

ORIGINAL

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM MARION COUNTY
Court of Common Pleas

The Honorable Michael G. Nettles, Circuit Court Judge

Appellate Case No. 2014-001631

RECEIVED

JAN - 9 2015

S.C. Supreme Court

LETRON S. DAVIS, Respondent,

v.

STATE OF SOUTH CAROLINA, Petitioner.

APPENDIX

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Attorney General

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ATTORNEYS FOR PETITIONER

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| STATE OF SOUTH CAROLINA |) | |
| |) | COURT OF GENERAL SESSIONS |
| COUNTY OF MARION |) | 2011-GS-33-0228 |
| |) | 2011-GS-33-0476 |
| |) | |
| |) | |
| State of South Carolina |) |) |
| |) | |
| vs. |) | TRANSCRIPT OF RECORD |
| |) | |
| Letron Sharell Davis |) |) |
| <u>DEFENDANT</u> |) | December 6, 2011 |
| | | 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:

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 THE CLERK: Do you swear or affirm to tell the
2 truth, the whole truth and nothing but the truth so help
3 you God?

4 THE DEFENDANT: I do.

5 THE CLERK: Thank you.

6 MR. JEPERTINGER: If it please the Court, Your
7 Honor, if you would please we're here on two -- actually
8 three separate matters. One case is unindicted. It will
9 be a waiver. It's on 2011-GS-33-0476 charging Letron
10 Davis with a nonviolent on burglary, Your Honor. He is
11 represented by Mr. Meetze on that. In terms of jury
12 notification, we told the victim to be here last Monday.
13 She didn't show up on that date at all, Your Honor. And
14 we had no contact with her since then, Your Honor.

15 The other case we're dealing with is 2011-228
16 that is two counts of distribution of cocaine base second,
17 Your Honor. Your Honor, even though he was arrested
18 excuse me -- even though the charges happened prior to the
19 change in the law, he wasn't arrested until after the
20 change in the law. Therefore, the action would be under
21 or the case would be under the new law where technically
22 he's eligible for all sorts of things including a
23 probationary sentence on that.

24 There is a negotiated sentence for seven years,
25 Your Honor, on these two cases. And that the burglary

1 case would run together with that, that's with the consent
2 of law enforcement. And I think that's it. One more
3 thing, Your Honor, I did forget. I will -- and this is
4 for the clerk. I will be nol-prossing 2011-229, which is
5 a possession of cocaine base against Mr. Davis.

6 THE COURT: Mr. Davis, Letron Sharell Davis you
7 are pleading guilty to burglary second which carries up to
8 ten years in jail; is that correct?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And you're also pleading guilty to
11 distribution of cocaine base second which has a minimum of
12 five years and a maximum of 30 years; is that correct?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And you're also pleading guilty to
15 another distribution of cocaine base second, which is a
16 minimum of five years and a maximum of 30 years; is that
17 correct?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Also you have waived presentment to
20 the grand jury; is that correct?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Is that something you want to do and
23 something your lawyer has explained to you?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay. Also, this is a negotiated

1 sentence. Do you understand that if I accept the
2 negotiations, you will receive seven years today?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Understanding that do you still want
5 to go forward with this plea?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right. Were you in the
8 courtroom earlier today when I went over your rights to a
9 jury trial?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand those rights?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you have any questions about your
14 rights to a jury trial for either me or your lawyer?

15 THE DEFENDANT: No, sir.

16 THE COURT: Do you want to give up your rights
17 to a jury trial and plead guilty today?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: You satisfied with your lawyer?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Has anybody promised you any type of
22 reward or gift to get you to plead guilty?

23 THE DEFENDANT: No, sir.

24 THE COURT: Has anybody been threatening you or
25 coercing you in any way to make you plead guilty?

1 THE DEFENDANT: No, sir.

2 THE COURT: Has your lawyer answered all of your
3 questions and done everything you've asked him to do?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Are you under the influence of any
6 drugs or alcohol at this time that would affect your
7 ability to think and reason and understand and know what
8 you're doing?

9 THE DEFENDANT: No, sir.

10 THE COURT: Are you guilty?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Have you understood all of my
13 questions?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Have you answered me truthfully?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Thank you.

18 MR. JEPERTINGER: Your Honor, on May 20th 2010,
19 in the afternoon agents with the combine drug unit met
20 with a confidential informant. The C.I. told them that
21 basically that they could make purchases from a subject
22 known to the C.I. as Tron. They were given -- let me see
23 the C.I. was given, I believe, \$50 of state money. And
24 they put a transmitter on the C.I., videotaped the
25 situation, wound up purchasing \$50 worth of cocaine base

1 from Tron.

2 It was sent to SLED. The agents identified the
3 subject as being Letron Sharell Davis. Your Honor, the
4 amount of drugs was 0.5 grams of crack on that occasion.

5 The very next day same deal Marion County
6 combine drug unit got together with the C.I., Your Honor,
7 from the previous day, set up another deal with Tron,
8 given a quantity of money. At this time, I believe it was
9 \$50 as well and went and purchased what turned out to be
10 0.7 grams of crack per SLED analysis.

11 Your Honor, his prior for this, he was placed on
12 probation in 2009. He received -- and it was cocaine
13 first at the time, convicted eight years suspended to two
14 years probation. That's according to the drugs, Your
15 Honor.

16 In terms of the burglary quite simply, Your
17 Honor, on the 19th day of August 2011, Mr. Davis forced
18 his way into the residence of Linda Nowell by using a
19 sawed-off shotgun to break the glass in the storm door and
20 forced in the wooden door to gain entry in damaging the
21 door. Once inside, Mr. Davis still had the gun in his
22 hands and ran down to Crystal Dawn Nowell's bedroom where
23 he tried to force his way in causing damage to the door.
24 Mr. Nowell grabbed her child and ran outside the door
25 fearing for the child's safety as well as her own. Your

1 Honor, initially, they charged him with C.D.V. hand, but
2 based on the facts and circumstances and what we could
3 prove in terms of Nowell's house, we allowed him to plead
4 to the burglary, Your Honor.

5 THE COURT: Thank you very much. I will accept
6 the plea, find it's a factual basis for it. He's given
7 freely and intelligently and with advice of competent
8 counsel.

9 MR. MEETZE: Thank you, Your Honor, please the
10 Court. Beg the Court's indulgence just one second. Your
11 Honor, we met with Mr. Davis out at the jail a few weeks
12 ago in preparation for this upcoming term of court. At
13 that time, he did sign up on everything to plead guilty
14 and wanted to do that. I been over with him the
15 enhancement provisions of the drug code and obviously by
16 virtue of pleading to a second offense, he understands
17 that the more you get the higher the punishment goes. He
18 does indicate to me and I have not had an opportunity to
19 talk with anybody or look this up in any way at the jail,
20 but he does indicate that he's a done a total of 209 days
21 on these charges. But other than that, we ask the Court
22 to go along with the negotiations.

23 THE COURT: All right. I will accept the
24 negotiations. Sentence of the Court is seven years on
25 each. They're to run concurrent. I'll give him 209 days

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credit.

MR. MEETZE: Thank you, Your Honor.

THE COURT: Thank you.

MR. JEPERTINGER: Thank you, Your Honor.

END OF REQUESTED TRANSCRIPT

FORM 5

STATE OF SOUTH CAROLINA)
County of Marion)

IN THE COURT OF COMMON PLEAS

Letron Sharell Davis #348914)
Full name and prison number (if any) of Applicant)

2012-CP-33-379

v.)

State of South Carolina)
)
)
)
)
)
)

APPLICATION FOR
POST-CONVICTION RELIEF

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 Evan Correctional Institute; 610 Highway 9 west Bennettsville, SC. 29512
2. Name and location of Court which imposed sentence Marion County General Sessions Twelfth Circuit
3. Name(s) of co-defendant(s) (if any) (NONE)
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2011-GS-33-0228-Distribution of Cocaine Base

- (b) 2011-G 33-0228-Distribution of Cocaine Base
- (c) 2011-GS-33-0476-Burglary 2nd (A) (0-10)

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

- (a) 12-6-2011; Distribution of Cocaine Base 7 years
- (b) Distribution of Cocaine Base 7 years (negotiated) Non-violent
- (c) Serious time served 209 day; Burglary 2nd 7 years (non-violent) con-current

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____

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

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

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

- i. _____
- ii. _____
- iii. _____

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

- i. _____
- ii. _____
- iii. _____

(c) the date of each such result:

- i. _____
- ii. _____
- iii. _____

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

- i. _____
- ii. _____
- iii. _____

9. If you answered Ano@ to (7), state your reasons for not so appealing:

- (a) My Counsel did not advise me I could appeal within 10 days after plea.

- (b) _____
- (c) _____

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

- (a) Ineffective Counsel
- (b) Violation of Fourth Amendment (warrant Clause)
- (c) Ex Post Violation; Due Process Const. Amend. 14th Violation

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

- (a) Counsel failed to provide competent representation
- (b) Burglary 2nd Warrant was never sworn, signed by judge or served to defendant.
- (c) Old statute was amended not repealed, prosecution sentence under new statute

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? _____

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. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____

- iv. _____
- (c) the disposition thereof:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____

- (d) the date of each such disposition:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____

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

Yes

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

- (a) which grounds have been presented:
 - i. inadequate representation
 - ii. deprivation to a meaningful opportunity present a complete defense.
 - iii. Change in law retroactively.

- (b) the proceedings in which each ground was raised:
 - i. Strickland v. Washington, 466 U.S. at 668, 104 S.Ct. 2052 (1984)
 - ii. Johnson v. United States, Supra, 333 U.S. at 13, 14 68 S.Ct at 369
 - iii. Jerigan v. State, 340 S.C. 256, 261, 531 S.E. 2d 507 (2000)

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) Malicious prosecution; Not enough space in (10)
- (b) FRAUD-Not enough space in (10)
- (c) Substantive due Process Violation/Procedural; Not enough space

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? NO
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? 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. 12th Circuit Public Defender; Marion County OFFICE
⓪ (Name Unknown)

- ii. _____
- iii. _____

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

- i. Arraignment General Session Plea Court

- ii. _____
- iii. _____

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

Im imploring the Courts vacated the Burglary 2nd Conviction; Overturn and dismiss with Pre Judice the Distribution of Cocaine Base

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 Marion)

VERIFICATION

I, Letron Sharell Davis #348914, 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.

