

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Marion County

William H. Seals, Jr., Circuit Court Judge

RECEIVED

SEP 17 2014

S.C. Supreme Court

SHALLA MARSHALL,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000011

APPENDIX

BENJAMIN JOHN TRIPP
Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

JOSHUA L. THOMAS
Assistant Attorney General
P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA)	
)	COURT OF GENERAL SESSIONS
COUNTY OF FLORENCE)	2011-GS-241-0446
)	
)	
)	
State of South Carolina))
)	
vs.)	TRANSCRIPT OF RECORD
)	
Shallah A. Marshall))
<u>DEFENDANT</u>)	August 8, 2011
		Florence, South Carolina

B E F O R E:

THE HONORABLE MICHAEL G. NETTLES, JUDGE.

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

JOHN JEPERTINGER, DEPUTY SOLICITOR
Attorney for the State

VICK MEETZE, ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant

KESHIA REED
Official Court Reporter

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I N D E X

(WHEREUPON, there were no witnesses called.)

1 MR. JEPERTINGER: May it please the Court, Your
2 Honor. We're here on 2011-GS-21-446. It's a crime for
3 which Mr. Marshall is being charged with today. Today's
4 crime it's -- he's pleading to arm robbery. He's also
5 pleading to 2011-GS-21-0439 with attempted arm robbery.
6 He's also pleading on 2011-GS-21-0428 with arm robbery.
7 He's pleading to 2011-GS-21-0441 with attempted arm
8 robbery. And finally, on 2011-GS-21-0443, he's pleading
9 to arm robbery, Your Honor. The State and the defense
10 negotiated a 15 year sentence, concurrent on all these
11 charges, Your Honor.

12 In terms of victims, we do have the victims for
13 Mr. Deshawn Lee, who represents Kangaroo for today was
14 here. In terms of victim notification in other cases, we
15 have sent impact statements, only one other individual
16 returned his impact statement and that was a gentleman
17 from Baldwin, New York. We will contact him with the
18 results. He had a bit of reluctance to drive all the way
19 with gas being four dollars a gallon to come down to South
20 Carolina again.

21 THE COURT: Very good. Mr. Meetze, do you
22 represent Mr. Marshall?

23 MR. MEETZE: I do, Your Honor.

24 THE COURT: You explain to him the offense of
25 arm robbery? The fact that the sentence carries with it a

1 minimum mandatory -- minimum ten, maximum 30 years,
2 attempted arm robbery zero to 20 years. Yet, another
3 separate and distinct arm robbery for which he could
4 receive ten to 30, another attempted arm robbery, the fact
5 that he could receive up 20 and yet another separate and
6 distinct arm robbery for which he could receive minimum
7 mandatory ten maximum 30?

8 MR. MEETZE: I been over that with him, Your
9 Honor.

10 THE COURT: Does he understand the elements of
11 each of these offenses, potential defenses and his
12 Constitutional Rights?

13 MR. MEETZE: He does.

14 THE COURT: Does he understand that arm robbery
15 is a violent, most serious offense subject to the two and
16 three strike rule?

17 MR. MEETZE: He does.

18 THE COURT: And does he understand that
19 attempted arm robbery is a most serious, violent offense
20 as well?

21 MR. MEETZE: He does.

22 THE COURT: Does he understand the collateral
23 consequences of this plea which include but are not
24 limited to the fact that a violent offense adversely
25 affects his custody status and that he will serve this

1 sentence day for day subject to the 85 percent rule?

2 MR. MEETZE: He does.

3 THE COURT: Does he understand that it's a
4 non-parolable offense and that he will be subjected to
5 community supervision upon his release?

6 MR. MEETZE: He does.

7 THE COURT: All right. Do you understand all
8 these things, Mr. Marshall?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. Let's place Mr. Marshall
11 under oath if we could.

12 THE CLERK: Do you swear to tell the truth, the
13 whole truth, and nothing but the truth so help you God?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Mr. Marshall, are you under the
16 influence of any drugs or alcohol here today?

17 THE DEFENDANT: No, sir.

18 THE COURT: You experiencing any kind of
19 physical or mental problem that could prevent you from
20 understanding what's going on here today?

21 THE DEFENDANT: No, sir.

22 THE COURT: Pay very close attention as the
23 State summarize the facts that bring us here today.

24 MR. JEPERTINGER: Your Honor, most of these
25 crimes happened as a spree on the evening hours of

1 August 21st and earlier mornings of August 22nd, only one
2 of the arm robberies happened three days later. On
3 August 21st and August 22nd, Your Honor, it's the State's
4 contention that this gentleman, another individual by the
5 name of Allen Damon and another by the name of David Brown
6 got into David Brown's sister's vehicle and decided to
7 commit a series of arm robberies in and about the
8 community.

9 Your Honor, they left the June Lane apartments
10 somewhere late on August 21st and here in Florence County
11 and made their way to either Sleep Inn or the Courtyard by
12 Marriott two hotels. At the Courtyard by Marriott, they
13 tried to rob at gun point one Peter Segalman, who's from
14 Baldwin, New York. They weren't successful in getting
15 things off of him. Subsequently -- and I might be getting
16 the chronology of the hotels wrong. They went over to the
17 Sleep Inn, Your Honor, where they met a gentleman by the
18 name of Aveeve (sic) Grover, who's from the Maryland area.
19 They robbed him at gun point, did get about, I think,
20 slightly \$20 off of him.

21 Then thereafter they decided to go and -- the
22 first place they went to was a place called Breakers.
23 It's near the Five Points area here in Florence not too
24 far -- I guess, it's the Shell Station, I could be wrong
25 about that and they -- I don't think they decided to do

1 anything with that. Then they decided to head down from
2 there down Cashua to the Kangaroo. And they saw the
3 police buzzing around that Kangaroo at Cashua and Second
4 Loop, decided not to do that. They did decide to go to
5 the Kangaroo over on Second Loop and Damon. Once in there
6 and the people that went in there would be Allen Damon,
7 who is the gunman and this gentleman. The third guy David
8 Brown -- I believe, in all these instances was the
9 get-away driver. They went in and basically got
10 Mr. Deshawn Lee got him down on the ground with a gun, you
11 know, you get robbed. You can imagine the language
12 they're using to open up the cash register and they took
13 slightly over \$100 from that location and they left that
14 area.

15 After they robbed that place at gun point, they
16 went back to the Kangaroo on Cashua and Second Loop. At
17 that point, it was their intents and purposes to arm rob
18 that place. At that point somewhere, Damon change his
19 shirt from the robbery because he had been wearing a green
20 shirt and he put on a red shirt. And apparently, he gave
21 Mr. Marshall the gun to do this lick as Damon told me.
22 But at that point, the police went over there and they,
23 you know, drew down on them. And Brandon Hail identified,
24 obviously, Damon who was caught on the scene and he
25 identified Mr. Marshall via photo lay down later as the

1 person he saw run away from the scene. Hail did not see
2 the get-away driver. The get-away driver left. I don't
3 know if Marshall left with him or if he left on foot, but
4 that was the attempted arm robbery. They were going to
5 rob the Kangaroo on Second Loop and Cashua at that point.
6 But that was pretty much it, Your Honor, in terms of the
7 spree.

8 Now, after Damon got arrested, he was arrested
9 on the early morning hours of August 22nd. Mr. Shallah
10 Marshall went over to the We Buy Gold store and We Buy
11 Gold is located over on 400 Pamplico Highway. And there
12 they took or he took \$639 worth of cash from We Buy Gold
13 by pointing a handgun at the person there. And he also
14 stole a bank bag and a cell phone from Tristan, the
15 individual there. And we believe that he had some help in
16 that instance. We're thinking that it was also David
17 Brown the person that wasn't originally caught, the real
18 man that may have driven him over there and they did it
19 without Damon, who, of course, was locked up at that time.

20 Shortly, thereafter, the police went over to
21 June Lane where this whole thing started. And they caught
22 both Brown and Marshall. They were together. Marshall
23 initially ran from the police when they got there. They
24 got them. They did find a sum of \$200 on him. I don't
25 know which one we could link that too, Your Honor, cause

1 he had just had hit the We Buy Gold the night before for
2 \$639, but he had \$200 on him when he got stopped. A lot
3 of the other stuff that was taken like the cell phones and
4 bank register bank bag was not found.

5 THE COURT: All right. Mr. Marshall, you've
6 heard those facts. Are those facts true?

7 THE DEFENDANT: No, sir.

8 THE COURT: Okay. Let me ask you this way, are
9 you in fact guilty of three separate and distinct counts
10 of arm robbery?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. Are you guilty of the
13 arm robbery that took place on 8-21-2010?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. Are you guilty of the
16 arm robbery that took place on 8-25-2010?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Are you guilty of arm robbery that
19 took place on 8-22-2010?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. And are you guilty of
22 attempted arm robbery that took place on 8-21-2010?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And the attempted arm robbery on
25 8-22-2010?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. Apparently, there's some
3 facts that have been related to the Court that you
4 disagree with, but to the extent that you -- that he's
5 related to the Court, do you agree with the substance of
6 what he said that you are indeed guilty of these offenses?

7 THE DEFENDANT: Yeah, but as far as like, I
8 agree that, yeah, I had something to do with all of those
9 charges, but David Brown he ain't had nothing to do with
10 none of those charges.

11 THE COURT: Okay, but with the exception of the
12 fact that David Brown didn't have anything to do with it,
13 you aren't saying that you're not guilty of it, are you?

