

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Charleston County
Deadra L. Jefferson, Circuit Court Judge

RECEIVED

APR 15 2015

S.C. Supreme Court

REGINALD MURRAY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT,

APPELLATE CASE NO. 2014-002318

APPENDIX

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ATTORNEYS FOR RESPONDENT

INDEX

INDEX i

PLEA TRANSCRIPT (April 3, 2013) 1

APPLICATION FOR POST-CONVICTION RELIEF (Filed July 23, 2013)..... 17

RETURN (Dated February 6, 2014)25

POST-CONVICTION RELIEF HEARING TRANSCRIPT (June 16, 2014).....31

ORDER OF DISMISSAL (Filed September 18, 2014).....68

INDICTMENTS82

STATE OF SOUTH CAROLINA)	
)	COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON)	
State of South Carolina,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 12-GS-10-4522 et al
)	
Reginald Murray,)	
)	
Defendant.)	

TRANSCRIPT OF HEARING

The within Hearing was held April 3, 2013 before The Honorable R. Markley Dennis, Jr., in Courtroom 4D of the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina; attended, as follows:

APPEARANCES:

Meg Haley, Assistant Solicitor
9th JUDICIAL CIRCUIT SOLICITOR'S OFFICE
101 Meeting Street, 4th Floor
Charleston, SC 29402
Appearing for State of South Carolina

Andrew Grimes, Public Defender
CHARLESTON CO PUBLIC DEFENDER
101 Meeting Street, 5th Floor
Charleston, SC 29401-2214
Appearing for Defendant

Deborah Garrison
Circuit Court Reporter - 9th Judicial Circuit
Post Office Box 901
Johns Island, South Carolina 29457
dGarrison@sccourts.org

State of South Carolina v Reginald Murray
Case No. 12-GS-10-4522 et al
Hearing of April 3, 2013
Before The Honorable R. Markley Dennis, Jr.

1

2

(DEFENDANT PRESENT)

3

THE COURT: You are Reginald Murray?

4

DEFENDANT: Yes, sir, I am.

5

6

THE COURT: Mr. Murray, I've been a number of indictments. You're standing with your lawyer, Mr. Grimes. Has he explained these charges to you?

7

8

9

DEFENDANT: Yes, sir.

10

11

THE COURT: Has he explained to you the possible punishment?

12

DEFENDANT: Yes, sir, he has.

13

14

THE COURT: Indictment 2012-4523 charges you with the offense of possession of a firearm after having been convicted of a violent crime. Do you understand that?

15

16

17

DEFENDANT: Yes, sir.

18

19

THE COURT: And your lawyer has explained to you that charge and the fact that I could sentence you up to five years in jail?

20

21

DEFENDANT: Yes, sir.

22

23

THE COURT: And has he explained to you that that is a day for day sentence?

24

DEFENDANT: Yes, sir, he did.

25

THE COURT: How do you plead?

State of South Carolina v Reginald Murray
Case No. 12-GS-10-4522 et al
Hearing of April 3, 2013
Before The Honorable R. Markley Dennis, Jr.

3

1 DEFENDANT: Guilty.

2 THE COURT: Indictment 2012-4521
3 charges you with trafficking in cocaine. Do
4 you understand that?

5 DEFENDANT: Yes, sir.

6 THE COURT: And the amount appears
7 to be -- well, they charged you with more but
8 you're pleading to the lesser-included offense
9 of trafficking cocaine, ten to twenty-eight
10 grams. Is that correct?

11 DEFENDANT: Yes, sir.

12 THE COURT: Has he explained to you
13 that for the first offense that I could
14 sentence you up to twenty-five years?

15 DEFENDANT: No, he hasn't, sir.

16 THE COURT: No?

17 MR. GRIMES: I thought that it was
18 ten to twenty-eight, which is three to tens
19 years.

20 THE COURT: That's right. Excuse
21 me. Twenty-eight to a hundred would have been
22 up to twenty-five. I'm sorry. Beg your
23 pardon. You are correct. I could sentence you
24 to a minimum of three years, up to ten years.
25 Is that your understanding?

State of South Carolina v Reginald Murray
Case No. 12-GS-10-4522 et al
Hearing of April 3, 2013
Before The Honorable R. Markley Dennis, Jr.

1 DEFENDANT: Yes, sir.

2 THE COURT: And I apologize.

3 You're exactly right and he was right.

4 What was -- fifty-one, so it was over that.

5 Indictment 2012-4522 charges you with
6 the offense of intent to distribute cocaine
7 within the proximity of a school. Do you
8 understand that?

9 DEFENDANT: Yes, sir.

10 THE COURT: Do you understand that
11 that is considered a serious offense, as well?

12 DEFENDANT: Yes, sir.

13 THE COURT: And you understand that
14 I could sentence you up to -- is that fifteen
15 or ten?

16 SOLICITOR HALEY: Ten.

17 THE COURT: Ten. I think that they
18 changed it. It used to be fifteen. Do you
19 understand that?

20 DEFENDANT: Yes, sir.

21 THE COURT: Do you understand that I
22 could sentence you to ten years?

23 DEFENDANT: Yes, sir.

24 THE COURT: Well, you looked ---

25 DEFENDANT: I didn't remember him

State of South Carolina v Reginald Murray
Case No. 12-GS-10-4522 et al
Hearing of April 3, 2013
Before The Honorable R. Markley Dennis, Jr.

5

1 saying ten on that charge.

2 THE COURT: Well, it used to be --
3 not for cocaine but for crack it would have
4 been ten to fifteen, everything else was up t
5 ten, but I think they run them all now zero to
6 ten. Do you understand that?

7 DEFENDANT: All right.

8 THE COURT: Do you understand that?

9 DEFENDANT: Yes, I do.

10 THE COURT: Do you agree with that,
11 Mr. Grimes?

12 MR. GRIMES: Yes, sir.

13 THE COURT: What is your plea?

14 DEFENDANT: Guilty.

15 THE COURT: Are you totally
16 satisfied with your lawyer?

17 DEFENDANT: Yes, sir.

18 THE COURT: Any complaints about the
19 way that he has handled your case?

20 DEFENDANT: No, sir.

21 THE COURT: Solicitor, is there a
22 recommendation?

23 SOLICITOR HALEY: No, Your Honor.

24 THE COURT: Is that your
25 understanding, Mr. Grimes?

State of South Carolina v Reginald Murray
Case No. 12-GS-10-4522 et al
Hearing of April 3, 2013
Before The Honorable R. Markley Dennis, Jr.

1 MR. GRIMES: Yes, sir.

2 THE COURT: Have you discussed this
3 matter fully with your client?

4 MR. GRIMES: Yes, sir.

5 THE COURT: He has been advised of
6 his rights and the consequences of the pleas?

7 DEFENDANT: Yes, sir.

8 THE COURT: Based on your
9 investigation, do you concur with his decision
10 to enter the guilty pleas?

11 MR. GRIMES: Yes, sir.

12 THE COURT: Is that true, Mr.
13 Murray?

14 DEFENDANT: Yes, sir.

15 THE COURT: Then you understand and
16 realize that you're giving up your right to
17 have a jury trial, your right to confront the
18 witnesses in each of these cases?

19 DEFENDANT: Yes, sir.

20 THE COURT: You also understand that
21 you are giving up the right ---

22 (TELEPHONE RINGING)

23 DEPUTY: Take it outside.

24 THE COURT: Anybody else have a
25 phone, you need to remove it, turn it off. If

State of South Carolina v Reginald Murray
Case No. 12-GS-10-4522 et al
Hearing of April 3, 2013
Before The Honorable R. Markley Dennis, Jr.

1 you have any doubt about it, take the battery
2 out. If another goes off in the courtroom,
3 there's an Order that the Chief Justice issued
4 years ago that it is contempt of court. So
5 understand that you are subjecting yourself to
6 possible punishment up to a year in jail. It
7 is that serious.

8 THE COURT: You also understand that
9 you have the right to remain silent in each of
10 these cases?

11 DEFENDANT: Yes, sir.

12 THE COURT: And by answering my
13 questions you are giving up the right to remain
14 silent. Do you realize that?

15 DEFENDANT: Yes, sir.

16 THE COURT: Anybody threatened you,
17 sir, or promised you anything to get you to
18 plea guilty to these ---

19 DEFENDANT: No, sir.

20 THE COURT: Tell me the fact,
21 please, Solicitor.

22 SOLICITOR HALEY: Thank you, Your
23 Honor, may it please the court. On May 7th,
24 2012, NCPD narcotics executed a search warrant
25 at [REDACTED] located in Charleston

State of South Carolina v Reginald Murray
Case No. 12-GS-10-4522 et al
Hearing of April 3, 2013
Before The Honorable R. Markley Dennis, Jr.

1 County. During the execution of the warrant,
2 the defendant was in the living room. Police
3 located in the residence a .38 revolver Glock
4 handgun; a clear plastic bag containing a white
5 powdery substance that weighed approximately
6 13.6 grams; two clear plastic bags containing a
7 white powdery substance that weighed 17.4 grams
8 and 14.2 gram, respectively; and, additionally,
9 another clear plastic bag containing a white
10 powdery substance weighing approximately 6.5
11 grams. Two ID cards issued to the Defendant
12 were found, a digital scale with other drug
13 paraphernalia and eighteen hundred and seventy-
14 four dollars (\$1,874) in cash were also seized
15 from the residence. The Defendant was
16 Mirandized and claimed ownership of all of the
17 white powdery substances and the firearm
18 recovered from the residence.

19 CPD lab tested the white powdery
20 substance and all came back positive as
21 cocaine. Each bag weighed 5.6 grams, 29.6
22 grams and 13 grams, with the combined weight
23 of 48.2 grams of cocaine.

24 His prior record goes back to 1985:
25 There is a DUS in '85 and '87.

State of South Carolina v Reginald Murray
Case No. 12-GS-10-4522 et al
Hearing of April 3, 2013
Before The Honorable R. Markley Dennis, Jr.

9

1 In '97, two counts of fraudulent
2 check.

3 A fraudulent check in 1998.

4 DUS in 2000.

5 A New York conviction in 2004 for
6 possession of controlled substance with intent
7 to sell.

8 2006, possession of Schedule I
9 controlled substance.

10 2008, PWID cocaine, two counts. The
11 sentence on that was five years suspended on
12 the service of two years and probation.

13 THE COURT: Are those facts correct?

14 DEFENDANT: Some, Your Honor. In
15 2005 and -- there was no conviction in 2006.

16 THE COURT: How about the PWID
17 cocaine?

18 DEFENDANT: Say again?

19 THE COURT: Possession with intent
20 to distribute cocaine in 2007, 2008?

21 SOLICITOR HALEY: 2008.

22 DEFENDANT: (Affirmative nod), 2008.
23 Yes, sir.

24 THE COURT: So we are treating this
25 as a first offense; is that correct?

State of South Carolina v Reginald Murray
Case No. 12-GS-10-4522 et al
Hearing of April 3, 2013
Before The Honorable R. Markley Dennis, Jr.

