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STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

S.C. Supreme Court

Appeal from Greenville County

Eugene C. Griffith, Jr., Circuit Court Judge

HAROLD WATTS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-000812

APPENDIX

LARA M. CAUDY
Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

KAREN RATIGAN
Senior Assistant Deputy Attorney General
P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

THE STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 HAROLD WATTS,)
)
 DEFENDANT.)
 _____)

2012-GS-23-05528

APRIL 8, 2013

TRANSCRIPT OF RECORD

BEFORE:

THE HONORABLE LETITIA VERDIN, JUDGE

APPEARANCES:

ALLEN FRETWELL
ATTORNEY FOR THE PLAINTIFF

JIM BANNISTER
ATTORNEY FOR THE DEFENDANT

DANETTE P. HANKS
CIRCUIT COURT REPORTER

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EXHIBITS

(NONE)



1

April 8, 2013

2

(WHEREUPON, court convened with all parties

3

present and the following proceedings were

4

had.)

5

THE CLERK: Your Honor, this is case

6

number 2012-GS-23-5528, Harold Watts, indicted for

7

attempted murder and burglary in the first degree,

8

pleading to the same. It is a true bill.

9

Would you please raise your right hand.

10

Do you swear or affirm to tell the truth, the

11

whole truth and nothing but the truth, so help you,

12

God?

13

THE DEFENDANT: Yes, ma'am.

14

THE CLERK: Thank you.

15

THE COURT: All right. Mr. Watts, you're

16

here today to plead to burglary first degree and

17

attempted murder. Is that correct?

18

THE DEFENDANT: Yes, ma'am.

19

THE COURT: Have you discussed these

20

charges with your lawyer?

21

THE DEFENDANT: Yes, ma'am.

22

THE COURT: Are you happy with what your

23

lawyer has done for you?

24

THE DEFENDANT: Yes, ma'am.

25

THE COURT: Do you have any complaint to

1 make against law enforcement, the solicitor's office
2 or your lawyer as a result of these charges
3 whatsoever?

4 THE DEFENDANT: No, ma'am.

5 THE COURT: You understand that as part of
6 your willingness to plead today, the State has taken
7 away its intent to seek life without the possibility
8 of parole against you. Do you understand that?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: But that is only if this plea
11 goes through. Do you understand that, as well?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: You know a burglary first
14 degree, the minimum sentence you can receive is
15 fifteen years up to life, and attempted murder is up
16 to thirty years. Is that your understanding?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: All right. Has anyone forced
19 you to plead guilty here today?

20 THE DEFENDANT: No, ma'am.

21 THE COURT: Has anyone promised you
22 anything to get you to plead guilty?

23 THE DEFENDANT: No, ma'am.

24 THE COURT: When you plead guilty, you
25 give up certain constitutional rights. One is your

State of South Carolina -vs- Harold Watts (2012-GS-23-05528)
Guilty Plea

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1 right to remain silent about these charges. Do you
2 understand that?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: You also give up your right to
5 a jury trial. At that trial your attorney could
6 call witnesses for you, could cross examine
7 witnesses against you. You would not be compelled
8 to testify against yourself and the State would have
9 to prove your guilt beyond a reasonable doubt. But
10 when you plead guilty, you give up your right to a
11 jury trial. Do you know that?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: And how do you plead to these
14 charges, guilty or not guilty?

15 THE DEFENDANT: Guilty.

16 THE COURT: You have ten days from today's
17 date to appeal this plea if you so choose, but you
18 must do so in writing to this court.

19 Let me ask you, Mr. Watts, also, are you under
20 the influence of drugs or alcohol here today? Did I
21 ask you that?

22 THE DEFENDANT: No, ma'am.

23 THE COURT: Okay. Are you under the
24 influence of drugs or alcohol?

25 THE DEFENDANT: No, ma'am.

1 THE COURT: And are you fifty-two years
2 old?

3 THE DEFENDANT: Yes, ma'am.

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

5 THE DEFENDANT: To about the eighth grade.

6 THE COURT: About the eighth grade. Have
7 you worked since you've been out of school?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: What kind of jobs have you
10 had?

11 THE DEFENDANT: I had machinery, operating
12 machinery, heavy equipment.

13 THE COURT: So did you -- how long did you
14 hold those kind of jobs?

15 THE DEFENDANT: Some of them I've probably
16 held for five or six years, some of them two or
17 three years.

18 THE COURT: All right. Thank you.

19 Yes, sir.

20 MR. FRETWELL: May it please the court,
21 Your Honor. Your Honor, ordinarily the court would
22 have the benefit throughout the trial to know all
23 the facts of the case. So if the court would bear
24 with me just briefly while I present some facts to
25 the case.