14 THE DEFENDANT: Yeah, like David Brown had
15 nothing to do with it.

16 THE COURT: No, I'm saying are you guilty of it
17 is the point. I don't care about David Brown. What I
18 want to know is what Mr. Jupertinger said about you
19 correct, are you indeed guilty of these offenses?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Okay. Very good. I'll allow you
22 and your lawyer at a later point in time in this plea to
23 clarify whatever facts that you disagree with in a later
24 date and time. But my point is I want to make sure that
25 you are indeed guilty before I accept the plea. You

1 understand that don't you?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And you are indeed guilty?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: All right. You standing before me
6 pleading guilty, but you don't have to plead guilty to
7 anything. You could exercise your right to a jury trial.
8 In that process, the jury would determine whether or not
9 the State could actually prove you guilty beyond a
10 reasonable doubt. I will charge the jury as a matter of
11 law that you're presume to be innocent. No one could
12 require that you take the witness stand. However, if you
13 wanted to you could and you could subpoena witnesses on
14 your own behalf. In addition to that, you and your lawyer
15 could cross-examine the State's witnesses. You have an
16 opportunity to eyeball them and confront them as they
17 testified against you. Do you realize by pleading guilty
18 you giving up all these rights?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: You still wish to plead guilty?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Are you indeed guilty?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And you understand that we already
25 got a jury impanel for this case and you willing to give

1 up your jury trial rights?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. Plea negotiations that I
4 understand, Mr. Jepertinger, and correct me if I'm wrong,
5 that there's a negotiated 15 year sentence to run
6 concurrent?

7 MR. JEPERTINGER: That is correct.

8 THE COURT: Is that right, Mr. Meetze?

9 MR. MEETZE: Yes, Your Honor.

10 THE COURT: Is that your understanding,
11 Mr. Marshall?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. And, of course,
14 Mr. Marshall, you understand that if I accept this plea,
15 that you will get 15 years? You want get any more and you
16 want get any less. You understand that, don't you?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. Are you satisfied with
19 your lawyer?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Have you understood all your
22 conversations with him?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Any complaints with him whatsoever?

25 THE DEFENDANT: No, sir.

1 THE COURT: All right. Has anybody promised you
2 anything, threatened you, pressured you in any way in an
3 effort to get you to plead guilty here today?

4 THE DEFENDANT: No, sir.

5 THE COURT: All right. You understand that you
6 have ten days to appeal any decision I might render here
7 today?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Based on your testimony, I find
10 there's a substantial factual basis for your plea, that
11 your decision was freely and voluntarily entered into,
12 knowingly and intelligently with the consent of competent
13 counsel with whom you say you are satisfied.
14 Mr. Marshall, you've understood all my questions, haven't
15 you?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And your answers have been truthful?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. Be glad to hear from you
20 and your lawyer?

21 MR. MEETZE: Thank you, Your Honor. May it
22 please the Court. Your Honor, I represented Mr. Marshall
23 since he was arrested on the charge. We've spoke a number
24 of times about these cases. Your Honor, from what we know
25 about everything was some of these are on video, some of

1 the videos are very good as far as what happened. Some
2 are not. There's one video from one of the attempted arm
3 robberies that the angle of the video is from inside the
4 hotel through a glass door outside where you can see a
5 scrumb out there, but you can't see exactly what happened.
6 But the co-defendant, Allen Damon, did make a statement in
7 this case. And in all of those statements with the
8 exception of the last, the last Kangaroo, which is an
9 attempted arm robbery charge, Mr. Damon was the one that
10 had the gun in all of those instances. Mr. Damon
11 indicated to Mr. Marshall was one the with him on those,
12 that David Brown was always the driver according to Allen
13 Damon's statement.

14 But in any event with the exception of the last
15 one where Allen Damon was apprehended, he did not have a
16 gun on him at that time. He did at the other ones and
17 certainly the video of the Kangaroo that was being called
18 to trial today, Allen Damon is the one that had the gun
19 pointed in Mr. Lee's face, was making demands from the
20 video. All of the shouting and all the demanding would
21 appear came from Allen Damon and not from Mr. Marshall.

22 Your Honor, he's done 348 days in jail. We
23 would ask that he receive credit for that time served.
24 And just one other thing, Your Honor, I would like put on
25 the record, the last incident they were basically stopped

1 walking from apartments adjacent to the Kangaroo on Second
2 Loop and Cashua. Prior to entering the store or doing
3 anything like that, nobody had -- no weapon been branded
4 at that point. No demands had been made for more money or
5 no potential victim was approached at that point in time.

6 Your Honor, I did do research in that regard as
7 to whether or not those actions would constitute enough
8 actions for the charge of attempt, I did find some federal
9 case law that I felt was on point. That federal case law
10 dealt with a bank robbery, but other than that, I thought
11 it was very much on point with these facts. And I do
12 believe that those facts would have been sufficient to
13 sustain a conviction of guilty in that case and
14 comfortable going forward with him pleading to that charge
15 as well even based on the little bit of action that was
16 done towards that end in that instance. Other than that,
17 Your Honor, I agree with his decision to enter his plea
18 and we would ask the Court to accept the negotiation.

19 THE COURT: All right. Mr. Marshall, it's not
20 necessary that you speak, but I be glad to hear anything
21 you got to say.

22 THE DEFENDANT: I just want to, you know, for
23 the victim, I just want to tell, you know, I apologize for
24 my involvement, things get hard. I just had a son born, I
25 just really trying, you know, make things, you know. Like

1 walking from apartments adjacent to the Kangaroo on Second
2 Loop and Cashua. Prior to entering the store or doing
3 anything like that, nobody had -- no weapon been branded
4 at that point. No demands had been made for more money or
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21 you got to say.

22 THE DEFENDANT: I just want to, you know, for
23 the victim, I just want to tell, you know, I apologize for
24 my involvement, things get hard. I just had a son born, I
25 just really trying, you know, make things, you know. Like

1 With regards to indictment 2011-GS-21-0443 arm
2 robbery, the sentence of the Court is you be committed to
3 the state department of corrections for a period of 15
4 years, sentence run concurrent, credit for 348 days.

5 With regards to indictment 2011-GS-21-0446 arm
6 robbery, sentence of the Court is you be committed to the
7 state department of corrections for a period of 15 years,
8 sentence run concurrent, credit for 348 days. Good luck
9 to you, Mr. Marshall.

10 END OF REQUESTED TRANSCRIPT

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County of McCormick

IN THE COURT OF COMMON PLEAS

SHALLAH MARSHALL #327284

2012 CP 21-3289

Full name and prison number (if any) of Applicant

DEC 13 PM 10:54

v.

CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

APPLICATION FOR

State of South Carolina

POST-CONVICTION RELIEF

CERTIFIED: A TRUE COPY
Carmie Reel-Shearin
CLERK OF COURT
FLORENCE COUNTY, SC

INSTRUCTIONS B READ CAREFULLY

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

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

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

1. Place of detention McCormick CORR. INST 386 Redemption Way
McCormick S.C. 29899
2. Name and location of Court which imposed sentence Florence County
General Sessions
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) M-272460 Armed Robbery

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

(a) August 8, 2011

(b) 15 yr sentence

(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?

Counsel informed me he would appeal, But he did not

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

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

i

ii

iii

N/A

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

i

ii

iii

N/A

(c) the date of each such result:

i

ii

iii

N/A

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

i

ii

iii

N/A

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

(a) Counsel informed me he would appeal, but he did not

- (b) _____
- (c) _____

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

- (a) Applicant was denied the right to effective assistance
- (b) of counsel, guaranteed by the Sixth and Fourteenth
- (c) amendments of the United States constitution

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

- (a) Counsel informed me I would receive a sentence of
- (b) 10 yrs in exchange for a guilty plea, however I
- (c) plead guilty and received 15 yrs counsel failed to object to said

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 Ayes@ 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. _____
- (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. _____

10. If any grounds set forth in (10) were not previously presented, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) Counsel informed me he would appeal my guilty
- (b) plea, but he did not. I just discovered I
- (c) had no appeal pending therefore I filed this per.

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

- (a) your arraignment and plea? yes
- (b) your trial, if any? _____
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Counsel informed me he would appeal, but he did not
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? No

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

- (a) the name and address of each attorney who represented you:
 - i VICK METTEZE Florence County public defender
 - ii _____
 - iii _____
- (b) the proceedings at which each such attorney represented you:
 - i plea
 - ii _____
 - iii _____

24 19. State clearly the relief you seek in using this application.

Correct sentence. The only reason I gave up my rights to have my case tried by jury my attorney advised me I would receive a sentence of 10 yrs if I plead guilty.

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

NO

Revised 3/2003

STATE OF SOUTH CAROLINA)
)
County of McCormick)

VERIFICATION

I, ✓ S Marshall shallah Marshall, 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.

S. Marshall

SWORN to and subscribed before me this 11 day of December, 2012

Joyce J. Young (L.S.)
Notary Public

My Commission Expires: 10 11 2021

CERTIFIED: A TRUE COPY
Christie Fel. Spivey
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

2012 DEC 13 PM 10:54
CHANDLER REE L-SHEARIN
COP & GS
FLORENCE COUNTY, SC

11 PD

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

I, Shattah Marshall, 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.

Shattah Marshall
Applicant

SWORN or affirmed to and subscribed before me this

11 day of December, 2012.