1 SOLICITOR HALEY: That is my
2 understanding, yes, Your Honor.

3 THE COURT: Just for my information,
4 what does second offense of the ten to twenty-
5 eight carry?

6 MR. GRIMES: Seven to twenty-five.

7 THE COURT: Do you understand that
8 you are getting a break today?

9 DEFENDANT: Yes, sir.

10 THE COURT: The facts that she told
11 me about each charge, those are true? You
12 don't agree with the conviction in 2005 but the
13 factual recitation concerning each indictment
14 is correct?

15 DEFENDANT: Yes, sir.

16 THE COURT: I'll accept the plea.
17 Be happy to hear from you, Mr. Grimes.

18 MR. GRIMES: Thank you, Your Honor.
19 First I'd like the court to know that we have a
20 lot of family and friends here on behalf of Mr.
21 Murray. Some of them are: his brother, Ronnell
22 Murray; his wife, Nichole Murray; Shanton
23 Davis; Mr. Bowen, they've worked together for
24 four years; Deshawn Murray, his sister; William
25 Prioleau; Glendell Gladden, son; Laquandra

State of South Carolina v Reginald Murray

11

Case No. 12-GS-10-4522 et al

Hearing of April 3, 2013

Before The Honorable R. Markley Dennis, Jr.

1 Murray, a daughter; Gerard Gladden, a son; and
2 I think that there are several other people
3 here whose names I don't have.

4 This case is a little surprising to
5 me. He is forty-five years old. He served
6 four and a half years in the Army. He was in
7 Texas, Saudi Arabia. After he got out of the
8 Army, he went to the University of Texas at El
9 Paso for over eighteen months, studying
10 Chemical engineering. Since he has moved to
11 South Carolina he has had several good jobs:
12 Bosch, Baker -- excuse me, Behr -- working at
13 Boeing. Going to church at the House of God.

14 Originally he retained Mr. Bobby Howe
15 on the case to negotiate most of this plea
16 offering. There was a bench warrant issued
17 because there was some confusion about court
18 dates.

19 I think that totally he had been in
20 prison for a year. I think that's the longest
21 time that he's ever done in prison. At the
22 time also of his arrest, he was enrolled at
23 Trident Tech in the Aviation program.

24 As the court noted, he's looking at
25 five years mandatory.

State of South Carolina v Reginald Murray
Case No. 12-GS-10-4522 et al
Hearing of April 3, 2013
Before The Honorable R. Markley Dennis, Jr.

1 THE COURT: Absolutely.

2 MR. GRIMES: For somebody that has
3 only done one year in the past, that is a big
4 jump, day for day. He is probably going to
5 classified as more violent, so he won't be in
6 a minimum security prison. I think it is
7 enough to deter him from making any mistakes in
8 the future. Certainly he has the skills -- I
9 am surprised that someone with his background
10 and experience/skills would get involved with
11 drugs. But for whatever reason it happened,
12 it's going to have a huge impact on his family.

13 He has six daughters, two sons. We'd
14 ask the court to be as lenient as possible,
15 keeping the sentence close to the five years.

16 THE COURT: Is there anything that
17 you wish to tell me, sir?

18 DEFENDANT: Yes. First I'd like to
19 apologize to the court and especially to my
20 family. I mean -- Your Honor, after my
21 conviction in 2008, I got married, turned my
22 life around. Then -- the one thing that I
23 didn't do was to change -- you know, I
24 continued to associate with the same people.
25 That's basically why I am standing here today.

State of South Carolina v Reginald Murray
Case No. 12-GS-10-4522 et al
Hearing of April 3, 2013
Before The Honorable R. Markley Dennis, Jr.

13

1 I thought that I could turn my life around and
2 still associate with the same people. Just
3 didn't work out that way. Like I say, I
4 apologize. I just want to get home to my
5 families as soon as possible, and I apologize.

6 MR. GRIMES: Your Honor, I believe
7 that his brother may want to say a few words.

8 THE COURT: Be happy to hear from
9 him. Give me your full name, please, sir.

10 RONDELL MURRAY: Rondell Murray.
11 Judge, I just want to say that I know he's
12 always been a hard worker, always taken care of
13 his family. As much as is humanly possible,
14 he's always been a good person. To family,
15 friends, anybody who has ever needed him, he
16 has always been there. He's got young children
17 that are here that are going to miss him and
18 who need him back home as soon as possible.
19 I'm sure that when Reggie does come home that
20 Reggie is going to do everything that he can
21 not to be back in this situation ever again.
22 I know Reggie is smart enough. He's always
23 been inspirational to me. This is weird, you
24 know. These young kids, I don't know how we
25 are going to do it but we're going to try to

State of South Carolina v Reginald Murray
Case No. 12-GS-10-4522 et al
Hearing of April 3, 2013
Before The Honorable R. Markley Dennis, Jr.

1 fill that void as much as we can but we really
2 do need him back here as soon as possible.

3 THE COURT: Thank you, sir.

4 MR. GRIMES: I believe that Mr.
5 Murray has seventy-two days in jail, Your
6 Honor.

7 THE COURT: All right. Anything
8 that you wish to tell me, Mr. Murray.

9 DEFENDANT: I just want to get on
10 with my life. This -- seventy-two days, it's
11 took a toll on me. I just want to get home.
12 I am willing to do anything to get home and be
13 with my family.

14 THE COURT: Unfortunately -- I wish
15 you'd have thought of that. You are obviously,
16 as your brother just said, an intelligent
17 individual by your accomplishments and
18 everything else. I grant you that. It's kind
19 of double-edge sword when someone has the
20 background that you had. You knew better than
21 anybody what you were doing, having just had
22 that experience. It's really hard to
23 understand. But you made your decision, and it
24 was bad unfortunately. I wish you well. You
25 will be fifty when you get out.

State of South Carolina v Reginald Murray

15

Case No. 12-GS-10-4522 et al

Hearing of April 3, 2013

Before The Honorable R. Markley Dennis, Jr.

1 The sentence of the court is that you
2 be committed on Indictment 12-4523 to five (5)
3 years.

4 As your lawyer has explained, that can
5 be consecutive but I'm going to run the
6 sentences concurrently. The sentence of the
7 court on the remaining indictments, 12-4521 and
8 4522 is five years on each of those. They are
9 concurrent.

10 I give you credit for the seventy-two
11 (72) days. Good luck to you, sir.

12 (HEARING CONCLUDED)

13

14

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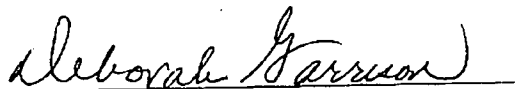
State of South Carolina v Reginald Murray
Case No. 12-GS-10-4522 et al
Hearing of April 3, 2013
Before The Honorable R. Markley Dennis, Jr.

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CERTIFICATE OF REPORTER

I, the undersigned, Deborah Garrison,
official court reporter for the 9th Judicial
Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true,
accurate and complete transcript of the hearing
held before The Honorable R. Markley Dennis,
Jr., on April 3, 2013;

I further certify that I am neither kin nor
counsel to any of the parties and have no
interest in the outcome of this action.



Deborah Garrison
Circuit Court Reporter
9th Judicial Circuit

Charleston, South Carolina
September 12, 2013

STATE OF SOUTH CAROLINA)
)
 COUNTY OF Charleston)
)
Reginald Murray, Plaintiff(s))
#354882,)
)
 vs.)
)
State,)
)
 Defendant(s))

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2013 -CP-10 - 428u

(Please Print)
 Submitted By: Pro se Litigant
 Address: see Attached PCR Application...

SC Bar #:
 Telephone #:
 Fax #:
 Other:
 E-mail:

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint. NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|--|
| <p>Contracts</p> <input type="checkbox"/> Constructions (100)
<input type="checkbox"/> Debt Collection (110)
<input type="checkbox"/> Employment (120)
<input type="checkbox"/> General (130)
<input type="checkbox"/> Breach of Contract (140)
<input type="checkbox"/> Other (199) | <p>Torts - Professional Malpractice</p> <input type="checkbox"/> Dental Malpractice (200)
<input type="checkbox"/> Legal Malpractice (210)
<input type="checkbox"/> Medical Malpractice (220)
Previous Notice of Intent Case #
20 -CP- _____
<input type="checkbox"/> Notice/ File Med Mal (230)
<input type="checkbox"/> Other (299) | <p>Torts - Personal Injury</p> <input type="checkbox"/> Assault/Stander/Libel (300)
<input type="checkbox"/> Conversion (310)
<input type="checkbox"/> Motor Vehicle Accident (320)
<input type="checkbox"/> Premises Liability (330)
<input type="checkbox"/> Products Liability (340)
<input type="checkbox"/> Personal Injury (350)
<input type="checkbox"/> Wrongful Death (360)
<input type="checkbox"/> Other (399) | <p>Real Property</p> <input type="checkbox"/> Claim & Delivery (400)
<input type="checkbox"/> Condemnation (410)
<input type="checkbox"/> Foreclosure (420)
<input type="checkbox"/> Mechanic's Lien (430)
<input type="checkbox"/> Partition (440)
<input type="checkbox"/> Possession (450)
<input type="checkbox"/> Building Code Violation (460)
<input type="checkbox"/> Other (499) |
| <p>Inmate Petitions</p> <input checked="" type="checkbox"/> PCR (500)
<input type="checkbox"/> Mandamus (520)
<input type="checkbox"/> Habeas Corpus (530)
<input type="checkbox"/> Other (599) | <p>Judgments/Settlements</p> <input type="checkbox"/> Death Settlement (700)
<input type="checkbox"/> Foreign Judgment (710)
<input type="checkbox"/> Magistrate's Judgment (720)
<input type="checkbox"/> Minor Settlement (730)
<input type="checkbox"/> Transcript Judgment (740)
<input type="checkbox"/> Lis Pendens (750)
<input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760)
<input type="checkbox"/> Other (799) | <p>Administrative Law/Relief</p> <input type="checkbox"/> Reinstate Driver's License (800)
<input type="checkbox"/> Judicial Review (810)
<input type="checkbox"/> Relief (820)
<input type="checkbox"/> Permanent Injunction (830)
<input type="checkbox"/> Forfeiture-Petition (840)
<input type="checkbox"/> Forfeiture-Consent Order (850)
<input type="checkbox"/> Other (899) | <p>Appeals</p> <input type="checkbox"/> Arbitration (900)
<input type="checkbox"/> Magistrate-Civil (910)
<input type="checkbox"/> Magistrate-Criminal (920)
<input type="checkbox"/> Municipal (930)
<input type="checkbox"/> Probate Court (940)
<input type="checkbox"/> SCDOT (950)
<input type="checkbox"/> Worker's Comp (960)
<input type="checkbox"/> Zoning Board (970)
<input type="checkbox"/> Administrative Law Judge (980)
<input type="checkbox"/> Public Service Commission (990)
<input type="checkbox"/> Employment Security Comm (991)
<input type="checkbox"/> Other (999) |
| <p>Special/Complex/Other</p> <input type="checkbox"/> Environmental (600) <input type="checkbox"/> Pharmaceuticals (630)
<input type="checkbox"/> Automobile Arb. (610) <input type="checkbox"/> Unfair Trade Practices (640)
<input type="checkbox"/> Medical (620) <input type="checkbox"/> Out-of State Depositions (650)
<input type="checkbox"/> Other (699) <input type="checkbox"/> Sexual Predator (510) | | | |

Submitting Party Signature: Reginald Murray

Date: 7/11/13

FORM 5

STATE OF SOUTH CAROLINA)
County of Charleston)

2013-CP-10-4286
IN THE COURT OF COMMON PLEAS

Reginald Murray #354882)
Full name and prison number (if any) of Applicant)

v.)
State of South Carolina)

APPLICATION FOR
POST-CONVICTION RELIEF

FILED
2013 JUL 23 PM 12:33
JULIE J. ARMSTRONG
CLERK OF COURT

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention South Carolina Dept. of Corrections
Allendale C.I. POB 1151, Fairfax, SC 29827
2. Name and location of Court which imposed sentence: Charleston County
Court of Gen. Sessions - 9th Judicial 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) 12 GS-10-04521, Trafficking Cocaine 10-28 grams
First offense

- (b) 12-GS-10-04522 - School Zone
- (c) 12-GS-10-04523

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

- (a) April 3, 2013
- (b) _____
- (c) _____

6. Check whether a finding of guilty was made:

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

7. Did you appeal from the judgment of conviction or the imposition of sentence?

No.

