apartments, all within minutes of the robbery,  
16 Your Honor.

17           At that point she approached them in her vehicle and  
18 asked them to stop and speak to her. After ignoring her  
19 for a couple of requests, Your Honor, the defendants then  
20 began across a yard and went over a small wall basically,  
21 Your Honor.

22           Mr. Carroll continued on into the back yard of the  
23 residence located where they responded. Ms. White briefly  
24 stayed near Officer Smith, however Officer Smith asked her  
25 to basically give herself up.

1 Ms. White then got up and also went into the back yard  
2 which was very overgrown area, Your Honor, a lot of kudzu  
3 and trees and things of that nature. It was very dark out  
4 that night.

5 Officer Smith began to approach and said that she  
6 heard what sounded like a small caliber gun being fired or  
7 possibly even a C-02 cartridge. And an object came by her  
8 leg, Your Honor, near her knee and struck the ground next  
9 to her at which point she called "shots fired". And other  
10 officers very quickly, Your Honor, and set up a perimeter.

11 A K-9 tracking team from the city police department  
12 then went into basically this kind of wooded and overgrown  
13 area in the back yard of this residence, Your Honor, near  
14 Crown Point Apartments and first located Mr. Carroll hiding  
15 in some tall grass.

16 With him were several items taken from the robbery  
17 including a small, black purse, Your Honor, change purse,  
18 belonging to Ms. Pearson, Ms. Pearson's car keys, I believe  
19 her I. D.s and some other items of that nature, Your Honor.

20 There also with him was a green bandanna which was  
21 described by both victims as being worn by him during the  
22 robbery.

23 When he first approached the vehicle he had the  
24 bandanna around his neck. When he came back and actually  
25 committed the robbery the bandanna was at that point pulled

1 up over his lower half of his face, Your Honor. That was  
2 also located where he was found.

3 The K-9 team then began to track again, Your Honor,  
4 and they located Ms. White. Basically, she was hiding  
5 underneath a log. And once she was located she also was  
6 brought out, Your Honor.

7 In the course of this track the K-9s, units, also  
8 discovered two hats, one of which matched the description  
9 worn -- of the hat worn by Ms. White during the robbery.  
10 The other hat is one of the items that was stolen from Ms.  
11 Mayes' car.

12 Also, Mr. Carroll had a black shirt which also matched  
13 the description of what he wore during the robbery,  
14 basically tucked in his pants when he was found hiding in  
15 the grass, Your Honor.

16 At that point they were arrested, taken in for  
17 questioning. They did not give statements to the police,  
18 Your Honor. They were arrested at that time.

19 They were charged with two counts of armed robbery and  
20 one count of assault with intent to kill. There are also  
21 direct indictments for the count twos on each armed robbery  
22 indictment, Your Honor, with the possession of a weapon  
23 during a violent crime.

24 The other charges will be dismissed following their  
25 guilty pleas to these armed robbery charges.

1           And, Your Honor, they do have a record. Mr. Carroll  
2 in 2004, his record appears to be all in Maryland, Your  
3 Honor -- resisting arrest, possession of marijuana, use of  
4 vehicle without consent, transporting a handgun.

5           In 2006, resisting arrest, public disorderly contact,  
6 hindering officers, assault second degree.

7           In 2008, possession of a dangerous weapon.

8           Your Honor, Ms. White also has a prior record in South  
9 Carolina.

10          In 2005, disturbing schools, simple assault and  
11 battery.

12          In 2007, receiving stolen goods.

13          In 2009, assault and battery of a high and aggravated  
14 nature, resisting arrest and what appears to be a probation  
15 revocation.

16          Like I said, Your Honor, the victims are present  
17 today. I believe they would like to address the Court at  
18 the appropriate time.

19          THE COURT: Okay. Mr. Carroll and Ms. White, each of  
20 you have heard what the solicitor has told me about the  
21 facts that relate to the charges themselves.

22          Do you agree, Mr. Carroll, or disagree with what the  
23 solicitor has stated?

24          DEFENDANT CARROLL: I agree.

25          THE COURT: And you heard me -- you heard him say what

1 your previous criminal history is. Is that also accurate?

2 DEFENDANT CARROLL: Yes, sir.

3 THE COURT: Ms. white, you heard what the solicitor  
4 said about the facts that relate to your charge. Do you  
5 agree or disagree?

6 DEFENDANT WHITE: I agree, sir.

7 THE COURT: You heard what he told me about your  
8 previous criminal history. Is that accurate?

9 DEFENDANT WHITE: Yes, sir.

10 THE COURT: And do each of you still wish to plead  
11 guilty?

12 Mr. Carroll?

13 DEFENDANT CARROLL: Yes, sir.

14 THE COURT: Ms. white?

15 DEFENDANT WHITE: Yes, sir.

16 THE COURT: All right. I will hear's from Ms. Pearson  
17 and Ms. Mayes.

18 VICTIM MAYES: My name is Terica Mayes. And prior to  
19 this incident -- I would like to see them get the max if  
20 possible because I do not feel safe in Spartanburg County  
21 any more.

22 They took away my pride when they deprived me of my  
23 items and put the gun to my head. So I just want -- and  
24 spent 15 months and back and forth with them pleading  
25 guilty at first and then pleading not guilty. So I just

1 want this to be over with but wanting them to also serve  
2 the sentence that is for, say, for them to have the longest  
3 time possible.

4 THE COURT: All right. Ms. Pearson.

5 VICTIM PEARSON: My name is Jasman Pearson, and I just  
6 wanted to -- whatever you thought was maximum for them to  
7 receive, for them to get that. And that's all.

8 THE COURT: Okay. Thank you.

9 And did I understand correctly there was one gun and  
10 Ms. white had it?

11 MR. ELLIS: Yes, sir. That's correct. The gun was  
12 not located. The dog team searched for it for quite an  
13 extensive amount of time following the location of the two  
14 defendants. They never not find the gun however.

15 Ms. white was alleged to have the gun to Ms. Mayes'  
16 head during the robbery, yes, sir.

17 I believe Officer Smith wishes to speak as well, Your  
18 Honor.

19 THE COURT: Okay.

20 OFFICER SMITH: Your Honor, in reference to the event  
21 as well and -- I'm sorry. My name is Officer Ash Smith.

22 I was the one that found them on Dover Road. They  
23 matched close to the BOLO. When I got out with them they  
24 did acknowledge that I was trying to speak to them at which  
25 time Mr. Carroll turned around immediately. They kept

1 walking.

2 After chasing them when we went over -- they went over  
3 a yard and jumped down off a ledge. Mr. Carroll casually  
4 walked into a back yard.

5 Ms. White actually sat on the ground smoking a  
6 cigarette, at which time I was telling her to put her hands  
7 up and basically give herself up. She refused to do that.  
8 She had plenty of time to smoke her cigarette and stand up  
9 and walk away, jump over the fence.

10 By the time I made it from the road to where they shot  
11 the fire -- or fire -- excuse me -- shots were fired, they  
12 had had plenty of time to get out of that back yard and  
13 continue to flee, and which they did not. I did see Mr.  
14 Carroll in that back yard after at least two or three  
15 minutes after that shot was fired.

16 THE COURT: And do you know which one fired the shot?

17 OFFICER SMITH: I cannot be positive who shot -- fired  
18 the shot.

19 Ms. Carroll -- Ms. Carroll -- she -- excuse me --  
20 Ms. White when she walked, she went straight back and  
21 straight over the fence. She had -- she had plenty of time  
22 to turn around and shoot directly back at me.

23 Mr. Carroll had been in the back yard for quite some  
24 time. At that point I could hear him moving around in the  
25 background and had plenty of time to set up as well. So

1 I'm not able to give exactly who shot.

2 THE COURT: And the weapon was not located?

3 MR. ELLIS: No, sir.

4 OFFICER SMITH: No, sir.

5 THE COURT: Ms. Mayes, the gun was held to your head?

6 VICTIM MAYES: Yes, sir.

7 THE COURT: And was it Ms. White that held the gun to  
8 your head?

9 VICTIM MAYES: Yes, sir.

10 THE COURT: All right. I'll accept y'all's pleas and  
11 hear from each of you and your lawyers.

12 MR. HALL: If it please the Court, Your Honor.

13 If I can explain his record to you, the last charges  
14 he had from 2006, 2008, I think the record will reflect  
15 that he got a 1-day sentence. So it was basically down to  
16 resisting arrest on a disorderly conduct.