Letron Sharell Davis
Letron Sharell Davis

SWORN to and subscribed before me this 17 day of May, 2012.

Barbara Augustus (L.S.)
Notary Public

My Commission Expires: 8-18-18

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

I, Lelton Sharell Davis #348914, 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.

Lelton Sharell Davis
Lelton Sharell Davis
Applicant

SWORN or affirmed to and subscribed before me this
17 day of May, 2012.

Janice Dyer McMill
Notary Public

My Commission Expires: 8-18-18

FILED
2012 JUN 11 PM 3:11
COURT CLERK

STATE OF SOUTH CAROLINA,)
 COUNTY OF Marion)
Letron Sharell Davis)
 Plaintiff)
 vs.)
State of South Carolina)
 Defendant.)

IN THE FAMILY COURT
 COURT OF COMMON PLEAS
 MAGISTRATE COURT

12th JUDICIAL CIRCUIT.

**MOTION AND AFFIDAVIT TO
 PROCEED IN FORMA PAUPERIS**

FILE NO. _____

2017 JUN -1 P 3 11
 2017 JUN -1 P 3 11
 2017 JUN -1 P 3 11

I, Letron Sharell Davis, being duly sworn, state that I am the Plaintiff and that I do not have the funds available to pay the costs of filing and service in the present matter. I hereby request that the complaint be filed and service made without costs.

Sworn to and Subscribed before me)
 this 17 day of May, 2022.)
Jamda Duggins Melrose)
 Notary Public for South Carolina)
 My Commission expires 8-18-18)

Letron Sharell Davis)
Letron Sharell Davis)
 Signature of Plaintiff or)
 Person Filing Complaint on Behalf of)
 Plaintiff)

ORDER

Leave (granted) / (denied) to proceed in forma pauperis.

Dated: _____, 2022
 _____, South Carolina
 JUDGE/CLERK OF COURT

NOTICE TO PLAINTIFF: The Court may assess costs against either party at hearing.

US 01 111

STATE OF SOUTH CAROLINA)

COUNTY OF MARION)

IN THE COURT OF COMMON PLEAS

2012-CP-33-379

Letron Sharell Davis, 348914)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

RETURN

Respondent, making its Return to the Application for post conviction relief (PCR) filed June 1, 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 Marion County Clerk of Court. Applicant was indicted at the August 2011 term of the Marion County Grand Jury for distribution of cocaine base second (two counts) (2011-GS-33-0228) burglary second (2011-GS-33-476), Vick Meetze, Esquire, Esquire, represented Applicant.

On December 6, 2011, Applicant pled guilty as indicted and was sentenced by the Honorable William H. Seals to seven years imprisonment on each charge, to be served concurrently. Applicant did not appeal.

Attached herewith and incorporated herein are the records of the 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"
2. "Violation of Fourth Amendment (warrant clause)"
3. "Ex Posto Violation; Due process const amend 14th violation"

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

2/22, 2013.

STATE OF SOUTH CAROLINA)

COUNTY OF MARION)

IN THE COURT OF COMMON PLEAS

2012-CP-33-379

LETRON SHARELL DAVIS, #348914)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

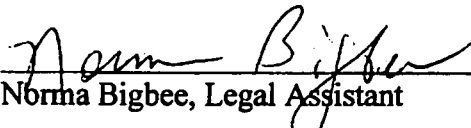
STATE OF SOUTH CAROLINA,)

Respondent.)

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

Marcus L. Woodson, Esquire
1011 E. Liberty St.
Marion, SC 29571

DATED this 22ND day of February, 2013.


 Norma Bigbee, Legal Assistant

| | | |
|--------------------------|---|-----------------------|
| STATE OF SOUTH CAROLINA |) | |
| |) | COURT OF COMMON PLEAS |
| County of Florence |) | 2012-CP-33-379 |
| |) | |
| |) | |
| LETRON S. DAVIS, |) | |
| |) | |
| APPLICANT, |) | |
| |) | |
| vs. |) | TRANSCRIPT OF RECORD |
| |) | |
| STATE OF SOUTH CAROLINA, |) | |
| |) | |
| RESPONDENT, |) | |

February 11, 2014
 Florence, South Carolina

BEFORE:

THE HONORABLE MICHAEL NETTLES, JUDGE.

APPEARANCES:

MARCUS WOODSON, ESQ.
 Attorney for the Applicant

JOSHUA THOMAS, ASSISTANT ATTORNEY GENERAL
 Attorney for the Respondent

KAREN AMBROZIAK
 Official Court Reporter

C O N T E N T S
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VICK MEETZ

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Cross By Mr. Woodson 30

Redirect By Mr. Thomas 38

> > > < < <

(No exhibits were introduced.)

CERTIFICATE OF REPORTER 41

1 MR. THOMAS: Mr. Davis was indicted in August of
2 2011. Actually, he waived presentment. He was indicted
3 for distribution of cocaine base, second offense, two
4 counts. He waived presentment on an indictment for
5 burglary second nonviolent.

6 He was represented on those charges by Vick Meetz.
7 He pled, entered a negotiated plea on December 6th, 2011,
8 the Honorable William H. Seals, Jr. sentenced him to seven
9 years on each count of distribution cocaine base second
10 and a concurrent seven years on burglary second
11 nonviolent.

12 He filed this PCR on June 1st, 2012 alleging
13 ineffective assistance of counsel, and he is represented
14 by Marcus L. Woodson, and the State is ready to proceed.

15 THE COURT: Mr. Woodson, you're recognized.

16 MR. WOODSON: Your Honor, I'd call Mr. Letron Davis
17 to the stand.

18 THE COURT: Mr. Davis, please come forward and place
19 your left hand on the Bible. Raise your right hand as the
20 clerk administers the oath.

21 LETRON DAVIS, after being duly sworn,
22 testified as follows:

23 THE CLERK: Please be seated. State your name for
24 the record.

25 (There was no response).

1 THE COURT: Mr. Woodson, you're recognized.

2 MR. WOODSON: Thank you, Your Honor.

3 DIRECT EXAMINATION:

4 BY MR. WOODSON:

5 Q Can you state your name for the record?

6 A Hi. My name is Letron Sharell Davis.

7 Q Okay. Can you -- if you don't mind speaking into the
8 that microphone, sir.

9 The county you were living in prior to your plea?

10 A Marion County.

11 Q Okay. And what were you -- what was your
12 understanding of why you were in jail at the county?

13 A My understanding of why I was in jail was so -- I was
14 in there for a burglary.

15 Q Okay.

16 A I was...

17 Q All right. And at so point, did you meet with
18 Mr. Meetz?

19 A Yes, sir.

20 Q Okay. When was that? Do you recall?

21 A In -- I met him one day. It was in August.

22 Q Was that at the jail or at the courtroom?

23 A It was at the jail.

24 Q Okay. And did you discuss your case at that time?

25 A They did -- I mean, they basically asked me to plead

1 to something, you know what I'm saying, and I told them I
2 don't know nothing about it. They was like, "Well, you
3 can change it when you can get to the jailhouse."

4 Q Okay. Now, you said "they". Who else was you taking
5 about?

6 A The solicitor, Ms. Johnny.

7 Q Okay.

8 A Mr. Johnny was doing all of the talking.

9 Q Was there some back and forth as -- as -- as
10 concerning how many years you were going to plead to?

11 A Yes, sir.

12 Q Did I -- did this all happen over a one-day period,
13 or was this a period of a couple of days?

14 A This was like a period of like a couple of days.

15 Q Okay. Initially, what was the offer to you?

16 A Ten years.

17 Q Okay. And did you accept that?

18 A No, sir.

19 Q And then what was the next offer?

20 A Eight.

21 Q Okay. Did you accept that?

22 A No, sir.

23 Q Okay. And what was the next offer?

24 A They offered me seven years and then told me that if
25 I do the seven years, it will be at 65 percent up under

1 the new law.

2 Q Okay. And who told you that?

3 A Mr. Vick and Mr. Johnny.

4 Q Johnny. Would that be John Jepertinger?

5 A The Solicitor.

6 Q Solicitor.

7 A Solicitor.

8 Q Okay. So it was the Solicitor's understanding and
9 the Public Defender's understanding that under the new law
10 you would do...

11 A Sixty-five percent.

12 Q Sixty-five percent?

13 A Yes, sir.

14 Q All right. Now, if you had know -- well, let me ask
15 you this way: Subsequently, did you find out it was
16 85 percent?

17 A I found out it was 85 percent when I was at Kirkland
18 when I -- when I first went to prison down there, and they
19 told me that I was going to be doing 85 percent. Then I
20 contact Mr. Vent [sic] and asked him.

21 Q If you had known that it would have been 85 percent
22 charge, would you have accepted that plea?

23 A No, sir.

24 Q Okay. Now, do you understand that if you prevail in
25 this PCR, that you start from scratch. You have to go

1 back, and you go through this process again if you want
2 to -- you can either go to trial or you can accept some
3 sort of plea if this is sent back?

4 A Yes, sir.

5 Q Okay. And is that what you want? You want the judge
6 to grant the PCR?

7 A Yes, sir.

8 Q Okay. Also, were there times where you and Mr. Meetz
9 would go back and forth with letters?

10 A Yes, sir.

11 Q All right. And you had some questions regarding the
12 law and the 85 percent?

13 A Yes, sir.

14 Q And what kind of responses did you receive?

15 A The response that I received, the reason that he told
16 me that my charge would not be an 85 percent charge,
17 because that's what he believed the law says. He also
18 stated that's also what other lawyers he believed the law
19 said. He stated at the time of my plea, he wasn't aware
20 of that or else he would have advised me differently.

21 Q One of your other complaints was concerning an appeal
22 that you were not advised of a right to an appeal; is that
23 correct?