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

- (a) the name of each Court to which you appealed: N/A
 - i. _____
 - ii. _____
 - iii. _____
- (b) the result in each such Court to which you appealed: N/A
 - i. _____
 - ii. _____
 - iii. _____
- (c) the date of each such result: N/A
 - i. _____
 - ii. _____
 - iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results: N/A
 - i. _____
 - ii. _____
 - iii. _____

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

- (a) Attorney Andrew Gomez said Applicant

- (b) Could Not Appeal a Guilty Plea.
- (c) /

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

- (a) - See Attached Sheets -
- (b) /
- (c) /

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

- (a) Ineffective Assistance of Counsel - 6th Amend violation.
- (b) Unlawful Search and Seizure - 4th Amendment violation
- (c) Plea Not knowing and Voluntary understanding consequences.

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

- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A

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

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

iv. _____

(c) the disposition thereof: *N/A*

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition: *N/A*

i. _____

ii. _____

iii. _____

iv. _____

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

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?

No

15. If you answered "yes" to (14) identify: *N/A*

(a) which grounds have been presented: *N/A*

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised: *N/A*

i. _____

ii. _____

iii. _____

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

- (a) Applicant's Attorney Stated Applicant
- (b) had No Grounds For Reversal of his
- (c) sentence at all.

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

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

- (a) the name and address of each attorney who represented you:
 - i. Andrew Grimes -
Chas. Co. Public Defenders Office
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. Plea and Sentencing.
 - ii. _____
 - iii. _____

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

An Evidentiary Hearing, an Amended
Sentencing Order (Clarifying Sentence),
Reversing Sentence.

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 Charleston)

VERIFICATION

I, Reginald Murray, # 354882, 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.

Reginald Murray

SWORN to and subscribed before me this 11
day of July, 2013.

Virginia Daulton (L.S.)
Notary Public

My Commission Expires: 12-12-22

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

I, Reginald Murray # 354882, 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.

Reginald Murray
Applicant

SWORN or affirmed to and subscribed before me this

11 day of July, 2013.

Virginia Grubbs
Notary Public

My Commission Expires: 12-12-22

STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON)	
)	
)	2013-CP-10-4286
)	
Reginald Murray, #354882,)	
)	
Applicant,)	
)	
v.)	RETURN
)	
State of South Carolina,)	
)	
Respondent.)	
)	

The Respondent, making its Return to the application for post-conviction relief (PCR) filed July 23, 2013, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the August 2012 term of the Charleston County Grand Jury for trafficking cocaine 28-100g (2012-GS-10-4521), possession with intent to distribute cocaine within the proximity of a school (2012-GS-10-4522), and possession of a weapon during the commission of a violent crime (2012-GS-10-4523). The Applicant was represented by Andrew Grimes, Esquire.

On April 3, 2013, the Applicant pled guilty to the possession of a weapon and a proximity charge as indicted and to the lesser included offense of trafficking cocaine 10-28g. The Applicant was sentenced by the Honorable R. Markley Dennis to confinement for a period of five years on all charges. The sentences are to be run concurrently. The Applicant did not appeal his convictions or sentences.

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

II.

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

1. Ineffective assistance of counsel.
 - a. Counsel failed to vacate indictment.
2. Involuntary guilty plea.
3. Unlawful search and seizure.

III.

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

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, 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).

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

IV.

The Applicant also alleges that he did not plead guilty freely and voluntarily. The Respondent submits this allegation has no merit. To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

The Respondent submits the transcript reflects that the pleas were knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Boykin, supra; Dover, supra. Further, because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976). The Respondent submits the Applicant should not be allowed to depart from the truth of the statements he made during his guilty plea hearing.

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993). Given the Applicant's burden of proof and the analysis to be applied to this claim, the Respondent submits that the Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it should therefore, be treated as such. Accordingly, this allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

The State construes the Applicant's final allegation regarding an unlawful search and seizure as a challenge to the sufficiency of the State's evidence against him. The post-conviction relief court cannot consider the sufficiency of the evidence against a convicted defendant. S.C. Code Ann. ' 17-27-20(a)(6) (1985). The Uniform Post-Conviction Procedure Act is not a substitute for remedies that were available before and during the original trial or by review on motion for a new trial or on appeal. Irick v. State, 264 S.C. 632, 216 S.E.2d 545 (1975); Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1975). Therefore, the Court should summarily dismiss this ground for relief.

VI.

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

VII.

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

[Signature on the following page.]

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

ASHLEIGH R. WILSON
Assistant Attorney General

By: AKNWS
ATTORNEYS FOR RESPONDENT

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

Feb. 6, 20 14.

1 STATE OF SOUTH CAROLINA)
) Court of Common Pleas
 2 COUNTY OF CHARLESTON) Case No. 2013-CP-10-4286
)
 3 _____)
)
 4 REGINALD MURRAY,)
)
 5 Plaintiff,)
)
 6 vs.) Transcript of Record
)
 7 STATE OF SOUTH CAROLINA,)
)
 8 Defendant.)
) DATE: June 16, 2014
 _____)

9

10 B E F O R E:

11 The Honorable Deadra L. Jefferson

12

13 A P P E A R A N C E:

14 RODNEY D. DAVIS
 15 Attorney for the Plaintiff

16 ASHLEIGH R. WILSON
 17 Assistant Attorney General for the Defendant

17

18 Karen V. Andersen, RMR, CRR
 19 Circuit Court Reporter

19

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25

INDEX

EXAMINATION

Witness Name

Page

REGINALD MURRAY

Direct By Mr. Davis 6

Cross By Ms. Wilson 12

Re-Direct By Mr. Davis 15

Further By Mr. Davis 25

ANDREW GRIMES

Direct By Ms. Wilson 16

Cross By Mr. Davis 22

1 THE COURT: This is Reginald Murray, correct?

2 MR. DAVIS: Yes, Your Honor.

3 THE COURT: This is Reginald Murray vs. The State
4 of South Carolina, 2013-CP-10-4286, before the Court on an
5 application for post-conviction relief which was filed on
6 July 23rd of 2013. The State's return was filed on February
7 7th of 2014. Mr. Davis represents the applicant. The State
8 is represented by Ms. Wilson.

9 On April 3rd of 2013, the applicant pled guilty to
10 possession of a weapon and a proximity charge as indicted to
11 the lesser offense of trafficking cocaine, 10 to 28 grams.
12 He was sentenced by Judge Dennis to five years on all
13 charges to run concurrently. Those sentences were not
14 appealed.

15 He has filed an application alleging ineffective
16 assistance of counsel, counsel failed to vacate an
17 indictment, involuntarily guilty plea of unlawful search and
18 seizure.

19 Now, Mr. Davis, have you explained to your client
20 that the only relief this Court can order is a new trial or
21 a new -- a new trial, not necessarily a new plea, but a new
22 trial?

23 MR. DAVIS: I have, Your Honor.

24 THE COURT: Does he understand that by doing that,
25 that he would significantly expand his exposure, in other

1 words, that he has the potential to get far more time than
2 he actually received in this case?

3 MR. DAVIS: I've advised him of that, Your Honor.

4 THE COURT: Because he's almost at a place where he
5 maxed out his sentence, hasn't he?

6 MR. DAVIS: January of '18 seems to be what the
7 records from the Department of Corrections is his --

8 THE COURT: Max-out date?

9 MR. DAVIS: Projected release date when I printed
10 this was January of 2018.

11 THE COURT: He's eligible for parole, or is this a
12 sentence he has to serve the 85 percent?

13 MR. DAVIS: Correct, Your Honor.

14 THE COURT: Only one of them would be 85 percent?
15 Wouldn't it be 10 to 28, but the gun and proximity --

16 MR. DAVIS: It's a flat five on the gun. That's
17 the issue, Your Honor, of the hearing, actually. Forgive me
18 for misspeaking. That is the issue.

19 THE COURT: But it looks like he was indicted for
20 trafficking cocaine, 28 to 100 grams, which was 2012-4521;
21 possession with intent to distribute cocaine within the
22 proximity of a school, 2012-4522; possession of a weapon
23 during the commission of a violent crime, 2012-4253.

24 And so he pled to the gun, the proximity, and then
25 a lesser-included offense of the trafficking.

Reginald Murray - Direct by Mr. Davis

1 MR. DAVIS: That's correct, Your Honor.

2 THE COURT: The trafficking is 7 to 30, isn't it,
3 and a \$50,000 fine? I can't remember. I'm going from my
4 memory.

5 MR. DAVIS: Your Honor, I have it right here. On
6 trafficking, because we did discuss it, trafficking, 28 to
7 100, first offense is 7 to 25. The 7 is mandatory minimum
8 of 85 percent. Second is 7 to 30, again, 85 percent. A
9 third would be 25 to 30, mandatory minimum 85 percent. He
10 was indicted on the second, so 7 to 30.

11 THE COURT: Okay. And you've explained to him that
12 he would go from having a sentence of five years to
13 potentially having an exposure of 30 years?

14 MR. DAVIS: Yes, ma'am, I have.

15 THE COURT: Sir, if you would stand for me please
16 and raise your right hand to be sworn.

17 REGINALD MURRAY,

18 having been duly sworn, testifies as follows:

19 THE COURT: State your full name for the record.

20 THE DEFENDANT: Reginald Murray.

21 THE COURT: Mr. Murray, have you gone over fully
22 the implications of a post-conviction relief action with
23 Mr. Davis?