17 The other was basically use of vehicle without owner's  
18 consent where he received an 18-month sentence. And after  
19 the second set of things he came down here.

20 He had gone into Job Corps. And, as I said, he had  
21 some issues with depression. He basically come down here  
22 to start over before this happened. I don't think he had  
23 been down here very long at all.

24 Your Honor, I have -- just a little before we came in  
25 here -- I thought that the issue was something, some

1 restitution. They certainly wanted to make -- Mr. Carroll  
2 and Ms. White wanted to make -- the victims whole at the  
3 appropriate time if that was an issue, but apparently  
4 they've changed their mind on that.

5 Your Honor, he does not have a substantial record.  
6 And on behalf of Mr. Carroll we're asking that you consider  
7 the 10-year sentence.

8 He is -- does have issues with the depression. He's  
9 done fairly well in jail in the time he's been there.

10 Mr. Whelchel and I did calculations. They've been in  
11 jail for 453 days as of today, Your Honor.

12 There was gunshot residue tests done. They all came  
13 back negative on both of these individuals. The report  
14 that the officer, Officer Smith, did says, "I heard what  
15 sounded like a C-02 cartridge shot." From the start I  
16 assumed what we're talking about here was a C-02 pellet or  
17 B.B. gun, type gun.

18 Even though she was -- said she felt the bullet go  
19 past her and hit the ground, that bullet was never  
20 recovered.

21 Your Honor, we are asking you on behalf of Mr. Carroll  
22 to be as lenient as you can. He has expressed to me that  
23 he is sorry for taking the property and he wants to get  
24 this behind him. And he wanted to apologize to the  
25 victims.

1 THE COURT: All right. Mr. Carroll, anything you want  
2 to add?

3 DEFENDANT CARROLL: I just want -- can I turn around  
4 and look at them?

5 THE COURT: No. You can't talk to them. You just  
6 talk to me. But you can tell me what you would tell them  
7 if you wish to.

8 DEFENDANT CARROLL: I just want to tell the victims  
9 that I'm sincerely sorry for what happened on that day and  
10 all the pain they're suffering that I might have caused  
11 them and that all I want to hear is someone committed a  
12 crime -- I just want to hear somebody made a mistake and  
13 get my life back. And that's it.

14 THE COURT: well, if you feel bad about it why did you  
15 do it to start with?

16 DEFENDANT CARROLL: Some of us do stupid things that  
17 change our life forever, and, I mean, this is one thing  
18 that changed my life forever.

19 So all I could do is deal with the consequences and  
20 keep moving and try not to make this mistake -- not make  
21 this mistake, not try. Never make this mistake again.

22 THE COURT: well, who had the gun after the robbery  
23 occurred?

24 DEFENDANT CARROLL: Wasn't no gun.

25 THE COURT: There wasn't a gun?

1 MR. HALL: I think he said he didn't have a gun.

2 DEFENDANT CARROLL: I don't know nothing about no gun.

3 THE COURT: You didn't know there was a gun involved  
4 in the robbery?

5 DEFENDANT CARROLL: I don't know nothing about no gun.

6 THE COURT: You didn't know anything about it. You  
7 didn't know Ms. White had a gun?

8 DEFENDANT CARROLL: I ain't seen no gun.

9 THE COURT: You never saw a gun?

10 DEFENDANT CARROLL: No.

11 THE COURT: You ever shoot one?

12 DEFENDANT CARROLL: No.

13 THE COURT: So she did the shooting?

14 DEFENDANT CARROLL: I didn't -- I didn't say that.

15 THE COURT: Well, was somebody else out there?

16 DEFENDANT CARROLL: No, I ain't -- nobody didn't shoot  
17 no gun.

18 THE COURT: Nobody shot a gun.

19 DEFENDANT CARROLL: No. Nobody shot.

20 THE COURT: Officer Smith was mistaken about that?

21 DEFENDANT CARROLL: Yes.

22 THE COURT: She made that up?

23 DEFENDANT CARROLL: Yes. I think she did.

24 THE COURT: You do?

25 DEFENDANT CARROLL: Yes, to be honest with you.

1 THE COURT: Well, what about -- what about Ms. Pearson  
2 and Ms. Mayes? Did they make that up too?

3 DEFENDANT CARROLL: I don't know -- I don't know.

4 THE COURT: You don't know? You were there.

5 DEFENDANT CARROLL: Yeah, I was there, but it happened  
6 so fast.

7 THE COURT: It did?

8 DEFENDANT CARROLL: Yes, sir.

9 THE COURT: Okay. All right. Mr. Welchel, I'll hear  
10 from you and Ms. White.

11 MR. WHELCHER: Your Honor, as you already know,  
12 Ms. White is 25.

13 what you do not know -- and because of her age I was  
14 asking her these questions. She quit school in the  
15 eleventh grade at Spartanburg High School.

16 She was at Spartanburg High School about the same time  
17 as my step-daughter and your law clerk. While they were  
18 running cross country she was a guard on the women's  
19 basketball team.

20 Had she been able -- she tells me that had she been  
21 able to stay playing guard for the basketball team she may  
22 have had or would have gotten some division one offers to  
23 play basketball. Unfortunately, because of family problems  
24 she was unable to do that.

25 Her mother worked for the federal government for the

1 U.S. customs. She developed leukemia. My client quit high  
2 school. Or when my client was 15 her mother had to quit  
3 work because of the leukemia.

4 When she was, when my client was, 16 her mother passed  
5 away. She quit and started taking care of her little  
6 sister and took care of her younger sister while her  
7 younger sister actually completed and graduated from high  
8 school.

9 They got social security benefits, Your Honor, and  
10 some help from local family.

11 Once she got her little sister through high school she  
12 was able to start looking after herself and taking care of  
13 herself, Your Honor.

14 She cooked and cleaned and cared for both of them.  
15 They had help from a maternal aunt and uncle or they tried  
16 to get some help from a maternal aunt and uncle, but they  
17 really had no interest in helping the girls.

18 Her younger sister graduated from high school and got  
19 married. And I think that's when my client's trouble  
20 began, when she didn't have to take care of her younger  
21 sister.

22 After her younger sister moved out or graduated and  
23 moved out my client moved in with her dad. She tried to  
24 establish a relationship with her father that she had never  
25 had before.

1           At one point she returned to Maryland where she was  
2 born. She came to South Carolina when she was five years  
3 old, Your Honor, and has lived here since that time.

4           And as she's already told you, before this happened,  
5 the last job she had before this happened, Your Honor, was  
6 she was a sales person, distribution person. And they  
7 actually put the vacuum cleaners together for R.B.T. which  
8 is a distributor for Kirby vacuums, Your Honor.

9           I think she also would like to address the Court and  
10 the victims.

11          THE COURT: All right. Ms. White.

12          DEFENDANT WHITE: I'd just like to apologize to the  
13 victims and to the Court. And this is a mistake that I  
14 would never make again. I'm very remorseful. And I just  
15 sincerely apologize.

16          But this is not me. This is not my character, but I  
17 did make the mistake and I'm willing to confess up to what  
18 I did. And that's it.

19          THE COURT: All right. Well, you've heard what the  
20 solicitor told me. You said you agreed to the facts.

21          Mr. Carroll is having some forgetfulness as it relates  
22 to the gun. He doesn't remember seeing one. But did you  
23 have a gun?