Jay L Young
Notary Public

My Commission Expires: 10 11 2021

CERTIFIED: A TRUE COPY
Christa Kell
CLERK OF COURT, C.P. & G.S.
FLORENCE COUNTY, S.C.

2012 DEC 13 PM 10:54
CORINNE REEL-SHEARIN
Clerk of Court & G.S.
FLORENCE COUNTY, SC.

STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF COMMON PLEAS
COUNTY OF FLORENCE)	
)	
)	2012-CP-21-3289
)	
Shallah Marshall, 327284)	
)	
Applicant,)	
)	RETURN
)	
v.)	
)	
State of South Carolina,)	
)	
Respondent.)	

Respondent, making its Return to the Application for post conviction relief (PCR) filed December 13, 2012, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Florence County Clerk of Court. Applicant was indicted at the March 2011 term of the Florence County Grand Jury for armed robbery, possession of a weapon during commission of a violent crime and conspiracy (2011-GS-21-428). Vick Meetze, Esquire, represented Applicant.

On August 8, 2011, Applicant pled guilty to armed robbery, and was sentenced by the Honorable Micheal Nettles to eleven years imprisonment. Applicant did not appeal.

Attached herewith and incorporated herein are the records of the Florence County Clerk of Court regarding the subject conviction, and Applicant's SCDC records, and if available, the

transcript. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. "Ineffective assistance of counsel"

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, 80 L.Ed.2d 674. 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 counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second,

counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

Respondent submits that 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, 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.

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

V.

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

VI.

WHEREFORE, having made its Return, the State requests that the Application be denied and the matter dismissed with prejudice.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

TYSON ANDREW JOHNSON, SR.
Assistant Attorney General

By: 

ATTORNEYS FOR RESPONDENT

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

3/8, 2013.

STATE OF SOUTH CAROLINA)	COURT OF COMMON PLEAS
)	TWELFTH JUDICIAL CIRCUIT
COUNTY OF FLORENCE)	CASE NO. 2012-CP-21-03289
)	
SHALLAH MARSHALL,)	
)	
Plaintiff,)	
)	
-vs-)	TRANSCRIPT OF RECORD
)	
STATE OF SOUTH CAROLINA,)	
)	
Defendant.)	
)	
<hr/>		
		October 7, 2013
		Marion, South Carolina
B E F O R E:		
THE HONORABLE WILLIAM H. SEALS, JR., Judge		
A P P E A R A N C E S:		
FRANK CLAYTON SWAGGARD, Esquire		
Attorney for the Plaintiff		
JOSHUA THOMAS, Esquire		
Attorney for the Defendant		
KRYSTAL J. SMITH		
Court Reporter		

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I N D E X

WITNESS/DESCRIPTION PAGE NUMBER

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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(No Exhibits Presented)

1 OCTOBER 7, 2013

2 (WHEREAS this matter was scheduled for a post-conviction
3 relief hearing, the applicant appeared along with his
4 counsel of record. The hearing began at 12:26 p.m.)

5 THE COURT: Take a seat, Mr. Marshall. All right. Let's
6 go ahead and swear in Mr. Marshall.

7 THE CLERK: Mr. Marshall?

8 THE COURT: Please stand.

9 THE CLERK: Stand up for me. Do you swear or affirm to
10 tell the truth, the whole truth, and nothing but the truth, so
11 help you God?

12 THE APPLICANT/PLAINTIFF: Yes, ma'am.

13 THE CLERK: Okay. You can have a seat.

14 THE COURT: All right.

15 MR. THOMAS: Thank you, Your Honor. May it please the
16 Court. The next case before the Court is Shallah Marshall
17 versus State of South Carolina. It's Case Number 2012-CP-21-
18 3289. Mr. Marshall was indicted in March of 2011 for armed
19 robbery, attempted armed robbery, armed robbery, attempted
20 armed robbery. He was represented on those charges by Vic
21 Meetze. He pled on August 8th, 2011. The Honorable Michael
22 Nettles sentenced him to 11 years imprisonment on the armed
23 robbery charge. He is present in court today on the attempted
24 armed robbery charge.

25 THE APPLICANT/PLAINTIFF: You say he sentenced me to how

SHALLAH MARSHALL - DIRECT EXAMINATION BY MR. SWAGGARD

1 long?

2 MR. THOMAS: You got 15. I apologize. He was sentenced
3 by the Honorable Michael Nettles to 15 years on the attempted
4 armed robbery charge. He's present in the courtroom today
5 with his attorney, Clay Swaggard.

6 THE COURT: All right. Anything you need to put on the
7 record?

8 MR. SWAGGARD: Your Honor, nothing to put on the record
9 at this time. I believe Mr. Marshall wants to go forward this
10 afternoon.

11 THE COURT: All right. I'm ready whenever you are.

12 MR. SWAGGARD: May it please the Court.

13 THE COURT: Yes, sir.

14 SHALLAH MARSHALL, being first duly
15 sworn, testifies as follows:

16 DIRECT EXAMINATION

17 BY MR. SWAGGARD:

18 Q: Mr. Marshall, could you tell us how old you are?

19 A: Twenty-four.

20 Q: And how long have you been incarcerated?

21 A: About three year and two months now.

22 Q: What were you charged with?

23 A: Originally?

24 Q: Yes, sir.

25 A: Kidnapping, three armed robberies, two attempted armed

SHALLAH MARSHALL - DIRECT EXAMINATION BY MR. SWAGGARD

1 robberies, possession of a weapon during the commission of a
2 violent crime, and that's it.

3 Q: And were you represented by Mr. Meetze of the Public
4 Defender's Office?

5 A: Yes, sir.

6 Q: And did you ultimately plead guilty to one of those
7 charges?

8 A: Yes, sir.

9 Q: And you've heard the attorney general's attorney just say
10 that you got 15 years on that; is that right?

11 A: Yes, sir.

12 Q: A sentence of 15 years on the attempted armed robbery.
13 You filed an application for post-conviction relief; isn't
14 that right?

15 A: True.

16 Q: And in that application, you say that your attorney, Mr.
17 Meetze, was ineffective; is that right?

18 A: I sure did.

19 Q: And you say that he was ineffective because you didn't
20 get the sentence that you thought you were going to get on the
21 plea; is that right?

22 A: No. He was ineffective for more than that.

23 Q: Well ---

24 A: He was ineffective in that he didn't thoroughly
25 investigate my case. He -- he had no ear to the things that I

SHALLAH MARSHALL - DIRECT EXAMINATION BY MR. SWAGGARD

1 pointed out on my case and the whole time it just seemed like
2 he was trying to get me out of his docket or whatever. So I
3 go ahead and plead. The man told me I would do no more than
4 ten years in prison. Upon taking this plea, I found out I had
5 to do twelve years and nine months, at least eighty-five
6 percent, before I could even be eligible to go anywhere or do
7 anything. The man told me he was going to file for an appeal.
8 He never filed for appeal.

9 Q: Those are the two issues that you've laid out in your
10 application for post-conviction relief, that you thought you
11 were going to get ten years, but you got fifteen, and that you
12 were told an appeal would be filed, but one was never filed.

13 Is that right?

14 A: Yeah.

15 Q: Did you have a conversation with Mr. Meetze where he told
16 you you would only do ten years?

17 A: No. He didn't say I would only do ten years. He said he
18 would do no more than ten years of the fifteen. He said they
19 got programs and all type of stuff that he thought he wouldn't
20 even do that.

21 Q: Okay. What about this issue of filing an appeal? Did
22 you -- did he tell you he would file an appeal on your case?

23 A: Yes.

24 Q: Did you ask him to file an appeal in your case?

25 A: Yes. He asked me right after -- after court. Right

SHALLAH MARSHALL - DIRECT EXAMINATION BY MR. SWAGGARD

1 after court when we were in the room, he said you want to file
2 an appeal and I said yeah. He said I have ten days or
3 something like that, eleven days or something.

4 Q: And was an appeal ever filed to your knowledge?

5 A: No.

6 Q: Mr. Marshall, you understand that if the judge were to
7 grant this post-conviction relief, the only thing that you
8 could get is a new trial; you understand that?

9 A: I understand now.

10 Q: And do you understand that if you were to be granted
11 post-conviction relief, if you were to have a new trial, that
12 all those charges that you read off at the beginning of me
13 asking you questions would come back up and you could be put
14 on trial for all of those?

15 A: True.

16 Q: You understand that you could do significantly more than
17 15 years?

18 A: I understand.

19 Q: You understand that, but you -- you say that Mr. Meetze
20 was ineffective in that he didn't appeal your case after you
21 pled guilty and in that he didn't investigate your case and
22 that he told you you would only do ten years on the fifteen
23 that you pled to; is that right?

24 A: Yeah, along with other things.

25 Q: Well, what sort of other things?

SHALLAH MARSHALL - DIRECT EXAMINATION BY MR. SWAGGARD

1 A: The whole proceeding of how he went about representing
2 me, he was just -- I don't think it was proper. I don't think
3 that because, you know, he -- my co-defendant, you know, they
4 brought us in the same room, you know, his co-defendant, my --
5 well, my co-defendant's attorney, I think her name was Karen
6 Parrott. She and him went with me with him and they both
7 asking us questions like -- you know, they was like trying to
8 basically get both of us just to plea. You know what I'm
9 saying? It wasn't no investigation done. It was not
10 followed. You know what I'm saying? It wasn't proper. They
11 -- the whole time he was representing me, the man never took
12 time to -- okay, I see this. I observe this. There was none
13 of that. It was just more like, well, you're going to court
14 this day. Like he was doing the least he could do and he was
15 trying to get me off the docket or something I mean.