24 THE DEFENDANT: Yes, ma'am, I have.

25 THE COURT: Do you understand that the Court cannot

1 BY MR. DAVIS:

2 Q. Mr. Murray, just as a little background, we have
3 this PCR hearing today. And who is the attorney that was
4 with you when you resolved the case?

5 A. Mr. Andrew Grimes.

6 Q. But you actually -- there was an attorney you had
7 prior to Mr. Grimes being on the case; is that correct?

8 A. Yes, sir.

9 Q. And who was that?

10 A. Robert Howe.

11 Q. And there's no doubt that Mr. Howe was replaced by
12 Mr. Grimes prior to this going to court?

13 A. Yes, sir.

14 Q. And there's no doubt that you had time to speak
15 with Mr. Grimes about your case?

16 A. Yes, sir.

17 Q. Is it accurate that early on in the representation,
18 Mr. Grimes began speaking with you about resolving this case
19 through a guilty plea?

20 A. Yes, sir.

21 Q. Can you tell the Court what discussions you had
22 with Mr. Grimes about your charges and the potential
23 sentence?

24 A. Mr. Grimes spoke to me about a 7-to-22-1/2-year
25 sentence. He spoke to me about the five-year sentence. And

1 that -- basically, we went over issues of my search, the
2 statement that I gave.

3 Q. Let's go back to the time frames you were talking
4 about. Tell the Court what you recall, what your
5 understanding was of the 7-to-22-1/2 sentence that was
6 discussed?

7 A. If I went to trial, I would be facing 7 to 22 1/2
8 years. So he advised me to take the five years.

9 Q. And you had more than one charge?

10 A. Yes, sir.

11 Q. Was that five years on one of the charges or all of
12 the charges? How did you understand that?

13 A. I understood it the five years would be on the gun,
14 and everything else would be run through concurrently.

15 Q. Ultimately, did you accept that plea offer to plead
16 guilty?

17 A. Yes.

18 Q. And can you tell the Court what you based your
19 decision on to plead guilty?

20 A. I based my decision on the guilty plea on the
21 five-year mandatory, not knowing that the five-year meant
22 day-for-day incarceration. At the end of my guilty plea, I
23 stated that I wanted it to be a nonviolent sentence. And I
24 felt that that was -- would make me eligible for parole. If
25 I knew that I would have been doing the five years day for

1 day, I wouldn't have accepted that five-year sentence.

2 Q. Did your first attorney, Mr. Howe, ever mention to
3 you that the five years on the gun charge was day for day?

4 A. No.

5 Q. When he was replaced and Mr. Grimes took over
6 representation, did he ever mention to you that the five
7 years on the gun charge was day for day?

8 A. No. What he mentioned was that the five years --
9 that I would do five years. I did not understand it as to
10 mean five years incarceration. I thought maybe I would have
11 maxed out 2 1/2 or whatever, and do the rest on parole or
12 probation or whatever. But I didn't understand it to mean
13 five years incarceration.

14 Q. Did he talk to you about the reduction in the
15 trafficking charge?

16 A. Yes.

17 Q. Did he talk to you about the amount of time the
18 trafficking charge sentence would carry?

19 A. Yes.

20 Q. And what is your recollection of that discussion?

21 A. The 22 years or the -- well, no. If I would have
22 gotten the seven-year?

23 Q. Actually, on the plea negotiations with the reduced
24 charge, what's your recollection of the discussions about
25 the reduced charge and your sentence on the reduced

1 trafficking charge?

2 A. I can't really -- I don't recall, no.

3 Q. You mentioned a moment ago that during your plea,
4 you confirmed with the Court that these were -- this was a
5 nonviolent sentence charge, is that correct?

6 A. Correct.

7 Q. What was the purpose in your mind for asking that?

8 A. My purpose in that was because being a nonviolent
9 sentence, I understood it to mean, I thought, to make me
10 eligible for parole.

11 Q. Now, to give the Court a little bit of context, you
12 mentioned earlier that you and Mr. Grimes had discussed the
13 evidence in your case; is that correct?

14 A. Yes.

15 Q. Discussed search issues about your case?

16 A. Yes.

17 Q. Can you tell the Court what law enforcement claimed
18 the basis for the search warrant in your case was?

19 A. A trash pull.

20 Q. And did you have discussions with Mr. Grimes about
21 that issue?

22 A. Yes, I did.

23 Q. Did he discuss with you how he would try to deal
24 with that legal issue?

25 A. Yes, he did. Well, he said he would check into it

1 and he would get back with me. This was on a Monday when I
2 first met with Mr. Grimes. He came back on Wednesday and
3 told me -- Wednesday, Thursday, within three or four days,
4 told me that -- to go ahead and accept the plea.

5 Q. Was it clear to you that if you wanted to fight the
6 basis of the search, you would have to go to trial? Did you
7 understand that?

8 A. Yes, but he told me that he didn't think I would
9 win.

10 Q. Did you understand the consequences and the
11 benefits of the reduction of the drug charge?

12 A. Yes.

13 Q. And can you tell the Court what the major benefit
14 was of the reduction of the drug charge?

15 A. From 22 to 5 years.

16 Q. And on that 5 years on the drug charge, did you and
17 Mr. Grimes discuss what amount of time you might have to
18 serve on that?

19 A. No.

20 Q. What was your understanding of that five-year
21 sentence?

22 A. Well, Mr. Grimes just stated that it would be run
23 concurrent with the gun charge.

24 Q. Mr. Murray, had you known prior to the plea that
25 the five-year sentence on the gun charge was not only

1 mandatory but required day-for-day service, would you have
2 entered this plea?

3 A. No.

4 Q. And where did you -- who provided the information
5 about the sentence and the range of time you would have to
6 serve?

7 A. My caseworker. After I filed a PCR in July -- in
8 June, I had already been in the Department of SCDC for about
9 three months. And she came to me and she told me that my
10 sentence -- when I came through SCDC, they told me that I
11 would have been doing 65 percent. After about three to four
12 months of being in SCDC, they came to me and told me that my
13 sentence was day for day. And that's when I filed a PCR.

14 MR. DAVIS: Your Honor, if I can have just a
15 moment.

16 Thank you, Your Honor. No other questions.

17 THE COURT: Ms. Wilson, you may proceed.

18 MS. WILSON: May it please the Court.

19 CROSS-EXAMINATION

20 BY MS. WILSON:

21 Q. Mr. Murray, do you recall how many times you met
22 with Mr. Grimes before you pled guilty?

23 A. Twice.

24 Q. Do you recall reviewing the discovery that you
25 received from the State with Mr. Grimes?

1 A. Do I recall?

2 Q. Reviewing the discovery materials that Mr. Grimes
3 got from the State?

4 A. Yes, on the second visit.

5 Q. Did he talk to you about possible defenses if y'all
6 went to trial?

7 A. Yes.

8 Q. Mr. Grimes discussed with you the plea offer made
9 from the State; is that correct?

10 A. He -- yes.

11 Q. And was it your decision to plead guilty?

12 A. Yes.

13 Q. And do you recall telling the Court that you wanted
14 to plead guilty?

15 A. Yes.

16 Q. Do you recall telling the Court you wanted to waive
17 your constitutional rights, like the right to remain silent,
18 the --

19 A. Yes.

20 Q. -- right to confront your witnesses and all that?

21 A. Yes.

22 Q. Do you recall telling the Court that you were
23 satisfied with Mr. Grimes's representation?

24 A. Yes.

25 Q. Now, after you pled guilty, you received a

1 five-year sentence; is that correct?

2 A. Yes, ma'am.

3 Q. Do you recall the Court, during your guilty plea
4 proceeding, telling you that your sentence would be served
5 day for day?

6 A. Do I recall?

7 Q. The Court telling you that your sentence would have
8 to be served day for day during your guilty plea?

9 A. Yes.

10 Q. Do you recall telling the Court that you had spoken
11 to Mr. Grimes about your sentence being day for day?

12 A. Yes.

13 Q. And you also said that you discussed challenging
14 the search with Mr. Grimes; is that correct?

15 A. That I discussed challenging the search? Yes.

16 Q. And you also testified you were aware that you had
17 to go to trial to do that; is that correct?

18 A. No.

19 Q. So today -- did you just testify today that you
20 understand to challenge the search, you had to go to trial?

21 A. Did I understand? No.

22 Q. So before you pled guilty, did you understand that
23 in order to challenge your search, you had to go to trial?

24 A. No. Right. I understand the question. But, no, I
25 didn't understand it then that that was the only way. I

1 thought that he would file a motion to dismiss or -- no, I
2 didn't know that.

3 MS. WILSON: Okay. Thank you.

4 THE COURT: Any redirect?

5 MR. DAVIS: Your Honor, if I can have just a moment
6 with the transcript.

7 Yes, Your Honor, just briefly.

8 REDIRECT EXAMINATION

9 BY MR. DAVIS:

10 Q. Mr. Murray, on the day of the plea, did you speak
11 with Mr. Grimes prior to the plea?

12 A. Yes.

13 Q. About how long did you speak with him the day of
14 the plea?

15 A. About five minutes, I think, five minutes.

16 Q. Can you tell the Court what your mindset was when
17 you appeared before Judge Dennis for the plea?

18 A. Yes. My mindset at the time was, you know, that
19 the State was offering five years and that that would have
20 been the max that I received, but I just didn't understand
21 it to mean five years day for day. That's my only thing.
22 Day-for-day incarceration, no, that's not what I thought the
23 five-year sentence meant.

24 Q. And when was the first that you understood that you
25 would have to serve every day of that sentence?

1 A. July, three months later.

2 MR. DAVIS: Thank you.

3 No other questions, Your Honor.

4 MS. WILSON: Nothing further from the State.

5 THE COURT: Any further witnesses from the
6 applicant?

7 MR. DAVIS: No, Your Honor.

8 THE COURT: State may proceed.

9 MS. WILSON: Thank you, Your Honor.

10 The State will call Mr. Andrew Grimes.

11 THE COURT: Mr. Grimes, if you will come to the
12 stand to be sworn.

13 ANDREW GRIMES,

14 having been duly sworn, testifies as follows:

15 THE CLERK: State your full name and spell your
16 last name for the record.

17 MR. GRIMES: Andrew David Grimes, G-r-i-m-e-s.

18 THE COURT: You may proceed.

19 DIRECT EXAMINATION

20 BY MS. WILSON:

21 Q. Good morning, Mr. Grimes. How long have you been
22 practicing law?

23 A. Graduated law school in 1995, been practicing since
24 then.

25 Q. Okay. And how much of your practice has been doing

1 criminal work?

2 A. Probably about 100 percent since 2006 with the
3 Charleston County Public Defender's Office.

4 Q. Do you recall when you were appointed to represent
5 Mr. Murray?

6 A. If I look at my file, I believe I was appointed in
7 February of 2013.

8 Q. Do you recall how many times you got to meet with
9 him before he pled guilty?

10 A. It looks like I met with him -- one set of notes,
11 February 20th, February 26, February 27th. And I imagine I
12 met with him at least once or twice more after that. I
13 don't see that in my notes reflected.