24          DEFENDANT WHITE: Yes, sir.

25          THE COURT: What kind of gun was it?

1 DEFENDANT WHITE: It was a revolver.

2 THE COURT: what type?

3 DEFENDANT WHITE: I can't really tell you what type,  
4 sir.

5 THE COURT: You don't know who made it?

6 DEFENDANT WHITE: No, sir.

7 THE COURT: Was it blue steel or nickel?

8 DEFENDANT WHITE: It was silver.

9 THE COURT: It was chrome?

10 DEFENDANT WHITE: Yes, sir.

11 THE COURT: Chrome-plated. And do you know what  
12 caliber it was?

13 DEFENDANT WHITE: No, sir. But it wasn't a big  
14 caliber. It was small enough for me to put in my pocket.

15 THE COURT: And where did you get the weapon?

16 DEFENDANT WHITE: I got it off the streets.

17 THE COURT: where?

18 DEFENDANT WHITE: I can't really say where. I just  
19 came upon it one day.

20 THE COURT: Just laying on the street?

21 DEFENDANT WHITE: No, sir, it wasn't just laying  
22 there, I mean.

23 THE COURT: You bought it from somebody?

24 DEFENDANT WHITE: Yes, sir.

25 THE COURT: who did you buy it from?

1 DEFENDANT WHITE: I can't really say that, Your Honor.

2 THE COURT: why not?

3 DEFENDANT WHITE: I just can't.

4 THE COURT: why can't you?

5 DEFENDANT WHITE: I mean, I actually don't know who I  
6 bought it from.

7 THE COURT: Oh really? You're just walking down the  
8 street and asked somebody if they might have a gun for sale  
9 and didn't know who they were and just bumped into somebody  
10 and they just happened to have one?

11 DEFENDANT WHITE: It really didn't occur like that.

12 THE COURT: well, how did it occur? Tell me how it  
13 did occur.

14 DEFENDANT WHITE: Someone introduced me to another  
15 person.

16 THE COURT: who introduced you to the person selling  
17 the gun?

18 DEFENDANT WHITE: A friend.

19 THE COURT: who?

20 DEFENDANT WHITE: I don't know him by name.

21 THE COURT: You don't know their name either?

22 DEFENDANT WHITE: The nickname, yes, sir.

23 THE COURT: Yeah. Do you remember your codefendant's  
24 name?

25 DEFENDANT WHITE: Yes, sir.

1 THE COURT: what's his name?

2 DEFENDANT WHITE: Delonte Carroll.

3 THE COURT: Yeah. Did you tell him you had a gun when  
4 y'all went out there to rob Ms. Pearson and Ms. Mayes?

5 DEFENDANT WHITE: No, sir.

6 THE COURT: You didn't tell him? Did he see the gun  
7 when you pulled it out?

8 DEFENDANT WHITE: No, sir.

9 THE COURT: He didn't know you had a gun?

10 DEFENDANT WHITE: I mean, I wasn't paying attention if  
11 he was looking at me or not. So I don't know if he was  
12 looking or not.

13 THE COURT: Well, was it pretty obvious that you had a  
14 gun stuck to Ms. Mayes' head?

15 DEFENDANT WHITE: Probably to her now. I can't say it  
16 was obvious to him, because he was doing what he was doing.

17 THE COURT: What was he doing? How did y'all end up  
18 committing this robbery? What discussions did y'all have  
19 about it?

20 DEFENDANT WHITE: Actually we didn't have a  
21 discussion. We just knew that we needed money in our  
22 pocket.

23 THE COURT: Well, y'all had to come to some agreement.  
24 I mean, you can't -- you didn't do it by mental telepathy.

25 DEFENDANT WHITE: It wasn't planned.

1 THE COURT: It wasn't?

2 DEFENDANT WHITE: No, sir.

3 THE COURT: It was an accident?

4 DEFENDANT WHITE: No, sir, it wasn't an accident.

5 THE COURT: All right. Well, then it was planned.

6 DEFENDANT CARROLL: It was like --

7 THE COURT: Wait just a minute. You've had your turn.  
8 We'll come back to you if you need to, but right now it's  
9 Ms. White's turn.

10 DEFENDANT WHITE: No, sir. It wasn't planned. It was  
11 just a one-time thing.

12 THE COURT: So you and Mr. Carroll didn't know y'all  
13 were committing an armed robbery, y'all just kind of  
14 stumbled on it?

15 DEFENDANT WHITE: No, sir. I mean, we just -- it  
16 was -- just came to mind, and we just did it, sir. It  
17 wasn't like --

18 THE COURT: It just came to your mind. That's what I  
19 am saying. So y'all had to say, well, look, we need a  
20 commit a robbery here. Otherwise, the other one wouldn't  
21 know what was going on.

22 DEFENDANT WHITE: I mean, it was just like one person  
23 took the initiative and then the other one followed, sir.  
24 It wasn't like --

25 THE COURT: who took the initiative -- who took the

1 initiative?

2 DEFENDANT CARROLL: I did, sir.

3 THE COURT: Mr. Carroll, I've already told you it's  
4 not your turn to speak.

5 DEFENDANT WHITE: Mr. Carroll did, sir.

6 THE COURT: Mr. Carroll took the initiative?

7 DEFENDANT WHITE: Yes, sir.

8 THE COURT: And what did he do that constitutes his  
9 taking of the initiative?

10 DEFENDANT WHITE: He opened up the passenger-side door  
11 of the victim's car.

12 THE COURT: All right. And what did he say to you?

13 DEFENDANT WHITE: He didn't say anything to me.

14 THE COURT: He didn't say anything. He just opened  
15 the victim's door up in a car.

16 DEFENDANT WHITE: Yes, sir.

17 THE COURT: And what did he do?

18 DEFENDANT WHITE: Proceeded to get what he wanted.

19 THE COURT: And what were you doing?

20 DEFENDANT WHITE: I was getting what I wanted from the  
21 person that was in the driver's seat.

22 THE COURT: So you and -- you and Mr. Carroll had no  
23 discussions about robbing these two ladies sitting in the  
24 car. Y'all just both at the same moment in time had this  
25 urge to rob somebody. So one went to one door and one went

1 to the other. Neither knew what the other was doing. And  
2 y'all committed a double armed robbery. Is that what  
3 you're telling me?

4 DEFENDANT WHITE: We was -- sir, it didn't happen --  
5 we was walking down the street and we just happened to see  
6 them sitting in the car.

7 THE COURT: Right.

8 DEFENDANT WHITE: And that's how it happened.

9 THE COURT: That doesn't tell me anything. You  
10 happened to see them sitting in a car, and what?

11 DEFENDANT WHITE: And he walked up to the passenger  
12 side of the car --

13 THE COURT: Right.

14 DEFENDANT WHITE: -- and proceeded to get what he got,  
15 and I did what I did.

16 THE COURT: So y'all weren't even acting together.  
17 Y'all just acting separately? Y'all just on a log of your  
18 own?

19 DEFENDANT WHITE: Yes, sir.

20 THE COURT: And it just happened -- just happenstance  
21 you had a gun in your pocket when you were walking down the  
22 street. How long had you had that gun?

23 DEFENDANT WHITE: I had that gun for about two years,  
24 sir.

25 THE COURT: And you just happened to have it with you

1 on that day?

2 DEFENDANT WHITE: I always have it with me, sir.

3 THE COURT: You always carry it with you. And so what  
4 did you do with it when you saw the car with the two ladies  
5 sitting in it?

6 DEFENDANT WHITE: Excuse me, sir?

7 THE COURT: When y'all were walking down the street  
8 and Mr. Carroll walked over to the car to open the door to  
9 take whatever he wanted to take and you walked to the other  
10 side of the car to take whatever you wanted to take, what  
11 did you do with the gun?