24 A Yes, sir.

25 Q When did you find out about your right to appeal?

1 A After I had been down there probably like a couple of
2 months, been in prison for a couple of months.

3 Q Do you recall anywhere in the transcript where the
4 judge advised you of your right to appeal?

5 A Yes, sir.

6 Q Okay. And...

7 A It's not in the transcript.

8 Q It's not in the transcript?

9 A No, sir.

10 Q Okay. Would that have helped you to have understood
11 if you had a right to appeal the sentence within ten days?

12 A Yes, sir.

13 Q And is that something you would have looked into?

14 A Yes, sir.

15 Q Okay. Any other complaints that you have based on
16 the petition you filed?

17 A No, sir.

18 MR. WOODSON: Your Honor, I don't have any other
19 questions, Your Honor.

20 THE COURT: Cross-examination, Mr. Thomas?

21 MR. THOMAS: May it please the Court.

22 THE COURT: Yes.

23 CROSS-EXAMINATION:

24 BY MR. THOMAS:

25 Q Mr. Davis, how many meetings did you have with

1 Mr. Meetz before your plea?

2 A It was like three or four.

3 Q And did you go over discovery with him?

4 A The only thing they -- I went over with him is what
5 they wanted me to plead to.

6 Q And he told you that you were going to plea. You
7 were originally charged with CDV HAN; correct?

8 A Yes, sir.

9 Q And Mr. Meetz negotiated that down to a burglary
10 second nonviolent?

11 A Yes, sir.

12 Q Did you ever -- you had an opportunity to tell him
13 your version of events that happened, correct?

14 A Basically, yeah but he -- at the same time, it was up
15 to him, you know what I'm saying, to do his own study on
16 it.

17 Q But you did discuss the elements of the crimes, any
18 possible defense you may have?

19 A The elements, you're talking about like for the drug
20 charges or for...

21 Q For both, for the drug and the --

22 A See, I ain't know anything about the element, that
23 motion you said. That's my first time even going in front
24 of anybody. I don't know nothing about no law on that.

25 Q Is that the drug charge or the burglary?

1 A On both. I don't know nothing about none of that.

2 Q So did you discuss any possible defenses you may have
3 to the charges?

4 A If you was talking about like -- like what you
5 talking about? Like --

6 Q I'm sorry. I can't hear you.

7 A You're talking about my --

8 Q Speak up so the court reporter can hear you.

9 A You're talking about like I was charged with [sic]?

10 Q Yeah, what did he say your charges were?

11 A Distribution second and CDV, and when I got to court
12 they changed the CDV to a burglary.

13 Q But specifically did he tell you you had a defense to
14 any of those charges like, "It wasn't me"?

15 A Yeah. I told him they possibly could have had the
16 wrong person, you know what I'm saying, because I got a
17 brother that looked exactly like me, dreads and
18 everything.

19 Q So did you tell him that he needed to investigate
20 that?

21 A I told him he needed to watch the video.

22 Q And you said you were told about the ten-year offer?

23 A Yes, sir.

24 Q And the eight-year offer?

25 A Yes, sir.

1 Q And it was your decision to accept the seven-year
2 offer finally?

3 A Yes, sir.

4 Q Because you -- and you admitted at your plea hearing
5 that you were, in fact, guilty of the three crimes you
6 were charged with?

7 A Yeah. My seven-year offer, he was like, "If you
8 don't plead to this," you know what I'm saying, "I'm going
9 to make sure the judge -- I talked to the judge, and he'll
10 give you 30 years."

11 Q That's what the solicitor said?

12 A That's what the police told me.

13 Q Do you remember waiving your rights and pleading
14 guilty?

15 A Yes, sir.

16 Q You admitted you had a prior drug distribution
17 charge?

18 A Yes, sir.

19 Q Is that correct? So seven years on two drug
20 distributions and a burglary charge. Did you think that
21 was a pretty good deal?

22 A All depends on if -- they -- I mean, they told me it
23 was going to be a 65 percent.

24 Q And Mr. Meetz explained to you that was his
25 interpretation of the law, didn't he?

1 A He told me -- yes, sir. He told me that's how the
2 new law went.

3 MR. THOMAS: I think that's all I have. Thank you.

4 THE WITNESS: Yes, sir.

5 MR. WOODSON: Your Honor, can I ask some follow up?
6 It will be very brief.

7 THE COURT: Yeah.

8 REDIRECT EXAMINATION:

9 BY MR. WOODSON:

10 Q You mentioned during cross-examination a video. Did
11 you ever discuss the contents of the video with Mr. Meetz?

12 A No, sir.

13 Q Okay. And you also mentioned the 65 percent during
14 cross-examination. What was your understanding of what
15 65 percent of the seven years would be?

16 A Sixty-five percent would be like three,
17 three-and-a-half years, and you get like work credit,
18 education credits, probation status and like furloughs and
19 stuff like that.

20 Q Okay. And if you were under a 65 percent sentence
21 now, would you be finished or almost finished?

22 A Yes, sir.

23 Q And how do you know that?

24 A Because I did a calculation. It comes out to about
25 like 65 percent of seven years would be like 42 months.

1 Q Okay. And one of your charges maxes out, does it
2 not?

3 A Burglary.

4 Q Doesn't one of your charges max out?

5 A The burglary charge maxes out at the end of this
6 year.

7 Q Okay. And that's when it's actually --

8 A It's 65 percent.

9 Q Okay. And when you decided to accept that plea, did
10 you have any children?

11 A Yes, sir.

12 Q How old was your daughter?

13 A My little girl was three years old.

14 Q Okay. And what were you told concerning how old she
15 would be when you got out?

16 A They told me if I pled to it -- she is three years
17 old now. She would be like six years old when I get out,
18 and she is already six, about to turn seven.

19 Q Who told you that?

20 A Mr. Vicks and Miss -- the Solicitor.

21 MR. WOODSON: Okay. Okay. I think that's all, Your
22 Honor.

23 THE COURT: Very good. You may step down. Thank
24 you, sir.

25 THE WITNESS: Yes, sir, thank you.

1 THE COURT: Anything further from the Applicant?

2 MR. WOODSON: No, Your Honor.

3 THE COURT: All right. Mr. Thomas, you're
4 recognized.

5 MR. THOMAS: Your Honor, the State would call
6 Mr. Meetz to the stand.

7 THE COURT: Very good.

8 Mr. Meetz, place your left hand on the Bible, raise
9 your right hand as the clerk administers the oath.

10 VICK MEETZ, after being duly sworn,
11 testified as follows:

12 THE CLERK: Please be seated. State your name for
13 the record.

14 THE COURT: Get real close to that microphone.
15 Speaker loudly slowly and clearly, Mr. Meetz.

16 THE WITNESS: My name is Vick Meetz.

17 DIRECT EXAMINATION:

18 BY MR. THOMAS:

19 Q Good morning, Mr. Meetz. How long have you been
20 practicing law?

21 A Since 1999, going on 15 years, I guess.

22 THE COURT: That's ago long time, isn't it, 15 years?

23 THE WITNESS: No end in sight, unfortunately.

24 BY MR. THOMAS:

25 Q It's like fine wine. It gets better with age.

1 Mr. Meetz, how -- you were -- I'm assuming you were
2 appointed on this case?

3 A That's correct.

4 Q How many meetings did you have with Mr. Davis before
5 the plea?

6 A I don't know exactly how many, but his number is
7 probably -- is probably right. You know, Marion can be a
8 different -- a different world from Florence, and I had
9 not been handling cases in Marion very long at that time.
10 You know, they were trying do something with this case.

11 It's something that probably was a bang, bang thing,
12 so I would say his -- his estimates as to the number of
13 times that we met is probably close to right. Certainly
14 no more. I think he said three or four times. Probably
15 no more than that.

16 Q Did you file any discovery motions in this case?

17 A You know, discovery motions had been filed prior to
18 me handling things. I think we had the discovery in the
19 file by the time I picked up the file.

20 Q And to the best of your recollection, what was the
21 State's discovery response? What evidence did they hand
22 over to you?

23 A Primarily paperwork, the incident reports and that
24 kind of thing in regards to it, offer sheets if they made
25 an offer or anything like that. We don't receive, as part

1 of our discovery process, videos in drug cases.

2 Q Did you have an opportunity to view a video?

3 A I don't have a note in the file whether I did or not.

4 Sometimes they -- I mean, if we ask for them, they will
5 let us see it. I don't recall specifically. There's a
6 little room in the Marion courthouse that the officers
7 with the combined drug unit, if they're there, they will
8 have the videos, and they will let the attorneys see.

9 It seems like I saw at least pictures if not the
10 videos, but I don't specifically recall looking at the
11 video in the case.

12 Q And did Mr. Davis ever tell you that you need to go
13 watch the video before you could plea?

14 A I don't recall. If he told me that, then I would
15 have approached the drug unit about that and would have
16 seen the video.

17 Q Regarding the CDV charge, what was the State's -- I
18 guess what was their theory on the CDV HAN charge?

19 A Well, the CDV HAN was -- you know, the allegations
20 was an entry into this residence without permission with
21 the intent to commit some kind of an assault and/or
22 battery against the person in there. That person being a
23 household member which should -- under the criminal
24 domestic violence statute, CDV high and aggravated is a
25 violent offense, and so the offer to treat that as a

1 burglary as opposed to a criminal domestic violence high
2 and aggravated gave him and little bit of a concession on
3 that in that the time that he would have to do on a
4 burglary would be nonviolent time as opposed to violent
5 time that he would have had to have done had they kept it
6 at criminal domestic violence high and aggravated, and he
7 had been convicted of that.

8 Q I don't want to skip around too much but regarding
9 the second drug charge and the second possession, what was
10 your -- let me ask it this way: What was the drug law
11 regarding the second possession? What was the punishment
12 prior to the 2010 law change?

13 A Prior to the 2010 law change, it carried a minimum of
14 five and up to 30 years. That minimum was what's known as
15 a mandatory minimum meaning that a judge could not
16 sentence anyone to less than five years.

17 They could not have any kind of suspended sentence at
18 all, and any sentence that they received would have to
19 be -- they would have to serve at least 85 percent of that
20 before they would be eligible for any kind of release.
21 There was no eligibility whatsoever for parole under the
22 old law as we refer to it.

23 Q And how did the 2010 Omnibus Crime Bill change that?

24 A The 2010 Omnibus Crime Bill changed that in that
25 under the distribution second offense law, it now reads --

1 to the best of my memory, it now reads, "Notwithstanding
2 any other provision of law, people convicted under this
3 statute will be eligible for work credits, education
4 credits, good-time credits, parole" and all the things
5 that we associate with regular nonviolent parole eligible
6 offenses that individuals convicted under don't have to do
7 85 percent.

8 Q And you say normally -- does that language appear in
9 any other statutes?

10 A You know, it appears also in distribution third
11 statutes where it says that if someone is convicted under
12 this distribution third offense statute and the two prior
13 offenses that are enhancing this are both possession
14 offenses, then the individual even under a third offense
15 would be eligible for parole, good-time credits, work
16 credits, education credits and all of that, as well.