16 Q: How many times did you meet with Mr. Meetze?

17 A: He came to the county about three times, three or four
18 times I think, yeah, within a year.

19 MR. SWAGGARD: Your Honor, I have no questions.

20 THE COURT: All right. Cross?

21 CROSS EXAMINATION

22 BY MR. THOMAS:

23 Q: Good morning, Mr. Marshall.

24 A: Good morning.

25 Q: Let's see. You said you met with your attorney three or

SHALLAH MARSHALL - CROSS EXAMINATION BY MR. THOMAS

- 1 four times?
- 2 A: Precisely I'm not sure.
- 3 Q: That's fine. When you met with him, you recall just
- 4 reviewing sort of the State's discovery motion; don't you?
- 5 A: Excuse me?
- 6 Q: Do you recall reviewing the State's discovery with Mr.
- 7 Meetze?
- 8 A: Reviewing the State's discovery?
- 9 Q: The witness statements, the videos. Did you ever look at
- 10 any of that with Mr. Meetze?
- 11 A: There wasn't no witness -- well, yeah, some of the
- 12 witness statements. He showed me a couple of things, but it
- 13 was not -- I didn't have my whole file the whole time. Even
- 14 after I went to trial I never got my whole file.
- 15 Q: Okay. Well, when you -- did you also get a chance to
- 16 discuss with him any sort of possible defenses you might have
- 17 to these charges?
- 18 A: Defenses? Could you elaborate more on that?
- 19 Q: Did -- when you met with Mr. Meetze, did you tell him
- 20 that you had any possible defenses to the charges?
- 21 A: Yeah. I pointed out some things that I didn't agree
- 22 with, things that I saw that was not right exact.
- 23 Q: And did you then give him any potential leads to follow
- 24 up on to investigate?
- 25 A: Yeah.

SHALLAH MARSHALL - CROSS EXAMINATION BY MR. THOMAS

1 Q: And what were those leads?

2 A: Well, I showed him -- I pointed out a case. I have it
3 here. I pointed out a case to him. When the victim described
4 the guys who robbed him and I'm only like 5'4" and the victim
5 5'7" and he pointed out the guys was 6'1" and 5'9", 5'10"
6 5'11", whatever he said. 5'10" I think and 250 and, you know,
7 also seeing how they changed my weight and height to fit the
8 description of the victim -- of the victim's description of
9 the guy who robbed him, and I'm not 5'9" and 200 and that's
10 what they changed my -- they changed my weight for that. The
11 victim never once pointed me out in saying that I robbed -- I
12 was with him or that I robbed them. My co-defendant pointed a
13 finger my way saying I was with him and I pointed out that my
14 co-defendant has a vendetta against me. My son's mother -- he
15 wanted to get with my son's mother before I even met my son's
16 mother. This guy said it himself on the audio that they asked
17 him. He said, yeah, well, I had -- I have a crush on this --
18 on this girl. Something he said about a crush he had on her.

19 And I pointed these things out like this. Okay, the man
20 already had a reason to point me out to be with him during
21 this robbery and then the victim never pointed me out in
22 saying that I robbed him. So why y'all -- I mean could you
23 investigate that? Could you see further in that? You know,
24 is that significant to you? And the whole time he just
25 brushed everything I pointed at him off. He just brushed it

SHALLAH MARSHALL - CROSS EXAMINATION BY MR. THOMAS

1 off like, you know, that's irrelevant. You know, that don't
2 matter.

3 Q: In talking about your co-defendant, the day your co-
4 defendant was arrested, you were with him at the time he was
5 arrested; correct?

6 A: I had three -- I had two co-defendants here.

7 Q: Co-defendant Allen Damon. You were with him the day he
8 was arrested; weren't you?

9 A: I don't know the day he was arrested.

10 Q: All right. Well, let's go back to -- to your
11 relationship with Mr. Meetze. Do you remember discussing with
12 him any plea offers the State made?

13 A: No. He -- well, yeah. Yeah. First mentioned to me he
14 said something about 25 years or something like that.

15 Q: And you declined that 25-year offer; didn't you?

16 A: Yeah. I told him I don't -- you know, no.

17 Q: And so when the State came back with this 15-year offer,
18 he discussed that with you; isn't that correct?

19 A: No. The only -- well, during trial day, that's when
20 there was anything about a 15 that was even spoken to me about
21 -- you know, really the man told me that I -- you know, there
22 was no plea after the 25 and the man tell me, you know, you're
23 going to get found guilty when you go to trial. Good luck
24 basically.

25 Q: But you did finally accept a 15-year plea?

SHALLAH MARSHALL - CROSS EXAMINATION BY MR. THOMAS

1 A: Yeah.

2 Q: And on the day of plea, you got to court and the
3 solicitor read off the facts that they were going to use if
4 you had gone to trial; isn't that correct?

5 A: Excuse me?

6 Q: When you were at the plea hearing, you were standing
7 there and the solicitor read off the facts that they were
8 going to use to convict you; didn't he?

9 A: I don't remember.

10 Q: Well, you stood before the judge on the day of the plea;
11 isn't that right? You came to court and stood?

12 A: Yeah.

13 Q: And then the solicitor read off some facts?

14 A: I don't remember that.

15 Q: Would you ---

16 MR. THOMAS: Your Honor, may I approach the witness?

17 THE COURT: Yes.

18 Q: I'm going to show you this. This is the transcript of
19 your plea hearing. Have you ever seen this before?

20 A: No. I was asking for that the whole time and I don't
21 have it.

22 Q: And I believe your attorney has provided you with a copy
23 of the plea transcript. This is the portion where the
24 solicitor read off the facts. Does that ring a bell to you
25 now?

SHALLAH MARSHALL - CROSS EXAMINATION BY MR. THOMAS

- 1 A: Okay. Yeah. He read off the things that I was charged
2 with.
- 3 Q: Right. The burglary at the Kangaroo or the armed robbery
4 at the Kangaroo Express.
- 5 A: Mm-hmm.
- 6 Q: And if you will, if you'll flip through that. You
7 remember after he read off those facts, Judge Nettles asked
8 you if those -- if all of what they had said was true; isn't
9 that correct?
- 10 A: Yeah.
- 11 Q: And you told him that those facts were indeed true?
- 12 A: Yes, I did.
- 13 Q: And then Judge Nettles asked you if you wanted to plead
14 guilty?
- 15 A: Yes.
- 16 Q: And you told him you did?
- 17 A: Yes.
- 18 Q: And you told him you were indeed guilty of what the State
19 accused you of being guilty of?
- 20 A: Yes.
- 21 Q: And then Judge Nettles had an opportunity and he asked
22 you if you had had enough time to discuss your case with Mr.
23 Meetze and you told him that you had enough time to discuss
24 it; isn't that correct?
- 25 A: I'm sure I did.

SHALLAH MARSHALL - CROSS EXAMINATION BY MR. THOMAS

1 Q: And then he asked you if you had any complaints to make
2 against him; isn't that correct?

3 A: I'm sure he asked that, yes.

4 Q: And you said you were satisfied with Mr. Meetze's
5 representation?

6 A: Yes.

7 MR. THOMAS: I believe that's all I have.

8 THE COURT: All right. Anything further?

9 MR. SWAGGARD: No more questions, Your Honor.

10 THE COURT: All right. Do you have any other witnesses?

11 MR. SWAGGARD: We do not, Your Honor.

12 THE COURT: All right. Sounds good. The State can call
13 your first witness.

14 MR. THOMAS: I'd call Vic Meetze to the stand.

15 THE CLERK: Mr. Meetze, will you raise your right hand?

16 Do you swear or affirm to tell the truth, the whole truth, and
17 nothing but the truth, so help you God?

18 THE WITNESS: I do.

19 THE CLERK: Thank you. Have a seat.

20 WILLIAM VIC MEETZE, being first duly
21 sworn, testifies as follows:

22 DIRECT EXAMINATION

23 BY MR. THOMAS:

24 Q: Good afternoon, Mr. Meetze.

25 A: Good afternoon.

WILLIAM VIC MEETZE - DIRECT EXAMINATION BY MR. THOMAS

- 1 Q: Just some brief background stuff. How long have you been
2 practicing law?
- 3 A: Fifteen years.
- 4 Q: And do you recall being appointed to Mr. Marshall's case?
- 5 A: I do.
- 6 Q: When you were appointed to his case, sort of what was
7 your first interaction with him?
- 8 A: Going down to the jail and meeting with him and talking
9 about his case.
- 10 Q: And at that time, had you filed any Rule 5/Brady motions?
- 11 A: We had.
- 12 Q: And did you get a response back from the State?
- 13 A: We did.
- 14 Q: And did you have an opportunity to share that response
15 with Mr. Marshall?
- 16 A: We were able to go over all the discovery.
- 17 Q: And this would have been at one of your meetings with the
18 jail. Do you recall how many times you went down to meet with
19 him?
- 20 A: Exactly, no, but we met plenty of times, both at the jail
21 and at the courthouse.
- 22 Q: And when you had a chance to meet with him, did he sort
23 of give you his version of what had happened on those days?
- 24 A: Sure.
- 25 Q: And what was ---

WILLIAM VIC MEETZE - DIRECT EXAMINATION BY MR. THOMAS

1 A: Well, I say that. He -- he didn't necessarily tell me
2 what happened on those days. He told me -- you know, when we
3 talked about his case and for the longest time he denied
4 involvement and wanted a jury trial, and that was for the
5 longest time the posture we were in and the direction we were
6 headed in the case.