12 DEFENDANT WHITE: I put it to her head, sir.

13 THE COURT: Did you say anything?

14 DEFENDANT WHITE: Just demanded everything that she  
15 had, sir.

16 THE COURT: Okay. And after y'all took everything  
17 they had what did you do?

18 DEFENDANT WHITE: We ran.

19 THE COURT: You ran?

20 DEFENDANT WHITE: Yes, sir.

21 THE COURT: And you saw Officer Smith out there that  
22 night?

23 DEFENDANT WHITE: Yes, sir. She pulled up behind us.

24 THE COURT: Okay. And you still had the gun?

25 DEFENDANT WHITE: Yes, sir.

1 THE COURT: Are you the one that fired the shots?

2 DEFENDANT WHITE: No, sir.

3 THE COURT: Who did?

4 DEFENDANT WHITE: Nobody, sir, because I threw it. So  
5 no shot was fired.

6 THE COURT: Officer Smith just made that up?

7 DEFENDANT WHITE: Yes, sir. She must have heard it  
8 when it landed.

9 THE COURT: Heard it when it landed?

10 DEFENDANT WHITE: Yes, sir.

11 THE COURT: Oh, it went off when it landed?

12 DEFENDANT WHITE: I don't know what happened but it --

13 THE COURT: Where did it land? Where did you throw  
14 it?

15 DEFENDANT WHITE: In the woods where I was at.

16 THE COURT: You threw it out there in the woods, and  
17 they looked for it and nobody could ever find it.

18 All right. Anything else you need to tell me about  
19 it?

20 DEFENDANT WHITE: No, sir.

21 THE COURT: Or does that just about cover everything?

22 DEFENDANT WHITE: Yes, sir.

23 THE COURT: Okay. Good. Mr. Carroll, do you want to  
24 say something else?

25 ~~DEFENDANT CARROLL: No, sir. I don't to say nothing.~~

1 That's it.

2 THE COURT: That's all?

3 DEFENDANT CARROLL: That's it.

4 THE COURT: Okay. Sentence on the indictments, on  
5 2010-4268, that's Mr. Carroll's indictment, and 2010-4315,  
6 that's Ms. White's indictment, the sentence of the court is  
7 as to each of you that you be confined to the South  
8 Carolina Department of Corrections for a period of 20  
9 years.

10 MR. HALL: Thank you, Your Honor.

11 MR. WHELCHER: Thank you, Your Honor.

12 END OF REQUESTED TRANSCRIPT OF RECORD

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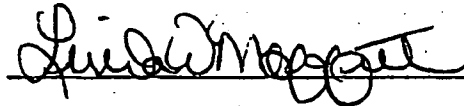
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 22nd day of August 2011.

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

October 12, 2012



Linda D. Moffitt  
Circuit Court Reporter

(M)

FORM 5

STATE OF SOUTH CAROLINA )  
County of Richland )  
Andrea Waylisha White # 328460 )  
Full name and prison number (if any) of Applicant )

IN THE COURT OF COMMON PLEAS

2012-CP-42- 2879

v.

State of South Carolina )

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Camille Graham Corr. Inst. - 4450 Broad River Rd. - Columbia, SC 29210
2. Name and location of Court which imposed sentence Spartanburg County General Sessions - 180 Magnolia St. - Spartanburg, SC
3. Name(s) of co-defendant(s) (if any) Delonte Carroll
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2010-GS-420-4315 - Armed Robbery
  - (b) \_\_\_\_\_

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SPARTANBURG COUNTY  
M. HOE SLADKLEY  
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(c) \_\_\_\_\_

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

(a) August 22, 2011 - 20 years

(b) \_\_\_\_\_

(c) \_\_\_\_\_

6. Check whether a finding of guilty was made:

(a) after a plea of guilty  \_\_\_\_\_

(b) after a plea of not guilty \_\_\_\_\_

(c) after a plea of nolo contendere \_\_\_\_\_

7. Did you appeal from the judgment of conviction or the imposition of sentence?  
NO

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

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

i. \_\_\_\_\_

ii. N/A

iii. \_\_\_\_\_

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

i. \_\_\_\_\_

ii. N/A

iii. \_\_\_\_\_

(c) the date of each such result:

i. \_\_\_\_\_

ii. N/A

iii. \_\_\_\_\_

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

i. \_\_\_\_\_

ii. N/A

iii. \_\_\_\_\_

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

(a) \_\_\_\_\_

(b) \_\_\_\_\_

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 M. HOPE SLACILEY

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

- (a) Ineffective Counsel
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

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

- (a) My attorney was not prepared for my court appearance.
- (b) We spoke only twice out of 15 months
- (c) while in county jail.

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

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

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

- (a) the specific nature thereof:
  - i. \_\_\_\_\_
  - ii. N/A
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_

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

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 SPARTANBURG COUNTY  
 2012 JUL -16 PM 12:06  
 M. HOPE BLACKEY

(c) the disposition thereof:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_ *N/A*
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(d) the date of each such disposition:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_ *N/A*
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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

- i. \_\_\_\_\_
- ii. \_\_\_\_\_ *N/A*
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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

\_\_\_\_\_ *NO* \_\_\_\_\_

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

(a) which grounds have been presented:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_ *N/A*
- iii. \_\_\_\_\_

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

- i. \_\_\_\_\_
- ii. \_\_\_\_\_ *N/A*
- iii. \_\_\_\_\_

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 Revised 3/2/03



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

Overturn Conviction

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

No

STATE OF SOUTH CAROLINA )  
County of Richland )

VERIFICATION

I, Andrea Wayliska White, 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.

Andrea White

SWORN to and subscribed before me this 3rd  
day of July, 2012.  
Kathy K. Barnes (L.S.)  
Notary Public

My Commission Expires: My Commission Expires August 12, 2015

FILED  
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SPARTANBURG COUNTY  
2012 JUL -6 PM 12:06  
M. HOPE BLADKLEY

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

I, Andrea Wayliska White, 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.

Andrea White  
Applicant

SWORN or affirmed to and subscribed before me this  
3rd day of July, 2012.

Atty R. Barnes  
Notary Public

My Commission Expires: My Commission Expires August 12, 2015

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2012 JUL -6 PM 12:06  
M. HOPE BLACILEY

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF SPARTANBURG )  
 )  
 )  
 Andrea Waylisha White, #328460, )  
 )  
 )  
 Applicant, )  
 )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
 SEVENTH JUDICIAL CIRCUIT

2012-CP-42-2879

RETURN

The Respondent, making its Return to the application for post conviction relief (PCR) filed July 6, 2012, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted at the July 2010 term of the Spartanburg County Grand Jury for armed robbery (2010-GS-42-4315). The Applicant was represented by Richard Welchel, Esquire. On August 22, 2011, the Applicant pled guilty as indicted. The Applicant was sentenced by the Honorable J. Derham Cole to confinement for twenty (20) years for armed robbery.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. The South Carolina Court of Appeals dismissed Applicant's appeal by Written Order filed October 22, 2011. The Remittitur was sent down on November 16, 2011.

Attached herewith and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South

Carolina Department of Corrections, and the guilty plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## II.

In her current Application, the Applicant alleges that she is being held in custody unlawfully for the following reason:

1. Ineffective assistance of counsel.
  - a. "My attorney was not prepared for my court appearance. We spoke only twice out of 15 months while in county jail."

## III.

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

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing

Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, she would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

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

V.

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

Respectfully submitted,

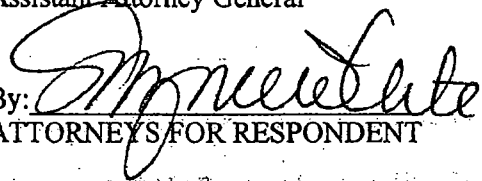
ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

*[signatures continued on next page]*

SALLEY W. ELLIOTT  
Senior Assistant Deputy Attorney General

SUZANNE H. WHITE  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

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

July 25, 2013.

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

)  
)

IN THE COURT OF COMMON PLEAS  
SEVENTH JUDICIAL CIRCUIT

Andrea Waylisha White,

)

2012-CP-42-2879

Applicant,

)

)

v.

)

**CERTIFICATE OF SERVICE BY MAIL**

State of South Carolina,

)

)

Respondent.

)

)

)

)

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

J. Brandt Rucker, Esquire  
522 N. Church Street  
Greenville, South Carolina 29601

*Anne Mueller*

\_\_\_\_\_  
Anne A. Mueller  
Legal Assistant for the Respondent

DATED this 25<sup>th</sup> day of July, 2013.

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

COURT OF COMMON PLEAS  
2012-CP-42-2879

_____		)
Andrea Waylisha White,		)
		)
Applicant,		)
-vs-		)
The State of South Carolina,		)
		)
Respondent.		)
_____		)

**TRANSCRIPT OF RECORD**

November 14, 2013  
Spartanburg, South Carolina

Ordered: April 22, 2014

Delivered: June 9, 2014

**BEFORE:**

The Honorable Robin B. Stilwell, Presiding Judge.