1 Your Honor, Mary Darnell is seated over here in
2 the first seat in the audience. She's the victim in
3 this case. Ms. Darnell first met the defendant when
4 he stopped by her home and asked if he could cut her
5 grass. When she agreed, the defendant asked to
6 perform other odd jobs for Mary. Over time a
7 relationship began to develop between the two. And
8 when Watts needed a place to stay in August of 2011,
9 Mary allowed him to move some things into her
10 trailer. Over the coming months, Mary, who was in
11 her mid-fifties at the time, had become accustomed
12 to living by herself, began to feel trapped in her
13 new relationship. As Watts became more possessive,
14 he would say things like, we were meant to be
15 together, Mary decided that this was not the
16 relationship that she wanted. By January of 2011,
17 Mary had had enough and asked Watts and told Watts
18 that he had to leave.

19 In the months after he moved out, the defendant
20 continued to call Mary, oftentimes accusing her of
21 being with someone else. On at least one occasion
22 in the wee hours of the morning, the defendant told
23 Mary he was right outside her trailer listening to
24 what was going on inside through an open window.
25 Tension between the two reached a peak in November

1 of 2011, and Mary cut off all phone contact with the
2 defendant and would not answer his calls.

3 On the evening of Friday, December 2nd, 2011,
4 Mary got off work and headed home. Mary told her
5 sister that the defendant had been continuously
6 calling her, so her sister told her to just get her
7 things together and come on over. Mary told her
8 sister that the trailer was locked, she would be
9 fine, and she decided to stay at home.

10 Shortly after three in the morning, Mary was
11 awakened by a loud banging coming from the front of
12 her trailer. She got up, she went to the living
13 room to see that the defendant, Harold Watts, had
14 forced open the front door and was clawing and
15 tearing at the chain in order to come all the way
16 inside. Mary, bewildered, asked him what was going
17 on. The defendant replied, I told you we were meant
18 to be together. The defendant disappeared down the
19 stairs for a moment. When he reappeared, Mary could
20 see that he was holding a gasoline container.

21 As the defendant then forced his way under the
22 chain and through the door, Mary fled out the back
23 door of the trailer. As Mary stumbled down her back
24 steps, she could hear the defendant behind her. The
25 defendant caught up with her, grabbed her, put one

1 arm around her throat, holding her from behind, and
2 began to douse her with gasoline.

3 The defendant told Mary, you better run, while
4 he continued to hold her from behind. He then
5 pulled out a lighter and he set her on fire.

6 Terrified and engulfed in flames, Mary ran
7 screaming to the door of her neighbor's trailer,
8 frantically seeking help. She then ran into her
9 neighbor's backyard and rolled on the ground trying
10 to put out the flames.

11 And Your Honor, this is the point at which the
12 defendant came over to her while she was on the
13 ground and poured more gasoline on her.

14 Despite the unimaginable and agonizing pain,
15 Mary was able to tell her neighbor and emergency
16 medical personnel that Harold Watts had doused her
17 with gasoline and set her on fire.

18 Approximately thirty minutes after EMS and
19 firefighters arrived at the scene, the defendant
20 walked into the Hot Spot convenience store on US 25
21 in Honea Path. He reeked of gasoline and told the
22 clerk he had set his girlfriend on fire.

23 When the clerk didn't seem to believe what he
24 was saying, the defendant again told him to call 911
25 and tell them that the person who set the woman on

1 fire is, quote, right here.

2 The clerk dialed 911, handed the phone to the
3 defendant, who told the 911 operator that his
4 girlfriend had, quote, put me down for her sister's
5 boyfriend, and I just couldn't take it, so I set her
6 on fire.

7 Those are the facts, Your Honor, that the state
8 would introduce at trial. And in addition to our
9 desire to play the 911 tape for the court and the
10 fact that the defendant has a prior record and the
11 victim's input, that would be what the state would
12 provide.

13 THE COURT: All right. What's his prior
14 record?

15 MR. FRETWELL: Your Honor, he has
16 convictions in 1983 for assault and battery and an
17 ABHAN; 1985 for criminal sexual conduct in the
18 second degree and a burglary with recommendation of
19 mercy; in North Carolina, Your Honor, in 1982, he
20 has two counts of shoplifting. He's been in prison
21 -- or he's been incarcerated since December 3rd,
22 2011.

23 THE COURT: All right. Mr. Watts, you
24 heard the facts as recited by the state. Is that
25 what happened?

State of South Carolina -vs- Harold Watts (2012-GS-23-05528)
Guilty Plea

11

1 MR. BANNISTER: Your Honor, if I may, I
2 think that he has some disagreement over some of the
3 facts, but none of them would implicate the elements
4 of the offense.

