

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

---

Appeal from Spartanburg County  
J. Derham Cole, Circuit Court Judge

---

RECEIVED

DEC 9 2014

S.C. Supreme Court

DEANGELO YOUNG,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001841

---

APPENDIX

---

ROBERT M. PACHAK  
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

SUZANNE H. WHITE  
Assistant Attorney General  
P. O. Box 11549  
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

INDEX

INDEX.....i

GUILTY PLEA HEARING TRANSCRIPT (SEPTEMBER 11, 2012) ..... 1

APPLICATION FOR POST-CONVICTION RELIEF..... 18

RETURN .....25

POST-CONVICTION RELIEF HEARING TRANSCRIPT (APRIL 10, 2014) .....31

ORDER OF DISMISSAL.....67

INDICTMENTS.....73

1 STATE OF SOUTH CAROLINA )  
 ) IN THE COURT OF GENERAL SESSIONS  
 2 COUNTY OF SPARTANBURG )  
 3  
 4 The State, ) TRANSCRIPT OF RECORD  
 ) 2012-GS-42-4003, -4004;  
 -vs- ) 2012-GS-42-4114;  
 5 ) 2009-GS-42-6352, 2010-GS-42-630,  
 Reginald Canty, Evette ) 2011-GS-42-6659  
 6 Bruton and DeAngelo )  
 Antonio Young, )  
 7 ) September 11, 2012  
 Defendants. ) Spartanburg, South Carolina  
 8  
 9  
 10

11 B E F O R E:  
 12 HONORABLE LETITIA H. VERDIN, JUDGE  
 13  
 14

15 A P P E A R A N C E S:  
 16 AMY GOULDING, ESQUIRE  
 ABEL O. GRAY, ESQUIRE  
 17 JENNIFER A.J. JORDAN, ESQUIRE  
 Attorneys for the State  
 18  
 JAMES A. CHEEK, ESQUIRE  
 19 ROBERT B. HALL, ESQUIRE  
 Attorneys for the Defendants  
 20  
 21  
 22

Margaret A. Woods  
 Circuit Court Reporter

**ORIGINAL**

1 THE COURT: Okay, I'm so sorry. Yes, sir.

2 MR. GRAY: That's alright. Mr. Canty is here on two  
3 indictments: 12-GS-42-4003 failure to stop for a blue light  
4 first offense and 12-GS-42-4004 shoplifting lifting 2,000 to  
5 10,000. He's waived presentment of his indictments to the  
6 grand jury, there are no negotiations or recommendations, he's  
7 represented by Mr. James Cheek.

8 THE COURT: Alright. Yes.

9 MS. GOULDING: Next, Your Honor, is Ms. Evette Bruton,  
10 she's here on Indictment Number 2012-GS-42-4114, it's been  
11 true billed for receiving stolen goods third or subsequent  
12 offense. There's an offer of a cap of 3 years on any active  
13 sentence, she's here to plea with her attorney James Cheek.

14 THE COURT: Alright.

15 MS. JORDAN: And last in line, Your Honor, he's  
16 represented by Robert Hall and James Cheek with the public  
17 defender's office, is DeAngelo Young. He's before before the  
18 Court on three indictments all of which have gone to the grand  
19 jury and been true billed. There's 2009-GS-42-6352 habitual  
20 traffic offender, the other two cases, Your Honor, are  
21 trafficking offenses, 2011-GS-42-6659. In this case he was  
22 initially charged with trafficking in cocaine over 100 grams,  
23 he's pleading to the lesser included of trafficking cocaine  
24 between 28 and 100 grams. The other charge, Your Honor, is a  
25 trafficking in crack cocaine under 2010-GS-42-630. The

1 recommendation by the State is basically a cap of s -- 10  
2 years on the trafficking charges so that he'd be sentenced  
3 anywhere from 7 which is the minimum to 10 ---

4 THE COURT: Okay.

5 MS. JORDAN: --- and then concurrent 5 on the HTO, the  
6 State's also dismissing two charges that are out there in  
7 addition to the ones he's pleading to.

8 THE COURT: Alright. Mr. Canty, you're pleading to  
9 failure to stop for a blue light that carries 90 days up to 3  
10 years and shoplifting greater than 2,000 but less than 10,000  
11 that carries up to 5 years, ---

12 MR. GRAY: Yeah.

13 THE COURT: --- is that your understandin'?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Okay. Ms. Bruton, you're here today pleading  
16 to receiving stolen goods third or subsequent offense property  
17 offense that carries up to 10 years, is that your  
18 understanding?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Okay. And, Mr. Young, you're here today to  
21 plead to trafficking in crack cocaine under a hundred grams  
22 but greater than 28, that carries 7 to 25 years, is that your  
23 understanding?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Okay, and it's a violent offense and a

1 serious offense, let's talk about that.

2 MR. HALL: Your Honor, I think he's pleading to the  
3 lesser included 28 ----

4 THE COURT: Oh, that's not, okay.

5 MS. JORDAN: No, it's they they are still violent and  
6 serious, ---

7 MR. HALL: Yes, but ---

8 MS. JORDAN: --- you're you're correct, ---

9 MR. HALL: --- they are still ---

10 MS. JORDAN: --- Your Honor.

11 MR. HALL: --- violent and serious but you said pleading  
12 the the twenty I think.

13 THE COURT: Twenty-eight and a hundred ---

14 MS. JORDAN: Yes, ma'am.

15 THE COURT: --- which is 7 to 25?

16 MR. HALL: Okay, I I thought you said more than a  
17 hundred, I apologize.

18 THE COURT: Oh, okay. No, I I'm sorry, I said it. When  
19 I said it, I said it backwards. No, you are exactly right.  
20 Alright, you're pleading to two counts of that, those are  
21 violent and serious. You understand that violent means that  
22 any active sentence you receive at the Department of  
23 Corrections is gonna be calculated differently, you understand  
24 that?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: And also these are serious offenses. If you  
2 were to receive a charge for a third serious offense, the  
3 State could seek life without the possibility of parole  
4 against ya, do you understand that?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: You're also pleading to habitual traffic  
7 offender, that carries up to 5 years, is that your  
8 understanding?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Alright. Have you discussed these charges  
11 with your attorney, Mr. Canty?

12 THE DEFENDANT: Yes.

13 THE COURT: Ms. Bruton?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: And Mr. Young?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Ya happy with what your attorney's done for  
18 you, Mr. Canty?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Ms. Bruton?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Mr. Young?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Do you have any complaint to make against law  
25 enforcement, the solicitor's office or your attorney as a

1 result of these charges whatsoever, Mr. Canty?

2 THE DEFENDANT: No, ma'am.

3 THE COURT: Ms. Bruton?

4 THE DEFENDANT: No, ma'am.

5 THE COURT: Mr. Young?

6 THE DEFENDANT: No, ma'am.

7 THE COURT: Are you under the influence of drugs or  
8 alcohol here today, Mr. Canty?

9 THE DEFENDANT: No, ma'am.

10 THE COURT: Ms. Bruton?

11 THE DEFENDANT: No, ma'am.

12 THE COURT: Mr. Young?

13 THE DEFENDANT: No, ma'am.

14 THE COURT: Has anybody forced you to plead guilty or  
15 promised ya anything to get you to plead guilty here today,  
16 Mr. Canty?

17 THE DEFENDANT: No, ma'am.

18 THE COURT: Ms. Bruton?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: Mr. Young?

21 THE DEFENDANT: No, ma'am.

22 THE COURT: When ya plead guilty, you give up certain  
23 constitutional rights: You give up your right to remain silent  
24 about these charges, do you know that, Mr. Canty?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Ms. Bruton?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Mr. Young?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: You also give up right to a jury trial. At  
6 that trial you or your attorney could call witnesses for you  
7 and cross-examine witnesses against you and the State would  
8 have to prove your guilt beyond a reasonable doubt but when  
9 you plead guilty you give up your right to a jury trial, do  
10 you know that, Mr. Canty?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Ms. Bruton?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: And, Mr. Young?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Mr. Canty, you've got charges that have not  
17 been presented to the Spartanburg County Grand Jury to be  
18 indicted, you've got a right to have those charges indicted  
19 before you plead guilty on 'em. You wanna give up that right  
20 and go forward and plead guilty here today?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Alright, how do you plead guilty or not  
23 guilty, Mr. Canty?

24 THE DEFENDANT: Guilty.

25 THE COURT: Ms. Bruton?

1 THE DEFENDANT: Guilty.

2 THE COURT: And, Mr. Young?

3 THE DEFENDANT: Guilty.

4 THE COURT: You have ten days from today's date to appeal  
5 this plea if you so choose but you must do so in writing to  
6 this court. Ms. Bruton, let's talk for a second.

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: You don't seem at ease. What's -- you ner --  
9 it -- I mean, if it's that you're nervous about bein' here but  
10 if you're sh -- if you're shakin' your head that you're not  
11 sure you want to plea today ---

12 THE DEFENDANT: I'm I'm gonna plea today because I've  
13 talked to a very wise man that let me know that, um, takin' it  
14 to trial is not the best of my interest, you know, but I'm  
15 just nervous.

16 THE COURT: I understand. Okay, you just nervous. Okay  
17 very good. Alright, well well I think that's good to be  
18 nervous. If you're not nervous and you're standin' in front  
19 of a judge, you've been in front of a judge too many times,  
20 alright. Yes, sir.