**APPEARANCES:**

Mr. J. Brandt Rucker, Esquire  
Attorney Appearing for the Applicant

Ms. Suzanne H. White, Esquire  
Assistant Attorney General Appearing for the State

Pamela Faucette  
Circuit Court Reporter

**INDEX**

Pamela S. Faucette, CVR - (home) 864-574-9534 (cell) 336-260-2864

Andrea W. White PCR

Page:

Ms. White's Recitation of Facts..... 3

WITNESSES

Ms. Andrea W. White:

Page:

Direct by Mr. Rucker..... 4

Cross by Ms. White..... 8

Redirect by Mr. Rucker..... 10

Mr. Richard Whelchel, Esquire:

Page:

Direct by Ms. White..... 11

Cross by Mr. Rucker..... 13

Redirect by Ms. White..... 19

EXHIBITS

Applicant's Exhibits:

Marked:

Received:

(None)

Respondent's Exhibits:

Marked:

Received:

(None)

Court's Exhibits:

Marked:

Received:

(None)

Court's Ruling:..... 19

Reporter's Certification:..... 22

Reporter's Note: This transcript may contain quoted material. Such material is

reproduced as read or quoted by the speaker.

November 14, 2013

10:44 A.M.

1 (Off-the-Record Comments)

2 (Ms. White bought into the courtroom at 10:44 a.m.)

3 THE COURT: Ms. White?

4 MS. WHITE: Thank you, Your Honor. This is the case of  
5 *Andrea White vs. The State*, case number 2012 -CP-42- 2879. Ms. White is  
6 represent by Mr. Brandt Rucker today.

7 Ms. White was originally represented by Mr. Richard Whelchel. She  
8 was charged and indicted July of 2010 and pled to an armed robbery at that  
9 time.

10 A possession of a weapon during the commission of a violent crime  
11 was dismissed. There was also another armed robbery and an assault with  
12 intent to kill which were dismissed in accordance with the plea.

13 She pled guilty and received a sentence of 20 years and has filed this  
14 application alleging ineffective assistance of counsel in that Counsel was not  
15 prepared for her court appearance and that she had only spoken with the  
16 attorney twice during her 15 months in the county jail.

17 And, at this point, I am going to turn it over to Mr. Rucker.

18 THE COURT: Okay. Mr. Rucker?

19 MR. RUCKER: Your Honor, I call my client to the stand, Ms.

20 White.

21 THE COURT: All right.

22 (The witness stepped forward to be sworn.)

23 (Off-the-Record Comments)

24 (Whereupon,

25 Andrea W. White

1 first being duly sworn, testified as follows:)

2 THE COURT: Okay. If you would, sit down please, ma'am, and  
3 state your full record for the — excuse me — full name for the record.

4 THE WITNESS: Andrea Waylisha White.

5 THE COURT: Mr. Rucker?

6 Direct Examination by Mr. Rucker: 10:46 A.M.

7 Q Ms. White, why are you here today? Do you know what kind of  
8 hearing this is?

9 A Yes, sir.

10 Q Okay. What kind of hearing is it?

11 A A PCR.

12 Q Okay. And what does that mean?

13 A A post-conviction relief trial.

14 Q What are you asking for today?

15 A I'm asking for a sentence reduction.

16 Q Okay. Are you — you also asking for a new trial?

17 A Yes, sir.

18 Q Okay. What sentence are you serving right now?

19 A Armed robbery, 20 years.

20 Q Okay. I'm sorry. How much time?

21 A Twenty (20) years.

22 Q Okay. And was this a result of a trial or a guilty plea?

23 A A guilty plea.

24 Q Okay. Do you remember when you entered that guilty plea?

25 A I believe it was in the month of August. I can't actually remember the

1 date, but I think it was the month of August 2010.

2 Q. Okay. Do you recall who your attorney was?

3 A. Yes, sir, Richard Whelchel.

4 Q. All right. How many times were you able to meet with Mr. Whelchel  
5 before your guilty plea?

6 A. Twice. And it was once — and the last time I seen him was the  
7 Sunday before that Monday I went to court.

8 Q. Okay. Do you remember the facts that were alleged against you at  
9 trial — I mean, at the guilty plea?

10 A. Yes, sir.

11 Q. Okay. Do you remember anything about a show-up identification being  
12 an issue in this case?

13 A. Yes, sir.

14 Q. All right. Do you know what a show-up identification is?

15 A. Somewhat.

16 Q. All right. If you can, briefly describe what you believe that to be.

17 A. A show-up identification is the evidence.

18 Q. Okay. Did you ever talk to Mr. Whelchel about a show-up identification  
19 or about the fact that you were brought in front of the alleged victims in handcuffs?

20 A. No, sir.

21 Q. Okay. Did he ever bring that up to you?

22 A. No, sir.

23 Q. Did you ever go over — do you know what discovery is?

24 A. Yeah, the — the evidence.

25 Q. Okay. Did you ever go over the evidence with him?

1 A. No, sir.

2 Q. Okay. Why, in fact, did you plead guilty that day?

3 A. Because I was under the impression that I was going to get 10 years  
4 and that, if I went ahead and pled guilty that day, then, that's what I would have got.  
5 But, when I went into the courtroom, it was like an open plea.

6 Q. Okay. What is an open plea in your mind?

7 A. I guess from zero to the max.

8 Q. Okay. And what was the max in this case?

9 A. Thirty (30) years.

10 Q. All right. Were you under — why did you believe there was — that you  
11 were going to get 10 years that day?

12 A. Because what my attorney told me before I went into the courtroom.

13 Q. Okay. And do you recall the sitting trial judge or plea judge actually  
14 telling you, you could get up to 30 years?

15 A. Yes, sir.

16 Q. All right. Why didn't you think you could potentially get 20 or 30 years?

17 A. Well, actually, because this is my first violent crime.

18 Q. Okay.

19 A. And I just — just didn't see it.

20 Q. Was it your belief that, if you didn't plead guilty, you were going to go  
21 to trial that day?

22 A. Yes, sir.

23 Q. And why did you believe that?

24 A. Because it was either take a guilty plea or go to trial. That was what I  
25 was under the impression of.

1 Q. Okay. Were — were you worried you were going to get more time if  
2 you went to trial?

3 A. Yes, sir. I was told that, if I didn't take the plea, that I could have got  
4 up to 90 years in prison.

5 Q. Okay. Do you appeal your guilty plea?

6 A. I didn't appeal. My lawyer was supposed to.

7 Q. All right. Do you know, if in fact, he did appeal it?

8 A. He sent me a letter, while I was incarcerated, saying that he did file an  
9 appeal, but I wrote the Court of Appeals and I didn't received nothing back from  
10 them. And he did write the letter saying he did that.

11 Q. All right. Is part of your claim, for ineffective assistance of counsel, that  
12 he did not file a motion to reconsider or a — an appeal on the sentence itself?

13 A. Yes, sir.

14 Q. Okay. Do you believe you should have gotten less time then?

15 A. Yes, sir.

16 Q. Do you believe, if you would spoken more with Mr. Welchel, that you  
17 could have explored some of the evidentiary issues and try to get a better plea than  
18 you got?

19 A. Yes, sir.

20 Q. Do you have anything else that you want to complain of about Mr.  
21 Welchel's performance in this case?

22 A. Just that I seen him a maximum one out of 15 months — twice out of  
23 15 months that I was incarcerated and we went over no evidence. We went into no  
24 detail about the case.

25 The only reason why I know somewhat of what my case is because I

1 was a part of it. I mean, that's the only reason why. But, other than that, I just felt  
2 like he was incompetent. He just didn't do what he was supposed to do in my case.

3 Q. Is there anything else that's relevant to your PCR application that you  
4 think the judge should know — should know about this case?

5 A. No, sir, that's — that's about it

6 MR. RUCKER: Okay. No further questions.

7 THE COURT: Cross examination?

8 MS. WHITE: Thank you, Your Honor.

9 Cross Examination by Ms. White:

10 Q. Just a couple of questions, Ms. White. You testified that you thought  
11 you were getting 10 years, but when you got in the courtroom, they said — you  
12 found out it was an open plea?

13 A. (Nods affirmatively.)

14 Q. If that was your understanding, that you were getting 10 years, why  
15 didn't you ask your attorney to stop the plea at that time?

16 A. I didn't stop the plea because, I mean, everything just went so fast.

17 Q. And the judge advised you, as Mr. Rucker went over with you, the —  
18 the charges that you were facing and the — the sentences — the possible  
19 sentences?