7 Q: I guess briefly so we'll have sort of an idea, what was
8 the State's evidence against Mr. Marshall?

9 A: Well, he had a number of -- of cases, a number of
10 different armed robbery cases. The one that he was being
11 called for trial on the day that he pled was an armed robbery
12 at the Kangaroo on Second Loop Road in Florence. Two people
13 came into the Kangaroo -- one was large, one was small -- and
14 committed an armed robbery. All of that was on video. You
15 could not identify the smaller person on the video of who that
16 person was. You could really only identify size and shape,
17 but there was sound for the video and obviously it was clearly
18 an armed robbery. The larger of the two had the gun. The
19 smaller of the two did not have a gun.

20 After that robbery took place, the clerk called the
21 police and a, you know, be on the lookout was sent out to the
22 City of Florence Police Department and an officer was
23 patrolling not far from that location at another Kangaroo
24 which is on the corner of Second Loop Road and Cashua, saw two
25 folks that sort of fit the description of what he had just

WILLIAM VIC MEETZE - DIRECT EXAMINATION BY MR. THOMAS

1 heard walking from an apartment complex which is adjacent to
2 this second Kangaroo location, walking through the sort of a
3 tree line towards that Kangaroo. He approached those
4 individuals and detained them and after having detained them
5 for a period of time, the larger of the two folks he detained
6 -- well, the smaller of the two took off running and fled.
7 The larger of the two stayed.

8 That person was taken down to the Kangaroo where the
9 armed robbery had just occurred minutes earlier and was
10 identified by the clerk as the individual that had committed
11 that armed robbery. I think a different t-shirt was being
12 worn, but other than that, all of the clothing was the same
13 and everything was the same and that person was identified as
14 the person with the gun that had just committed the armed
15 robbery. That co-defendant gave the police a statement as to
16 who his accomplice was. Mr. Marshall was named as that
17 accomplice and I think also David Brown was named as the
18 driver of the vehicle, and Mr. Marshall was apprehended based
19 on that.

20 They also prior to that armed robbery were charged with
21 an attempted armed robbery from that same evening over I think
22 at a Courtyard by Marriott located over near the Civic Center
23 in Florence. They did not get any property from that
24 individual and that's why that was charged as an attempted
25 armed robbery. But I think Mr. Davis's statement to the

WILLIAM VIC MEETZE - DIRECT EXAMINATION BY MR. THOMAS

1 police implicated himself, as well as Mr. Marshall in that.

2 I think the statement also indicated that that same night
3 they had attempted to -- or they had sort of looked at the
4 Breakers in Florence over on Evans Street, but did not rob
5 that store. Then there was an armed robbery at a hotel on a
6 different occasion. Then Mr. Marshall was also charged in all
7 of these.

8 One of the links between all of these was that the same
9 car being driven on all of these incidents and on the hotel
10 armed robbery, you could see the car pretty clear. I think it
11 was an Isuzu Trooper, sort of a brown or gold-ish Isuzu
12 Trooper, and then there was also an armed robbery from a Cash
13 For Gold drive-through, Cash For Gold located on the Pamplico
14 Highway near the Lowe's there in Florence that also had
15 surveillance. We couldn't identify the individuals from the
16 surveillance. You could sort of see them go to the location
17 and run off and then there was a video from Lowe's that shows
18 the same Isuzu Trooper picking those two individuals up.

19 He was only there to be tried for the first Kangaroo
20 armed -- well, that Kangaroo armed robbery, but when the State
21 offered on the morning of trial a negotiated fifteen year
22 sentence on everything, Mr. Marshall decided to accept that
23 negotiated plea.

24 Q: And so did you go over with him -- when the State offered
25 that plea, did you go over it with him, the consequences of

WILLIAM VIC MEETZE - DIRECT EXAMINATION BY MR. THOMAS

1 it, sort of how it was going to wrap everything up?

2 A: I did.

3 Q: And ultimately, I guess did he indicate to you at that
4 time that he wanted to continue with trial or did you ever
5 think he was wavering in the decision to plead guilty?

6 A: Once he decided to plead guilty, he -- he did not waver
7 at all. He basically was a stand-up guy and admitted
8 everything and did so in court.

9 Q: And I believe -- did you have a chance before the plea to
10 go over with him sort of his constitutional rights, jury
11 trial, and all of that?

12 A: Sure.

13 Q: And did he sort of -- after that, he indicated he still
14 wanted to go forward with the plea?

15 A: He did.

16 MR. THOMAS: I think that's all the questions I have for
17 this witness.

18 THE COURT: All right. Anything further?

19 MR. SWAGGARD: Just very briefly, Your Honor.

20 CROSS EXAMINATION

21 BY MR. SWAGGARD:

22 Q: Mr. Meetze, there are three things that I really want to
23 ask you about and the first is: did you ever discuss the
24 possibility that Mr. Marshall could do ten years, work release
25 time, a ratio or something like that?

WILLIAM VIC MEETZE - CROSS EXAMINATION BY MR. SWAGGARD

- 1 A: No, sir. I -- he was explained the negotiations. Sort
2 of the history as he said on the stand, his initial offer was
3 for 25 years. Sometime subsequent to that, the State made an
4 offer for 18 years and Mr. Marshall was not interested in
5 either one of those. And then as I said, the morning of
6 trial, they did offer the 15 years, which after we discussed
7 that, he admitted he wanted to do that. He understood it
8 would wrap all of his cases up and, you know, it was a
9 negotiated 15 years. He understood that that charge would be
10 subsequent to the -- it would be -- the 85 percent rule would
11 be applicable in that case meaning that he knew that the best
12 he could do would be eligible for release after 85 percent of
13 15 years.
- 14 Q: In that vein and the 85 percent rule, is it possible that
15 you two discussed 85 percent, there was a breakdown in
16 communication, a misunderstanding, and 85 percent somehow
17 through an arithmetic error became ten years?
- 18 A: No, sir. He was not told by me at any time that he would
19 be released after ten years.
- 20 Q: What about this issue of an appeal? Did he ask you to
21 file an appeal?
- 22 A: No, he did not.
- 23 Q: Did you ever tell him that you would file an appeal?
- 24 A: I did not.
- 25 Q: He indicated that one of those witnesses that was so

WILLIAM VIC MEETZE - CROSS EXAMINATION BY MR. SWAGGARD

1 eager to testify against him for reducing might have had a
2 ulterior motive. Did you ever investigate the ulterior
3 motive?

4 A: We had certainly discussed that. That was certainly
5 something that was going to be part of any questioning that I
6 had of that witness whenever that witness testified as part of
7 any cross examination to sort of try to convince the jury that
8 this person was biased, had an axe to grind, that kind of
9 thing.

10 As far as an investigation, that's -- that's as far as
11 that went. I mean I had talked to Mr. Marshall's girlfriend.
12 She was also a potential witness in the case and she would
13 have been able to testify certainly that she knew that
14 individual and all that. From speaking with her, I don't
15 recall exactly what she would have testified to, but I don't
16 think her testimony would have damaged that line of
17 questioning. But I'm sure I advised him and I still believe
18 today that I don't think that would have been a defense that
19 would have been viable in the case. I do think that Mr.
20 Marshall's decision to enter his plea was the correct one.

21 MR. SWAGGARD: I beg the Court's indulgence.

22 THE COURT: All right.

23 MR. SWAGGARD: Your Honor, I have no -- no more questions
24 at this time.

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

26

27

1 MR. THOMAS: No, sir.

2 THE COURT: All right. Call your next witness.

3 MR. THOMAS: That's the State's case.

4 RULING OF THE COURT

5 THE COURT: All right. Based on the trial and the record
6 from the plea, I'm going to deny the post-conviction relief.

7 If you would, prepare me an order.

8 MR. THOMAS: All right. Yes, sir.

9 THE COURT: All right.

10 (Whereupon, the proceedings end at 12:52 p.m.)

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12 --- END REQUESTED TRANSCRIPT ---

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STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

CERTIFICATE

I, the undersigned, Krystal J. Smith, Official Court Reporter for the Twelfth 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 hearing of the above captioned case, relative to appeal, in the Court of Common Pleas for Florence County, South Carolina, held in Marion, South Carolina, on the 7th day of October, 2013.

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

Krystal J. Smith

Court Reporter

Florence, South Carolina

March 31, 2014

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
FOR THE TWELFTH JUDICIAL CIRCUIT

Shallah Marshall, #327284,)
Applicant,)

Case No. 2012-CP-21-3289

v.)

ORDER OF DISMISSAL

State of South Carolina,)
Respondent.)

2013 DEC 10 PM 12:26
FILED
CONNIE REEL-SHEPHERD
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed December 13, 2012. Respondent made its Return on or about March 8, 2013. The Court convened an evidentiary hearing into the matter on October 7, 2013, in Marion County Applicant was present at the hearing and represented by Frank C. Swaggard, Esquire. Joshua L. Thomas, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

Applicant testified on his own behalf at the PCR hearing. Applicant's plea counsel, William V. Meetze, Esquire, also testified. The Court had before it a copy of the plea transcript, the records of the Florence County Clerk of Court, Applicant's records from the South Carolina Department of Corrections, the application, and the return. The Court finds as follows:

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Florence County Clerk of Court. In March 2011, the Florence County Grand Jury issued five indictments against Applicant: armed robbery, possession of a weapon during a violent crime, and conspiracy (2011-GS-21-428); attempted armed robbery and conspiracy (2011-GS-21-439); attempted armed robbery (2011-GS-21-441); two counts of

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Connie Reel-Shepherd
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

armed robbery, possession of a weapon during the commission of a violent crime, and conspiracy (2011-GS-21-443); and armed robbery, kidnapping, and possession of a weapon during the commission of a violent crime. He was represented by William V. Meetze, Esquire ("plea counsel"). On August 8, 2011, Applicant entered a negotiated plea to three counts of armed robbery and two counts of attempted armed robbery. The Honorable Michael G. Nettles sentenced Applicant to fifteen (15) years for each charge, all sentences to run concurrently. Applicant did not appeal his plea or sentence.