17 So it even says that a third offense can be under
18 certain circumstances eligible for all of that; that it
19 was never eligible for in the past if the two prior
20 offenses are possession offenses as opposed to
21 distribution-level offenses.

22 I believe that language also appears now in, say
23 possession, third offense. Possession of crack cocaine
24 third offense, not a distribution offense also says that
25 somebody punished under this statute would be eligible for

1 good-time credits, education credits, all the same
2 language that's in the distribution second offense statute
3 is also in the possession third offense, and of course,
4 possession third offense under the old law or the new law
5 was never considered an 85 percent sentence.

6 Eighty-five percent sentences are classified as
7 no-parole offenses under our law, and the statute that
8 governs no-parole offenses basically says any offense that
9 carries a possible punishment of 20 years or more is a
10 no-parole offense.

11 I think that's why -- at least my interpretation of
12 the new law, I think that's why the language --
13 notwithstanding any other provision of law, I think that's
14 the provision of law that that refers to. I think that
15 that basically says regardless of what this other statute
16 says regarding no-parole offenses and offenses that carry
17 20 years or more, that statute doesn't apply here.

18 Here we're telling you in this statute that someone
19 punished under this statute is still going to be eligible
20 for parole, for probation, for good-time credits, work
21 credits, education credits and all of that.

22 In reading that statute when the Omnibus Crime Bill
23 first came out, I thought that you would not -- and the
24 one correction I will make with what Mr. Davis testified
25 to, I never told him it would be a 65 percent.

1 I told him that it would not be an 85 percent because
2 that would be the way I would word it. I would have
3 thought, technically, if I was going to say it differently
4 than that, I wouldn't have said 65 percent. I would have
5 thought it would be less than 65 percent, to be honest
6 with you. But what I did tell him, I don't tell clients
7 how much time they're going to have to do, but on reading
8 the law, I think that that law reads that you're not going
9 to have to do 85 percent, and there's no question that I
10 advised him of that.

11 In my opinion, there's no question that he relied on
12 that advice when he entered his plea, and I'm -- I think
13 I'm right, but I'm wrong by the way the Department of
14 Corrections is interpreting it and is applying sentences.

15 The only difference the Department of Corrections
16 made is they will now make those individuals eligible for
17 parole, but if they don't get parole, they're still having
18 to do 85 percent.

19 I disagree with that as an application, but that's
20 their call to make and not mine. I gave him wrong advice,
21 and I'm certain he relied on that advice when he entered
22 his plea.

23 Q Well, let me -- let me back you up there a little
24 bit. You said that the Department of Corrections is
25 interpreting that statute differently than you did?

1 A That's the way I see it.

2 THE COURT: I don't think he's saying they're
3 interpreting it wrong.

4 MR. THOMAS: I believe that's -- and that's --

5 THE WITNESS: Well, yes, I do. I mean, if that's --
6 I do think they are interpreting it wrong. I think I'm
7 right.

8 BY MR. THOMAS:

9 Q Let me ask you this: What was the -- what was the
10 general consensus of other members of your office or the
11 Bar regarding the interpretation of that statute at the
12 time of Mr. Davis' plea?

13 A Well, I mean, part of the negotiations with the
14 Solicitor's Office -- I mean, to answer your question, I
15 don't know any attorney, defense or prosecution, that
16 thought differently than I did about the case.

17 Part of the negotiations with regards to Mr. Davis'
18 case was that you would be pleading to a defense that
19 would not require that you do 85 percent minimum of the
20 sentence.

21 The State believed that, as well as myself, and yes,
22 you know, this -- when this law came out, it was widely
23 praised primarily because of that. I mean, they were
24 trying to -- part of the goal of the new law was to
25 alleviate a lot of the overcrowding in the Department of

1 Corrections.

2 I think that the legislature had determined that a
3 lot of the overcrowding had been based on folks convicted
4 of drug offenses that were having to do so much of their
5 time. And that would go a long way to alleviating the
6 sentences and, you know -- and it wasn't being applied
7 that way in my opinion. But every attorney that I knew
8 and had spoke with about the case, both defense and
9 prosecution, felt the same way that I did.

10 Q And when was the first time regarding at least Mr.
11 Davis' case? When did you first find out that it was not
12 being treated -- that he was going to be parole eligible?

13 A Well, it was actually not Mr. Davis that alerted me
14 to that. I had a client from here in Florence County that
15 had received a three-year sentence.

16 Obviously, under the new law, it can be suspended to
17 less than five. So this individual got a three-year
18 sentence, and at the time of his plea, we didn't think
19 that was going to be an 85 percent sentence and he -- that
20 individual sent me a letter saying, you know, I was told
21 this, and that's not how they were applying it.

22 I looked him up in the Department of Corrections and
23 saw that, indeed, that individual was having to do
24 85 percent of his three-year sentence. I sent an email to
25 an attorney with the Department of Corrections at that

1 time and told him where I felt like they were applying
2 this wrong.

3 You know, I gave him that client's name and
4 information, and his response back was basically that the
5 reason they're still treating him as 85 percent because in
6 that long laundry list of things that they are eligible
7 for, like I said, parole, probation, good time, work
8 credits, education credits, also in that long list of
9 things, it also refers to community supervision.

10 In the Department of Corrections' mind, the only
11 charges that community supervision pertains to are those
12 that are considered no parole offenses. And so because
13 the community supervision language is also in the statute,
14 they are giving them parole eligibility, but if they're
15 not being released on parole, then they are having to do
16 85 percent.

17 Of course, my response to that is community
18 supervision language is also in possession third offense
19 language in the statute, and of course, possession third
20 has never been an 85 percent sentence. I don't think that
21 should be what they hang their hat on, but that's what
22 they're hanging their hat on.

23 Q And did -- are you aware of any other challenges to
24 this, maybe in another court, say an Administrative Law
25 Court?

1 A I'm not aware of any specific challenges. The
2 response I got from Mr. Florian with the Department of
3 Corrections -- we -- we corresponded through email. The
4 email he sent me back indicated there were some Al Shabazz
5 appeals on this issue. This was a good while ago.

6 I have not heard of any results of anything like, and
7 that's the only reference to that he made, but he didn't
8 refer to any specific cases that had been appealed in that
9 manner, but to answer your first question, when I got that
10 letter from that client, then I knew, all right, well, I'm
11 going to have several of these because I have told this to
12 several folks. I certainly knew that Mr. Davis was one of
13 those that I had said that to.

14 I did, not long after that, get a letter from
15 Mr. Davis, and Mr. Davis is correct. I responded to him
16 exactly the way he says I did.

17 THE COURT: Well, so regardless, Mr. Thomas, let me
18 ask you this and interrupt. So regardless of whether or
19 not his interpretation of the law is correct, it sounds
20 like to me that his interpretation is better than that of
21 the Department of Corrections. Regardless of that, he
22 told him something that was wrong. How can the State take
23 the position that it was a valid plea?

24 MR. THOMAS: Your Honor, I think our position would
25 be that based upon a reasonable reading of the statute,

1 and based upon the general consensus of everybody else in
2 the Bar that he advised him as best he could at the time.
3 It's not --

4 THE COURT: But it was wrong is what I'm saying.

5 MR. THOMAS: Your Honor, it has been -- the
6 Department of Corrections is giving a different
7 interpretation. I don't take a position on whether it's
8 right or wrong, necessarily, because I'm kind of onboard
9 with you that I think maybe there is a legitimate
10 challenge to their interpretation of it. But at this
11 point, we haven't had a resolution of it from a court or
12 an administrative --

13 THE COURT: Well, we had a resolution insofar as the
14 Department of Corrections treating it as an 85 percent,
15 and Vick Meetz told him, based on a reasonable reading of
16 the law, that it was not an 85 percent rule, so that's a
17 very real problem.

18 MR. THOMAS: Yes.

19 THE COURT: Regardless on who is right on whether
20 it's an 85 percent or not, Vick Meetz told him that it was
21 not, and he relied upon that. That poses a real problem.

22 What do you think ought to be the position of the
23 Attorney General's Office in all fairness to everybody?

24 MR. THOMAS: Your Honor, I think in all fairness to
25 everybody, I think Mr. Meetz made a correct interpretation

1 of the law as he understood it. I don't think in
2 hindsight in a Monday morning quarterbacking that
3 necessarily invalidates the plea.

4 In terms of prejudice prong, you have to also show
5 that something has changed. Other than his testimony, I
6 mean, we've seen -- got a seven-year deal on a -- what
7 would seem to be a very serious CDV HAN charge that got
8 dropped down to a burglary, as well as a second offense.
9 It was two second offenses. It was basically a controlled
10 buy in two straight days.

11 I think in light of the evidence against him in light
12 of what he was facing, I don't know that Mr. Meetz could
13 have negotiated it down any further. The only thing he
14 was doing other than that was facing a trial.

15 THE COURT: What was the state of law -- of course,
16 you don't have to advise a client with regard to how much
17 time. You don't necessarily, under all circumstances,
18 have to advise on collateral consequences, but if you tell
19 them something and tell them something wrong and they
20 depend upon it, that poses a problem. Don't you agree?

21 MR. THOMAS: That is the law, yes, sir, but I think
22 there is also -- Mr. Meetz has also testified that he
23 never told him specifically that it was 65 percent. He
24 just told him it was parole eligible. It was less than
25 85.

1 THE COURT: And that's wrong.

2 MR. THOMAS: That is -- to a degree, that is wrong.

3 I will say that he has been -- this is probably where SCDC

4 I think maybe has something that they should be worried

5 about in an Administrative Law Court, but they have given

6 him a parole hearing. It's what they have done after the

7 parole hearing that is what's being challenged here.

8 So it's not that he's not eligible for parole. Mr.

9 Meetz told him he would be eligible for parole. He is

10 eligible. He just -- SCDC has decided he is not eligible

11 more than once.

12 THE COURT: Do you think -- of course, the Post

13 Conviction Relief is one remedy which I think that he

14 might be entitled to, but also isn't there a method by

15 which you can administratively challenge how they're

16 interpreting the parole eligibility? Isn't there a method

17 by which you can do that?

18 MR. THOMAS: Absolutely, Your Honor. That's what Al

19 Shabazz says, and that's what Mr. Meetz and I were just

20 talking about, that if you want to challenge your

21 classification within the Department of Corrections, PCR

22 is not the proper method or remedy or venue for that.