21 MR. GRAY: Yes, ma'am. On Mr. Canty it happened at Best  
22 Buy on 110 East Blackstock Road on June 20th of this year.  
23 Mr. Canty was with two co-defendants, Dan Twitty and Lamar  
24 Kennedy, well-known shoplifters. The three men came into the  
25 store, they all exited. Mr. Kennedy and Mr. Twitty came back

1 in the store. Mr. Canty was the getaway driver, the two  
2 others attempted to leave through the store with four laptops,  
3 one under each arm. Loss Prevention store manager tried to  
4 stop and got one of the laptops back, the other three were  
5 about \$2,000 in value, called 911, they jumped into the car,  
6 Mr. Canty was the driver. Officers were on the scene almost  
7 immediately, it mighta been a 2 mile chase with lights and  
8 sirens. They were stop surrounded at a corner of Camelot  
9 Drive and John White Boulevard, they were all arrested, all  
10 items were recovered. His criminal history's 1998 and that  
11 will be the failure to stop also, the simple possession of  
12 marijuana; 1999 breakin' into motor vehicles, trespass,  
13 another coun -- another count of simple possession of  
14 marijuana, a 2002 false information to a police officer,  
15 resisting arrest; 2004 trespass and CDV; 2007 malicious injury  
16 to personal property and 2009 probation revocation.

17 THE COURT: Alright, and there's no recommendation you  
18 said?

19 MR. GRAY: No, ma'am.

20 THE COURT: Alright, yes, sir.

21 MR. CHEEK: Your Honor, may it please the Court.

22 THE COURT: Yes.

23 MR. CHEEK: Mr. Canty has served 82 days towards  
24 sentencing in this matter. We'd ask the Court to consider the  
25 possibility of a probationary sentence for him. I've

1 explained to him that he has had two prior probation  
2 revocations in the past on a sentence he received about 10  
3 years ago. He tells me that he has learned from that and he  
4 thinks he can certainly show the Court his appreciation if the  
5 Court were to give him yet another chance on probation. Your  
6 Honor, he was not the person who created all the situation in  
7 the sense that he didn't think it up but he certainly was with  
8 them. He had an opportunity to get away, he stopped at the  
9 red light there in that parkin' lot and his friends jumped in  
10 the car, they were running across the parking lot, he let them  
11 in the car and then they ran.' Your Honor, he woulda had -- he  
12 explained to me that he appreciates the seriousness of where  
13 he is today and that I asked him if he wanted me to come into  
14 court just ask the Court for a flat sentence, um, he said no,  
15 he would ask the Court to consider probationary sentence for  
16 him, Your Honor.

17 THE COURT: Well I'm gonna do both, I'm gonna do both.  
18 I'm gonna give ya a little bitta time because you got to know  
19 this behavior ain't gonna work and I'm gonna hang some time  
20 over your head and put you on probation but I'm not gonna put  
21 ya on probation near as long as I would if I hadn't given ya  
22 some some time. I'm gonna do 5 years provided upon the  
23 service of 9 months, credit for 82 days, you may just turn  
24 around right -- get back down there and turn around for all I  
25 know, balance is suspended with probation for 2 years,

1 substance abuse counselin", random drug and alcohol testin'  
2 while you're on probation. On the failure stop 9 months,  
3 credit for 82 days, time served. I wish you the best of luck,  
4 sir.

5 MR. CHEEK: Thank you, Your Honor.

6 THE COURT: Thank you.

7 MR. GRAY: Thank Your Honor.

8 MS. GOULDING: Your Honor, as to Ms. Bruton the charges  
9 or excuse me the charge arose from events on April 17th 2012  
10 regarding the Kohl's on Franklin Avenue here in Spartanburg  
11 County. The charge initially arose from an incident that  
12 began at a nearby Target. Deputies responded to that Target  
13 because of an accusation of several people involved in  
14 shoplifting. Deputies questioned a woman named Ms. Webster on  
15 a charge of trying to steal items from Target. Ms. Webster  
16 was evasive about how she knew Ms. Bruton. Deputies found new  
17 Kohl's merchandise contained in Ms. Bruton's purse, they  
18 contacted the loss prevention associate at Kohl's. Based on  
19 the UPC labels Kohl's said none of the items had been  
20 purchased at any time recently at Kohl's at which point  
21 Ms. Bruton told the police that she was given the clothes to  
22 put in her purse and Ms. Webster admitted to stealing  
23 everything from Kohl's and giving it to Ms. Bruton.

24 THE COURT: Alright, and the recommendation is a cap of 3  
25 on any active sentence?

1 MS. GOULDING: Correct, Your Honor. She spent 1 day  
2 after arrest in jail and then 82 days on a bench warrant. As  
3 far as her rap a 1999 unlawful carrying of weapon, 99 false  
4 information to purchase beer or wine; 2001 petty larceny;  
5 shopliftings in 2002, 2004, 2004 driving under suspension  
6 2006; strong armed robbery '07 and then in 2011 a third or  
7 subsequent property offense, shoplifting, contributing to the  
8 delinquency of a minor and there was also a federal conviction  
9 and probation from 2005, it's unclear as to what the charge  
10 was.

11 THE COURT: Alright. Yes, sir.

12 (Whereupon, a discussion was held off the record.)

13 THE COURT: Yes, sir.

14 MR. CHEEK: Your Honor, may it please the Court. We'd  
15 ask the Court to consider Ms. Bruton has three children ages  
16 8, 7 or 8, 2 and 7 months. She has almost lost her husband a  
17 result of this. He, um, his mother worked in the solicitor's  
18 office over in Greenville and has a conversation with my  
19 client tellin' her to stop hangin' around people and getting  
20 involved in stuff that they don't need her to do. She could  
21 be a stay at home mom if she had to but yet she still  
22 persisted going out to the store just one more time. Her  
23 husband has just kinda written her off but since she's been in  
24 jail he did write her a letter to tell her that he'd be there  
25 for her, support her, we just ---

1 THE COURT: Who's your husband?

2 THE DEFENDANT: Nathaniel Grant.

3 THE COURT: Who's his mom that you say works at the  
4 solicitor's office?

5 THE DEFENDANT: Carletta (phonetic) Grant.

6 MR. CHEEK: We just ask the Court to consider that that  
7 got a good support system, they would do whatever they can  
8 including support her through home detention. Just asking the  
9 Court to give her a chance not to break any bond that she's  
10 already not broken with that last child. They wanna try to  
11 recover from this as much as possible, give her a chance to  
12 get herself straight and stay away from these stores, stay  
13 away from any kind of involvement anything like this in the  
14 future, Your Honor.

15 (Pause.)

16 THE COURT: Alright, 10 years provided upon the service  
17 of 83 days, the balance is suspended with probation for  
18 2 years, substance abuse counselin' if it's deemed necessary,  
19 random drug and alcohol testing while you're on probation and  
20 mental health counseling to address your issues with stealin',  
21 alright. Good luck to ya.

22 MR. CHEEK: Thank Your Honor.

23 MS. GOULDING: Thank Your Honor.

24 THE COURT: Thank you.

25 MS. JORDAN: Your Honor, starting with DeAngelo Young, as

1 to the trafficking in cocaine, on July the 30th of 2009  
2 Spartanburg County narcotics officers contacted the defendant  
3 through a CRI to purchase a quantity of cocaine. The CRI was  
4 given \$4,000 and equipped with audio and video surveillance  
5 equipment. The CRI met the defendant at 514 Wildwood Drive  
6 here in the county. The defendant left for a brief period and  
7 came back at that point giving the CRI a bag containing 112  
8 grams of cocaine. This incident was captured on video. Next,  
9 Your Honor, is on September the 23rd of 2009, Spartanburg city  
10 officers were on patrol at the parking lot of 191 East St.  
11 John Street here in Spartanburg County when they -- when that  
12 officer observed a license plate on the vehicle that was  
13 tilted and only fastened by one screw. The officer checked  
14 the plate, it came back stolen. The defendant got outta the  
15 vehicle as the officer approached, the officer observed a  
16 clear plastic bag containing marijuana in between the driver's  
17 seat and the passenger seat. Incident to towing for arrest  
18 the officer found 33.65 grams of crack cocaine inside the  
19 vehicle as well as si -- \$647 on the defendant. The habitual  
20 traffic offender occurred couple days later. On September  
21 28th 2009, the defendant was stopped for an improper tag in  
22 Spartanburg County on East Main Street. Records check showed  
23 he'd been previously declared a habitual traffic offender  
24 during the period of March 25th '09 through 2014.

25 THE COURT: Alright. And there's a recommendation of 7

1 to 10?

2 MS. JORDAN: Seven to ten, yes, ma'am.

3 THE COURT: Alright.

4 MR. CHEEK: Your Honor, we respectfully ask the Court to  
5 take several things in consideration. Mr. Young's  
6 grandmother's here in the courtroom, his his aunt, his mother  
7 was here earlier, Your Honor, she had to go back to work.  
8 This thing all happened one of his relatives got him involved  
9 in this activity. He freely engaged himself in it, the money  
10 was good at the time. Your Honor, that that relative I think,  
11 um, I could stand to be corrected, was offered 10 years to  
12 assume his responsibility of what happened in all of this and  
13 that he did not do that. He went to trial and got 25 years.  
14 Another relative got 5 years, Your Honor, outta this whole  
15 activity. The federal authorities had looked into this  
16 matter, they sent it back to the State to be tried here in the  
17 state. Your Honor, my client has really lobbied for the 5  
18 years his other relatives have got, I've explained to him the  
19 State's not letting him do that, it is not in that range of  
20 sentencing, but we respectfully ask the Court to consider the  
21 7 years, it's pretty close to what he would, he would like to  
22 have, Your Honor.