5 THE COURT: All right.

6 MR. BANNISTER: Clearly this was going to
7 be the state's presentation. We have one that was
8 particularly different on a couple of issues.

9 One, he broke the door in the house, so I think
10 we've got him entering, once he puts his hand in
11 trying to get the chain off. He will dispute that
12 he went through the house.

13 THE COURT: Okay.

14 MR. BANNISTER: Two, he would dispute that
15 he poured gasoline on her. His version would be
16 once she was on fire he had thrown the gas can down
17 in order to get the lighter. He was on fire. They
18 were both going around. She hit the gas can and
19 that's when she went up in more flames.

20 We have two folks, him and Ms. Darnell. Nobody
21 saw anything at that moment. But I don't think that
22 matters ultimately for purposes of the plea. I know
23 he wants to hear that said in order to enter his
24 guilty plea.

25 THE COURT: Mr. Watts, you've heard what

1 your attorney said.

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: He says that those are some
4 disagreements that you have with the facts. Is that
5 it?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: All right. Then I'll accept
8 the plea as being freely and voluntarily made with
9 the advice of extremely competent counsel with whom
10 Mr. Watts is well satisfied. And the plea has a
11 substantial factual basis.

12 Would the victim like to be heard?

13 MR. FRETWELL: Judge, the victim would
14 like to be heard, as well as potentially members of
15 her family. And the state would just like the court
16 to listen to the -- it's not very long. Just the
17 initial call from the neighbor who found Ms. Darnell
18 in his yard, at the appropriate time.

19 THE COURT: All right.

20 MR. FRETWELL: We can get that set up.

21 THE COURT: Ms. Darnell, while the state
22 is getting the 911 tape set up, is there anything
23 you'd like to say?

24 MS. DARNELL: I'd like for her to read it.

25 THE COURT: That'll be just fine.

State of South Carolina -vs- Harold Watts (2012-GS-23-05528)
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1 FEMALE: You want me to stand?

2 THE COURT: Yes, ma'am, please. I just
3 want my court reporter to be able to see you.

4 FEMALE: Okay. This is the statement that
5 Mary had wanted me to read.

6 Before December 3rd, 2011, my life was on
7 track. I was finally on my way to becoming an
8 assistant manager for TJ Maxx, a goal that I had
9 been working on for five years. I had started the
10 classes that I needed to become an assistant
11 manager. I was excited that my patience and hard
12 work was going to pay off. I was genuinely happy
13 with where my life was. I had goals and dreams that
14 I was working towards. I had family and friends
15 that I shared my life with and I tried to help
16 people when I could.

17 It was this part of me that allowed this person
18 into my life. I refuse to say his name. To me he
19 is not worthy of being acknowledged. He took away a
20 lot from me that night in December. My life will
21 never be the same.

22 When I was in Grady Burn Center, pain that I
23 endured no human deserves to go through. I wish
24 that he could feel that pain. Even though I was
25 sedated and given pain medication, I could feel

1 everything that was going on. But it was like I was
2 trapped in my own body. I could hear people talking
3 and I could feel what was being done to me. I could
4 feel when they scrubbed my skin when I was screaming
5 for them to stop. The pain was so excruciating.
6 They kept scrubbing me and I thought, why won't they
7 listen to me. And I realized they couldn't hear me.
8 No one could. My body was paralyzed, but my mind
9 was aware. I felt every time they scrubbed my skin
10 and every staple they removed.

11 I can't explain it enough to help you
12 comprehend the pain that I endured. The doctors
13 weren't hopeful in the beginning. They told my
14 family I probably wouldn't make it. Can you imagine
15 what my family went through? My niece drew a
16 picture of her and I with broken hearts saying
17 goodbye, that she would miss me. She was ten years
18 old. This type of pain no child should have to
19 feel, not to mention how do you explain to a ten
20 year old something so evil?

21 I was moved from facility to facility as I got
22 better. I was constantly being given medications
23 battling against infections and trying to get well,
24 all while learning everything all over again. The
25 pain just to do simple things at times is enough to

1 make me wonder why I survived. Yes, there were
2 times when I thought I wish I would have died that
3 night because everything is so different just to
4 live.

5 The pain and the nightmares at times were too
6 much for me to handle. I couldn't do little things
7 like roll over. Not to mention it was painful when
8 I started the rehab. I had to learn everything all
9 over, walking, feeding myself, because I just
10 couldn't do things the way I used to.