23 It's an administrative action in front of the

24 Administrative Law Court. You have to go through the

25 grievance procedure and challenge that on an appeal to the

1 Administrative Law Court.

2 In the PCR context, I think the allegation has to be
3 that he told me that I was going to do this amount of
4 time, and I'm doing more than that.

5 THE COURT: That's what we have here, isn't it?

6 MR. THOMAS: I think that was a -- I think that's a
7 question of fact for Your Honor to determine.

8 THE COURT: Okay. All right. Well, I didn't mean to
9 interrupt you. You can carry on with your questioning.

10 MR. THOMAS: You're fine. I think you're -- one more
11 question I'm going to ask.

12 BY MR. THOMAS:

13 Q Did you ever discuss Mr. Davis' appellate rights?

14 A I don't specifically remember doing it, but it's
15 certainly something that I overlook sometimes. If I had
16 to guess, I would say I did not go over that with him.

17 Q After the plea, did you have any reason to believe
18 that there was anything -- immediately after the plea
19 within the ten days, did you have any reason to believe
20 there was anything to appeal?

21 A Not within the ten days.

22 Q Did he ever ask you for an appeal?

23 A Certainly not within the ten days, but I don't recall
24 specifically. He sent a -- he sent a number of letters,
25 and the letters were usually focusing in on the same --

1 the same thing, and I had responded the one time and
2 really any response I had made, the other letters would
3 have basically been the same thing.

4 You know, so I mean, I had told him, you know, that,
5 you know, basically, you know, he was right. I advised
6 him something that was wrong. I think my advice was the
7 right advice, but it's being applied wrong. So regardless
8 of whether I'm right or not, you know, I'm wrong, you
9 know, based on the way it's being applied.

10 It wasn't just me. You know, the sentence that he
11 was given that day from the Solicitor and from what I told
12 him, the intent of the sentence was that he be able to be
13 sentenced to a seven-year sentence that would be both
14 parole eligible and non 85 percent, and he was -- and that
15 is not how it has turned out.

16 I think that's wrong. And I -- I mean, I don't know
17 if I'm allowed to give an opinion. So unless somebody
18 tells me I am, I'm going to stop there but...

19 MR. THOMAS: I can't object to my own question, so
20 that's all I have, Mr. Meetz. Thank you.

21 THE COURT: All right. Very good.

22 Any cross-examination?

23 MR. WOODSON: Yes, Your Honor.

24 CROSS-EXAMINATION:

25

1 BY MR. WOODSON:

2 Q Good morning, Mr. Meetz.

3 A Hello, Mr. Woodson.

4 Q Just a couple of questions. Was Hank Anderson ever
5 involved in this particular case, or were you the attorney
6 from start to finish?

7 A I don't think I was the attorney from start to finish
8 because I think his case dated back to before I was there.
9 If -- his files are right there. If you can hand that
10 stack to me, I can look and see if there's any notes in
11 there from somebody from another attorney.

12 Q Sure.

13 A But that would be the only way I could tell whether
14 other attorneys dealt with Mr. -- there are notes in this
15 file, and this is the file on the drug charge that --
16 these are notes from old -- well, his case -- well, he
17 pled -- no, not -- he pled in December of 2011. These
18 notes are from June of 2011 and August of 2011 that are
19 from Hank Anderson.

20 Q Okay. Do you recall at what point prior to the plea
21 that you got the file?

22 A It could have been the week of court. We don't
23 assign cases in the Marion Public Defender's Office.
24 Basically, any of us that work and handle cases in that
25 office can pick up a file and start working that file

1 regardless if another attorney has already done something
2 on there.

3 Really, the only time a case would get actually
4 assigned is if it's set for trial, and then attorneys
5 will -- will make a decision as to who is going to handle
6 the trial of the case, but short of that, they're not
7 assigned to any specific attorney in our office.

8 Q Okay. Do you recall if there was a drug report in
9 the file prior to his plea, Mr. Davis' plea?

10 A I believe -- and I was looking through the file
11 earlier, and I do think I saw a drug report, and that
12 would have -- if you'll give me just one second I'll try
13 to locate that.

14 I have several drug reports in this file, and these
15 drug reports are dated from SLED June 23rd -- well, one is
16 June 23rd, 2010. One is June 15th, 2010. One is
17 July 29th of 2011.

18 He pled in December of 2011, and there is not a stamp
19 on these as to when our office would have received them,
20 but I'm safe in saying that we had them in the file prior
21 to his plea.

22 Q Okay. And would that have been something that you
23 would have gone over with Mr. Davis prior to the plea?

24 A Yes. I mean, we went over -- I mean, we went over
25 the elements and the facts of what he would be pleading

1 to, you know, and all of that, but certainly the thing
2 that we did spend the most time on was the seven years and
3 what that meant and, you know...

4 Q In your -- is it your recollection that it dropped
5 from ten to -- I think you said eight to seven. Does that
6 sound correct?

7 A You know, when he was testifying, I was looking
8 through the file for the first initial offer sheet that
9 was -- that would have been in here, and in looking, I
10 didn't see it. I may have just overlooked it.

11 So I can sort of thumb through again, but I have
12 absolutely no problem believing that to be the case. That
13 doesn't seem out of -- out of line at all. I don't -- I
14 don't specifically recall it, and what any prior offers
15 were.

16 Prior offers may have been before I started handling
17 the file, but that's -- that's not an unusual situation
18 for an offer to start one place. A lot of people think
19 you automatically get three offers on every case. That's
20 not the case, but in this one, you know, it's -- that
21 wouldn't surprise me a bit.

22 Q You mentioned in response to my last question that
23 there was some discussion about the seven years. Was it
24 part of that discussion that he would be out in
25 three-and-a-half years or so and he could see his

1 daughter. Do you recall any of that?

2 A That's -- I would say that is probably accurate. You
3 know, he was charged with a charge that he could have
4 received 30 years for on the distribution, and you know,
5 clients often talked to me and bring up to me their
6 children and that kind of thing.

7 They will say, "I don't want to" -- you know, "I
8 don't want to be away from my children," and I'll respond.
9 Sometimes I will say, "Well, we don't -- we want you to be
10 back your child sooner," you know, that kind of thing.
11 You know, we want you to be able to see graduation dates
12 and first boyfriends and proms and that kind of thing, and
13 so -- you know, just sort of let them know that there's
14 two ways to look at that -- that issue. So that wouldn't
15 be unusual for me to -- in talking to a client about
16 things --

17 Q Okay.

18 A -- to make that kind of a reference.

19 Q In response to the Attorney General's question, he
20 asked you, "Did you know -- was there any basis for an
21 appeal?"

22 You said that -- your response was, "I didn't know --
23 I didn't think there was a basis of appeal within the ten
24 days." After your discussions and the letters between you
25 and Mr. Davis, at that point, did you feel there was any

1 basis for an appeal?

2 A You know, I really -- I don't know if I thought about
3 whether or not there was a basis for an appeal. I think
4 that my thought process was that the proper place to
5 address this was here in a PCR court.

6 THE COURT: And the reason for that is that it was a
7 legal sentence. It was not an illegal sentence. Is
8 that...

9 THE WITNESS: Right, yes. I mean, seven years is a
10 legal sentence from the Court. I think there wasn't any
11 issue from the Court that -- where there was an error of
12 law to be appealed on the plea.

13 I think all of that was, you know, like I said, I
14 don't think there was any error of law to appeal there.
15 Just my mindset from -- from when I first learned of how
16 the Department of Corrections was applying these sentences
17 was that the appropriate remedy would be through a Post
18 Conviction Relief hearing if there is any relief to be
19 granted.

20 BY MR. WOODSON:

21 Q Okay. Do you recall sending a December 17th letter
22 to Mr. Davis?

23 A I should have pulled that out. I remember sending a
24 letter, and it's in here. So I can tell you what --

25 Q It was on top when I handed you the file.

1 A I think that's right. Maybe I put it back in one of
2 the files.

3 THE COURT: Do you have a copy of it?

4 MR. WOODSON: I do.

5 THE COURT: Why don't you just show it to him. No
6 sense in going through three files if you have it in your
7 hand.

8 THE WITNESS: I do recall sending this letter, yes,
9 sir.

10 BY MR. WOODSON:

11 Q Does that appear to be your letter?

12 A It surely does.

13 Q Now, Mr. Davis has highlighted two lines on that
14 first page. Can you read the portion that he's
15 highlighted?

16 A "The reason I told you that the charge would not be
17 an 85 percent sentence is because that is what I believe
18 the law says. At the time of your plea, I wasn't aware of
19 that or else I would have advised you differently."

20 Q And that's pretty much what you've already testified
21 to; is that correct?

22 A Yes.

23 MR. WOODSON: Okay. Thank you. I don't have any
24 further questions.

25 THE COURT: All right.

1 Mr. Meetz, it's always confounded me, and I've been
2 aware of how the Department of Corrections is handling
3 that but where in the law do they allow -- they say that
4 we're going to give you a parole hearing, but if you
5 aren't given parole, then they're going to treat it as an
6 85 percent? How did that -- did they -- you've spoken
7 with them about it. How do they justify that?

8 MR. WOODSON: The response I got from the Department
9 of Corrections Legal Department was they justify that,
10 one, because the new law definitely specifically says they
11 are eligible for parole.

12 So they are making that eligible and making them
13 eligible for parole after an appropriate time, but what
14 they were told to me was because this statute also
15 includes language stating that they would be eligible for
16 community supervision, and the community supervision only
17 applies to offenses that are no parole or fall under the
18 85 percent rule that they are still having them serve at
19 least 85 percent of the sentence before they would be
20 released.

21 THE COURT: So they get one parole hearing. If they
22 don't make it, they do an 85 percent and community
23 supervision? They don't get another parole hearing?

24 THE WITNESS: That I don't know. Now, I think
25 because of the seven years that he got, maybe one would

1 have been all. I don't know. That I don't know. They
2 didn't tell me how many times they come up for parole or
3 not.

4 THE COURT: Okay.

5 THE WITNESS: So I don't know if they -- if it's only
6 one or if there's an opportunity for more than one. That
7 I don't know.

8 THE COURT: Okay. All right.

9 Any -- do you have any more questions?

10 MR. THOMAS: One question on redirect, Your Honor. I
11 will redirect this time.

12 REDIRECT EXAMINATION:

13 BY MR. THOMAS:

14 Q You said you don't recall what the plea offers were.
15 Did you ever have any -- what was the extent of your
16 conversations with Mr. Davis about whether he wanted to go
17 to trial or to plead?