20 A. (No Response)

21 Q. Or the sentence of up to 30 years?

22 A. Uh-huh (affirmative).

23 Q. And you knew, at that time, that you could even get up to 30 years if  
24 you pled guilty?

25 A. Yeah, but I was still under the impression that I would receive 10.

1 Q. And are you testifying that Mr. Welchel promised you that it was a 10-  
2 year negotiated plea or...?

3 A. I — I wouldn't say "promised," but he felt strongly — strongly that it  
4 would happen.

5 Q. So, he told you that, that's what he had hoped would happen based on  
6 your lack of record?

7 A. Yes, ma'am.

8 Q. Okay. Now, when the solicitor read the facts out, the facts were  
9 presented that you were the one out of the two, you and your co-defendant, that did  
10 hold a gun to someone's head; is that right?

11 A. The facts wasn't pointed out. I admitted to it.

12 Q. The solicitor read the facts and you agreed with the facts?

13 A. Yes.

14 Q. And part of those facts included the fact that you were the one, out of  
15 the two of you, who held a gun to one of the victims' head?

16 A. Yes, ma'am.

17 Q. All right. And, at the time, the judge asked you if anybody had  
18 promised you anything to get you to plead guilty or threatened you in any way and  
19 you said no, that you were pleading —

20 A. Because he didn't promise.

21 Q. Okay. I'm sorry. And you were pleading freely and voluntarily?

22 A. Yes, ma'am.

23 Q. And that was with the hope that you would receive 10 years; is that  
24 right?

25 A. Yes, ma'am.

1 Q. Okay. And your packet of information included the documents where  
2 your attorney did file a notice of appeal, but because there were no issues raised in  
3 the guilty plea it was dismissed. Would you agree, then, that he did file an appeal on  
4 your behalf?

5 A. I would if I would have seen the paperwork.

6 Q. Okay.

7 MS. WHITE: Thank you. That's all I have, Your Honor.

8 MR. RUCKER: Your Honor, just a couple on re — on redirect.

9 THE COURT: Yes, sir.

10 **Redirect Examination by Mr. Rucker:**

11 Q. In addition to your lack of criminal record, did Mr. Whelchel talk to you  
12 about another reason you may get 10 years instead of higher?

13 A. Yes, sir, because that would be my first violent crime.

14 Q. All right. Did he mention restitution to you as well?

15 A. Yes, sir.

16 Q. All right. And what did he tell you about restitution?

17 A. That — that I couldn't pay back the restitution from the crime in prison.

18 That's why he felt so strongly about the 10 years.

19 Q. Okay. Did you think there was actually an agreement with the  
20 solicitor's office that you wouldn't get more than 10 years based on your conver —  
21 I'm sorry.

22 A. I was under the impression, yes, sir.

23 MR. RUCKER: Okay. No further questions.

24 MS. WHITE: Nothing further, Your Honor.

25 THE COURT: Okay.

1           **MR. RUCKER:**     Your Honor, she's our only witness.

2           **THE COURT:**     Okay. Good enough. Ms. White, can step down,  
3           ma'am.

4           **(Witness complied with the Court's request.)**

5           **THE COURT:**     Okay. Anything from the State?

6           **MS. WHITE:**     Yes, Your Honor. We'd call Richard Welchel to  
7           the stand.

8           **THE COURT:**     Okay.

9           **(The witness stepped forward to be sworn.)**

10          **(Off-the-Record Comments)**

11          **(Whereupon,**

12                                 **Richard Welchel, Esquire**

13          first being duly sworn, testified as follows:)

14          **THE COURT:**     All right, sir, you may take the stand and state your  
15          full name for the record.

16          **THE WITNESS:**   Richard Welchel, W-h-e-l-c-h-e-l.

17          **THE COURT:**     Okay.

18          **Direct Examination by Ms. White:**                                 **10:54 A.M.**

19          **Q.**           Mr. Welchel, do you recall representing Ms. White on this armed  
20          robbery charge?

21          **A.**           Yes, ma'am.

22          **Q.**           And she stated that she only met with you once or twice. Do you recall  
23          how many times you met or spoke with her?

24          **A.**           Not exactly, ma'am. It would be several times over the course of my  
25          representation. There may be times, when I'm visiting the jail and seeing other

1 people, that I can see other defendants while I'm there.

2 Q. And, during your representation, do you recall receiving the State's  
3 discovery?

4 A. Yes, ma'am.

5 Q. Did you have a chance to go over any of that with Ms. White?

6 A. I reviewed the discovery with Ms. White and reviewed an offer that the  
7 State had made. But she refused and she made a counteroffer that she wanted to  
8 plead to common law robbery. I told her that I doubted that they would accept that  
9 counteroffer. And, in fact, they did not.

10 Q. And what was the initial offer from the State?

11 A. The armed robbery — ultimately the armed robbery plea.

12 Q. So but it included dismissing other charges as well?

13 A. Yes, ma'am.

14 Q. Okay. When you spoke with Ms. White, were you ever promising her  
15 that there was a negotiated plea or that she would receive a 10 — a sentence of 10  
16 years?

17 A. No, ma'am. What I told her was that the minimum sentence for armed  
18 robbery would be 10 years. And the range was a minimum of 10 up to maximum of  
19 30. But she couldn't get any less than 10.

20 Q. Did you have conversations with her about the lack of record and that,  
21 that might help, the fact that she was pleading guilty and had no record?

22 A. Yes.

23 Q. And, in regards to the facts of the case, did you feel like she  
24 understood what the State would have to prove if she wanted to go to trial on this?

25 A. Yes, ma'am.

1 Q. In addition to that, on the day of the plea, based on your conversations,  
2 were you comfortable that — that she had understood your conversations and knew  
3 the sentencing range that she was facing?

4 A. Yes, ma'am.

5 Q. Okay.

6 MS. WHITE: Thank you. That's all I have, Your Honor.

7 THE COURT: Mr. Rucker?

8 Cross Examination by Mr. Rucker:

9 Q. Mr. Whelchel, thank you for sending over the discovery paperwork.

10 A. You're welcome.

11 Q. I appreciate that. I want to talk to you about a couple of the evidentiary  
12 issues in the case. And I'm sure you heard me mentioning the show-up  
13 identification issue. What is your understanding of what a show-up identification is?

14 A. When they bring the — the parties — when they bring the apprehended  
15 person back to the witnesses —

16 Q. Okay.

17 A. — for an identification at that point.

18 Q. Is that, in fact, what happened in this case?

19 A. Uh-huh (affirmative).

20 Q. Okay. Do you — can you recall the facts of the case? I know it's been  
21 a while, but the basic underlying facts? In the alleged armed robbery, a perimeter  
22 was set up?

23 A. Yeah.

24 Q. Okay. Could you describe that to the judge? I mean, what were the  
25 evidentiary issues you were looking at, at that time, that you could help her with?

1           A.       Okay. The allegation was that these — this couple of women were  
2 sitting in a car and they were approached at first by a black male.

3                   He walked by and, then, he later returned walking by from the opposite  
4 direction.

5                   On the second time, he approached the car, yanked open the door,  
6 and demanding that the person, on his side of the car, give up the property that she  
7 had.

8                   At the same time, my client approached the — I think she was on the  
9 passenger side — she approached the other side of the car and had a gun with her  
10 and held the gun to the lady's head and got property from her.

11                   At that point, they both fled. The victims called the police. The police  
12 showed up and set up a perimeter and ultimately both my client and the co-  
13 defendant, Mr. Carroll, were apprehended.

14                   They were, then, brought back for a show-up. And the property taken  
15 from both of the victims were found in their possession.

16           Q.       Okay. When you say it was found in their possession, where was it  
17 actually found?

18           A.       It was found I think — I think some of the property was found on the  
19 ground where — where they were apprehended.

20           Q.       Okay. And how far away from the alleged crime scene was it?

21           A.       The crime scene was here (indicating) and they fled into a field and  
22 into woods from there. So I can't — as far as hundreds of feet or anything, I can't  
23 tell you.

24           Q.       Was there a gun every found?

25           A.       No.

1 Q. All right. Is it your belief that the police department and the sheriff's  
2 office actually did a thorough search and just could not find it?