23 THE COURT: Alright.

24 MR. HALL: And, Your Honor, I've looked into it. He had  
25 that jury and then the defendant got arrested by the State,

1 went into the federal system, he was incarcerated for a a few  
2 months, 3 months, and then he was on home detention for 6  
3 months, while these charges were pendin' he's been in the  
4 federal system so he had approximately a hundred and ninety, a  
5 hundred and ninety-five days ---

6 MR. CHEEK: We're asking the Court to give ---

7 MR. HALL: --- that ---

8 MR. CHEEK: --- him credit for the hundred and  
9 ninety-five days, ---

10 MR. HALL: --- plus he's ---

11 MR. CHEEK: --- Your Honor.

12 MR. HALL: --- been back in jail for another 46 so it's  
13 251 days he's been under some kind of incarceration on these  
14 charges and, Your Honor, at -- he's not quite 23, at the time  
15 he had a 3-year-old.

16 THE COURT: Seven years on each of the drug charges  
17 concurrent, credit for 251 days, 5 years on the habitual  
18 traffic offender concurrent, credit for 251. Best a luck to  
19 ya, sir.

20 MR. CHEEK: Thank Your Honor.

21 MS. JORDAN: Thank Your Honor.

22 THE COURT: Thank you.

23

24

25

## CERTIFICATE OF REPORTER

1  
2  
3 I, Margaret A. Woods, Court Reporter in and for the State  
4 of South Carolina at Large, hereby certify that I reported the  
5 preceding case on September 11, 2012 at the time and place  
6 heretofore set forth; and that the foregoing pages numbered  
7 from 2 through 16, inclusive, constitute a true and accurate  
8 transcription of my stenographic notes of the said proceeding.

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

13 May 11, 2013

14  
15 Margaret A. Woods

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

FORM 5

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF )  
 )  
 DeAngelo Antonio Young 352310 )  
 Full name and prison number (if any) of Applicant. )  
 )  
 v. )  
 )  
 State of South Carolina )  
 )

IN THE COURT OF COMMON PLEAS

2013-CP-42-00338

APPLICATION FOR  
POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Spartanburg County
2. Name and location of Court which imposed sentence Spartanburg County Clerk of Court
3. Name(s) of co-defendant(s) (if any) Alfonso Thomas, Robin Landrum, and Tryone Young
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2011GS4206659/M12B576
  - (b) 2010GS4200630/M089615
  - (c) 2009GS4206352/91992E0
5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) 9-11-12 // 2011GS4206659 7 years 85% Concurrent
  - (b) 9-11-12 // 2010GS4206630 7 years 85% Concurrent

FILED  
 CLERK OF COURT  
 SPARTANBURG COUNTY  
 JAN 29 AM 10:31  
 SCILEY

(c) 9-11-12/2009GS4206352 5 years Non-Violent Concurrent

- 6. Check whether a finding of guilty was made:
  - (a) after a plea of guilty \_\_\_\_\_
  - (b) after a plea of not guilty \_\_\_\_\_
  - (c) after a plea of nolo contendere \_\_\_\_\_

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

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

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

- i. NO
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

- i. NO
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

(c) the date of each such result:

- i. NO
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

- i. NO
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

FILED  
 CLERK OF COURT  
 EAST TOWN COUNTY  
 2013 JAN 25 AM 10:34  
 M. HOPE BLACKLEY

9. If you answered "no" to (7), state your reasons for not so appealing: Attorney didn't tell me

- (a) I did not know
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

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

- (a) Failure to give me due process of law
- (b) Did not fully advise me of my rights
- (c) Erronies advice- unusual punishment

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

- (a) Six amendment
- (b) Fifth amendment
- (c) \_\_\_\_\_

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

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

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

(a) the specific nature thereof:

- i. NO
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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

- i. NO
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(c) the disposition thereof:

- i. NO
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

FILED  
 CLERK OF COURT  
 GREENSBORO COUNTY  
 2013 JAN 25 AM 10:34  
 M. HOPE BLACKLEY

2013-CP-42-00338

iv. NO

(d) the date of each such disposition:

i. NO

ii. \_\_\_\_\_

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

iv. \_\_\_\_\_

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

i. NO

ii. \_\_\_\_\_

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

iv. \_\_\_\_\_

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

NO

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

(a) which grounds have been presented:

i. NO

ii. \_\_\_\_\_

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

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

i. NO

ii. \_\_\_\_\_

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

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

(a) NO

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

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

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

FILED  
COURT OF COMMON PLEAS  
JACKSON COUNTY  
2013 JAN 25 AM 10:35  
M. HOPE BLACKLEY

2013-CP-42-00338

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

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

- (a) the name and address of each attorney who represented you:
  - i. James Cheeks Spartanburg S.C 366 N Church St Suite 3000
  - ii. John Abdolla Greenville S.C
  - iii. Robert Hall Spartanburg S.C 366 N Church St Suite 3000
- (b) the proceedings at which each such attorney represented you:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

19. State clearly the relief you seek in filing this application: I only seek a time reduction

In my sentence and for the 85% to be removed.  
 20. My lawyer didn't have enough time to go over my case. Thanks  
 Are you now under sentence from any other court that you have not challenged?  
NO

FILED  
 COURT OF COMMON PLEAS  
 SPARTANBURG COUNTY  
 2013 JAN 25 AM 10:35  
 M. HOPE BLACKLEY

2013-CP-42-00338

STATE OF SOUTH CAROLINA )

VERIFICATION

County of Sumter )

DeAngelo Young )

I, 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.

DeAngelo A. Young DeAngelo A. Young

SWORN to and subscribed before me this 17th day of January, 2013

Samuel Ditzfeld (L.S.)  
Notary Public

My Commission Expires: 3/15/2014

FILED  
CLERK OF COURT  
SUMTER COUNTY  
2013 JAN 25 AM 10:35  
M. HOPE BLACKLEY

2013-CP-42-00338

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

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

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

DeAngelo A. Young Applicant

SWORN or affirmed to and subscribed before me this 17th day of January 2013. Ronald D. Hatfield Notary Public

My Commission Expires: 3/15/2011



FILED
2013 JAN 25 AM 10:35
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	
DeAngelo Antonio Young, #352340,	)	2013-CP-42-0338
	)	
Applicant,	)	
	)	
v.	)	<b>RETURN</b>
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

Respondent, making its Return to the application for post-conviction relief (PCR) filed January 25, 2013, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. He was indicted at the November 2009 term of the Spartanburg County Grand Jury for habitual traffic offender (2009-GS-42-6352), the January 2010 term for trafficking in crack cocaine 28-100 grams (2010-GS-42-0630) and the November 2011 term for trafficking in cocaine over 100 grams (2011-GS-42-6659). James Cheek, Esquire, and Robert B. Hall, Esquire, represented Applicant. On September 11, 2012, Applicant pled guilty to trafficking in cocaine 28-100 grams, and the other two charges as indicted. Following a recommendation by the State, the Honorable Letitia H. Verdin sentenced Applicant to concurrent sentences of seven years on each trafficking charge and five years for habitual traffic offender. Applicant did not appeal his conviction and sentence.

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

## II.

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

- I. Ineffective assistance of counsel, in that:
  - a. "Failure to give me due process of law,"
  - b. "Did not fully advise me of my rights,"
  - c. "Erronies (sic) advice – unusual punishment."

## III.

The Respondent interprets all of the Applicant's claims as claims that Counsel was ineffective. 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, (1984); Butler, 334 S.E.2d 813.

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985).

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

However, Respondent does note that in his request for relief, the Applicant states the following:

19. State clearly the relief you seek in filing this application: *I only seek a time reduction in my sentence and for the 85% to be removed.*
20. *My lawyer didn't have enough time to go over my case. Thanks*  
Are you now under sentence from any other court that you have not challenged?

This relief is unavailable in a post-conviction relief action. After the court which sentenced the Applicant ends its term of General Sessions, neither this Court nor the sentencing court may grant a change in the Applicant's sentence. If this Court finds a defect in the original plea

proceedings, the only relief available to the Applicant would be a new trial on the original indictments. Gilstrap v. State, 252 S.C. 625, 168 S.E.2d 88 (1969).

Therefore, if this is the only remedy that the Applicant seeks, the Court should summarily dismiss the Application. The reviewing court need not pass upon post-conviction relief, if any, that has not been requested. Gilstrap, Id.; Young v. State, 250 S.C. 476, 158 S.E.2d 764 (1968).

## IV.

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

## V.

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

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

KAREN C. RATIGAN  
Senior Assistant Deputy Attorney General

*[signatures continued on next page]*

SUZANNE H. WHITE  
Assistant Deputy Attorney General

By:   
ATTORNEYS FOR RESPONDENT

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

March 3, 2014.

STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG )

IN THE COURT OF COMMON PLEAS  
SEVENTH JUDICIAL CIRCUIT

DeAngelo Antonio Young, )

2013-CP-42-0338

Applicant, )

v. )

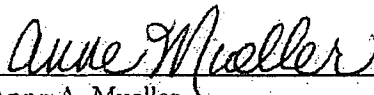
**CERTIFICATE OF SERVICE BY MAIL**

State of South Carolina, )

Respondent. )

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

Leah B. Moody, Esquire  
 Law Office of Leah B. Moody, LLC  
 Post Office Box 1015  
 Rock Hill, South Carolina 29730

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

DATED this 3<sup>rd</sup> day of March, 2014.