18 A I don't remember specific questions but I -- about
19 whether or not he wanted a trial or whether he wanted a
20 plea. I mean, I think -- I don't remember a specific
21 conversation in regards to that.

22 MR. THOMAS: Thank you.

23 THE COURT: All right. You may step down. Thank
24 you.

25 THE WITNESS: Thank you, Your Honor.

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

3 MR. THOMAS: That's all from the State, Your Honor.

4 THE COURT: All right. Might counsel approach the
5 bench?

6 (Whereupon, there was a bench conference.)

7 THE COURT: All right. Mr. Woodson, do you have
8 anything further to add?

9 MR. WOODSON: As far as witnesses, Your Honor, or
10 just statement?

11 THE COURT: Yes.

12 MR. WOODSON: Your Honor, my client is saying that he
13 would not have accepted this plea but for the advice. So
14 I think he met his burden, and I ask that you grant the
15 petition.

16 THE COURT: Very good. And it appears to me that
17 clearly, he was told the wrong thing and relied upon that.
18 I mean, in my mind, it seems unfair to hold him to that.

19 Is the State in the position to consent to the
20 granting of relief?

21 MR. THOMAS: We are not, Your Honor. Our position is
22 that the interpretation Mr. Meetz gave him was reasonable
23 at the time. It was a new law. It was an unsettled
24 question.

25 To this day, we don't have any appellate or

1 Administrative Law Court opinions saying that Mr. Meetz's
2 interpretation is wrong. The only thing we have is the
3 Department of Corrections is interpreting the statute
4 differently, and our position is that Mr. Meetz was not
5 deficient in that he gave correct advice and that the
6 proper avenue for challenging the Department of
7 Corrections classification for their parole decisions is
8 through the Administrative Law Court or the Administrative
9 Procedures Act.

10 THE COURT: Okay. All right. I'm going to take the
11 matter under advisement, and I'm going to draft an order.
12 I'm going to grant -- I'm going to grant the relief, and
13 I'll draft the order.

14 Very good. Good luck to you.

15 MR. THOMAS: Thank you, Your Honor.

16
17 (Whereupon, the proceedings were concluded.)
18
19
20
21
22
23
24
25

STATE OF SOUTH CAROLINA)
 COUNTY OF MARION)
)
)
 Letron S. Davis, # 348914,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE TWELFTH JUDICIAL CIRCUIT

Case No. 2012-CP-33-00379

ORDER
 MARION COUNTY SC
 SHERIFF R. RHODES
 CLERK OF COURT

BOOK _____ PAGE _____
 2014 APR 23 A 9:58

FILED

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed on June 1, 2012. Respondent filed a Return on or around February 2, 2013. The Court convened a hearing in Florence County on February 11, 2014, at which time Applicant Letron S. Davis (Applicant) was present in court and represented by Marcus L. Woodson, Esquire. Joshua L. Thomas, Esquire, of the South Carolina Attorney General's Office, represented the Respondent State of South Carolina (Respondent).

BACKGROUND

Applicant was indicted at the August 2011 term of the Marion County Grand Jury for distribution of cocaine base second (2011-GS-33-0228) and burglary second (2011-GS-33-00476). The court appointed Vick Meetze, Esquire, from the Public Defender's office, to represent Applicant. On December 6, 2011, Applicant pled guilty as indicted and The Honorable William H. Seals sentenced Applicant to seven years imprisonment on each offense—each served concurrently

with the others. Applicant did not appeal and is presently confined in the South Carolina Department of Corrections.

ISSUES PRESENTED

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

1. "Ineffective assistance of counsel"
2. "Violation of Fourth Amendment (Warrant Clause)"
3. "Ex Posto violation; Due Process Const. Amend 14th Violation."

STANDARD OF REVIEW

The Sixth Amendment of the United States Constitution guarantees a defendant the right to effective assistance of counsel. U.S. CONST. amen. VI; *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.E.2d 674 (1984); *Holden v. State*, 393 S.C. 565, 713 S.E.2d 611 (2011). In a post-conviction relief action, 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, 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*, 466 U.S. 668, 80 L.E.2d at 692; *Butler*, 286 S.C. 441, 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, 80 L.E.2d 674. 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*, 80 L.E.2d 674. 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.

The two-part test adopted in *Strickland* also "applies to challenges to guilty pleas based on ineffective assistance of counsel." *Hill v. Lockhart*, 474 U.S. 52, 58, 106 S.Ct. 366, 88 L.E.2d 203 (1985). 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. *Id.* "Plea counsel is ineffective within the meaning of the Sixth Amendment only when the applicant satisfies both requirements." *Stalk v. State*, 383 S.C. 559, 561, 681 S.E.2d 592, 593 (2009).

SUMMARY OF TESTIMONY

Applicant Letron S. Davis testified that he met with his attorney, Mr. Meetze, on multiple occasions prior to entering his guilty plea. Davis testified that during these meetings he discussed, among other things, the various plea offers from the State and their implications. Initially, the State offered Davis ten (10) years, which he rejected. Subsequently, the State attempted to negotiate a plea

offer for an eight (8) year sentence, and again Davis rejected the State's offer. Finally, the Court heard testimony that the State offered a plea deal of seven (7) years and Applicant, upon the advice of counsel, acquiesced. It is this advice during negotiations that Davis avers was deficient. Specifically, Applicant testified that his attorney instructed him that due to a recent change in the law regarding the distribution of cocaine base (second offense) he would no longer be required to serve eighty-five percent (85%) of that seven-year negotiated sentence. Davis testified that had Meetze told him otherwise, he would have rejected the plea offer from the State.

Additionally, Mr. Meetze testified that Davis' recollection of his advice was accurate. Mr. Meetze affirmed that he communicated this interpretation of the new language in the statute regarding distribution charges to Davis. Specifically, he testified that at the time these negotiations occurred, the state legislature altered this statute to include, in relative part:

Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a first offense or second offense may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.

S.C. Code Ann. § 44-53-375 (emphasis added). Trial counsel took the affirmative position that Davis' offense was no longer a typical "A" felony, and as such, it was not subject to the service of eighty-five percent of the actual term of imprisonment imposed. See S.C. Code Ann. § 24-13-100; *State v. Miller*, 404 S.C. 29, 744 S.E.2d 532 (2013). Of particular importance, trial counsel believes that there is "no question [Davis] relied on that advice" in agreeing to accept the plea offer of a seven-year sentence for each charge.

Subsequently, Davis instituted this PCR application—well beyond the time for an appeal—when he was informed by the State Department of Corrections that he was required to serve eighty-five percent of his seven year sentence.

ANALYSIS

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

It appears that Davis and Meetze were actively involved in negotiations with the State regarding potential plea offers, and that on several occasions Davis made the decision to reject the State's offer. Ultimately, Davis agreed to a plea offer of seven concurrent years for his charges. In doing so, it appears that Davis relied upon the advice from his trial counsel regarding how his sentence would be handled by the Department of Corrections.

Normally, parole eligibility is a collateral consequence of sentencing of which a defendant need not be specifically advised before entering a guilty plea. *Randall v. State*, 356 S.C. 639, 591 S.E.2d 608 (2004). Additionally, the "85% Rule," which requires a defendant to serve 85% of sentence prior to being eligible for release, is also a collateral consequence of sentencing of which a defendant need not be informed. *Knox v. State*, 340 S.C. 81, 530 S.E.2d 887 (2000); *Randall v. State*, 356 S.C. 639, 591 S.E.2d 608 (2004). Even so, if a defendant is actively misinformed about parole eligibility post-conviction relief is proper when the defendant establishes that he relied on this

information from counsel. *Griffin v. Martin*, 278 S.C. 620, 300 S.E.2d 482 (1983); see *Hinson v. State*, 297 S.C. 456, 377 S.E.2d 338 (1989) (relief granted on this ground); *Brown v. State*, 306 S.C. 381, 412 S.E.2d 399 (1991) (plea vacated where trial judge misinformed defendant about parole eligibility) modified by *Hunter v. State*, 316 S.C. 105, 447 S.E.2d 203 (1994) (erroneous parole advice from the bench could, on certain facts, mislead a defendant, but relief is not required without something more). Where there is no evidence contradicting or conflicting with an applicant's testimony that he would not have pled guilty but for counsel's deficient performance, applicant is entitled to relief. *Jackson v. State*, 342 S.C. 95, 535 S.E.2d 926 (2000). However, inaccurate advice of counsel may be cured by information conveyed at the plea proceeding. *Terry v. State*, 383 S.C. 361, 680 S.E.2d 277 (2009); *Moorehead v. State*, 329 S.C. 329, 496 S.E.2d 415 (1998); *Wolfe v. State*, 326 S.C. 158, 485 S.E.2d 367 (1997).

In *Moorehead*, the Supreme Court of South Carolina relied on the fact that at the defendant's plea hearing, the trial judge asked the defendant if he understood the possible sentence for the charge for which he was pleading guilty. 329 S.C. at 333, 496 S.E.2d at 416. Additionally, the court mentioned that the trial judge summarized the plea agreement on the record before accepting the defendant's plea. *Id.* The court stated, "even if trial counsel erroneously informed respondent that his sentence would be probationary, any misconception was cured at the plea hearing." *Id.* at 333, 496 S.E.2d at 416-17.

Here, this Court is concerned with the advice that Davis' attorney provided during plea negotiations. It is uncontroverted that Meetze advised Davis that he was eligible for parole and that this plea would not be subject to the "85% rule." It is further uncontroverted that the Department of

Corrections is subjecting Davis to service of eighty-five percent of his seven-year sentence. While it appears that there is some ambiguity in the enforcement of this law, a defendant subject to the 85% Rule is not eligible for parole, but is only eligible for release pursuant to a community supervision program (CSP) after serving 85% of the sentence.

It is the position of this Court that even though counsel need not inform a defendant of a plea's collateral consequences, if counsel affirmatively guarantees those collateral consequences, that attorney has an obligation to be correct. In other words, if counsel informs the defendant that a guilty plea will not affect their parole eligibility and the defendant relies on that information, then the attorney must be correct and the defendant should not be subjected to the "85% Rule" upon arrival at the State Department of Corrections.