3 A. Yes.

4 Q. They actually alleged that one of the defendants had shot at a — a  
5 deputy or Officer Brenna (phonetic), correct?

6 A. One of the officers said in his write up that he heard something hit  
7 beside his foot or go beside his knee; I can't remember which. And he said at first  
8 he didn't realize what it was. And I think it took him a second to come to the  
9 realization that somebody or something had been fired at him.

10 Q. All right. Other than his speculation about that a gunshot had been  
11 fired — or a gun had been fired at him, was there any evidence that? Was there any  
12 gunshot residue found?

13 A. No. Gunshot residue was done for I believe both — I know from Ms.  
14 White.

15 Q. Okay.

16 A. And I think from the other co-defendant too. And didn't anything show  
17 up, any gunshot residue.

18 Q. Were there any bullet cases found and, of course, no gun?

19 A. No.

20 Q. Okay. Why didn't you — were you going — if you went to trial, were  
21 you intending to ask for *Neil v. Biggers* (phonetic) —

22 A. Sure.

23 Q. — the show-up identification issue?

24 A. Yeah.

25 Q. Why did you believe you would fail at that? I mean, obviously, if that

1 ID doesn't come in, they can't make their case:

2 A. Well, if we went to trial, and had a *Neil vs. Biggers*, I'd probably fail. I  
3 didn't think that we would — we would win it. But, even if we did win it, they still had  
4 the items that were taken and the description saying the clothing matched and  
5 everything.

6 They found — I think Ms. White had a hat that was taken from the —  
7 from the car. And the hat that she had on matched the hat.

8 Q. Was — I'm sorry.

9 A. In addition to the clothing description.

10 Q. I apologize for cutting you off.

11 A. Oh, that's okay.

12 Q. I'm not used to your — to yourself (phonetic). Was there a fruit of a  
13 poisonous tree issue related to the *Neill vs. Biggers* issue though? I mean, how  
14 could have the police narrowed down the search if they didn't have a proper  
15 identification of the people?

16 A. Well, they had the identification that they were given and they started  
17 the search and found the people there. You know, I — I think that they — when they  
18 did the search and found those persons in that location, I think — I think it was  
19 sufficient to bring them back at that point.

20 Q. Okay.

21 A. And I think the judge would have ruled that way.

22 Q. I don't practice in Spartanburg in trial — well, I've had a couple of  
23 cases up here, but explain your dealings with the solicitor's office. If you present  
24 them defenses, does that work? Or are they just going to throw it up there and see  
25 — see what happens?

1 A. No, they — they don't care about your defense.

2 Q. Okay. I mean, do you win cases, though because, of that? Do they  
3 have —

4 A. At times, yes.

5 Q. Okay. Did you talk to my client, your former client, about the plea  
6 judge and his reputation for sentencing?

7 A. Yes. And — and, you know, I talked to her about the plea judge and  
8 any judge that we have in Spartanburg because she was pleading to an armed  
9 robbery.

10 Q. Okay.

11 A. She understood, from the beginning, that she was pleading to one  
12 armed robbery and everything else was being dismissed.

13 Q. Okay.

14 A. And it was a minimum 10 and a maximum of 30. And that there was —  
15 that the sentence I told her would be somewhere between 10 and 30.

16 Q. Did you — did you tell her, though, with restitution being an issue, and  
17 her lack of prior violent crimes, that, that could help her in the sentencing?

18 A. I told her that her history, her criminal history, always helps if it's a — if  
19 it's a minor criminal history.

20 Q. Now, I realize — I'm sorry.

21 A. But I didn't promise her 10 years because I don't ever promise  
22 anybody anything if — at a plea or a trial. What I had to tell her and did tell her was  
23 that she was facing a minimum of 10.

24 And I think that maybe where she got the idea that she was going to  
25 get 10. But she understood or should have understood that it was a minimum of 10

1 and a maximum of 30.

2 Q. Did you talk to her about a negotiated sentence? I mean, what the  
3 difference between a negotiation and a recommendation or just an open plea is?

4 A. It was an open plea. It wasn't a negotiated sentence.

5 Q. All right. Did — did you tell her you had talked to the solicitor's office  
6 about the potential sentence though?

7 A. (No Response)

8 Q. About what potential sentence they could recommend? And, then, you  
9 get in there — what she's alleging is, when you got in there, she discovered it was  
10 an open plea. She was under the impression it was a negotiated sentence or at  
11 least a recommendation?

12 A. They were never recommending anything. They had already dropped  
13 the other armed robbery —

14 Q. Okay.

15 A. — and the assault case; of course, that's if we did plea. But they were  
16 dropping other charges. And, basically, when they drop charges, especially the  
17 severity of these charges, when they drop, they won't recommend anything.

18 Q. Did you file a notice of appeal on this case?

19 A. Yes.

20 Q. Okay. And what happened with the appeal?

21 A. I don't know that. I filed a notice of appeal and it was taken over by  
22 indigent defense.

23 Q. Okay.

24 A. I don't know the results.

25 Q. And I'm not — I'm not questioning your honesty on this, but if a notice

1 of appeal wasn't filed; you thought you did, but it wasn't filed, it's your agreement  
2 that she was entitled to have an appeal out of this?

3 A. Yes.

4 Q. And we have an ethical duty, as defense attorneys, to file that notice of  
5 appeal regardless of our relationship with our client?

6 A. Yes. But there's stuff in the file where it was filed.

7 Q. Sure.

8 (Brief Pause)

9 MR. RUCKER: No further questions, Your Honor.

10 MS. WHITE: Just real quickly, Your Honor.

11 THE COURT: Yes, ma'am.

12 Redirect Examination by Ms. White:

13 Q. Mr. Whelchel, to clarify, you did say that there was an assault with  
14 intent to kill and an armed robbery that was dropped?

15 A. That's correct.

16 Q. And that was in accordance to the fact that she agreed to plead guilty  
17 to the one armed robbery?

18 A. Yes.

19 Q. Okay. And she did admit and acknowledge that she had a gun pointed  
20 to the head of one of the victims at the scene; is that right?

21 A. During the plea, yes.

22 Q. During the plea?

23 A. Yes.

24 Q. Okay.

25 MS. WHITE: Thank you. That's all I have.

1 THE COURT: Okay. Thank you, sir. I appreciate it.

2 THE WITNESS: Yes, sir.

3 (The witness stepped down from the witness stand.)

4 THE COURT: All right. Anything further from the State?

5 MS. WHITE: Nothing further, Your Honor.

6 Court's Ruling

7 THE COURT: Okay. All right. I'm — I'm going to respectfully

8 deny the application. Ms. White, I'm not have enough to think that you  
9 should be satisfied with the results of this plea.

10 But everything is in order legally. Your attorney, while he may not  
11 have spoken to you as much as you wanted him to and communicated as  
12 much as you wanted to, the results of this plea were within the range of what  
13 could have happened.

14 And also I would suggest to you that perhaps, given the additional  
15 charges that were outstanding, and the fact that it was only 20 years, is to  
16 your benefit. Had you gone to trial on this matter and had — and had you  
17 been convicted — and it sounds like there was pretty significant evidence of  
18 your guilt, then, the results could have been significantly worse, significantly  
19 worse.

20 In these types of hearing, you know, all I can do is look at the  
21 transcript. Now, in a guilty plea, I look and see did the judge ask all of the  
22 right questions and did you respond appropriately.

23 And, when I look at page 13, lines 8 through 22, it's clear that the judge  
24 said in the hearing, "I can sentence you to anything between 10 and 30 years,  
25 whatever I think is appropriate; do you understand that, that sentencing range

1 and that is my decision to make?" And you just — you replied, "Yes, sir,"  
2 which suggests that you knew that you could get between 10 and 30 years.

3 Again, I don't expect you to be satisfied with the sentence, but the  
4 record would demonstrate that you clearly knew that there was a range of 10  
5 to 30 years. And that you clearly and intelligently waived all of your  
6 constitutional rights, to include your right to a trial by jury and the right to  
7 challenge all of that evidence.

8 I see further in the record as well where you readily acknowledged the  
9 facts and allegations as they were presented by the State with the exception  
10 of something that was fairly innocuous related to the armed robbery charge.