14 Q. Did you file Brady or Rule 5 motions on
15 Mr. Murray's behalf?

16 A. I'm not sure if I did. Mr. Howe had filed those
17 motions. And I did request some material from Ms. Cardillo,
18 and received it, no problems from her.

19 THE COURT: I'm sorry. You said you requested from
20 Mr. Cardillo and she provided it to you?

21 MR. GRIMES: Yes, ma'am.

22 BY MS. WILSON:

23 Q. Did you review the materials that you received with
24 Mr. Murray?

25 A. Yes, ma'am.

1 Q. And prior to his plea, did you talk to him about
2 the elements of the charges he was facing and what the State
3 had to prove?

4 A. Yes, ma'am.

5 Q. Did you talk to him about his version of the facts?

6 A. Yes, ma'am.

7 Q. Did you discuss possible defenses with him? And if
8 so, what did you come up with?

9 A. I saw, I think, two possible defenses. One was
10 challenging the search. And there was a trash pull where
11 the trash can had been taken outside and put on a sidewalk
12 for being taken. And I think I told him in our meeting of
13 February 26th that I didn't think that was a strong defense
14 because I didn't see an expectation of privacy in that trash
15 can since it had been put out for collection.

16 Second defense was suppressing his statement. He
17 had given a statement taking responsibility for the drugs.
18 I think the Corns case we would have relied upon. In that
19 case, officers threatened the defendant with taking his --

20 THE COURT: I don't mean to interrupt you,
21 Mr. Grimes, I apologize, but for the court reporter's
22 benefit, if you could spell that case so that she will know
23 what case you are referring to.

24 MR. GRIMES: Yes, ma'am. C-o-r-n-s.

25 THE COURT: You may continue. I apologize for

1 interrupting.

2 MR. GRIMES: In that case, the police had
3 threatened the defendant with arresting his girlfriend and
4 children, or putting his children in DSS custody if he
5 didn't take responsibility for the drugs. There was some
6 similar allegations here, to try to use that case to try to
7 get solicitor to come off the gun charge.

8 Also discussed the nexus between the drugs and the
9 gun charge under the Whitesides case, W-h-i-t-e-s-i-d-e-s.
10 And the gun was found in close proximity to the drugs. That
11 was not the strongest argument.

12 Discussed prior drug offense, what the sentence
13 ranges for that would be. And we were going over with him
14 that if we did keep the statement out, we are still going to
15 need to be able to point the finger to someone for whose
16 drug it was, and needs to point his finger at his wife or
17 his daughter and someone named Julienne, or someone else who
18 may have come in and out but never had anything too specific
19 about that person that shows habits. And he may have
20 mentioned his son. I'm not sure how that was gone in.

21 And at the time I got the case, Mr. Howe had
22 already received a plea offer. And I think he was in jail
23 on a bench warrant because of some miscommunication between
24 Mr. Howe and the Court, or him and Mr. Howe. So kind of
25 tried to -- I know Mr. Howe had tried to change -- kind of

1 finding out -- talked with Ms. Cardillo, he tried to change
2 the plea offer on his own and take the possession of gun
3 during crime of violence to unlawful carrying.

4 And I tried to go over that with Ms. Cardillo, to
5 do a higher charge on trafficking to make up for the
6 five-year charge, because that was his problem, was the
7 five-year charge. And I don't see it in my notes, but I do
8 see where I told Ms. Cardillo in some various e-mails his
9 problem was the five-year gun charge. I'm quite sure I told
10 him it was day for day. And that was why we were trying so
11 many ways to try to find a way to fight that.

12 Q. And do you know what kind of investigation you had
13 to do in this case, if any?

14 A. I don't think I did much investigation. By the
15 time they got to me, it was sort of in context of probably
16 headed more toward plea than a trial. You know, I know
17 Mr. Murray was unsatisfied with Mr. Howe, but he negotiated
18 a decent plea offer. It wasn't the best in the world, but
19 it wasn't the worst.

20 Q. Ultimately, what did the State offer on Mr. Murray?
21 Mr. Grimes, I just asked ultimately what did the State offer
22 Mr. Murray a plea to?

23 A. I don't think it was a great plea offer made
24 number-wise. It looks like they were reducing the charge.
25 And looking to plea sheets, it was done without

1 negotiations, recommendations. So I think I would have told
2 Mr. Murray, my notes show probably best we could get would
3 be five. And I remember arguing for five at the plea
4 hearing. I don't have a plea transcript, but I would be
5 surprised if I didn't use him doing day for day as sort of
6 mitigation, let the judge know it's probably equivalent of
7 an eight-year charge.

8 Q. Did you communicate all of the consequences of
9 pleading guilty to Mr. Murray?

10 A. No. I would have probably gone over like losing
11 his right to own a firearm, because he had a prior record.
12 I'm not sure how much of that would have come into play. He
13 wasn't getting student loans, I don't think.

14 Q. Did you talk to him about what constitutional
15 rights he was waiving?

16 A. Yes, ma'am.

17 Q. Did he ever indicate he didn't understand
18 something, to read or review again?

19 A. If he did, I don't recall anything. I think he
20 worked at Boeing, seemed to have a good job. I'm not sure
21 what competency -- seemed to understand a lot, was
22 challenging what Mr. Howe had been doing and so through some
23 other forums. So he seemed to have a fairly good grasp for
24 everything as far as I could see.

25 Q. Did Mr. Murray ever indicate he wanted to go to

1 trial in his talks with you?

2 A. We did talk about it. He never came in and said, I
3 want to plea, plea, plea, like some people do. But I don't
4 recall him being adamant about a trial. If we hadn't, you
5 know, got a plea offer, I think we would have went to trial.

6 Q. Did you talk to him about challenging the search
7 warrant, and if he challenged it, he would have to do that
8 going into trial?

9 A. You know, I don't recall if I went over that detail
10 or not. I just remember saying I don't think we had a good
11 argument on it, wouldn't have helped us out at trial. So
12 maybe -- seemed he understood that.

13 Q. Is it your testimony today that you've talked to
14 him about the weapons charge being day for day; is that
15 correct?

16 A. Yes, ma'am.

17 MS. WILSON: Thank you.

18 THE COURT: Any cross-examination of the witness?

19 MR. DAVIS: Yes, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. DAVIS:

22 Q. Mr. Grimes, what date were you appointed to
23 Mr. Murray?

24 A. The outside of my file says: Open February 4th,
25 2013.

1 Q. And do you recall the plea being April 3rd of '13?

2 A. I know we had asked to push it back to April.

3 Q. Do you recall when you asked it to be moved back,
4 the purpose for that was the fact that Mr. Murray had not
5 had the opportunity to review all of his discovery from his
6 prior attorney, and that was your major request for the
7 continuance of the plea date?

8 A. That was a major reason. According to Mr. Murray,
9 he didn't receive anything from Mr. Howe. And I didn't find
10 that too surprising. And also, you know, I think the same
11 e-mail there, he talked about gun charge. And so Mr. Howe
12 told him the gun charge would be reduced, he might only get
13 three years. So we had to sort of clarify what Mr. Howe had
14 been telling him and clean that up.

15 Q. That was late February when he's finally getting a
16 chance to review the discovery, full discovery with you?

17 A. Yeah. I think my e-mail -- it looks like February
18 27th, 5:16 p.m., so middle one in the thread of e-mails.

19 Q. And I think you testified to this, but I think from
20 your notes, it indicates that you met with him three times
21 prior to the plea, or maybe --

22 A. I have three specific dates. I'm not always best
23 at keeping notes of that.

24 Q. It's fair to say this was a rather quick case?
25 Like you had testified, he had already been with Mr. Howe

1 previously. And so your time representing Mr. Murray was
2 relatively brief; is that fair?

3 A. That's fair.

4 MR. DAVIS: No other questions.

5 Thank you, Your Honor.

6 THE COURT: Any redirect?

7 MS. WILSON: Nothing from the State.

8 THE COURT: You may step down, Mr. Grimes.

9 MR. GRIMES: Thank you.

10 THE COURT: You're welcome.

11 Anything further from the State?

12 MS. WILSON: Nothing further from the State, Your
13 Honor.

14 THE COURT: Anything further from the applicant in
15 rebuttal testimony?

16 MR. DAVIS: If I may have just a moment, Your
17 Honor, just one moment.

18 THE COURT: Uh-huh.

19 MR. DAVIS: Your Honor, just very briefly as to one
20 issue, it would be my client, Mr. Murray, that I would have
21 a brief question for.

22 THE COURT: Sir, I remind you you are still under
23 oath. You may proceed.

24 REGINALD MURRAY,

25 having been previously sworn, testifies as follows:

1 MR. DAVIS: Yes, Your Honor.

2 THE COURT: You may proceed.

3 MR. DAVIS: Thank you, Your Honor. Your Honor,
4 you have been on the bench quite some time. You understand
5 some cases are more of a fast-track case than others. We
6 have a unique situation here where Mr. Murray was previously
7 represented. But so when Mr. Grimes came into the case, he
8 came into the case a little later on down the line. But we
9 just had testimony to the fact that Mr. Murray didn't even
10 have the opportunity to receive full discovery and review it
11 until late February of 2013. He pled in early April 2013.

12 Mr. Grimes indicated he met with Ms. Murray
13 approximately three times. There was little independent
14 investigation by Mr. Grimes on this case. There was a
15 little discussion by his own admission.

16 The issue in this case boils down to that one issue
17 that we've mentioned several times now. It's one thing for
18 the Court to indicate -- and Your Honor I know has a
19 transcript. It was one line at the beginning of the plea.
20 It's Line 22 on the very first page of the colloquy
21 indicating it's a day-for-day sentence. That's the very
22 beginning of that. Mr. Murray indicates while he heard
23 that, his understanding was different than actual service of
24 every day of the five years. He's testified that had he
25 known that a day-for-day five-year sentence meant serving

1 every day of five years, he would not have entered this
2 plea.

3 The information he received about sentencing, about
4 the charges, about the potential exposure, was from his
5 attorney, Mr. Grimes. We would argue, therefore, that
6 Mr. Murray's lack of understanding of the consequences of
7 the plea to the gun charge is ineffective assistance. And
8 he's made it clear that that is what he relied on when he
9 chose to plead guilty. But that had he understood that
10 clearly, he would not have pled to that charge. Therefore,
11 the ineffectiveness directly affected the outcome of the
12 case. Had Mr. Grimes effectively explained that, the
13 outcome would have been different.

14 Based on that, we would ask you to rule in favor of
15 the plaintiff and grant his relief requested on the
16 post-conviction relief action. Thank you, Your Honor.

17 THE COURT: You're welcome.

18 Ms. Wilson.

19 MS. WILSON: Thank you, Your Honor. May it please
20 the Court.

21 The State would just ask that you deny and dismiss
22 this application for post-conviction relief with prejudice.
23 As Mr. Davis noted, the transcript reflects on Page 2, Lines
24 18 through 24, that the Court asked Mr. Murray -- well, said
25 to Mr. Murray: And your lawyer has explained to you that

1 charge and the fact that I could sentence you up to five
2 years in jail?