11 What's it like for me now? My body isn't the
12 same. I was patched back together the best they
13 could. They used cadaver skin to cover my stomach
14 and my thighs with chunks because my skin and tissue
15 were just burned away. My hands and feet don't work
16 like they used to. I can only walk for a little
17 while without becoming exhausted. I forget
18 sometimes that I can't do simple things like bending
19 down to pick something up off the floor. I do it
20 and I fall down because my body has limited
21 mobility.

22 Do you know what it's like to go out in public
23 and have people stare at you like you're some kind
24 of freak. Kids look at me like I'm a monster. I
25 have a hole in my throat that may never go away.

1 I lost my job, my insurance and the ability to
2 live a normal life. I'm dealing with this nightmare
3 every day. It is there when I wake up and it
4 invades my sleep at night. I will never escape it.
5 I am constantly reminded of it when I look in the
6 mirror. I will have to deal with these burns for
7 the rest of my years. And I prayer that the person
8 that did this to me never sees another day of
9 freedom, because he doesn't deserve anymore freedom.

10 THE COURT: Thank you, ma'am.

11 Ms. Darnell, I am so sorry for what happened to
12 you. And I thank you, ma'am, for being here to read
13 that letter on her behalf.

14 (WHEREUPON, the 911 video was played in open
15 court.)

16 MR. FRETWELL: Your Honor, just finally
17 I'd just -- I'd like to recognize -- Mr. Cape was
18 sitting in the courtroom. I'm not sure if he's
19 sitting in the courtroom still. Mr. Cape was Mary's
20 neighbor who had not -- had he not called 911, and
21 these brave men and women that saved Mary's life, I
22 just want to thank them on behalf of the state for
23 what they did for Ms. Darnell.

24 THE COURT: Yes. Thank you.

25 MR. FRETWELL: That's the state's case,

1 Your Honor.

2 THE COURT: Mr. Bannister.

3 MR. BANNISTER: Thank you, Judge. I've
4 had this case for almost two years now. And one of
5 the first things we did was send our investigator
6 out to talk with some folks that knew Harold and he
7 had worked with him. Notwithstanding this incident,
8 the folks who he worked with, the people that he
9 worked for, cared a lot about him and cared about --
10 and made it clear to us, at least, that he was
11 always very willing to do what needed to be done,
12 was a hard workers, was on time.

13 In fact, one of them he was caring for, a
14 ninety-four year old mother. That would have been
15 Gail and Jim Richardson, which I had listed on our
16 witness list. They really wanted to be here at
17 least for Harold because in their view, Harold
18 really didn't have anybody else and hasn't had
19 anybody else.

20 It's hard to explain, because you really can't,
21 how he got to this particular place. But I wanted
22 you to at least know that there were some folks out
23 there that did care about him, that he did a lot of
24 good things. For whatever reason, this relationship
25 was just toxic, at least for Harold.

1 And clearly he just lost it that night.

2 Judge, he's fifty-two right now. He has
3 hepatitis C. Any significant sentence, really, is a
4 life sentence for him anyway. But for us, a number
5 gives us the opportunity -- he at least will have
6 one or two other privileges in jail that he would
7 not otherwise have under a life without parole
8 sentence.

9 THE COURT: All right.

10 MR. BANNISTER: And I think, frankly, once
11 he got a chance to see that everybody was here and
12 realized that he was the cause of this, that he was
13 -- that's why he wanted to go ahead and enter a
14 plea.

15 THE COURT: Is there anything your client
16 would like to say?

17 MR. BANNISTER: Harold, is there anything
18 you want to say?

19 THE DEFENDANT: Yeah.

20 THE COURT: Address your comments to me.

21 THE DEFENDANT: Ma'am?

22 THE COURT: Address your comments to me.

23 THE DEFENDANT: Well, first of all, I want
24 to say that I'm sorry, you know. If you had the
25 experience something like this right here, it's -- I

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Guilty Plea

19

1 don't understand it myself and I know it hurts me.
2 I'm very sorry. I'm sure that my life won't be up to
3 never see another day in society, but I will pray for
4 people that they would never have to go through
5 something like this, because it's painful.

6 THE COURT: Go through something like what?

7 THE DEFENDANT: This situation is -- this
8 type of crime, because it's a hurting situation. And
9 I'm sorry.

10 THE COURT: Well, Mr. Watts, let me tell
11 you, a hurting situation doesn't begin to describe
12 it.

13 THE DEFENDANT: Okay.

14 THE COURT: But -- and normally when
15 somebody comes before me and something like this,
16 it's just unthinkable, happens, when they've done
17 something like this, that's just unthinkable, I
18 normally have some things to say. But I think your
19 attorney is right, any significant sentence, with
20 your age, you're going to die in jail. It's the only
21 thing that's worth it, frankly.