1 STATE OF SOUTH CAROLINA )  
 2 COUNTY OF SPARTANBURG ) IN THE COMMON PLEAS COURT  
 3  
 4 DeAngelo Antonio Young, )  
 5 Applicant, ) TRANSCRIPT OF RECORD  
 6 -vs- ) 2013-CP-42-0338  
 7 The State. ) April 10, 2014  
 8 ) Spartanburg, South Carolina  
 9  
 10

11 B E F O R E:

12 HONORABLE J. DERHAM COLE, JUDGE  
13  
14

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

16 LEAH B. MOODY, ESQUIRE  
17 Attorney for the Applicant

18 SUZANNE H. WHITE, ESQUIRE  
19 Attorney for the State  
20

21 Linda D. Moffitt  
22 Circuit Court Reporter  
23  
24  
25

	<u>INDEX</u>	
	<u>WITNESSES</u>	<u>PAGE</u>
1		
2		
3	DEANGELO ANTONIO YOUNG (AW)	
4	Direct examination by Ms. Moody	5
5	Cross-examination by Ms. White	23
6	ROBERT B. HALL (SW)	
7	Direct examination by Ms. White	29
8	Cross-examination by Ms. Moody	33
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
S-1	Affidavit		31

1 MS. WHITE: Thank you, Your Honor.

2 This is the case of DeAngelo Antonio Young vs. the  
3 State. It's case No. 2013-CP-42-0338.

4 Mr. Young was indicted November of '09 for habitual  
5 traffic offender, trafficking in crack 28 to a hundred  
6 grams, and then was also indicted November 2011 for  
7 trafficking cocaine over 100 grams.

8 He was represented by Mr. James Cheek and Mr. Robert  
9 Hall at a plea September 11th of 2012. He pled to all  
10 charges as indicted and pled to the lesser included of  
11 trafficking cocaine 28 to a hundred grams.

12 He received concurrent sentences of seven years based  
13 upon a recommendation with a cap of ten and concurrent  
14 sentencing.

15 There were also two other charges that were dismissed.

16 He has alleged ineffective assistance of counsel  
17 that -- failure to give applicant due process, counsel did  
18 not fully advise applicant of his rights, and that counsel  
19 provided erroneous advice, and he states unusual  
20 punishment. I'm assuming cruel and unusual punishment  
21 based on the sentence. But I'll turn it over to Ms. Moody  
22 at this time.

23 THE COURT: Ms. Moody.

24 MS. MOODY: Yes, sir, Your Honor.

25 His grounds that he's proceeding forward today on, for

DeAngelo Antonio Young  
Direct examination by Ms. Moody

1 failure to give him due process of the law, did not fully  
2 advise him of his rights, and erroneous advice in terms of  
3 the amount of punishment.

4 THE COURT: I notice on his application he says that  
5 he's just trying to seek a time reduction. And he received  
6 the minimum sentence.

7 Have you explained to him that if he gets a new trial  
8 he's facing 25 years instead of the minimum seven he  
9 received?

10 MS. MOODY: Yes, sir, Your Honor. I explained to him  
11 fully that he's --

12 THE COURT: Do you think he understands it?

13 MS. MOODY: Yes, I think he understands that.

14 THE COURT: Okay. Call your first witness.

15 MS. MOODY: Mr. Young.

16 DEANGELO ANTONIO YOUNG, having  
17 been first duly sworn, testified as follows:

18 THE COURT: Let me ask you one thing before Ms. Moody  
19 starts.

20 In your application for post conviction relief you say  
21 you're only seeking a time reduction and a removal of the  
22 85 percent.

23 Do you understand that if you get relief today it'll  
24 be a new trial where you'll be looking at 25, not seven  
25 that you received from the judge?

DeAngelo Antonio Young  
Direct examination by Ms. Moody

1 THE WITNESS: Yes, sir.

2 THE COURT: Okay. Go right ahead.

3 DIRECT EXAMINATION BY MS. MOODY

4 Q Mr. Young, can you please state your full name for the  
5 record?

6 A DeAngelo Antonio Young.

7 Q Okay. Mr. Young, where are you currently  
8 incarcerated?

9 A Livesay B Correctional Institution.

10 Q And you're there on what charges?

11 A Trafficking cocaine 28 to a hundred, lesser included  
12 offense, trafficking crack 28 to a hundred, and  
13 trafficking -- habitual offender.

14 Q Okay. And who was your attorney when you pled to  
15 these charges?

16 A James Cheeks and Robert Hall.

17 Q Okay. And why is it that you had two attorneys?

18 A I'm not actually sure. From my understanding that  
19 Robert Hall supposed to have been my attorney on the -- on  
20 my cases. And James Cheeks, he came and talked to me  
21 before Robert Hall was my attorney, which was maybe a month  
22 before Robert Hall was my attorney. And James Cheeks and  
23 Robert Hall just ended up being the -- both of the  
24 attorneys at the same time.

25 Q So when you went to enter your plea before the Court

DeAngelo Antonio Young  
Direct examination by Ms. Moody

1 both of them were with you?

2 A Yes, ma'am.

3 Q Okay. And so you had opportunity to speak to both of  
4 them about your -- your plea that day.

5 A I have spoke to -- it was -- I spoke to James Cheeks  
6 for a brief -- maybe two or three minutes with my solicitor  
7 in the room. And I spoke to -- I believe I spoke to Robert  
8 Hall that day for a few minutes.

9 Q This is all on the same day that you pled.

10 A Yes, ma'am.

11 Q Okay. Now, when did you have the opportunity to speak  
12 to Mr. Hall regarding your case?

13 A Talking about besides the day of my court date?

14 Q I'm sorry. I should say it like this.

15 When you first got arrested when did you -- when was  
16 the first time you spoke with Mr. Hall?

17 A My first time speaking to him was the day of my court  
18 date -- the day of my court date.

19 Q So that means plea?

20 A Uh-huh, yes, ma'am.

21 Q So who did you speak with when you were arrested  
22 after, shortly after, you were arrested?

23 A With James Cheeks.

24 Q Okay. And what, if anything, did you discuss with  
25 Mr. Cheeks?

DeAngelo Antonio Young  
Direct examination by Ms. Moody

1 A Well, James Cheeks -- I was in the Spartanburg County  
2 Detention Center, and James Cheeks, he came to me, and he  
3 got to talking to me about my case. He told me that he  
4 came with a plea from seven to 12.

5 And I told him, I say, you know, I wasn't satisfied  
6 with that or what not. And so he ended up leaving. And he  
7 come back to me maybe a week or two later. And when he  
8 came back he had a plea from seven to ten, and I wasn't  
9 satisfied with it. I told him that decision was -- was a  
10 trial date. And he told me, you know, do you understand  
11 that you can face 25 years or what not if I go to trial if  
12 I don't, you know, take a plea or whatever. And I told him  
13 I'm sure about that. And he said okay. And he told me.  
14 You know, that was it.

15 And he left that day. Well, I left outta the -- the  
16 little room. And he talked to other individuals.

17 Q So let's be clear on this. When you met with  
18 Mr. Cheeks you had the three charges that you're serving  
19 time on now, or you had additional charges along with the  
20 three charges?

21 A I had them. When I met with Cheeks I had five full  
22 charges. The two charges they threw out, it was still --  
23 it was there. It was still there. So I had five total  
24 charges.

25 Q Okay. So of the total charges you had, you had

DeAngelo Antonio Young  
Direct examination by Ms. Moody

1 trafficking cocaine 28 to a hundred grams.

2 A Uh-huh.

3 Q You had possession with intent to distribute schedule  
4 I, II or III.

5 A Uh-huh.

6 Q And you also a trafficking cocaine a hundred,  
7 100 grams.

8 A Yes, ma'am.

9 Q And then trafficking crack -- excuse me -- possession  
10 with intent to distribute crack cocaine.

11 A Yes, ma'am.

12 Q Okay. And an habitual offender.

13 A Yes, ma'am.

14 Q Now, the date that you were arrested all of these  
15 charges came together.

16 A The date I was arrested, uh-huh.

17 Q Okay. And so when you talked to Mr. Cheeks you're  
18 saying that those are the charges that y'all discussed.

19 A Yes, ma'am.

20 Q And the offer that you received was a plea to only  
21 three of those charges.

22 A Three of the charges, and dismiss two.

23 Q Okay. Now, did you have anything else that you  
24 have -- that were separate from this date of arrest that  
25 Mr. Cheeks discussed with you?

DeAngelo Antonio Young  
Direct examination by Ms. Moody

1 A No, ma'am.

2 Q So you had no probation or anything like that.

3 A I've never been on probation, never had a probation at  
4 the time or anything.

5 Q Okay. So then after you declined the offer from  
6 Mr. Cheeks the first time, he came back with a second  
7 offer.

8 A Yes, ma'am.

9 Q Okay. And at that point did you talk to Mr. Hall  
10 about your case?

11 A I talked to Mr. Hall maybe after Mr. Cheeks came.  
12 After I turned Mr. Cheeks down the second time I talked to  
13 Robert Hall maybe, I want to say maybe, what, maybe, it  
14 probably was a month later, somewhere in the area, maybe  
15 three, about three, weeks to a month later --

16 Q Okay.

17 A -- which was when I got sentenced, which the day I got  
18 sentenced is when I talked to Robert Hall.

19 Q Okay. So at what point did you receive discovery on  
20 any of these cases?

21 A I didn't receive discovery until I was in prison.

22 Q So when you were made the offer from the state that  
23 you turned down twice -- you turned down twice -- had you  
24 had an opportunity to review the discovery?

25 A I guess I had opportunity to review it as in me being

DeAngelo Antonio Young  
Direct examination by Ms. Moody

1 on the streets or what not as in filing paperwork to -- you  
2 know, to get my, you know, discovery. I had certain things  
3 at home.