II. ALLEGATIONS

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

1. "Applicant was denied the right to effective assistance of counsel, guaranteed by the Sixth and Fourteenth amendments of the United States Constitution
 - a. "Counsel informed me I would receive a sentence of 10 yrs in exchange for a guilty plea, however I plead guilty and received 15 yrs counsel failed to object to sentence"

At the PCR hearing, the Applicant proceeded on the allegation in his application as well as allegations of ineffective assistance of plea counsel for failure to investigate and for failure to file an appeal.

III. SUMMARY OF TESTIMONY

Applicant testified he had multiple charges, but pled guilty to only one charge in exchange for a plea to fifteen years. Applicant testified plea counsel advised him he would do no more than ten (10) years because of programs in the department of corrections. He testified that he was instead doing twelve years because he must serve eighty-five percent of his sentence. Applicant further testified he told plea counsel to file an appeal, but that none was filed.

Applicant also claimed plea counsel was ineffective for allowing the solicitor to meet with Applicant and plea counsel in the presence of one of his co-defendants and the co-defendant's attorney. He alleged plea counsel was only interested in convincing him to plead guilty.

On cross examination, Applicant admitted he met with plea counsel numerous times and discussed the State's evidence and any possible defense Applicant may have. He further testified he gave plea counsel some leads to investigate. Applicant also alleged he gave plea counsel some case law to review involving witness identification. Applicant claims a victim never identified him and the co-defendant had a personal vendetta against him. Applicant also testified he discussed the State's initial offer of twenty-five (25) years with plea counsel. He turned that offer down, and he testified they never discussed a fifteen (15) year plea offer.

Plea counsel testified he met with Applicant in jail several times and reviewed the State's evidence. He testified Applicant initially denied any involvement and wanted a jury trial. In the case the State called to trial first, Applicant and a co-defendant were seen on camera robbing a local convenience store. Although Applicant could not be identified on the video, the victim identified the co-defendant. Applicant and co-defendant were later spotted by police walking together nearby. The police apprehended the co-defendant, but Applicant fled and was arrested later.

Plea counsel testified the State initially offered twenty-five (25) years on all the armed robberies and attempted armed robberies. The State later reduced the offer to eighteen (18) years. On the day trial was to begin, the State reduced the offer to fifteen (15) years. Plea counsel testified he discussed with Applicant the benefits of pleading guilty and the risks of going forward with trial. He testified he also reviewed Applicant's constitutional rights. Plea

counsel further testified that Applicant never wavered once he decided to plead guilty. He also testified he never told Applicant he would file an appeal and Applicant never asked for one to be filed.

~~Plea counsel further testified he never mentioned a ten (10) year sentence to Applicant.~~

Plea counsel specifically recalled advising Applicant he would serve eighty-five percent of the fifteen (15) year sentence. He further testified he discussed with Applicant's girlfriend the allegation co-defendant had a vendetta against Applicant. Plea counsel testified he was prepared to cross-examine the co-defendant about his relationship with Applicant if the case had gone to trial.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed 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).

A. Ineffective Assistance of Plea Counsel

In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). 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." Id. at 442, 334 S.E.2d at 814 (citing Strickland v. Washington, 466 U.S. 668 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove that counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any 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." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985). Below are the Court's findings in regards to each of Applicant's allegations of ineffective assistance of plea counsel.

The Court finds Applicant failed to meet his burden of proof regarding his allegations of ineffective assistance of counsel. Specifically, Applicant's claim plea counsel did not investigate

is without merit. Regarding this claim, the Court finds plea counsel's testimony to be credible, and Applicant's to be not credible. Plea counsel adequately conferred with Applicant, conducted a proper investigation, and was thoroughly competent in his representation. Plea counsel ~~investigated Applicant's claim regarding his co-defendant's bias, and was prepared to address~~ the issue if Applicant had proceeded to trial. Furthermore, Applicant has not presented any evidence a further investigation would have uncovered any information that would have led to a different result had the case gone to trial. See Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998). Therefore, Applicant had not shown plea counsel was deficient in this regard.

The Court likewise finds the allegation plea counsel failed to file an appeal to be without merit. Plea counsel testified Applicant never indicated he wanted an appeal. The Court finds plea counsel's testimony on this point to be very credible, and Applicant's to be not credible. Thus, the Court finds plea counsel was under no duty to file an appeal. See Roe v. Flores-Ortega, 528 U.S. 470, 478 (2000) ("Counsel performs in a professionally unreasonable manner only by failing to follow the defendant's express instructions with respect to an appeal."); see also Weathers v. State, 319 S.C. 59, 61, 459 S.E.2d 838, 839 (1995) ("One extraordinary circumstances which would require counsel to advise a defendant of the right to appeal from a guilty plea would arise when the defendant inquires about an appeal."). Therefore, Applicant had not shown plea counsel was deficient for not filing an appeal.

The allegation plea counsel mis-informed Applicant of his sentence is without merit as well. The Court finds very credible plea counsel's testimony he never advised Applicant of a potential ten (10) year sentence. According, the Court finds Applicant's testimony to be not

credible or believable. Furthermore, the plea transcript indicates Applicant was informed twice of the negotiated fifteen (15) year sentence. (Plea Tr. 3:9-11; Plea Tr. 12:3-12). Furthermore, Applicant was also informed he would serve eighty-five percent of his sentence. (Plea Tr. 4:22-5:9). ~~Because the plea judge advised Applicant of the consequences of his plea, Applicant~~ cannot now claim he is entitled to a ten (10) year sentence. See Holden v. State, 393 S.C. 565, 575, 713 S.E.2d 611, 616 (2011) (any alleged deficiency in plea counsel's representation is cured by the plea colloquy). Therefore, Applicant cannot show plea counsel's advice was deficient.

B. All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, the Court finds Applicant failed to present sufficient evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

V. CONCLUSION

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

The Court notes that Applicant 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, 409 S.E.2d 395 (1991), an applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to

seek appellate review, post-conviction relief counsel must serve and file a notice of appeal on the applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

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

AND IT IS SO ORDERED this 27 day of Nov., 2013.



THE HONORABLE WILLIAM H. SEALS, JR.
Presiding Judge
Twelfth Judicial Circuit

 , South Carolina

FILED
2013 DEC 10 PM 12:26
CORRIE REEL-SHEPARD
COP & GS
FLORENCE COUNTY, SC

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Christina R. Spain
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

63

WITNESSE

Alvin Powell

Florence County Sheriff

DOCKET NO. 2011-GS-21-0428

The State of South Carolina

County of

FLORENCE

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Cynthia Spivey
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

COURT OF GENERAL SESSIONS

MARCH TERM 2011

THE STATE

vs.

DAVID D. BROWN

ALLEN R. DAMON

SHALLAH A. MARSHALL

JOHN C JEPERTINGER

ARREST WARRANT NUMBER

M272458 M272459 M272460 M272461

M272462 M272463 *DB 49*
2011GS2100428A

AD 45 *SM 49*
2011GS2100428B 2011GS2100428C

ACTION OF GRAND JURY

TRUE BILL

Samuel D. Jones
Foreperson of Grand Jury

Date: *3/3/2011*

VERDICT

Indictment for

ARMED ROBBERY,
POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME
AND
CONSPIRACY

2011 MAR -3 AM 11:21
CONNIE REEL-SHEARIN
C.C.P. & G.S.
FLORENCE COUNTY, SC

FILED

* Foreperson of Petit Jury

Date:

WITNESSES

Alvin Powell

Florence County Sheriff

DOCKET NO. 2011-GS-21-0428

The State of South Carolina

County of

FLORENCE

CERTIFIED A TRUE COPY
MARCH 31 2011
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

COURT OF GENERAL SESSIONS

MARCH TERM 2011

THE STATE

vs.

DAVID D. BROWN

ALLEN R. DAMON

SHALLAH A. MARSHALL

2011 MAR -3 AM 11:21
CONNIE REEL-SHEARIN
C.C.P. & G.S.
FLORENCE COUNTY, SC

FILED

JOHN C JEPERTINGER

ARREST WARRANT NUMBER

M272458 M272459 M272460 M272461

M272462 M272463 2011GS2100428A

AD 45 2011GS2100428B SH 49 2011GS2100428C

ACTION OF GRAND JURY

TRUE BILL

Indictment for

ARMED ROBBERY,
POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME
AND
CONSPIRACY

Shallah A. Marshall
Foreperson of Grand Jury
Date: 3/3/2011

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)

INDICTMENT FOR
 ARMED ROBBERY,
 POSSESSION OF A WEAPON DURING THE
 COMMISSION OF A VIOLENT CRIME
 AND
 CONSPIRACY

At a Court of General Sessions, convened on MARCH 03, 2011 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- ARMED ROBBERY

That DAVID D. BROWN, ALLEN R. DAMON and SHALLAH A. MARSHALL did in Florence County on or about August 21, 2010, while armed with a deadly weapon, to wit: a handgun, take and carry away personal property of Aviv Grover from or in the immediate presence of Aviv Grover with intent to deprive Aviv Grover of possession of his wallet, including debit cards and credit cards, and a cell phone, by use of force, threats or intimidation, in violation of Section 16-11-0330(A), S. C. Code of Laws, 1976, as amended.