Furthermore, unlike *Moorehead*, it appears that the trial court never cured Davis' misconception and counsel's incorrect advice regarding his parole eligibility during his plea hearing. Therefore, this Court finds that Davis' trial counsel was deficient by providing incorrect advice concerning the collateral consequences of Davis' guilty plea. Additionally, this Court finds that this deficient performance prejudiced Davis because it is uncontroverted that, but for counsel's advice, Davis would not have accepted this negotiated sentence and pled guilty.

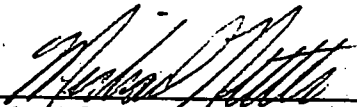
CONCLUSION

Based on the foregoing, the Court finds Applicant Letron S. Davis has satisfied his burden for relief by establishing ineffective assistance of counsel; therefore, Davis' PCR application is **GRANTED**. Because this Court has granted Davis the relief he requested in his first allegation, it finds it unnecessary to determine the validity of Davis' remaining claims for relief.

IT IS THEREFORE ORDERED that the Application for Post-Conviction Relief is
GRANTED.

IT IS FURTHER ORDERED that this conviction is **VACATED** and this matter is
hereby **REMANDED** for a new trial.

AND IT IS SO ORDERED this 14 day of April, 2014.



Michael G. Nettles
Presiding Judge, Twelfth Judicial Circuit

Howard, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF MARION)

IN THE COURT OF COMMON PLEAS
FOR THE TWELFTH JUDICIAL CIRCUIT

Letron S. Davis, #348914,)

Case No. 2012-CP-33-379

Applicant,)

v.)

State of South Carolina,)

Respondent.)

**MOTION TO ALTER OR AMEND
JUDGMENT PURSUANT TO RULE
59(e), SCRPC**

Respondent, pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, moves the court to amend the judgment on the grounds the Court erred in finding that counsel was ineffective for giving incorrect advice about Applicant’s parole eligibility. As a threshold matter, the Order Granting Post-Conviction Relief was filed on April 23, 2014, and received by Respondent on April 24, 2014. In support of the motion, Respondent would show as follows:

The Court’s order granting relief indicates plea counsel advised Applicant he was eligible for parole and that this plea would not subject him to the “85% rule.” Plea counsel did testify did testify he advised Applicant his sentence was parole eligible based on changes in the law. However, Plea counsel further testified he never actually promised Applicant a specific amount of time he would have to serve, merely that it would be less than 85%. Plea counsel also testified he later discussed Applicant’s sentence with the Department of Corrections (“SCDC”), and it informed plea counsel Applicant was given a parole hearing. However, if Applicant does not make parole, he will remain in custody until released into the community supervision program pursuant.

Respondent contends plea counsel did not perform deficiently in advising Applicant regarding parole eligibility. Initially, Respondent notes plea counsel testified he based his advice

on the fact the law regarding parole eligibility changed prior to Applicant's plea. Prior to the plea, second offense distribution of cocaine base was a Class A felony. S.C. Code Ann. § 16-1-90(A) (Supp.2001). As such, it was not eligible for parole and required service of eighty-five percent (85%) of the sentence before being eligible for release. S.C. Code Ann. §§ 24-13-100; -150(a) (Supp.2000). In 2010, the General Assembly passed the Omnibus Crime Reduction and Sentencing Reform Act. In doing so, it added a provision in the distribution statute that provided:

Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a first offense or second offense may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.

S.C. Code Ann. § 44-53-375(B) (Supp.2012). Plea counsel testified he believed the addition of this paragraph meant a sentence for second offense distribution was now parole eligibility. He also testified he believed he correctly interpreted the law, and SCDC is incorrectly interpreting the law. Plea counsel's interpretation certainly is reasonable in light of the clear change in the law. Cf. Cannon v. S.C. Dep't of Prob., Parole & Pardon Servs., 371 S.C. 581, 584, 641 S.E.2d 429, 430 (2007) ("It is presumed the Legislature, in adopting an amendment to a statute, intended to make some change in the existing law." (citing Vernon v. Harleystown Mut. Cas. Co., 244 S.C. 152, 135 S.E.2d 841 (1964))); Stone v. State, 313 S.C. 533, 535, 443 S.E.2d 544, 545 (1994) ("When two statutes are in conflict, the more recent and specific statute should prevail so as to repeal the earlier, general statute." (citing Higgins v. State, 307 S.C. 446, 415 S.E.2d 799 (1992); Hair v. State, 305 S.C. 77, 406 S.E.2d 332 (1991))).

The Court's order faults plea counsel for giving a reasonable interpretation of the law that has subsequently been interpreted differently by SCDC. However, an attorney is not required to

be clairvoyant or prophetic in anticipating changes in law. See Gilmore v. State, 314 S.C. 453, 457, 445 S.E.2d 454, 456 (1994) (citations omitted), overruled on other grounds by Brightman v. State, 336 S.C. 348, 520 S.E.2d 614 (1999). Plea counsel gave a reasonable interpretation of the changes in the law. Such performance cannot be deficient where he later discovered SCDC interpreted the law differently, especially where no authority at the time – or at present – supports SCDC’s interpretation.

Furthermore, Plea counsel testified he did not recall discussing a trial with Applicant. Applicant was facing over thirty (30) years on all of his charges, and he testified he discussed with plea counsel the charges to which he was willing to plead guilty. In light of this testimony, Respondent submits Applicant has not shown plea counsel’s advice about parole eligibility induced his guilty plea. Griffin v. Martin, 278 S.C. 620, 622, 300 S.E.2d 482, 483 (1983).

Finally, Respondent submits the proper avenue to challenge the denial of parole eligibility is through the Administrative Procedures Act. Al-Shabazz v. State, 338 S.C. 354, 367-68, 527 S.E.2d 742, 749 (2000); but see Coats v. State, 352 S.C. 500, 503, 575 S.E.2d 557, 558 (2003) (issue properly raised in PCR if understanding of parole eligibility affected validity of underlying plea). Although Applicant framed his argument as one of ineffective assistance of counsel, he also testified he discussed the changes in law with plea counsel, admitted to the facts of the crime, and waived his constitutional rights. As outlined above, plea counsel’s advice was not deficient. Therefore, the relief sought by Applicant is properly obtained through SCDC’s internal grievance process.

WHEREFORE, Respondent respectfully requests the Court amend the final judgment to reflect a finding that counsel was not ineffective in advising Applicant he would be parole eligible and that Applicant must seek relief through SCDC's internal grievance program.

Respectfully submitted,

ALAN WILSON
Attorney General

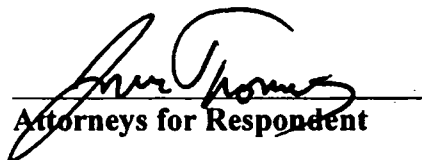
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By:


Attorneys for Respondent

April 30, 2017

STATE OF SOUTH CAROLINA)
)
 COUNTY OF MARION)
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)
 LETRON DAVIS, #348914)
)
 Applicant,)
)
 vs)
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 STATE OF SOUTH CAROLINA,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS

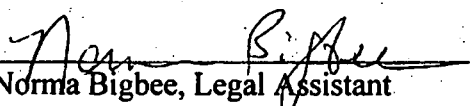
2012-CP-33-379

AFFIDAVIT OF SERVICE BY MAIL

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 **Motion To Alter Or Amend Judgment Pursuant To Rule 59(e), SCRCP** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Marcus L. Woodson, Esquire
1011 E. Liberty St.
Marion, SC 29571

DATED this 30TH day of April , 2014.


 Norma Bigbee, Legal Assistant
 For Respondent

LETRON DAVIS

STATE OF SOUTH CAROLINA

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: THE COURT

Attorney for : Plaintiff Defendant
or
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRCP; Rule 41(a), SCRCP (Vol. Nonsuit); Rule 43(k), SCRCP (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRCP; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT TRIBUNAL, ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

2013 MAR -9 A 11:08
 MARION COUNTY SC
 CLERK R. RHODES
 OF THE COURT
 BOOK OR PAGE
 FILED

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

| Judgment in Favor of (List name(s) below) | Judgment Against (List name(s) below) | Judgment Amount To be Enrolled (List amount(s) below) |
|--|--|--|
| | | \$ |
| | | \$ |
| | | \$ |

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Michael J. [Signature]
Circuit Court Judge

2140

Judge Code

5/2/14

Date

STATE OF SOUTH CAROLINA)
 COUNTY OF MARION)
)
)
 Letron S. Davis, # 348914,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE TWELFTH JUDICIAL CIRCUIT

Case No. 2012-CP-33-00379

**ORDER RESCINDING
 ORDER**

MARION COUNTY SC
 SHERIFF R. RHODES
 CLERK OF COURT

2014 JUN 27 A 8:39

BOOK _____ PAGE _____

FILED

This matter was before the Court by way of an Application for Post-Conviction Relief (PCR) filed on June 1, 2012. Respondent filed a Return on or around February 2, 2013. The Court convened a hearing in Florence County on February 11, 2014, at which time Applicant Letron S. Davis (Applicant) was present in court and represented by Marcus L. Woodson, Esquire. Joshua L. Thomas, Esquire, of the South Carolina Attorney General’s Office, represented the Respondent State of South Carolina (Respondent).

This Court signed an Order granting Applicant’s PCR application in March; however, Respondent never received notice of its entry. Subsequently, Mr. Thomas made an inquiry to this Court about another PCR matter heard during the same term of court. In reviewing the log, the entry for Applicant’s Order was inadvertently overlooked. Subsequently, a second Order was issued in April. Notably, the second order is substantively identical with the original order.

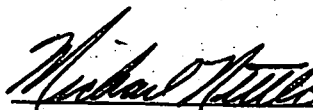
Ultimately, Respondent received the second Order issued in this matter. Respondent filed a Motion for Reconsideration according to Rule 59(e) of the South Carolina Rules of Civil Procedure

within ten days of its receipt of the notice of the April Order. This Court denied Respondent's Motion for Reconsideration without a hearing in May. Applicant and Respondent contacted this Court in June with a question about the timeliness of Respondent's 59(e) Motion.

To resolve any confusion with these two identical orders this Court hereby finds the following:

- (1) The original Order signed on March 3, 2014, is hereby rescinded.
- (2) The Order signed on April 14, 2014, is the only remaining Order for Applicant's PCR application.
- (3) Thus, the April 14th Order will be used to calculate the timeliness of Respondent's Rule 59(e) Motion.
- (4) Respondent's Motion to Reconsider was timely filed with this Court.

AND IT IS SO ORDERED this 26 day of June, 2014.