3 And Mr. Murray responds: Yes, sir.

4 And then the Court says: Has he explained to you
5 that is a day-for-day sentence?

6 And the defendant responded: Yes, sir, he did.

7 Your Honor, the State's position is that Mr. Murray
8 hasn't provided any basis for the Court to depart from the
9 statements he made during his guilty plea to the Court.
10 Your Honor, I don't know how clear you can get by explaining
11 some thing is day for day other than saying it's day for
12 day.

13 Also, Mr. Grimes said he spoke to Mr. Murray about
14 his sentence being day for day, and that that was an
15 important thing for him, and something that he tried to use
16 as leverage when having plea negotiations with the State on
17 Mr. Murray's behalf.

18 And, Your Honor, we just don't -- the State's
19 position is Mr. Murray's testimony about what he understood
20 day for day means is not credible.

21 Also, with regard to counsel's argument about the
22 level of investigation done by Mr. Grimes and also about the
23 defendant receiving discovery shortly or a couple months
24 before he pled guilty, Mr. Murray has failed to carry his
25 burden of proving what, if Mr. Grimes had additional time to

1 investigate, would have been uncovered, or what him having
2 additional time to review his discovery would have yielded.

3 So we just ask that you deny and dismiss this
4 application for post-conviction relief with prejudice.

5 THE COURT: In an application for post-conviction
6 relief, the applicant bears the burden of proving his
7 allegations. Where there is an allegation of ineffective
8 assistance with a guilty plea, he must prove that his
9 counsel's performance fell below an objective standard and
10 that but for counsel's errors in professional judgment, he
11 would have not have pled guilty, but would have insisted on
12 going to trial.

13 The gravamen of his claim is he only pled guilty
14 because he did not understand that the sentence that he was
15 receiving was day for day. I have found, as Mr. Davis has
16 made reference to my years on the bench, that memories get
17 hazy after time passes, that memory becomes -- I think it's
18 only human nature. You remember basically things in the
19 light that you would like to remember them in. And that is
20 why the transcript in this case is so valuable, because it
21 is a contemporaneous record of what actually happened at the
22 time of the plea.

23 He has indicated that his plea was not freely and
24 voluntarily made, that he did not have a full understanding
25 of the charges and the consequences of the plea. And I

1 would find for the record that I do not find the testimony
2 of the applicant credible. However, I do find the testimony
3 of Mr. Grimes to be credible. And that is because when
4 reading it, when hearing it also in consideration of the
5 transcript, which is a contemporaneous record, it is clear
6 that there had been an extensive discussion regarding this
7 day-for-day, the day-for-day implications of the gun charge.
8 And the plea transcript indicates that the defendant's level
9 of education and otherwise, and that the extent of his
10 education, that he was -- had sufficient education to
11 understand the proceedings as well as the questions that
12 were being asked of him by the Court. And, again, what I
13 find most persuasive is the transcript.

14 And I do not find credible that somehow he would
15 have not made the Court aware of any misunderstandings,
16 because on Page 3 of the transcript at Lines 12 through 20,
17 he was quite vocal when the judge made a mistake regarding
18 the range of penalty. And he said: No, no, that's not --
19 Mr. Grimes did not explain that to me. That is not my
20 understanding of what this means.

21 And he was vocal about that. He made the Court
22 aware that he did not understand that or that was not his
23 understanding.

24 So, when I look at this rationally, applying logic,
25 it does not make sense to me then that if he misunderstood

1 something else, he would not have brought it to the Court's
2 attention at that time; nor is his explanation that, I
3 thought this would be day for day after I was released on
4 probation, that just doesn't stand up to any application of
5 logic.

6 The words used in the plea transcript are
7 unambiguous. They are straight-forward. They are not
8 subject to any other interpretation. And at Page 2, Line 6
9 through 12, the Court very clearly asked him: Do you
10 understand the charges against you and the range of penalty?

11 And he indicates that he does.

12 And then there's a discussion regarding the
13 day-for-day implications of the gun charge. And that's at
14 Page 2, Lines 17 through 24, where the Court says: And your
15 lawyer has explained to you that charge and the fact that I
16 could sentence you up to five years in jail?

17 And his answer was: Yes, sir.

18 And he has explained to you that this is a
19 day-for-day sentence?

20 Yes, sir, he did.

21 And then he asked: How do you plead?

22 Going onto Page 3, Lines 1, and he indicates:
23 Guilty.

24 There are then other discussions regarding the
25 day-for-day implication of this sentence. That's at Page

1 11, Lines 24 and 25, where Mr. Grimes, in his argument in
2 mitigation, indicates: As the Court's noted, he's looking
3 at five years mandatory.

4 And the Court says: Absolutely.

5 And he then goes on to state at Page 12: For
6 somebody that has only done one year in the past, that is a
7 big jump, day-for-day.

8 And then again, there is a reference at Page 12,
9 Lines 1 through 8, again, there's the discussion regarding
10 the day-for-day implications and the impact on his family.

11 And then at Page 14, Lines 24 through 25, the Court
12 again says to him: You will be 50 when you get out.

13 Which is very clearly articulated. That it is -- I
14 don't think that could be left to any vague interpretation.
15 It's very clearly discussed, the day-for-day implications of
16 the sentence.

17 Then looking at the rest of the transcript, very
18 clearly he was -- the range of penalty was explained to him
19 for the trafficking charge at Page 3 and Page 4, entirety of
20 Page 3, and then Page 4, Lines 1 through 4, as well as the
21 proximity charge at Page 4, Lines 5 through 20. The
22 classification as serious, at Page 4, Lines 10 through 12,
23 that he was satisfied with his attorney's services and
24 understood his attorney's -- the times that he met with his
25 attorney, and that he had no complaints regarding his

1 services. And that's at Page 5, Lines 15 through 20.

2 He understood his constitutional rights to a jury
3 trial. And that's at Page 6, Lines 15 through 21, and Page
4 7, lines 8 through 15.

5 He also allocuted to the facts at Page 9, Lines 13
6 through 25, and then Page 10. And again, he corrected the
7 solicitor regarding his record. So it is just my perception
8 of this transcript that if there was something to be
9 corrected, he was not a shrinking violet in terms of
10 correcting the Court regarding his record or range of
11 penalties.

12 So just does not stand to reason if he had some
13 other understanding, he would not have corrected the Court
14 at that time, especially with the numerous references made
15 to the day-for-day implications of the sentence.

16 There's no indication that he was threatened or
17 entered the plea subject to any duress at Page 7, Line 16
18 through 19.

19 So based on what has been presented to the Court
20 and just for brevity sake, the Court finds credible
21 Mr. Grimes's testimony that he went over the elements of the
22 offense, the State's burden of proof, that he very clearly
23 went over what challenges or defenses that the defendant
24 would have had regarding any challenges. And it is not as
25 if this was Mr. Murray's first contact with the system, so I

1 do not believe that he would have had any vague
2 understanding as to what would be required for a
3 suppression.

4 And I think that Mr. Grimes's assumption
5 regarding -- including his extensive discussion with him
6 regarding what defenses there were and the viability of
7 those defenses and his professional judgment regarding
8 whether you would -- he would have prevailed on those
9 challenges, in combination with his explanation of his
10 constitutional rights, was more than adequate in terms of
11 explaining these matters to Mr. Murray.

12 Mr. Murray was between what we call the proverbial
13 rock and a hard place. If he had gone to trial, there
14 really would have been no appreciable difference if
15 convicted. He still would have been serving the sentence
16 day for day. As a matter of fact, he would have had a
17 greater exposure than he has now.

18 So I guess in the grand scheme of things, I'm
19 trying to figure out how -- especially in light now of
20 Mr. Grimes's explanation regarding the viability of any
21 challenges on a search or trying to suppress any statements
22 that the applicant made -- but, again, that's not the
23 barometer. The barometer is whether or not he would have
24 insisted on going to trial. And I can find no evidence in
25 this record that that would have been his demeanor regarding

1 this case.

2 I find credible Mr. Grime's testimony that he did,
3 in fact, go over with him the day-for-day implications of
4 his sentence. And that is corroborated by the plea
5 transcript in this case.

6 And so as such, the Court is denying the
7 application for post-conviction relief. The State will
8 provide the Court with a proposed order within 15 days of
9 today. Well, actually, you may need more time than that
10 since you are going on vacation.

11 MS. WILSON: I would appreciate it.

12 THE COURT: How many more days do you need beyond
13 15?

14 MS. WILSON: Just sometime around the first week of
15 July, because I'm out until that --

16 THE COURT: Let's say 20 days.

17 MS. WILSON: Thank you, Your Honor.

18 THE COURT: I'm giving her leave to make any
19 findings of facts and conclusion of law consistent with the
20 record. And she will send that to the Court again by
21 e-mail. She will also provide Mr. Davis with a copy of that
22 order at the same time that it is sent to the Court.

23 And I assume she has your e-mail address,
24 Mr. Davis?

25 MR. DAVIS: Yes, Your Honor.

1 THE COURT: Anything further for the record?

2 MS. WILSON: Nothing from the State, Your Honor.

3 THE COURT: From the applicant?

4 MR. DAVIS: No, Your Honor.

5 THE COURT: Thank you very much.

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 COUNTY OF CHARLESTON)
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 Reginald Murray, #354882,)
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 Applicant,)
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 v.)
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 State of South Carolina,)
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 Respondent.)

IN THE COURT OF COMMON PLEAS
 2013-CP-10-4286

ORDER OF DISMISSAL

FILED
 2013 SEP 18 PM 12:19
 JUDICIAL DEPARTMENT
 CLERK OF COURT
 By _____

Presiding Judge:	Hon. Deadra L. Jefferson
Applicant's Attorney:	Rodney Davis, Esquire
Respondent's Attorney:	Ashleigh R. Wilson, Esquire
Plea Counsel:	Andrew Grimes, Esquire
Date of Hearing:	June 16, 2014
Court Reporter:	Karen V. Andersen

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed July 23, 2013. The Respondent made its Return on or about February 6, 2014. An evidentiary hearing into the matter was convened on June 16, 2014 at the Berkeley County Courthouse. The Applicant was present at the hearing and represented by Rodney Davis, Esquire. Ashleigh R. Wilson, Esquire, of the South Carolina Attorney General's Office represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. The Applicant's plea counsel, Andrew Grimes, Esquire, was also present and testified at the hearing. This Court had before it the guilty plea transcript, the records of the Charleston County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections, the PCR application, and the Respondent's Return thereto.