**COUNT TWO- POSSESSION OF A WEAPON DURING
 THE COMMISSION OF A VIOLENT CRIME**

That DAVID D. BROWN, ALLEN R. DAMON and SHALLAH A. MARSHALL did in Florence County, on or about August 21, 2010, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, to wit: an Armed Robbery, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

COUNT THREE - CONSPIRACY

That DAVID D. BROWN did in Florence County on or about August 21, 2010 combine with ALLEN R. DAMON and SHALLAH A. MARSHALL, for the purpose of accomplishing a criminal or unlawful object or an object that is neither criminal nor unlawful through criminal or unlawful means, to wit: Armed Robbery, in violation of Section 16-17-410, S. C. Code of Laws, 1976, as amended.

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



E.L. Clements, III
 TWELFTH CIRCUIT SOLICITOR

COUNTY OF Florence
STATE VS.

Shallah Allah Marshall

AKA:

Race: Sex: Age: 22

DOB: SS#: [REDACTED]

Address:

City, State, Zip: Florence, SC 29505

DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon (16-30)

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

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45 w/minor 1st or Lewd Act

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

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

ATTEST: JEP RTINGER, JOHN SC Bar# 9826 Defendant S. Marshall 15 years Attorney for Defendant SC Bar# 15871

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

for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on: 8-10-11

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 398 days

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

*Fine:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$, TOTAL \$105.00

INDICTMENT/CASE#: 2011-GS-21-0428

A/W#: M272460

Date of Offense: 8/21/2010

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

CONVICTED OF or PLEADS

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon (16-30)

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

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45 w/minor 1st or Lewd Act

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

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

ATTEST: JEP RTINGER, JOHN SC Bar# 9826 Defendant S. Marshall 15 years Attorney for Defendant SC Bar# 15871

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

for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

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SPECIAL CONDITIONS:

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Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

*Fine:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$, TOTAL \$105.00

PTUP days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly

mnts. of \$ beginning

\$ paid to Public Defender Fund

Other:

Appointed PD or appointed other counsel

§ 47.12 requires \$500 be paid to Clerk

during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date: August 2011

Handwritten signature and stamp: CLERK OF COURT CP... FLORENCE COUNTY, SC

67

WITNESSES

Terrence Carraway Florence Police Department

DOCKET NO. 2011-GS-21-0439

The State of South Carolina

County of

FLORENCE

CERTIFIED A TRUE COPY
CLERK OF COURT P & G.S.
FLORENCE COUNTY, S.C.

COURT OF GENERAL SESSIONS

MARCH TERM 2011

THE STATE

vs.

DAVID DAVODJOE BROWN

ALLEN RICARDO DAMON

SHALLAH ALLAH MARSHALL

2011 MAR -3 AM 11:18
CONNIE REEL-SHEARIN
CLERK P & G.S.
FLORENCE COUNTY, S.C.

FILED

JOHN C JEPERTINGER

ARREST WARRANT NUMBER

M376800 M376801 M376802 2011GS2100439A AD

2011GS2100439B DB 2011GS2100439C AD

2011GS2100439D SM

ACTION OF GRAND JURY

TRUE BILL

Indictment for

ATTEMPTED ARMED ROBBERY,
POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME,
AND
CONSPIRACY

Foreperson of Grand Jury

Date: 3/3/2011

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)

INDICTMENT FOR
 ATTEMPTED ARMED ROBBERY,
 POSSESSION OF A WEAPON DURING THE
 COMMISSION OF A VIOLENT CRIME
 AND
 CONSPIRACY

At a Court of General Sessions, convened on MARCH 03, 2011 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- ATTEMPTED ARMED ROBBERY

That DAVID D. BROWN, ALLEN R. DAMON, and SHALLAH A. MARSHALL did in Florence County on or about August 21, 2010, while armed with a deadly weapon to wit: a handgun, attempt to take and carry away the personal property from or in the immediate presence of Peter Siegmann with intent to deprive him of possession by use of force, threats, or intimidation, in violation of Section 16-11-0330(B), S. C. Code of Laws, 1976, as amended.

**COUNT TWO- POSSESSION OF A WEAPON DURING THE
 COMMISSION OF A VIOLENT CRIME**

That ALLEN RICARDO DAMON did in Florence County, on or about August 21, 2010, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

COUNT THREE - CONSPIRACY

That DAVID DAVODJOE BROWN did in Florence County on or about August 21, 2010 combine with ALLEN R. DAMON and SHALLAH A. MARSHALL, for the purpose of accomplishing a criminal or unlawful object or an object that is neither criminal nor unlawful through criminal or unlawful means, to wit: Attempted Armed Robbery, in violation of Section 16-17-410, S. C. Code of Laws, 1976, as amended.

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



E.L. Clements, III
 TWELFTH CIRCUIT SOLICITOR

COUNTY OF Florence
STATE VS.
Shallah Allah Marshall
AKA:
Race: B Sex: M Age: 22
DOB: SS#:
Address:
City, State, Zip: Florence, SC 29505
DL#: 100522789 SID#:

INDICTMENT/CASE#: 2011-GS-21-0439
A/W#: M376800
Date of Offense: 8/21/2010
S.C. Code § : 16-11-0330(B)
CDR Code #: 0026

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Robbery / Attempted armed, or allegedly armed, robbery

CONVICTED OF or PLEADS
(0-20)

in violation of § 16-11-0330(B) of the S.C. Code of Laws, bearing CDR Code # 0026
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

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

ATTEST: JEPERTINGER, JOHN C SC Bar# 9826 Defendant
Attorney for Defendant SC Bar# 15871

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

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

CONCURRENT or CONSECUTIVE to sentence on: 8-10-11
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 348 days
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

PTUP
days/hours Public Service Employment

Recipient:
*Fine:

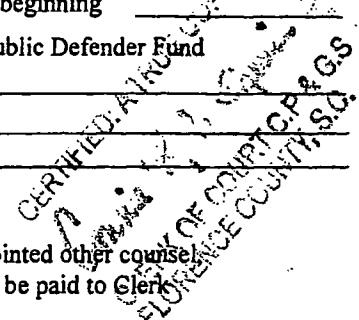
Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$, TOTAL \$105.00

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

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

Clerk of Court/ Deputy Clerk
Court Reporter:

Presiding Judge
Judge Code:
Sentence Date: August 8, 2011



WITNESSES

Terrence Carraway Florence Police Department

DOCKET NO. 2011-GS-21-0441

The State of South Carolina

County of

FLORENCE

CERTIFIED TRUE COPY
J. J. [Signature]
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

COURT OF GENERAL SESSIONS

MARCH TERM 2011

THE STATE

vs.

DAVID DAVODJOE BROWN

ALLEN RICARDO DAMON

SHALLAH ALLAH MARSHALL

2011 MAR -3 AM 11:17
CORRIE REEL-SHEARMAN
COOP & BS
FLORENCE COUNTY, SC

FILED

JOHN C JEPERTINGER

ARREST WARRANT NUMBER

M376796 M376797 M376798

ACTION OF GRAND JURY

TRUE BILL

Indictment for

ATTEMPTED ARMED ROBBERY

Foreperson of Grand Jury

Date: 3/3/2011

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

INDICTMENT FOR
ATTEMPTED ARMED ROBBERY

At a Court of General Sessions, convened on MARCH 03, 2011 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- ATTEMPTED ARMED ROBBERY

That DAVID DAVODJOE BROWN, ALLEN RICARDO DAMON and SHALLAH ALLAH MARSHALL did, in Florence County on or about August 22, 2010, while armed with a deadly weapon, attempt to take and carry away the personal property from or in the immediate presence of the Kangaroo Convenience Store located at 728 South Cashua Drive, with intent to deprive the store of possession by use of force, threats, or intimidation, in violation of Section 16-11-0330(B), S. C. Code of Laws, 1976, as amended.

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



E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Florence
STATE VS.

Shallah Allah Marshall

AKA:

Race: B Sex: M Age: 22

DOB: SS#: 1

Address:

City, State, Zip: Florence, SC 29505

DL#: 100522789 SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was

TO: Robbery / Attempted armed, or allegedly armed, robbery (6-20)

INDICTMENT/CASE#: 2011-GS-21-0441

A/W#: M376796

Date of Offense: 8/22/2010

S.C. Code §: 16-11-0330(B)

CDR Code #: 0026

SENTENCE SHEET

in violation of § 16-11-0330(B) of the S.C. Code of Laws, bearing CDR Code # 0026

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

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

ATTORNEYS: JERBERTINGER, JOHN C SC Bar# 9822 Defendant; S Marshall SC Bar# 15871 Attorney for Defendant

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

for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of

probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 8-10-11

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

by the State Department of Corrections. 348 days

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

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms: Obtain GED

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

Recipient: May serve W/E beginning

*Fine: Substance Abuse Counseling

§ 14-1-206 (Assessments 107.5%) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

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

§ 14-1-213 (Drug Court Surcharge) \$150 \$

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

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

Proviso 90.5 (SCCJA Surcharge) \$5 \$5.00

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

TOTAL \$100.00

Other:

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date: August 8, 2011

73

WITNESSES

Cody Jordan Florence Police Department

DOCKET NO. 2011-GS-21-0443

The State of South Carolina

County of

FLORENCE

CERTIFIED-A TRUE COPY
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, SC
Cynthia R. ...