4 Q what do you mean, you being on the streets?

5 A When I was on -- you know, when I was on the street  
6 before I went -- went to the county jail I had, you know,  
7 certain paperwork so far as in when I got arrested and what  
8 my charge was for and things like that. But I didn't have  
9 it, no motion of --

10 Q of discovery.

11 A Yes, ma'am.

12 Q Okay. So when you were out on bond -- I'm assuming?

13 A Yes, ma'am.

14 Q Your attorney still was James Cheeks, or did you have  
15 another attorney?

16 A Well, actually when I -- when I was out on bond I was  
17 out on bond with R & R Bail Bonding, and that was for my --  
18 for my drug charge. And at that time I didn't have no  
19 attorney.

20 Two weeks later that -- the federal had came and  
21 picked me up and charged me. And they dropped the charge  
22 that I already had from the state. And I was -- part of  
23 that bond of the federal bond was part, you know, house  
24 arrest. So I stayed incarcerated for the Spartanburg  
25 County three and a half months, a little bit over three and

DeAngelo Antonio Young  
Direct examination by Ms. Moody

1 a half months.

2 And -- and I got out on bond. And when I got out on  
3 bond, on house arrest. I stayed on house arrest maybe  
4 about three or four months, and then I got my house arrest.

5 I went to court or whatever and mighta got sentenced  
6 or whatever, you know, was going to happen in court for the  
7 federal. But, you know, I didn't. I got a continuance.  
8 And at the same time they took the house arrest off my leg  
9 and granted me supervision or what not, you know, curfew.  
10 Excuse me. Curfew.

11 Q Let me bring you back here to on-the-state-charges  
12 that you had. The first time that you had an opportunity  
13 to talk to you about your case --

14 A Uh-huh.

15 Q -- was Mr. Cheeks. And that was on September 10th of  
16 2012.

17 A Yeah, September, yes, that's about right, well, when  
18 I -- when I got sentenced. That was -- when I got  
19 sentenced was September.

20 Q Right.

21 A So when I got sentenced, so that wasn't September the  
22 first time I talked to Cheeks. I's talking to Cheeks when  
23 I got incarcerated into the county then. And that was in  
24 July.

25 Q Okay. So that's the first time that you had an

DeAngelo Antonio Young  
Direct examination by Ms. Moody

1 attorney that you discussed your case with on the state  
2 charges, was Mr. Cheeks in July.

3 A Yes, ma'am.

4 Q Okay. And then the attorney that you ended up with on  
5 the day of your plea in addition to Mr. Cheeks was  
6 Mr. Hall.

7 A Mr. Hall.

8 Q Okay. And so you're here today before the Court  
9 asking the Court to grant you relief.

10 A Yes, ma'am.

11 Q Okay. And a part of that you're alleging that your  
12 counsel was ineffective assistance of counsel.

13 A Yes, ma'am.

14 Q That they did not perform at a level that you -- well,  
15 they performed at a deficient level in advising you as to  
16 your rights under due process of the law.

17 A Yes, ma'am.

18 Q And what specifically do you state they didn't advise  
19 you of?

20 A Well, Robert Hall when I was -- you know, when I was  
21 coming to court in the little room that I was in just  
22 awhile ago, he told me, you know, he telling me that my  
23 charge would be one thing. And when I got sentenced my  
24 charge was another.

25 Q what do you mean by that?

DeAngelo Antonio Young  
Direct examination by Ms. Moody

1 A He told me that my charge would be a -- would be a  
2 nonviolent sentence and that I would have to do half of my  
3 time and all that other stuff. But I didn't know anything  
4 about that, you know, until I got sentenced and then -- I  
5 see that my charge was not what he said it was going to be.

6 Q So what is your charge currently?

7 A My charge is seven years, 85 -- 85 percent. And I  
8 asked him specifically, I say with my charge, you know, how  
9 much time I have to do. He told me how much time I have to  
10 do. And also he told my mother the charge, you know, the  
11 amount of time I would have to do in front of my solicitor.

12 Q So what amount did he say that you'd have to do -- you  
13 have to do?

14 A Three and a half years.

15 Q Okay. And what is the amount of time that you will  
16 have to do?

17 A Five years and 11 months.

18 Q And so that's as it relates to the three charges that  
19 you pled to.

20 A Yes, ma'am.

21 Q Okay. And so the only thing that you pled to, the  
22 only thing that you received sentence on on that date, was  
23 your three charges. And they dismissed the two charges.

24 A Yes, ma'am.

25 Q Okay. Now, are you alleging that Mr. Cheeks also

DeAngelo Antonio Young  
Direct examination by Ms. Moody

1 failed you in that regard as well?

2 A Yes, ma'am.

3 Q Okay. And it's the same basis.

4 A Yes, ma'am. You know, also Cheeks -- what my -- what  
5 the decision that I, you know, decided was going to trial.

6 And I -- you know, and I brought that to James Cheeks'  
7 attention. And exact words he told me -- my solicitor,  
8 Chad Graham, was in there. And I said, well, James Cheek  
9 you know, I would like to go to trial. Don't you know --  
10 the exact word he said -- he say, "well, don't you know if  
11 you go to trial you can get 25 years?" I said, "I'm aware  
12 of that." He say, "well, don't threaten Chad Graham about  
13 going to trial." I said, "I'm not threatening Chad Graham  
14 about going to trial." I say that's what, you know, I  
15 decided, you know, that I wanted to do."

16 Robert Hall. He come in on the end, and he was  
17 telling me, you know, about the charges. He talked to me.  
18 He say we're looking at -- he say, you know, you plea to  
19 seven years, you only have to do, you know, three and a  
20 half years. And that's, you know -- that's the exact words  
21 Robert Hall told me.

22 Q So why did you plead?

23 A Robert Hall told me I'd have to do three and a half  
24 years.

25 Q Now, you also allege that you feel like you were not

DeAngelo Antonio Young  
Direct examination by Ms. Moody

1 fully advised of your rights.

2 A Uh-huh, yes, ma'am.

3 Q what, if anything, they -- did they not tell you with  
4 regard to your rights other than you're serving five years  
5 versus three years?

6 A well, Robert Cheeks and James --

7 Q James Cheeks?

8 A James Cheeks and Robert Hall, they told me about my  
9 right. I mean, so far nobody didn't tell me about my  
10 rights, so far that -- that I could have got -- if I knew  
11 that it was seven years and had to do 85 percent, you know,  
12 he, you know, I felt like that I could have did a  
13 reconsideration if I would have knew about that at the  
14 moment.

15 Q what do you mean by a reconsideration?

16 A As in trying to get my time, you know, reduced down or  
17 anything. You know, he never told me anything. He just  
18 sentenced me and never told me, you know, that I could have  
19 did this or did that.

20 Q so let me clear something. You're saying that because  
21 they didn't tell you that you could have got a motion for a  
22 reconsideration?

23 A Uh-huh, yes, ma'am.

24 Q So when you went forward they didn't -- you didn't  
25 have the motion for consideration -- you didn't know that

DeAngelo Antonio Young  
Direct examination by Ms. Moody

- 1 you could do a motion for reconsideration to the judge.
- 2 A Uh-huh, yes, ma'am, correct.
- 3 Q So you didn't request a motion for reconsideration.
- 4 A I didn't. And by the time I realized about the motion  
5 or reconsideration it was past my date, which is --
- 6 Q What do you mean?
- 7 A If I'm not mistaken, it was once you get sentenced you  
8 have ten days after the date you get sentenced to do a  
9 reconsideration.
- 10 Q So the judge told you that.
- 11 A The judge? No. That's not -- no, ma'am, not my  
12 understanding.
- 13 Q How did you learn about the ten days?
- 14 A No. That's something I learned as when I was  
15 incarcerated.
- 16 Q Okay. And so that's the other -- that's the only  
17 other ground in terms of they didn't advise you of your  
18 rights.
- 19 A Yes, ma'am.
- 20 Q Now, as to your -- I'm assuming that erroneous advice  
21 as to -- and you say unusual punishment.
- 22 A Uh-huh.
- 23 Q Is erroneous advice related to the amount of time that  
24 you're having to serve?
- 25 A Yes, ma'am.

DeAngelo Antonio Young  
Direct examination by Ms. Moody

1 Q Okay. And how does it -- you allege that it is  
2 unusual punishment? How is it unusual punishment?

3 A Because I said there was -- I had -- you know, they  
4 sat there. And I was charged with second offense. And  
5 with a second offense, you know, that's a -- you know,  
6 that's a very serious.

7 You know, the judge was telling me in my -- in my  
8 transcript that if I would get another charge I could see  
9 life without parole. And neither -- or, you know,  
10 attorneys Robert Hall or James Cheeks, never did object to  
11 that, you know, as me -- that it wasn't my first -- I mean,  
12 that it wasn't my second offense. It was only my first  
13 offense. And, you know, due to me -- due to them objecting  
14 to that -- and maybe my outcome would have -- would have or  
15 could have probably been different.

16 Q So you're saying that they didn't object to the fact  
17 that it was your first offense as to what?

18 A No. It was -- they was saying that it was my second  
19 offense. And they didn't object. They didn't -- they  
20 didn't object to that it's my second offense, you know,  
21 because it wasn't. It was my first offense.

22 Q So when you were initially charged you were charged  
23 with a third offense?

24 A Was I charged with a third offense?

25 Q Yes.

DeAngelo Antonio Young  
Direct examination by Ms. Moody

1 A No, no, ma'am.

2 Q You were charged with a second offense.

3 A Yes, ma'am.

4 Q Okay. And you're saying that you truly had a first  
5 offense.

6 A Yes, ma'am. I never had a second offense to be -- to  
7 be charged with a second offense. I never had a first  
8 offense to be charged with a second offense. My first  
9 offense was when I got sentenced for my drug charge and I  
10 went to court.