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 [Signature]

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Charleston County. The Applicant was indicted at the August 2012 term of the Charleston County Grand Jury for Trafficking Cocaine 28-100 Grams-First Offense¹ (2012-GS-10-4521), Possession with Intent to Distribute Cocaine within the Proximity of a School² (2012-GS-10-4522), and Possession of a Weapon during the Commission of a Violent Crime³ (2012-GS-10-4523). Andrew Grimes, Esquire, represented the Applicant. The Applicant pled guilty to the lesser included offense of Trafficking Cocaine 10-28 Grams-First Offense,⁴ Possession with Intent to Distribute Cocaine within the Proximity of a School, and Possession of a Weapon during the Commission of a Violent Crime. The Honorable R. Markley Dennis, Jr. sentenced the Applicant to five (5) years concurrent on all charges. The Applicant did not appeal his convictions or sentences.

ALLEGATIONS

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

¹ The offense of Trafficking Cocaine, 28-100 Grams-First Offense is a serious, violent felony punishable by a mandatory minimum term of imprisonment for seven (7) years, a mandatory maximum term of imprisonment for twenty five (25) years, and a twenty five thousand dollar (\$25,000.00) fine, none of which may be suspended, nor probation granted. See S.C. CODE ANN. § 44-53-370(e)(2)(b) (2012); S.C. CODE ANN. § 16-1-60 (2012); S.C. CODE ANN. § 17-25-45 (2012).

² The offense of Possession with Intent to Distribute Cocaine within Proximity of a School is a serious felony punishable by up to ten (10) years' imprisonment and/or a ten thousand dollar fine (\$10,000.00). See S.C. CODE ANN. § 44-53-445(D)(1) (2012); S.C. CODE ANN. § 17-25-45 (2012).

³ The offense of Possession of a Firearm during the Commission of a Violent Crime is punishable by a mandatory term of imprisonment for five (5) years, in addition to the punishment provided for the principal crime. See S.C. CODE ANN. § 16-23-490 (2012). Service of the five-year sentence is mandatory unless a longer mandatory minimum term of imprisonment is provided by law for the violent crime. *Id.* The court may impose this mandatory five-year sentence to run consecutively or concurrently. *Id.* Except as provided, the person sentenced under this section is not eligible during this five-year period for parole, work release, or extended work release. *Id.*

⁴ The offense of Trafficking Cocaine, 10-28 Grams-First Offense is a serious, violent felony punishable by a mandatory minimum term of imprisonment for three (3) years, a mandatory maximum term of imprisonment for ten (10) years, and a twenty five thousand dollar (\$25,000.00) fine, none of which may be suspended, nor probation granted. See S.C. CODE ANN. § 44-53-370(e)(2)(b) (2012); S.C. CODE ANN. § 16-1-60 (2012); S.C. CODE ANN. § 17-25-45 (2012).

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1. Ineffective assistance of counsel.
 - a. Counsel failed to vacate the indictment.
2. Involuntary guilty plea.
3. Unlawful search and seizure.

At the hearing, the Applicant proceeded on the following claims:

1. Ineffective assistance of counsel.
 - a. Failure to investigate.
 - b. Failure to advise the Applicant that his sentence would be served "day for day."
2. Involuntary guilty plea.

This Court finds the Applicant failed to present any testimony or evidence in support of any other allegations raised in his application. This Court deems abandoned all allegations other than those addressed by the Court in this order.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

Summary of the Testimony

The Applicant was present and testified he was represented by Andrew Grimes, Esq. at his guilty plea. He testified Andrew Grimes replaced his previous attorney Robert Howe, Esq. He testified he met with counsel twice before pleading guilty. He testified he reviewed the discovery materials with counsel on their second visit. The Applicant testified he and counsel discussed possible defenses and the suppression of evidence. He testified he and counsel discussed moving to suppress his statement to police and challenging the search of his home. The

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Applicant testified counsel advised him that he did not think a challenge of the search would be successful if he pursued it and went to trial. He testified he also spoke with counsel about the potential seven (7) year mandatory minimum sentence he was facing if he was convicted at trial.

The Applicant testified he discussed pleading guilty with counsel and counsel advised him to plead guilty. The Applicant testified he pled guilty to receive the lowered five (5) year mandatory minimum sentence. He testified he understood the benefit of the reduction of the drug charge. The Applicant testified it was his decision to plead guilty and he recalled waiving his constitutional rights at his guilty plea. The Applicant testified he also recalled telling the court that he was satisfied with counsel's representation.

The Applicant testified when he pled guilty he did not understand what "day for day" meant. He testified counsel never explained to him what five (5) years "day for day" meant and they never discussed the amount of time he would serve in prison. The Applicant testified he recalled the court advising him that his sentence would be served "day for day." He testified had he known that "day for day" meant five (5) years incarceration he would not have pled guilty. The Applicant testified he did not understand what "day for day" meant until he was told by the Department of Corrections.

Andrew Grimes, Esquire, plea counsel for the Applicant, testified he has been practicing law since 1995. He testified he has been practicing criminal law exclusively since he joined the Charleston County Public Defender's Office in 2006. Counsel testified he was appointed to represent the Applicant in February 2013 and that a bench warrant was issued for the Applicant due to a miscommunication with his prior counsel. He testified his records documented that he met with the Applicant on February 20th, February 26th and February 27th and possibly two (2) more times prior to the Applicant's guilty plea. Counsel testified that although he was not sure

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whether the Applicant's prior attorney filed Brady and Rule 5 motions on the Applicant's behalf, he requested and received the discovery materials from the State. He testified he reviewed the discovery materials he received with the Applicant but that he had to clarify what the Applicant's prior attorney had told him. Counsel testified he discussed with the Applicant the elements of the charges he was facing, his constitutional rights, range of penalty, the State's burden of proof and what the State had to prove to convict him. He testified he also discussed with the Applicant his version of the facts and possible defenses.

Counsel testified that during the February 26th meeting and during subsequent meetings he discussed with the Applicant challenging the search of his trash can and moving to suppress his statement to police. Counsel testified the Applicant's statement included a threat and similar allegations, which he attempted to use to get the Solicitor off of the gun charges, based on State v. Whitesides, 397 S.C 313, 318-19, 725 S.E.2d 487, 490 (2012) (crime of Possession of a Firearm During the Commission of a Violent Crime requires proof of nexus between the violent crime and actual or constructive possession of the firearm), but the drugs and gun were found with each other and the mandatory five (5) year gun charge became the Applicant's biggest problem. The offer seemed favorable at the beginning of the Applicant's case, Counsel testified, but then Counsel deduced that the best deal he could obtain for his client was five (5) years imprisonment, which he successfully argued for at the Applicant's plea. He testified based on his legal research, he did not feel he had a strong argument to challenge the search of the "trash pull" because the Applicant did not have a reasonable expectation of privacy, but that he felt he was required to pursue suppression. Counsel testified he assumed the Applicant understood when he was advising him of the possibility of success on challenging the search warrant. He testified that the defense needed to "point the finger" at someone else—unfortunately, that left only his wife,

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daughter, and son. Counsel testified he fully explained the sentencing range to the Applicant.

Counsel testified he did not have to do much investigation in the Applicant's case because when he received the case it was already in a guilty plea versus trial posture and the Applicant's favorable plea offer was extended while the Applicant was represented by prior counsel. Counsel testified he discussed a trial with the Applicant, but the Applicant said he wanted to plead guilty, although the Applicant never said "plea, plea, plea" and he was not adamant about going to trial. Counsel testified the State reduced the Applicant's trafficking charge and he told the Applicant the best he could get was the five (5) year minimum mandatory sentence. He testified he told the Applicant the sentence was "day for day" and argued that penalty to the Applicant's benefit during mitigation. He testified the Applicant never said he did not understand anything, worked at Boeing, and appeared competent. Finally, Counsel testified his time with the Applicant was "brief" because the case was already in progress.

Ineffective Assistance of Counsel

I. Standard

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "the burden of proof is on the applicant to prove his allegation by a preponderance of the evidence." Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 622, 300 S.E.2d 482, 483 (1983)). Where the Applicant 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, 686, 104 S. Ct. 2052, 2064 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814 (citing Strickland, 466 U.S. at 686, 104 S. Ct. at 2064).

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The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. See Strickland at 690, 104 S. Ct. at 2066. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. See id. The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

Courts use a two-pronged test to evaluate allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. See id. at 117-18, 386 S.E.2d at 625. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Id. at 117, 386 S.E.2d at 625 (citing Strickland, 466 U.S. at 668, 104 S. Ct. at 2052). 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." Id. at 117-18, 386 S.E.2d at 625 (citing Strickland, 466 U.S. at 694, 104 S. Ct. at 2068). "A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland, 466 U.S. at 694, 104 S. Ct. at 2068). When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 52, 106 S. Ct. 366, 366 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citing Lockhart, 474 U.S. at 52, 106 S. Ct. at 366; Jackson v. State, 342 S.C. 95, 535 S.E.2d 926 (2000); Thompson v. State, 340 S.C. 112, 531 S.E.2d 294 (2000); Rayford v. State, 314 S.C. 46, 443 S.E.2d 805 (1994)).

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To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991) (citing State v. Hazel, 275 S.C. 392, 394, 271 S.E.2d 602, 602 (1980)). When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Rolen v. State, 384 S.C. 409, 413, 683 S.E.2d 471, 474 (2009) (citing Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 650 (2000)). See Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)). When a defendant pleads guilty on the advice of counsel, the plea may be attacked through only a claim of ineffective assistance of counsel. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2002) (citing Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (1999)).

This Court finds counsel is a criminal practitioner who has extensive experience in the trial of serious offenses. Counsel conferred with the Applicant on numerous occasions. During conferences with the Applicant, counsel discussed the pending charges, the elements of the charges and what the State was required to prove, the Applicant's constitutional rights, the range of penalty, the Applicant's version of the facts, and possible defenses or lack thereof.

Regarding the Applicant's claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds counsel's testimony credible and the Applicant's testimony not credible. This Court finds that the Applicant's attorney demonstrated the normal degree of skill, knowledge, professional judgment, and representation that are expected of attorneys who practice criminal law in South Carolina. State v. Pendergrass, 270 S.C. 1, 5, 239 S.E.2d 750, 752 (1977); Strickland, 466 U.S. at 687-88, 104 S. Ct. 2052,

2064-65; Butler, 286 S.C. at 442, 334 S.E.2d at 814 (citing Strickland, 466 U.S. at 687-88, 104 S. Ct. at 2064-65, Turner v. Bass, 753 F.2d 342, 348 (4th Cir. 1985), *rev'd on other grounds*, Turner v. Murray, 106 S. Ct. 1683 (1986); Marzullo v. Maryland, 561 F.2d 540, 543 (4th Cir. 1977)). This Court further finds counsel adequately conferred with the Applicant, conducted a proper investigation, and was thoroughly competent in his representation. This Court finds that counsel's representation did not fall below an objective standard of reasonableness.

A. Failure to Investigate

The Applicant claims counsel was ineffective for failing to investigate the Applicant's case prior to his guilty plea.