Michael G. Nettles
Presiding Judge, Twelfth Judicial Circuit

Florence , South Carolina

FILED

BOOK _____ PAGE _____

2011 AUG 10 P 4:06

CLERK OF SUPERIOR COURT
MARION COUNTY, SOUTH CAROLINA

DOCKET NO. 2011-GS-33-0228

The State of South Carolina

County of

MARION

COURT OF GENERAL SESSIONS

August TERM 2011

THE STATE

vs.

LETRON S DAVIS

Indictment for

DISTRIBUTION OF COCAINE BASE, 2ND
(TWO COUNTS)

WITNESSES

MARK COLLINS Marion County Combined Drug Unit

JOHN C JEPERTINGER

ARREST WARRANT NUMBER

M395909 M395910

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: 8/10/11

VERDICT

Date:

Foreperson of Petit Jury

STATE OF SOUTH CAROLINA)
)
COUNTY OF MARION)

INDICTMENT FOR
DISTRIBUTION OF COCAINE BASE, 2ND
(TWO COUNTS)

At a Court of General Sessions, convened on August 18, 2011 the Grand Jurors of MARION County present upon their oath:

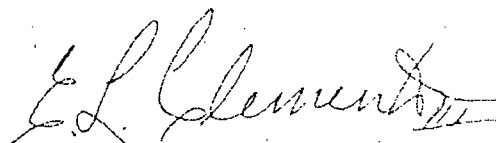
COUNT ONE- DISTRIBUTION OF COCAINE BASE, 2ND

That LETRON S DAVIS did in Marion County on or about May 20, 2010, did distribute to a confidential informant of The Marion County Combined Drug Unit a quantity of Cocaine Base, a controlled substance; such distribution not having been authorized by law, in violation of Section 44-53-375(B)(2) of the Code of Laws of South Carolina(1976), as amended.

COUNT TWO- DISTRIBUTION OF COCAINE BASE, 2ND

That LETRON S DAVIS did in Marion County on or about May 21, 2010, did distribute to a confidential informant of The Marion County Combined Drug Unit a quantity of Cocaine Base, a controlled substance; such distribution not having been authorized by law, in violation of Section 44-53-375(B)(2) of 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.



E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF

MARION

STATE

Letron S. Davis VS. Davis

AKA:

Race: B Sex: M Age: 30

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011-GS-33-0228

AW#: M395909

Date of Offense: 5/20/2010

S.C. Code §: 44-53-375 (B)(2)

CDR Code #: 3015

SENTENCE SHEET

DL# SID# *CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO:

Distribution of Cocaine Base 700 (5-30/50,000)

In violation of § 44-53-375 (B)(2) of the S.C. Code of Laws, bearing CDR Code # 3015

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentation to Grand Jury, Negotiated Sentence, Recommendation by the State.

ATTEST: Solicitor SC Bar # 9826 Defendant Letron Davis 3 years Attorney for Defendant Todd Martin 15771 SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections for a determinate term of 7 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 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: 12-6-2011 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: 209 days

The Defendant is to be placed on 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 2 columns: Description and Amount. 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) \$5, TOTAL \$288.40

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: Henry R. Rhoden Court Reporter: Kisha Reed

Presiding Judge: Judge Code: 2157 Sentence Date: 12-6-2011

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

MARION

STATE

INDICTMENT/CASE#: 2011 GS-33 0228

Letra S. Davis VS Davis

AKA:

A/W#: M395910

Race: B

Sex: M

Age: 30

Date of Offense: 5/21/2010

S.C. Code §: 44-53-375(B)(2)

CDR Code #: 3015

SENTENCE SHEET

DL#

SID#

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Distribution of Cocaine Base 700 (5-30/50,000)

In violation of § 44-53-375(B)(2) of the S.C. Code of Laws, bearing CDR Code # 3015

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

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

ATTEST:

Solicitor

SC Bar # 9826

Defendant Letra Davis

Attorney for Defendant Y. M. M. 15871

SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center, for a determinate term of 7 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine 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: 12-6-2011
 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. 209 days

The Defendant is to be placed on 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:

| | | |
|--|-----------|-------------------|
| §14-1-206 (Assessments 107.5%) | \$ | |
| §14-1-211 (A)(1)(Conv. Surcharge) | \$ | |
| §14-1-211 (A)(2)(DUI Surcharge) | \$ | 100 ⁰⁰ |
| §56-5-2995 (DUI Assessment) | \$ | |
| §56-1-286 (DUI Breath Test) | \$ | |
| Proviso 47.9 (Public Def/Prob) | \$ | 500 |
| §14-1-212 (Law Enforce. Funding) | \$ | |
| §14-1-213 (Drug Court Surcharge) | \$ | 25 ⁰⁰ |
| §50-21-114 (BUI Breath Test Fee) | \$ | 150 ⁰⁰ |
| §56-5-2942(J) (Vehicle Assessment) | \$ | |
| Proviso 90.5 (SCCJA Surcharge) | \$ | 5 ⁰⁰ |
| 3% to County (if paid in installments) | \$ | 8.40 |
| TOTAL | \$ | 288.40 |

Obtain GED

Attend Voc. Rehab. Or Job Cor

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: Kisha Reed

Sherry T. Phelan 288.40

Presiding Judge: J. A. B. 2157
Sentence Date: 12-6-2011

CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 01/10/13
OMCOMITA RELEASE DATE SCREEN C051123

SCDC# > 00348914 LOC: EVANS
DAVIS, LETRON S SCDC CLASSIFICATION...: NON-VIOLENT
OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE SEXUAL REGISTRY...: N
SEXUAL PREDATOR...: NOT APP
DNA STATUS...: COMPLETED
GPS REQUIREMENT...: N
PREA DECISION...:

CURRENT SENTENCE: 007-00-000 CONSECUTIVE SENTENCE ...: N
007-00-000 CURRENT SENT START DATE: 05/11/2011

PROJECTED COMPLETION DATES
MAXOUT DATE: 04/20/2017 CURRENT EWC ..: 2 F 5
YOA SIX YEAR DATE: / / CURRENT EEC ..: NOT CURRENTLY EARNING EEC
INITIAL PAROLE DATE: 11/30/2012 NEXT PAROLE HEARING DATE: 11/30/2012

TOTAL GT DAYS EARNED: 000000 LABOR CREW/WORK PROG DATE: 99/99/9999
TOTAL EARNED WORK CREDITS ..: 000142 LABOR CREW DISQ REASON:
TOTAL EDUCATION CREDITS: 000000 OUTSTANDING DETAINER
TOTAL EXTRA EARNED CREDITS ..: 000 SUPERVISED REENTRY DATE...: 00/00/00
TOTAL SERVICE TIME EARNED ...: 000599 ISS.....:

PFKEYS: 5:HISTORY OF DATE CHANGES

4-© 1 Sess-1 167.7.50.33 SCDC1251 3/11

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
RECORD SUMMARY REPORT DATED 01/10/13

C0511

DAVIS, LETRON S FBI # 588145LB9 SID# SC01270594 SCDC # 00348914
OFFENDER TYPE.: ADULT-STRAIGHT SENTENCE
INSTITUTION ..: EVANS CORR INST DORM.....: 1B0208A
SECURITY/CUST.: 2 MINIMUM IN RACE.....:B SEX....:M
CURR INCARC SENT...: 7 YRS 0 MOS 0 DYS PROJ MAXOUT DATE: 04/20/2017
CENTRAL MONITORING.: NO PROJ PAROLE DATE: 11/30/2012
SOCIAL SECURITY #...: ██████████ EWC JOB...: CUSTODIAL WORKER
EDUC PGM.: NO CURR EDUC PROGRAM
EWC LEVEL: 2F5 EEC LEVEL:
ASSIGNMENT...: BLDING DETAIL BLDG.

PREVIOUS NUMBERS:
** NO PREVIOUS NUMBERS **

| CURRENT OFFENSES | SENTENCE | | | COUNTY | SENTENCE | | |
|--------------------------|----------|-----|-----|--------|-----------|------|----------|
| | YRS | MOS | DYS | | START | V/NV | CATEGORY |
| MANU/DIST CRACK-2ND OFF | 7 | 0 | 0 | MARION | 5/11/2011 | N | 3 |
| BURGLARY-2ND DEG/NON-VIO | 7 | 0 | 0 | MARION | 5/11/2011 | N | 3 |

PRIOR COMMITMENTS OVER 90 DAYS:
NO PRIOR COMMITMENTS OVER 90 DAYS

DETAINERS (HOLD, WANTED, NOTIFY):
CDVHAN NOTIFY OPEN ARREST NOTIFICATION CATEG: 4
NO DETAINERS

ESCAPES:
NO ESCAPE HISTORY

CRIMINAL CHARGES:
NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:
NO ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:
4/ 9/12 USE OBSCENE, VULGAR, PROFA CONVICTED MAJOR

HISTORY OF MOVEMENTS:

| DATE | LOCATION | STATUS | REASON |
|----------|-----------------|--------------------|----------------|
| 4/10/12 | EVANS | INCARCERATED | MEDICAL |
| 4/ 9/12 | MARLBORO COUNTY | AUTH ABSENCE (AWL) | MEDICAL |
| 2/13/12 | EVANS | INCARCERATED | ADMINISTRATIVE |
| 12/ 9/11 | KIRKLAND | INCARCERATED | NEW ADMISSION |

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

| JOB DESCRIPTION | START DATE | END DATE | TERMINATION REASON | JOB LVL |
|-------------------|------------|----------|-------------------------|---------|
| CUSTODIAL WORKER | 10/26/12 | 0/ 0/ 0 | | 2F5 |
| CUSTODIAL WORKER | 10/23/12 | 10/25/12 | MI ELIGIBLE FOR LEVEL 2 | 3F5 |
| FOOD SERVICE AIDE | 04/13/12 | 4/10/12 | PLACED IN ST/SP CUSTODY | 3F5 |
| FOOD SERVICE AIDE | 03/09/12 | 4/12/12 | ASLT/DRUG/MAJOR DISC | 2F5 |
| FOOD SERVICE AIDE | 03/01/12 | 3/ 8/12 | MI ELIGIBLE FOR LEVEL 2 | 3F5 |

HISTORY OF EARNED EDUCATION CREDITS:

| EEC DESCRIPTION | START DATE | END DATE | TERMINATION REASON |
|-----------------|------------|----------|--------------------|
| | | | |

NO SCHOOL ASSIGNMENTS
***** END OF REPORT *****