11 Q Now, you're seeking relief from the Court to change  
12 your sentence.

13 A Yes, ma'am.

14 Q Okay. And what else are you seeking from the Court  
15 for relief?

16 A Actually, I was seeking for relief as so far as a  
17 better, different outcome as is so far -- what I mean by  
18 that as in get a -- a better -- well, a different shot at  
19 what happened, because I felt like it wasn't a -- a trial,  
20 I mean, a fair trial and what not, what had happened when I  
21 did get sentenced in September 10th of 2012.

22 Q Okay. So I'm going to read -- and you correct this  
23 for me here -- from your application, because it sounds  
24 like you're trying to change what the relief is. Okay.

25 A Uh-huh.

DeAngelo Antonio Young  
Direct examination by Ms. Moody

1 Q In your application you state, "I only seek a time  
2 reduction in my sentences and for the 85 percent to be  
3 removed."

4 And I'm assuming you want the 85 percent classification  
5 on your offenses that you're serving to be removed.

6 A Yes, ma'am.

7 Q Okay. And you -- we talked about this, correct?

8 A Uh-huh.

9 Q And you understand that the judge nor your attorney  
10 could change whether or not your charge is classified as  
11 85 percent.

12 A Uh-huh, yes, ma'am.

13 Q So, in essence, what you're asking is for the Court to  
14 allow you to get a new opportunity to hear your charges all  
15 over again, and possibly you will get a charge that's not  
16 85 percent?

17 A Yes, ma'am.

18 Q Okay. And also with that you're asking, because it  
19 would not be 85 percent, your time would be reduced.

20 A Yes, ma'am.

21 Q Is there anything else you're asking the Court?

22 A No, ma'am. Like I said, that's actually, you know,  
23 about it as is so far as asking the Court as in relief so I  
24 can sit there, you know, maybe, because if it would have  
25 been, you know, reduced as in six -- 85 percent, would'a

DeAngelo Antonio Young  
Direct examination by Ms. Moody

1 been reduced down to the 65 or whatever, you know, because  
2 this was my first time in prison. So I didn't know  
3 anything about 85 percent or anything like that. All I  
4 know is what James Cheeks and Robert Hall told me.

5 Q So when you're saying if they could have reduced it  
6 down, let's talk about -- you received a plea offer from  
7 the state, right?

8 A Yes, ma'am.

9 Q Okay. And were you led to believe that Mr. Cheeks  
10 could go back to them with a different offer?

11 A Do I believe he will?

12 Q I mean, were you lead to believe that Mr. Cheeks could  
13 go back to the state with a different offer from what the  
14 state originally offered you?

15 A Well, actually, under the opinion, I wouldn't really  
16 want James Cheeks to be my attorney.

17 Q Okay. Well, whomever was your attorney, I'm saying is  
18 it -- your thinking -- were you led to believe that they  
19 could go back and get a different offer on your behalf that  
20 would be less than 85 percent?

21 A Yes, ma'am.

22 Q Okay. And what would that have been?

23 A Maybe a -- for lesser included offense of trafficking  
24 would be P.W.I.D., and maybe that's a different bracket of  
25 trafficking and so far as a -- a nonviolent sentence.

DeAngelo Antonio Young  
Direct examination by Ms. Moody

1 Q Okay.

2 A And from my understanding I have a -- my trafficking  
3 is -- it was a hundred to 200 grams lesser included  
4 offense, trafficking to 28 to a hundred.

5 Q So they dropped it one level.

6 A Uh-huh, one level. They dropped it from trafficking  
7 to a hundred to 200. They dropped it trafficking 28 to a  
8 hundred.

9 Q Right. And so you're saying that they could have  
10 dropped it down to a possession with intent to distribute.

11 A Yes, ma'am, or -- or maybe trafficking ten to 28,  
12 which would -- which would be a nonviolent offense.

13 Q Do you recall us talking about trafficking?

14 A Uh-huh, yes, ma'am.

15 Q And where I explained to you that traffickings are all  
16 violent.

17 A Uh-huh, yes, ma'am.

18 Q So, in essence, that's why you say you wanted a  
19 P.W.I.D.

20 A Yes, ma'am. I mean, but trafficking 28 to -- ten to  
21 28 would be a 65 percent sentence, wouldn't it?

22 Q No.

23 A Okay.

24 Q So the relief you're asking from the Court is to  
25 change your time-sentences.

DeAngelo Antonio Young  
Cross-examination by Ms. White

1 A Yes, ma'am.

2 MS. MOODY: No further questions for this witness.

3 CROSS-EXAMINATION

4 BY MS. WHITE

5 Q Mr. Young, you were called the day that you pled  
6 guilty?

7 A Yes, ma'am.

8 Q Okay. Do you recall the Court telling you that on the  
9 charges you were pleading to they were a violent and  
10 serious offense?

11 A Yes, ma'am.

12 Q And they went over with you the fact that you were  
13 pleading to a lesser included but that each of the counts  
14 were violent and serious.

15 A Yes, ma'am.

16 Q And that because you were pleading to two offenses, if  
17 you were to get a third serious offense the state could  
18 seek life without parole.

19 A Yes, ma'am.

20 Q Okay. So the second offense that you're talking  
21 about, the drugs, you pled to the first offense on both of  
22 your charges.

23 A Yes, ma'am.

24 Q And you're saying because she said something about the  
25 third would possibly be life without parole, do you

DeAngelo Antonio Young  
Cross-examination by Ms. White

1 understand that that's because you pled to two serious  
2 charges on that day?

3 A Yes, ma'am. Even by me pleading to two charges first  
4 offense on that day will make it second offense.

5 Q It could actually be a third when you had a third  
6 offense.

7 A Okay.

8 Q Now, you also said that you talked with him. And  
9 that's what Mr. Hall told you. So if Mr. Hall had told you  
10 it was a nonviolent but only -- you'd only have to serve  
11 three and a half years, why didn't you stop the plea then  
12 when he told you it was violent and serious?

13 A Because I didn't know anything about violent and  
14 serious, what that mean. All I knew was that James -- I  
15 mean -- that Robert Hall told me it'd be three and a half  
16 years I'd have to serve.

17 Q So when the Court said you understand that's going to  
18 calculate everything different at the Department of  
19 Corrections.

20 A Yes, ma'am. I understood that. I just -- I went --  
21 you know, I remember what Robert Hall said was three --  
22 seven and a half -- seven years would be three and a half  
23 years I got a sentence, you know, what I gotta do.

24 Q And you do recall that they talked about the fact that  
25 you were pleading with a recommendation of anywhere from

DeAngelo Antonio Young  
Cross-examination by Ms. White

1 seven, which is the minimum, to ten.

2 A Yes, ma'am.

3 Q So you're testifying that you were pleading because  
4 you were promised three and a half years, but yet at the  
5 plea you understood that you could get anywhere up to  
6 actually ten years.

7 A Yes, ma'am.

8 Q Okay. And the judge asked you if you -- if anybody  
9 promised you anything or threatened you into pleading  
10 guilty. And you said no. Is that right?

11 A Yes, ma'am.

12 Q And that you were happy with what your attorney had  
13 done with you and you didn't have any complaints, is that  
14 right?

15 A Yes, ma'am.

16 Q So at the time you were pleased. You're just unhappy  
17 essentially with the sentence that you got ultimately.

18 A Yes, ma'am, because it was one -- he tell me one thing  
19 as so far I took his advice due to his experience as an  
20 attorney, and he tell me seven years, and I'll have to do  
21 three and had a years.

22 I didn't know that -- he tell me that I have to -- you  
23 know, that I take a 7-year plea and that I would have to do  
24 three and a half years. I didn't know that the judge would  
25 say, you know, seven years concurrent violent or

DeAngelo Antonio Young  
Cross-examination by Ms. White

1 nonviolent. I didn't know that, you know, that I'd still  
2 have to do more in my time or less in my time. I didn't  
3 know anything about it.

4 Q So even though the Court told you those things, you  
5 weren't really believing them. You were only believing  
6 what you said Mr. Hall had told you?

7 A No, not necessarily. I mean, I believe what the Court  
8 said they would charge me with being violent, what not, but  
9 the Court didn't tell me that I would, you know, receive --  
10 I mean, I would have to do five and a half years or  
11 anything.

12 You know, James -- all I know that the Court said I  
13 have to do seven years violent, and Robert Hall telling me  
14 I would do seven years, I mean, a 7-year sentence and I'd  
15 have to do three and a half years out of seven years. So  
16 that's -- that was my full understanding.

17 Q All right. And that was if you got a 7-year sentence.  
18 But you also testified you were aware you could get up to a  
19 10-year sentence.

20 A Yes, ma'am.

21 Q Okay. Thank you.

22 MS. WHITE: That's all I have, Your Honor.

23 THE COURT: Let me ask one thing, Mr. Young.

24 THE WITNESS: Yes, sir.

25 THE COURT: what were you actually charged with, the

DeAngelo Antonio Young

1 amount? Were you charged with trafficking in more than a  
2 hundred grams?

3 THE WITNESS: Yes, sir, more than a hundred, less than  
4 200.

5 THE COURT: Okay. And was there actually a hundred  
6 grams of cocaine, or was it less than a hundred grams?

7 THE WITNESS: It was actually -- it was 112 grams.

8 THE COURT: Okay. And you admit to trafficking? You  
9 just didn't like the sentence?

10 THE WITNESS: Yes, sir. Actually --

11 THE COURT: Well, let me ask you this.

12 Do you understand that if you get a new trial and you  
13 come back you have to get a 25-year mandatory minimum for  
14 over a hundred grams?