11 So in this case, in — in looking at the law, you just don't have a case. I  
12 don't want you to — I don't want to just dismiss it and tell you go away and  
13 think that I haven't looked at it and I haven't considered it.

14 But, in this case, it's clear that all of your constitutional rights were  
15 protected. And that Mr. Welchel did a fine job.

16 He looked at everything appropriately. Now, whether he  
17 communicated to you well or not is another matter. And I don't take any  
18 position on that.

19 But, from a legal perspective, his — his representation was not  
20 deficient, okay? I wish you luck, ma'am.

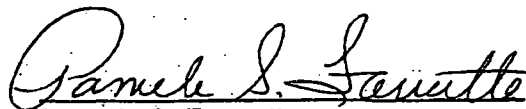
21 (Whereupon, the proceeding concluded at 11:07 a.m.)  
22  
23  
24

**REPORTER'S CERTIFICATE**

I, the undersigned **PAMELA FAUCETTE**, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that I acted as the court reporter at the foregoing proceeding; that the foregoing pages, numbered 1 through 21; were transcribed by me and represent a true and accurate transcript of said proceeding to the best of my knowledge and belief.

I do further certify that I am not of counsel for or in the employment of either of the parties to this action, nor am I interested in the results of this action.

June 8, 2014



Pamela S. Faucette  
Official Court Reporter  
Seventh Judicial Circuit

STATE OF SOUTH CAROLINA )

COUNTY OF SPARTANBURG )

Andrea Waylisha White, #328460, )

Applicant, )

v. )

State of South Carolina, )

Respondent. )

IN THE COURT OF COMMON PLEAS  
SEVENTH JUDICIAL CIRCUIT

2012-CP-42-2879

**ORDER OF DISMISSAL**

This matter comes before the Court by way of an Application for Post-Conviction Relief filed July 6, 2012. The Respondent made its Return on or about July 25, 2013. An evidentiary hearing into the matter was convened on November 14, 2013, at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by J. Brandt Rucker, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

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

CLERK  
SPARTANBURG  
2014 MAR -  
M. HOPE  
LACKLEY

**PROCEDURAL HISTORY**

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted at the July 2010 term of the Spartanburg County Grand Jury for armed robbery (2010-GS-42-4315). The Applicant was represented by Richard Whelchel, Esquire. On August 22,

*R 127*

2011, the Applicant pled guilty as indicted. The Applicant was sentenced by the Honorable J. Derham Cole to confinement for twenty (20) years for armed robbery.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. The South Carolina Court of Appeals dismissed Applicant's appeal by Written Order filed October 22, 2011. The Remittitur was sent down on November 16, 2011.

### ALLEGATIONS

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

1. Ineffective assistance of counsel.
  - a. "My attorney was not prepared for my court appearance. We spoke only twice out of 15 months while in county jail."

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

#### Ineffective Assistance of Counsel

The Applicant alleges she received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRPC). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial

process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

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

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland).

Applicant testified that she is currently serving twenty years for armed robbery and asks this Court to reduce her sentence or order a new trial. Applicant testified that Counsel never reviewed the discovery materials with Applicant. Applicant also testified that she believed there was an issue with the identification since she was shown to the victims in handcuffs. Based upon what Counsel told her and the fact that this was her first violent crime, Applicant believed that she would receive a sentence of ten years. However, Applicant acknowledged that Counsel never promised a sentence of ten years, but indicated because of no prior record of violent crime,

he hoped she would receive ten years. Applicant testified she is not sure if Counsel appealed the guilty plea.

Counsel testified that he is unsure of how many times he met with the Applicant, but he knows that he reviewed the discovery materials with the Applicant. Counsel testified that there were potentially issues with the show-up identification, but the victims' property was found on the ground where Applicant and her co-defendant were arrested. Counsel testified that there was no gunshot residue found on either of the defendant's hands. If Applicant had proceeded to trial, Counsel testified that he would have requested a Neil v. Biggers hearing. Although Counsel testified that he did not think they would have won. Counsel testified that the State originally offered the plea that Applicant pled to, but he had countered with a plea to common law robbery, which the State turned down. Counsel testified that he never promised a sentence of ten years, but did discuss the range of sentencing, particularly because she had no real record.

This Court finds the testimony of Counsel to be more credible than the testimony of the Applicant. Following testimony and review of the transcript, it is clear that Counsel had reviewed the facts and evidence, as well as the options that Applicant faced with her. The "brevity of time spent in consultation, without more, does not establish that counsel was ineffective." Easter v. Estelle, 609 F.2d 756, 759 (5th Cir. 1980). To establish counsel was inadequately prepared, an Applicant must present evidence of what counsel could have discovered or what other defenses could have been pursued had counsel been more fully prepared. Jackson v. State, 329 S.C. 345, 495 S.E.2d 768 (1998); Skeen v. State, 325 S.C. 210, 481 S.E.2d 129 (1997) (applicant not entitled to relief where no evidence presented at PCR hearing to show how additional preparation would have had any possible effect on the result at trial). The Applicant failed to point to any specific matters Counsel failed to discover, or any

defenses that could have been pursued had Counsel been more fully prepared or spent more time preparing. Furthermore, the Applicant failed to show any prejudice that may have resulted from Counsel's alleged inadequate preparation. This Court reviewed the record and it is clear that the court reviewed the ten to thirty year sentencing range with Applicant, along with the fact that she would be giving up the right to contest the evidence. The plea colloquy was complete and this Court finds no evidence that the plea was involuntary or unknowing. (Tr. p. 13, lines 8-22).

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

#### *Summary*

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

~~Accordingly, this Court finds the Applicant has failed to prove the first prong of the~~  
Strickland test - that Counsel failed to render reasonably effective assistance under prevailing

professional norms. The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of the Applicant.

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

### CONCLUSION

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

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

**IT IS THEREFORE ORDERED:**

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

**AND IT IS SO ORDERED** this 5 day of MARCH, 2014.

  
Robin B. Stilwell  
Presiding Judge

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2014 MAR -6 PM 3:18  
M. HOPE BLACKLEY

WITNESSES

Spartanburg Public Safety Department

1. SENTENCE *10-65-42*

2. REPORT ENDED *10-65-42*

3. CARD PULLED *10-65-42*

4. INDEXED *10-65-42*

5. CHECKED WARRANTS *10-65-42*

6. CHECKED SIGNATURE *10-65-42*

7. ASSESSMENT FOR FINES *10-65-42*

8. TRAFFIC VIOLATION COPY *10-65-42*

M121043 - Count One  
Direct Indictment - Count Two

ACTION OF GRAND JURY

*James White*

Foreperson of Grand Jury  
Date: *7-22-10*

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. *10-65-42*

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUL 26 2010

TERM

THE STATE  
vs.

ANDREA WHITE

Count Two (Weapons) - Noelle Prassler

Pled Guilty to Armed Robbery

*James O. E.*  
8-22-11

Indictment for

ARMED ROBBERY AND POSSESSION  
OF WEAPON DURING COMMISSION  
OF A VIOLENT CRIME

SC Code: 16-11-330 (A); 16-23-490

CDR Code: 139; 549

Class: FEL/A; FEL/F

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2010 JUL 27 PM 3:48  
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SPARTANBURG )

INDICTMENT

At a Court of General Sessions, convened on                      <sup>III 22 2010</sup> the Grand

Jurors of Spartanburg County present upon their oath:

**COUNT ONE - ARMED ROBBERY**

That Andrea White did in Spartanburg County on or about May 27, 2010, while armed with a deadly weapon, or while alleging either by action or words she was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, feloniously take property and/or currency from the person or presence of Terrica Mayes, to wit: a purse and/or a cell phone and/or jewelry and/or keys and/or a sum of currency, by means of force, violence, and/or intimidation with the intent to deprive her permanently of such property, in violation of §16-11-330 (A), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

**COUNT TWO – POSSESSION OF WEAPON DURING  
COMMISSION OF A VIOLENT CRIME**

That Andrea White did in Spartanburg County on or about May 27, 2010 possess or visibly display a firearm or what appeared to be a firearm during the commission of a violent crime, to wit: ARMED ROBBERY, in violation of Code § 16-23-490, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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

  
\_\_\_\_\_  
ASSISTANT SOLICITOR