COURT OF GENERAL SESSIONS

MARCH TERM 2011

THE STATE

vs.

SHALLAH ALLAH MARSHALL

JOHN C JEPERTINGER

ARREST WARRANT NUMBER

M376785 2011GS2100443A

2011GS2100443B 2011GS2100443C

Indictment for

ARMED ROBBERY (TWO COUNTS),
POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME
AND
CONSPIRACY

FILED
2011 MAR -3 AM 11:17
CONNIE REEL-SHEARIN
CLERK C.P. & G.S.
FLORENCE COUNTY, SC

COMMISSION OF GRAND JURY

TRUE BILL

Samuel E. Jones

Foreperson of Grand Jury

Date: 3/3/2011

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)

INDICTMENT FOR
 ARMED ROBBERY (TWO COUNTS),
 POSSESSION OF A WEAPON DURING THE
 COMMISSION OF A VIOLENT CRIME
 AND
 CONSPIRACY

At a Court of General Sessions, convened on MARCH 03, 2011 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- ARMED ROBBERY

That SHALLAH ALLAH MARSHALL did in Florence County on or about August 25, 2010, while armed with a deadly weapon, to wit: a handgun, take and carry away personal property of "We Buy Gold" from or in the immediate presence of Tristan Register, with intent to deprive "We Buy Gold" of possession of \$639.00, by use of force, threats or intimidation, in violation of Section 16-11-0330(A), S. C. Code of Laws, 1976, as amended.

COUNT TWO- ARMED ROBBERY

That SHALLAH ALLAH MARSHALL did in Florence County on or about August 25, 2010, while armed with a deadly weapon, to wit: a handgun, take and carry away personal property of Tristian Register from or in the immediate presence of Tristian Register with intent to deprive Tristian Register of possession of a bank bag and a cell phone, by use of force, threats or intimidation, in violation of Section 16-11-0330(A), S. C. Code of Laws, 1976, as amended.

**COUNT THREE - POSSESSION OF A WEAPON DURING THE
 COMMISSION OF A VIOLENT CRIME**

That SHALLAH ALLAH MARSHALL did in Florence County, on or about August 25, 2010, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

ATTACHED TO AND BECOMING A PART OF THE ORIGINAL INDICTMENT FOR ARMED ROBBERY (TWO COUNTS), POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME AND CONSPIRACY WITH THE AFORESAID NAMES(S) OF SHALLAH ALLAH MARSHALL SHOWN THEREON:

COUNT FOUR- CONSPIRACY

That SHALLAH ALLAH MARSHALL did in Florence County on or about June 25, 2010 combine with an unknown individual, for the purpose of accomplishing a criminal or unlawful object or an object that is neither criminal nor unlawful through criminal or unlawful means, to wit: Armed Robbery, in violation of Section 16-17-410, S. C. Code of Laws, 1976, as amended.

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



E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

CERTIFIED: A TRUE COPY
C. J. J. Spivey
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Florence
STATE VS.

INDICTMENT/CASE#: 2011-GS-21-0443

Shallah Allah Marshall

A/W#: M376785

AKA:

Date of Offense: 8/25/2010

Race: B Sex: M Age: 22

S.C. Code §: 16-11-0330(A)

DOB: SS#:

CDR Code #: 0139

Address:

City, State, Zip: Florence, SC 29505

DL#: 100522789 SID#:

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon (10-30)

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

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

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

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

ATTEST: REPERTINGER, JOHN C SC Bar# 9826 Defendant 8 Marshall 5 years Attorney for Defendant D. M. Meta 15871 SC Bar#

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

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

CONCURRENT or CONSECUTIVE to sentence on: 8-10-11
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 346 days
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

Payment Terms:
Set by SCDPPPS

Recipient:

*Fine:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114(BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments), TOTAL \$105.00

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

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

Clerk of Court/ Deputy Clerk

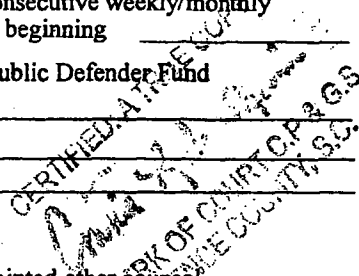
Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date: August 8, 2011



WITNESSES

77 Terrence Carraway Florence Police Department

DOCKET NO. 2011-GS-21-0446

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

MARCH TERM 2011

THE STATE

vs.

DAVID DAVODJOE BROWN

ALLEN RICARDO DAMON

SHALLAH ALLAH MARSHALL

JOHN C JEPERTINGER

ARREST WARRANT NUMBER

M376774 M376775 M376786 M376787 M376788

2011GS2100446A 2011GS2100446B

2011GS2100446C 2011GS2100446D

ACTION OF GRAND JURY

TRUE BILL

Amel E. Dune Foreperson of Grand Jury

Date: 3/3/2011

VERDICT

Foreperson of Petit Jury

Date:

Indictment for

ARMED ROBBERY, KIDNAPPING, CONSPIRACY

AND

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

CERTIFIED TRUE COPY
MARCH 27, 2011
CLERK OF COURT OF P & GS
FLORENCE COUNTY, SC

2011 MAR -3 AM 11:17
CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

FILED

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)

INDICTMENT FOR

ARMED ROBBERY,
 KIDNAPPING,
 CONSPIRACY
 AND

POSSESSION OF A WEAPON DURING THE
 COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on MARCH 03, 2011 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- ARMED ROBBERY

That DAVID DAVODJOE BROWN, ALLEN RICARDO DAMON and SHALLAH ALLAH MARSHALL did in Florence County on or about August 22, 2010, while armed with a deadly weapon, to wit: a handgun, take and carry away personal property of Kangaroo Convenience Store from or in the immediate presence of Dashawn Lee with intent to deprive Kangaroo Convenience Store of possession of an undetermined amount of cash, by use of force, threats or intimidation, in violation of Section 16-11-0330(A), S. C. Code of Laws, 1976, as amended.

COUNT TWO- KIDNAPPING

That ALLEN RICARDO DAMON and SHALLAH ALLAH MARSHALL did in Florence County on or about August 22, 2010, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one Dashawn Lee, without authority of law, in violation of Section 16-03-0910, S. C. Code of Laws, 1976, as amended.

COUNT THREE - CONSPIRACY

That DAVID DAVODJOE BROWN did in Florence County on or about August 22, 2010 combine with ALLEN RICARDO DAMON and SHALLAH ALLAH MARSHALL, for the purpose of accomplishing a criminal or unlawful object or an object that is neither criminal nor unlawful through criminal or unlawful means, to wit: Armed Robbery and Kidnapping, in violation of Section 16-17-410, S. C. Code of Laws, 1976, as amended.

ATTACHED TO AND BECOMING A PART OF THE ORIGINAL INDICTMENT FOR ARMED ROBBERY, KIDNAPPING, POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME AND CONSPIRACY WITH THE AFORESAID NAMES(S) OF DAVID DAVODJOE BROWN, ALLEN RICARDO DAMON AND SHALLAH ALLAH MARSHALL SHOWN THEREON:

**COUNT FOUR- POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT CRIME**

That ALLEN RICARDO DAMON did in Florence County, on or about August 22, 2010, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, to wit: an Armed Robbery and Kidnapping , in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

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



E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

CERTIFIED A TRUE COPY
J. J. [Signature]
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

COUNTY OF Florence
STATE VS.

Shallah Allah Marshall

AKA:

Race: B Sex: M Age: 22

DOB: SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Florence, SC 29505

DL#: 100522789 SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon (10-30)

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

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC 17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

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

ATTEST: PERTINGER, JOHN C SC Bar# Defendant Marshall SC Bar# Attorney for Defendant 15871 SC Bar#

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

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

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

CONCURRENT or CONSECUTIVE to sentence on: 8-10-11
The Defendant is to be given credit for time served pursuant to S.C. Code 24-13-40 to be calculated and applied by the State Department of Corrections. 348 days
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code 17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

*Fine:

Table with 3 columns: Description, Amount, Total. Includes items like Assessments 107.5%, Conv. Surcharge, DUI Surcharge, etc. Total: \$105.00

INDICTMENT/CASE#: 2011-GS-21-0446
A/W#: M376787
Date of Offense: 8/22/2010
S.C. Code 16-11-0330(A)
CDR Code #: 0139

SENTENCE SHEET

CONVICTED OF or PLEADS

MANDATORY GPS(CSC) 17-25-45 w/minor 1st or Lewd Act

Defendant Waives Presentment to Grand Jury.

Negotiated Sentence, Recommendation by the State.

Attorney for Defendant

County Detention Center,

under the Youthful Offender Act not to exceed years

standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 8-10-11

to ship, transport, possess, or receive a firearm or ammunition.

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

*Fine:

Assessments 107.5%, Conv. Surcharge, DUI Surcharge, etc. Total: \$105.00

Presiding Judge: [Signature]
Judge Code:
Sentence Date: August 8, 2011

Clerk of Court/ Deputy Clerk: [Signature]
Court Reporter: [Signature]
SCCA/217 (03/2011)