15 THE WITNESS: Yes, sir.

16 THE COURT: And that's what you prefer?

17 THE WITNESS: Yes, sir.

18 THE COURT: Well, then why didn't you just -- why  
19 didn't you ask your lawyers to try to work you a deal? why  
20 didn't you just tell them you wanted the 25 to start with?  
21 We wouldn't even be here today.

22 THE WITNESS: No. I said that I wanted to go to trial  
23 or what not and --

24 THE COURT: Well, I thought you said you admitted it.

25 THE WITNESS: No, no, sir. I wanted to go to trial

DeAngelo Antonio Young

1 for my charge.

2 THE COURT: You did?

3 THE WITNESS: For the charges that I had, three  
4 charges.

5 THE COURT: Why -- why didn't you?

6 THE WITNESS: Robert Hall telling me I'd do three and  
7 a half years. And so I was -- you know, I say I'm  
8 satisfied with it, go ahead and let's do three and a half  
9 years and get everything behind me.

10 THE COURT: In other words, if you're not guilty of  
11 something three and a half years is a good deal?

12 THE WITNESS: I mean, no, sir. I mean, I'm not -- I  
13 wouldn't say that, you know. One day wouldn't -- wouldn't  
14 be a good deal, you know, being away from your family. It  
15 was just at the time I just wanted to get it over with and  
16 get everything behind me.

17 THE COURT: Okay. I see.

18 Anything else you want to ask?

19 MS. WHITE: No, Your Honor.

20 THE COURT: Step down.

21 Any other witnesses you wanted to call?

22 MS. MOODY: No, sir, Your Honor.

23 THE COURT: Okay.

24 MS. WHITE: Your Honor, we'd briefly call Robert Hall  
25 to the stand.



Robert B. Hall  
Direct examination by Ms. White

1 with Mr. Cheek to talk to Mr. Young.

2 And since the case was so old to the state they had  
3 made the offer of reducing some of the charges and doing  
4 seven to ten on trafficking crack cocaine and habitual  
5 offender. And they would dismiss the other charges.

6 And I have this form that I filled out, because having  
7 looked at the discovery and talked with Mr. Cheek who had  
8 been looking at discovery for longer than I had, because we  
9 only had the case for about three weeks before it came up  
10 with Judge Verdin for a plea.

11 And I listed the trafficking crack 28 to a hundred  
12 grams, seven to 25 years minimum -- seven. Can't be  
13 suspended. Possession with intent to distribute scheduled  
14 I, II or III drugs, zero to five; trafficking cocaine or  
15 crack more than a hundred grams. Twenty-five years is the  
16 only sentence, a mandatory minimum sentence, the only  
17 sentence he could get. And P.W.I.D. crack, zero to 15.

18 Like I said, I think I have five here, but that should  
19 be 15.

20 And habitual traffic offender up to five.

21 "And after discussing the charges and the evidence  
22 against me with James Cheek -- and then Robert Hall because  
23 Mr. Cheek had been talking to him before -- I rejected that  
24 offer and understand that I will be tried during the week  
25 of October 1st, 2012."

Robert B. Hall  
Direct examination by Ms. White

1           Mr. Cheek and I both felt that if he was going to take  
2 the offer that Judge Verdin was the best judge to plea in  
3 front of. He had the better chance of getting the 7-year  
4 end of the seven to ten.

5           And at that point he said, no, he does not want to  
6 risk that, he didn't want to go to trial, he wants to plea.

7           The only thing I know about three and a half, I  
8 don't -- it's not -- I wouldn't have said that on a violent  
9 serious offense -- is sometime three and a half years since  
10 he had stated that he had been in custody some of it and  
11 all of that -- but I went through all of that with him.

12           We had nine and a half months credit for jail and home  
13 detention, which we asked Judge Verdin to give him credit  
14 for, which she did, even the home detention. And then an  
15 additional 46 days incarcerated in Spartanburg. And he got  
16 credit for all of that.

17           But the only notation I have of three and a half years  
18 was since he had been arrested the first time, I think.

19           MS. WHITE: If I may, Your Honor, the state would want  
20 to move this in as State's Exhibit 1.

21           THE COURT: Has Ms. Moody been given a copy of it?

22           MS. MOODY: No -- no objection.

23           MS. WHITE: She has a copy, yes, Your Honor.

24           MS. MOODY: I have a copy.

25           (Affidavit marked State's Exhibit No. 1.)

Robert B. Hall  
Direct examination by Ms. White

1 Q And, Mr. Hall, just real quickly. That is not signed  
2 by the defendant, is that right?

3 A That's correct.

4 Q And the signature would have been him accepting the  
5 risk of proceeding to trial on all of those charges.

6 A That's correct. He would have rejected the plea  
7 offer, and we would have been going to trial October 1st of  
8 that year.

9 Q Okay. Did you have any concerns on the day that he  
10 pled guilty that he was misunderstanding the options or  
11 that he was under the wrong impression of what sentence he  
12 would possibly receive?

13 A No, I was not. I felt that he understood it  
14 completely, and I had written apparently on the same, on  
15 this form, 95 [sic] -- 95 [sic] days violent. And that  
16 was, I assume, a note after speaking with him that morning  
17 when we went in to plea. He was asking for 195 [sic] days,  
18 and I made the note that it was a violent offense at that  
19 point.

20 Q And, as we said earlier, Mr. Young testified. And the  
21 judge did review with him that it was a violent and serious  
22 offense at the plea.

23 A Yes.

24 Q And he still chose to plead guilty.

25 A That's correct.

Robert B. Hall  
Cross-examination by Ms. Moody

1 Q Okay. Thank you.

2 MS. WHITE: That's all I have, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. MOODY

5 Q Mr. Hall --

6 A Yes, ma'am.

7 Q -- as it relates to getting him to plea on  
8 September 10th, did you discuss with him and anyone else  
9 this plea?

10 A I discussed the plea with him on the 10th of September  
11 after I got discovery and looked at it.

12 I knew we had an offer to plea the next day. And  
13 because the case was so old the state was pushing it.  
14 They'd put him on the trial docket already, but they said  
15 we will extend this offer if he goes ahead, pleas now. And  
16 so I went to talk with him, and Mr. Cheek.

17 Q Okay. And he didn't plea on that day. He pled on the  
18 11th.

19 A The 10th was the day we went and talked with him. The  
20 offer -- the time of the plea was going to be on the 11th.

21 Q And on the day of the plea was there anybody else with  
22 him that you discussed outside of Mr. Cheek? Did you  
23 discuss this plea?

24 A I don't -- I don't recall speaking with somebody else.  
25 I could have spoken with family members. I just don't

Robert B. Hall  
Cross-examination by Ms. Moody

1 recall that.

2 Q And as it relates to the credit where you were  
3 explaining just a second ago -- the 195 days violent -- is  
4 that part of the 251 days?

5 A Yes. He had done -- with his incarceration before he  
6 went into the federal system and during the federal system,  
7 plus the home incarceration in the federal system, was 195  
8 days. We worked that. I worked that out.

9 And in my form here I also had the time from the plea  
10 date until the -- from the re-incarceration in the jail to  
11 the plea date is 46 days for a total of 251 days, and ask  
12 for credit for that.

13 And I do -- I just now see it on my form here, my  
14 file, of 85 percent written on the file.

15 Q Okay.

16 A I don't recall making that, but I do see it there now.

17 Q And you all signed the sentencing sheets on the date  
18 of the plea or --

19 A I'm not sure. I think Mr. Cheek signed the --  
20 actually signed the sentencing sheets because he had been  
21 speaking with him longer.

22 Q Okay.

23 MS. MOODY: No further questions for this witness,  
24 Your Honor.

25 THE COURT: Step down.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MS. WHITE: Thank you, Your Honor.

Your Honor, the state has no other witnesses.

THE COURT: okay. I'll review the record and issue an order.

END OF REQUESTED TRANSCRIPT OF RECORD

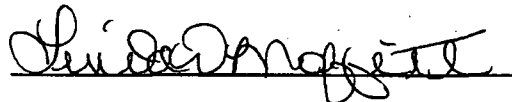
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Common Pleas Court for Spartanburg County, South Carolina, on the 10th day of April 2014.

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

October 8, 2014



Linda D. Moffitt  
Circuit Court Reporter

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF SPARTANBURG )  
 )  
 DeAngelo Antonio Young, #352340, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 SEVENTH JUDICIAL CIRCUIT

2013-CP-42-0338

**ORDER OF DISMISSAL**

This matter comes before the Court by way of an Application for Post-Conviction Relief filed January 25, 2013. The Respondent made its Return on or about March 3, 2014. An evidentiary hearing into the matter was convened on April 10, 2014, at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by Leah B. Moody, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

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

FILED  
 CLERK OF COURT  
 SPARTANBURG COUNTY  
 2014 JUL 28 AM 9:20  
 M. HOPKINS-BLACKLEY

**PROCEDURAL HISTORY**

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. He was indicted at the November 2009 term of the Spartanburg County Grand Jury for habitual traffic offender (2009-GS-42-6352), the January 2010 term for trafficking in crack cocaine 28-100 grams (2010-

SCANNED

GS-42-0630) and the November 2011 term for trafficking in cocaine over 100 grams (2011-GS-42-6659). James Cheek, Esquire, and Robert B. Hall, Esquire, represented Applicant. On September 11, 2012, Applicant pled guilty to trafficking in cocaine 28-100 grams, and the other two charges as indicted. Following a recommendation by the State, the Honorable Letitia H. Verdin sentenced Applicant to concurrent sentences of seven years on each trafficking charge and five years for habitual traffic offender. Applicant did not appeal his conviction and sentence.