Our Courts have repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial. Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998) (citing Pauling v. State, 31 S.C. 606, 503 S.E.2d 468 (1998); Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995); Underwood v. State, 309 S.C. 345, 495 S.E.2d 768 (1998)). The Applicant's mere speculation as to what a witness' testimony would have been by itself cannot satisfy the Applicant's burden of showing prejudice. Id. (citing Glover, 318 S.C. at 498-99, 458 S.E.2d at 540). See Edwards, 392 S.C. at 457, 710 S.E.2d at 65 ("So long as a defendant's attorney conducts a reasonable investigation, including interviewing potential witnesses when it is reasonable to do so, his performance will not be deficient."); Simpson v. Moore, 367 S.C. 587, 597, 627 S.E.2d 701, 706 (2006) (citing Strickland, 466 U.S. at 691, 104 S. Ct. at 2066) ("Counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary.").

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This Court finds that trial counsel was not ineffective for failing to investigate the Applicant's case. "[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Walker v. State, 397 S.C. 226, 235, 723 S.E.2d 610, 615 (Ct. App. 2012), *overruled on other grounds*, Walker v. State, 407 S.C. 400, 756 S.E.2d 144 (2014). "Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result." Porter v. State, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006) (citing Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)). In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel's judgments." Wiggins v. Smith, 539 U.S. 510, 521-22, 123 S. Ct. 2527, 2535 (2003).

This Court finds the limited nature of Counsel's investigation of the case did not result in deficient performance in light of the Applicant's early interest in pleading guilty and lack of a viable defense. This Court also finds the Applicant has failed to show what exactly Counsel should have investigated. The Applicant has also failed to show what any additional investigation in the Applicant's case would have yielded and this Court will not speculate as to the result of further investigation by Counsel. This Court also notes the Applicant agreed with the facts as presented by the State during his guilty plea. (Tr. 10:10-15). Further, both Counsel and the Applicant affirmed for the plea court that after his investigation of the case, Counsel agreed with the Applicant's decision to plead guilty. (Tr. 5:24-25, 6:1-14). This Court finds this allegation is without merit and the Applicant has failed to carry his burden of proving counsel was ineffective for failing to investigate the Applicant's case.

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B. Failure to Advise of Penalty

The Applicant also claims Counsel was ineffective for failing to advise the Applicant that his sentence would be served "day for day." This Court finds this allegation is wholly without merit. This Court finds credible Counsel's testimony that he advised the Applicant of the range of penalty and that his sentence would be served "day for day." This Court further finds the Applicant's testimony that he did not understand what the term "day for day" meant is not credible. This Court finds the Applicant's testimony is particularly incredible in light of the basic nature of the term "day for day," the Applicant's high level of education, and the Applicant's prior experience with drug convictions. This Court finds it is very unlikely that the Applicant did not understand the term "day for day" meant he had to serve all five (5) years of his five (5) year sentence. This Court finds "day for day" is not a difficult concept to understand and the Applicant never indicated to the Court that he did not understand the concept during his guilty plea proceeding.

This Court finds and the record reflects an extensive discussion regarding the "day for day" nature of the Applicant's potential sentence took place during his guilty plea. During plea counsel's statement to the Court in mitigation, counsel told the Court that a minimum five (5) year day for day sentence was a "big jump" from the Applicant's past sentence of one (1) year. (Tr. 11:19-25; 12:1-4). The Court also stated during sentencing that the Applicant who was 45 years old at the time would be 50 when he was released. (Tr. 11:5, 24-25; 14:24-25). This Court finds most telling the Applicant's colloquy with the Court during his guilty plea proceeding. The Applicant told the plea court that counsel explained to him that his possession of a firearm charge was a day for day sentence. (Tr. 2:10-24) and that, although the Applicant indicated that Counsel had not advised him of the possible penalty ranges, that misunderstanding was clarified.

on the record along with the Court's additional advisement with possible penalty ranges and how the time is served. (Tr. 3:12-25; 4:1-25; 5:1-9). This Court finds the Applicant has not shown a basis for this Court to depart from the statements the Applicant made to the Court during his guilty plea. This Court finds the Applicant has failed to carry his burden of proving Counsel was ineffective for failing to advise him that his sentence would be served day for day.

C. Involuntary Guilty Plea

A defendant knowingly, freely, voluntarily, and intelligently pleads guilty when the defendant has a full understanding of the consequences of his plea and the charges against him. Boykin, 395 U.S. at 243-44, 89 S. Ct. at 1712. Defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (quoting State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). "A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed." Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 73-74, 97 S. Ct. 1621, 1629-30 (1977)). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347, 350 & n.1 (4th Cir.1975), *overruled on other grounds*, United States v. Whitley, 759 F.2d 327, 331.

This Court finds further and the record reflects the Applicant was thoroughly advised of the waiver of his constitutional rights by both trial counsel and the plea judge. The record reflects the Applicant was advised of the charges, the potential sentences, and their classifications as

serious offenses, he was facing. (Tr. 2:6–25; 3:1–25; 4:1–23). The Applicant was also advised of and waived of his right to jury trial (Tr. 6:15–19) his right to remain silent (Tr. 7:8–15), and his right to confront his accusers (Tr. 6:15–19). The record reflects that the Applicant told the Court that he had not been promised or threatened by anyone to get him to plead guilty. (Tr. 7:16–19). The Applicant told the Court he wished to plead guilty and he had no complaints with counsel's representation. (Tr. 5:13–14, 5:15–20). Finally, the Applicant allocuted to the facts underlying the charges. (Tr. 9:13–25; 10:1–15). This Court finds that the Applicant had a full understanding of the consequences of his plea and the charges against him. This Court finds the Applicant's plea was freely, voluntarily, knowingly, and intelligently made.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test specifically that Counsel failed to render reasonably effective assistance under prevailing professional norms. See Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (citing Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of the Applicant. The Applicant failed to show that Counsel's performance was deficient. Therefore, this Court need not address whether the Applicant was prejudiced by counsel's representation. See id. The Applicant's complaints concerning Counsel's performance are without merit and are denied and dismissed.

All Other Allegations

As to any and all allegations that were raised in the application in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant abandoned such allegations. Therefore, they are hereby denied and dismissed.

CONCLUSION


Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner, nor was the Applicant prejudiced by counsel's representation. Therefore, this application for PCR must be denied and dismissed with prejudice.

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

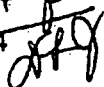
IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 16th day of Sept., 2014.


Debra L. Jefferson
Presiding Judge
9th Judicial Circuit

Charleston, South Carolina
At Chambers

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WITNESSES

No. 4 Charleston Police Department

DOCKET NO. 2012GS1004521

The State of South Carolina
County of Charleston

AGENCY CASE NUMBER

2012007499

COURT OF GENERAL SESSIONS

August Term 2012

ARREST WARRANT NUMBER

M996815

THE STATE

DATE OF ARREST

March 8, 2012

vs.

ACTION OF GRAND JURY

REGINALD MURRAY

DOB: [REDACTED] E/M

TRIP 2011
TRIP 2011

Foreperson of Grand Jury
Date: AUG 07 2012

Indictment for

Trafficking in Cocaine

VERDICT

Foreperson of Petit Jury
Date:

INDICT

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on August 6, 2012 the Grand Jurors of Charleston County present upon their oath:

Trafficking in Cocaine

That in Charleston County, South Carolina, on or about March 7, 2012, the Defendant, REGINALD MURRAY, unlawfully and knowingly did sell, manufacture, cultivate, deliver, purchase, or bring into this State; or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State; or did possess or attempt to possess a controlled substance or a controlled substance analogue, to wit: Cocaine, in excess of 51.7; in violation of 44-53-370 of the South Carolina Code of Laws (1976) as amended.

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


 JULIE GARDNER CARDILLO
 ASSISTANT SOLICITOR

FILED

2012 MAR 19 PM 1:15

JULIE J. ARMSTRONG
CLERK OF COURT



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CODEFENDANTS

BAILED out by

Judge **LOMBARD**
 on **MAR 06 2012**

Type and Amount: **50,000**

Name of Surety: _____

PRELIMINARY HEARING held by _____

Judge _____
 on _____

Defendant Attorney: _____

Declarant: _____

DISPOSITION before

Judge _____
 on _____

by _____
 (Indicate jury trial, bench trial, plea, not. pros., etc.)

Disposition: _____

Sentences: _____

JURORS

JPG20120301892

WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2012007499

ARREST WARRANT NUMBER

M996816

DATE OF ARREST

March 8, 2012

ACTION OF GRAND JURY

Em Lee

Foreperson of Grand Jury

Date:

MAR 07 2012

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2012GS1004522

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

August Term 2012

THE STATE

vs.

REGINALD MURRAY

DOB: [REDACTED]

B/M

Indictment for

Possession With Intent to Distribute
Cocaine within Proximity of a School

FILED

2012 MAR 19 PM 1:15
JULIE J. ARMSTRONG
CLERK OF COURT



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BALE set by
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Judge _____
 on **MAR 08 2012**
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 Name of Surety: _____

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Judge _____
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 Defendant Attorney: _____
 Decisor: _____

DISPOSITION before

Judge _____
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 by _____
 (indicate jury trial, bench trial, plea, not. pros., etc.)
 Disposition: _____
 Sentences: _____

JURORS

JFG20120301892

WITNESSES

North Charleston Police Department

DOCKET NO. 2012GS1004523

The State of South Carolina

County of Charleston

AGENCY CASE NUMBER

2012007499

COURT OF GENERAL SESSIONS

August Term 2012

ARREST WARRANT NUMBER

M996817

THE STATE

DATE OF ARREST

March 8, 2012

vs.

ACTION OF GRAND JURY

REGINALD MURRAY

DOB: [REDACTED]

B/M

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
E. M. Lee

Foreperson of Grand Jury

1119 C. T. 2012

Indictment for

Possession of Firearm During the
Commission of a Violent Crime

VERDICT

Foreperson of Petit Jury

Date:

INDICT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

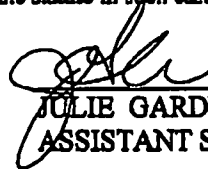
INDICTMENT

At a Court of General Sessions, convened on August 6, 2012 the Grand Jurors of Charleston County present upon their oath:

Possession of Firearm During the Commission of a Violent Crime

That in Charleston County, South Carolina, on or about March 7, 2012, the Defendant, REGINALD MURRAY, did possess a Smith and Wesson 38 special or visibly display what appeared to be a knife during the commission, or attempted commission, of trafficking in cocaine, a violent crime. This is in violation of 16-23-490 of the South Carolina Code of Laws, (1976) as amended.

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



JULIE GARDNER CARDILLO
ASSISTANT SOLICITOR

FILED

2012 MAR 19 PM 1:15

JULIE J. ARMSTRONG
CLERK OF COURT



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CODEFENDANTS

BAIL set by

Judge **LOMBARD**
 on **MAR 08 2012**
 Type and Amount: **100,000**
 Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
 on _____

Defendant Attorney: _____
 Decisions: _____

DISPOSITION before

Judge _____
 on _____
 by _____
 (Indicate jury trial, bench trial, plea, not. pros., etc.)

Disposition: _____
 Sentence: _____

JURORS