### ALLEGATIONS

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

1. Ineffective assistance of counsel, in that;
  - a. "Failure to give me due process of law,"
  - b. "Did not fully advise me of my rights,"
  - c. "Erronies (sic) advice – unusual punishment."

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

#### Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71-1E, SCRCF). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial

FILED  
 CLERK OF COURT  
 SPARTANBURG COUNTY  
 2014 JUL 28 AM 9:20  
 M. HOPE LASKER

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

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

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

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2004 JUN 28 AM 9:20  
N. HOPE BLAOKLEY

Applicant testified that he never received any discovery materials. Applicant testified that he met with both Robert Hall and James Cheek on the day of his plea, but he originally understood Robert Hall to be his appointed attorney. Applicant testified that the first time he met with Hall was on the day of the guilty plea. Applicant testified that he had met with Cheek before and had received an offer of seven to twelve years, but Applicant did not want to accept that offer. Applicant testified that he was then informed of an offer for seven to ten years. However, on the day of the plea, Applicant testified that Hall informed him that his plea would

be for a non-violent charge and that Applicant would only have to serve 50% or 3.5 years of his sentence. Applicant testified that he had originally talked with Cheek about going to trial on the charges. Applicant also testified that Counsel failed to inform him of his rights to file a motion for reconsideration. Applicant testified that he wanted a better and different outcome, including maybe a reduction of charges or to serve less than 65% or 85%.

Robert Hall testified that he never told the Applicant that he would only serve 3.5 years of a sentence. Cheek originally met with Applicant on August 22<sup>nd</sup> for an interview. Hall testified that he requested discovery, which was received on September 10<sup>th</sup>. Hall testified that he met with the Applicant to review the discovery materials, charges and discuss a possible plea. Hall stated that the State made an offer on the case because it was an older case. Hall testified that he discussed a possible trial with Applicant and showed Applicant a form he completed with all five charges and potential sentences listed. Hall testified that the Applicant did not want to take the risk of taking the cases to a possible trial, which had been scheduled for October 1, 2012. Hall testified that the plea involved the dismissal of two charges and pleading guilty to two counts of trafficking and one habitual traffic offender charge. Hall testified he did not also testify that the judge also informed the Applicant that he was pleading guilty to two charges that were considered violent and serious and Applicant chose to proceed with the plea (Tr. p. 4).

This Court finds Counsel's testimony to be more credible than Applicant's testimony. This Court further finds that the Applicant has failed to meet his burden of proof as to his claims of ineffective assistance of counsel. It is clear from the testimony presented at the hearing that although Applicant was advised that he could not receive a sentence reduction or modification,

the Applicant simply seeks a reduction in his sentence or some sort of reduction in the charges. Regardless, the Applicant presented no evidence to support his claims that Counsel failed to provide due process, failed to advise Applicant of his rights, or failed to give correct advice.

This Court finds Counsel most credible regarding discussions with the Applicant about possible sentencing and the plea offer. The Applicant was clearly aware of the charges he was pleading guilty to and the possible sentence he could receive as a result of the plea. The plea colloquy established the fact that the trafficking charges were both violent and serious. The Applicant chose to proceed with the guilty plea following any discussion regarding the charges and possible sentences. This Court also finds no evidence that the Applicant was denied due process in any way during the plea process.

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors the defendant would not have pled guilty, but would have insisted on going to trial. *Roscoe v. State*, 345 S.C.16, 546 S.E.2d 417 (2001); *Richardson v. State*, 310 S.C. 360, 426 S.E.2d 99 (1993). This Court finds that the Applicant failed to meet his burden of proof and failed to establish any deficient conduct on counsel's behalf. Further, Applicant established no prejudice suffered as a result of any alleged deficiency. Accordingly, this allegation is dismissed.

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
JUL 28 AM 9:29  
M. HOPE BLANKET

**CONCLUSION**

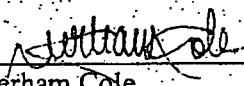
Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

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

**IT IS THEREFORE ORDERED:**

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

AND IT IS SO ORDERED this 25 day of July, 2014.

  
 \_\_\_\_\_  
 J. Derham Cole  
 Presiding Judge

FILED  
 CLERK OF COURT  
 SPARTANBURG COUNTY  
 2014 JUL 28 AM 9:20  
 MAHOPE BLAOKLEY

WITNESSES

1. SENTENCE MADE

2. REPORTED TO PUBLIC Safety Department

3. SEARCHED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED FINGERPRINTS

7. ASSIGNMENT AND FINE ENTERED

8. TRAFFIC VIOLATIONS COPY

ARREST WARRANT NUMBER

91992E GENERAL GRAND JURY

RETURNED

SECTION OF GRAND JURY

DATE: 1-23-12

FOREPERSON OF GRAND JURY: *[Signature]*

DATE: 1-23-12

VERDICT: *[Signature]*

Foreperson of Petit Jury

Date:

DOCKET NO. **09-GS-42-6352**

The State of South Carolina

County of Spartanburg

*Trey Gowdy, Solicitor*

COURT OF GENERAL SESSIONS

NOV 30 2009

TERM

THE STATE  
VS.

Deangelo A Young

*Indict to appear with Deangelo Young. Bench warrant to remain active.*

*Grant Jordan*  
1-23-12

HABITUAL TRAFFIC OFFENDER

SC Code: 56-1-1100  
CDR Code: 0057  
Class FELF

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY

2009 DEC 10 PM 12: 08

MARC KITCHENS

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2012 JUL 25 AM 10: 04  
M. HOPE BLACKLEY



WITNESSES

1. SENTENCE MADE

2. REPORT ENDED

SPIRIG CITY PUBLIC SAFETY

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED

7. AS

8. TRAFFIC VIOLATIONS COPY

**Computer**

ARREST WARRANT NUMBER

M089615

ACTION OF GRAND JURY

*True Bill*

Foreperson of Grand Jury

Date: *1-15-10*

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO.

**10-GS-42-2030**

The State of South Carolina

County of Spartanburg

*Trey Gowdy, Solicitor*

COURT OF GENERAL SESSIONS

JAN 18 2010

TERM

THE STATE

VS.

DEANGELO ANTONIO YOUNG

*Failed to Appear with Launch Restore  
Beard wanted to remain ashore.*

*Grant Spake*  
7-23-12

Indictment for

TRAFFICKING IN COCAINE BASE  
AND/OR CRACK COCAINE

SC Code: 44-53-375

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2012 JUL 25 AM 10:04  
M. HOPE BLACKLEY

SHHCJLJK 3VM

10:3 AM 12 JAN 0102

*M. D. Hope*  
CLERK OF COURT  
SPARTANBURG COUNTY  
D.C.

BY *M. D. Hope*  
DATED 9-15-13

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF SPARTANBURG )

## INDICTMENT

At a Court of General Sessions, convened on JAN 15 2010 the

Grand Jurors of Spartanburg County present upon their oath:

**TRAFFICKING IN CRACK COCAINE**

That Deangelo Antonio Young did in Spartanburg County on or about September 23, 2009, knowingly sell, manufacture, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or did knowingly actually or constructively possess, or did knowingly attempt to actually or constructively possess more than (28) twenty eight grams of Cocaine Base and/or Crack Cocaine, a schedule II controlled substance, in violation of §44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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

  
 ASSISTANT SOLICITOR

WITNESSES

SPTG CO SHERIFF'S OFFICE

- 1. SENTENCE MADE
- 2. REPORT ENTERED
- 3. CARD PULLED
- 4. INDEXED
- 5. CHECKED WARRANTS
- 6. SEARCHED
- 7. ASSASSINATED AND FINGERPRINTED
- 8. TRAFFIC VIOLATION COPY

ARREST WARRANT NUMBER

M120576

ACTION OF GRAND JURY

*[Signature]*  
**True Bill**  
 12/2/2011

Foreperson of Grand Jury  
Date:

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. **19-GC-42-6659**

The State of South Carolina  
County of Spartanburg

*Barry J. Barnette, Solicitor*

COURT OF GENERAL SESSIONS

NOV 29 2011

TERM

THE STATE

VS.

DEANGELO ANTONIO YOUNG

*Indictment to appear with leave to  
return. Arraignment to  
remain return.*

*Grand Juror*  
7-23-12

Indictment for

TRAFFICKING IN COCAINE

SC Code: 44-53-370

FILED  
 CLERK OF COURT  
 SPARTANBURG COUNTY  
 2012 JUL 25 AM 10:04  
 M. HOPE BLACKLEY

FILED  
 CLERK OF COURT  
 SPARTANBURG COUNTY  
 2011 DEC -5 PM 4:58  
 M. HOPE BLACKLEY

FILED  
 CLERK OF COURT  
 SPARTANBURG COUNTY  
 DATED 11-15-13  
*[Signature]*

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF SPARTANBURG )

INDICTMENT

At a Court of General Sessions, convened on NOV 21 2011 the

Grand Jurors of Spartanburg County present upon their oath:

**TRAFFICKING IN COCAINE**

That Deangelo Antonio Young did in Spartanburg County on or about July 30, 2009, knowingly sell, manufacture, cultivate, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase or bring into this State, or did knowingly actually or constructively possess or did knowingly attempt to become in actual or constructive possession of more than (100) one hundred grams of Cocaine, a schedule II controlled substance, in violation of §44-53-370, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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

  
 ASSISTANT SOLICITOR