22 I do take your age into consideration. I take
23 into consideration the horrific nature of this crime.
24 I mean, horrific nature of this crime. I take into
25 consideration the fact that you did plead, even

1 though we have a jury picked, that you did plea to
2 this.

3 And the sentence of the court is thirty-five
4 years on the burglary first degree and on attempted
5 murder the maximum sentence of thirty.

6 Good luck to you.

7 Ma'am, good luck to you and you'll be in my
8 prayers.

9

10

END OF REQUESTED TRANSCRIPT OF RECORD

State of South Carolina -vs- Harold Watts (2012-GS-23-05528)
Guilty Plea

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CERTIFICATE OF REPORTER

I, the undersigned Danette P. Hanks, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 8th day of April, 2013.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

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

January 7, 2014



Circuit Court Reporter

The South Carolina Court of Appeals

The State, Respondent,

v.

Harold Watts, Appellant.

Appellate Case No. 2013-000983

The Honorable Judge Letitia Verdin
Greenville County
Trial Court Case No. 2012GS2305528

ORDER

The Appellant was convicted on April 8, 2013 of attempted murder and burglary in the first degree. He has failed to timely serve a notice of appeal upon the Solicitor or the Attorney General. See Rule 203(b)(2), SCACR. This Court cannot extend the time for serving the notice of appeal. Rule 263(b), SCACR. Accordingly, the appeal is Dismissed and a remittitur will be issued pursuant to Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc:

Robert Michael Dudek

Salley W. Elliott

Harold Watts, 127180

James Wofford Bannister

FILED

7/11/13



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AUG 20 2013

ATTORNEY GENERALS

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

August 16, 2013

The Honorable Paul B. Wickensimer
Courthouse
305 E North St
Greenville SC 29601-2121

REMITTITUR

Re: The State v. Harold Watts
Lower Court Case No. 2012GS2305528
Appellate Case No. 2013-000983

Dear Clerk of Court:

This Court received a letter from Mr. Watts; however, because Mr. Watts is represented by counsel, we will not consider his letter as a petition for rehearing. Accordingly, the above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Robert Michael Dudek
Salley W. Elliott
James Wofford Bannister
Harold Watts

FORM 5

STATE OF SOUTH CAROLINA)
County of GREENVILLE)

IN THE COURT OF COMMON PLEAS

Harold Watts 127180)
Full name and prison number (if any) of Applicant)

2014-CP-23- 01117

v.)

APPLICATION FOR

State of South Carolina)

POST-CONVICTION RELIEF

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL C. WICKENSIMMER
2014 FEB 28 PM 1 31

INSTRUCTIONS B READ CAREFULLY

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

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

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

1. Place of detention BROAD RIVER CORR INST

4460 Broad River Rd Columbia, S.C. 29210

2. Name and location of Court which imposed sentence GREENVILLE County

Court of General Sessions

3. Name(s) of co-defendant(s) (if any) _____

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) 2012 G-5-23-5528 - ATTEMPTED MURDER - 30 YEARS

(b) 2012 G-5-23-5528 - Burglary in the First - 35 years
(c) _____

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

(a) April 8, 2013
(b) April 8, 2013
(c) _____

6. Check whether a finding of guilty was made:

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

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

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

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

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

(a) I failed to serve the Attorney General, because I was at the Reception Center at the time and was not aware of the rule. and I thought my attorney was supposed to do it.

(b) _____

(c) _____

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

(a) INEFFECTIVE ASSISTANCE OF COUNSEL SEE "ATTACHED SHEET."

(b) COURT LACK SUBJECT MATTER JURISDICTION "SEE ATTACHED SHEET"

(c) DEFECTIVE INDICTMENT

(d) PROSECUTORIAL MISCONDUCT

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

(a) SEE ATTACHED SHEET

(b) SEE ATTACHED SHEET

(c) SEE ATTACHED SHEET

(d) SEE ATTACHED SHEET

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

(a) any petition in a State Court under South Carolina Law? NO

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO

(d) any other petitions, motions or applications in this or any other Court? _____

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

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

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

No

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

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

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

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) _____
- (b) _____
- (c) _____

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

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

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

- * (a) the name and address of each attorney who represented you:
 - i. JAMES W. BANNISTER
P.O. BOX 10007, GREENVILLE, S.C. 29603
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. _____
 - ii. _____
 - iii. _____

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

NEW TRIAL

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 GREENVILLE)

VERIFICATION

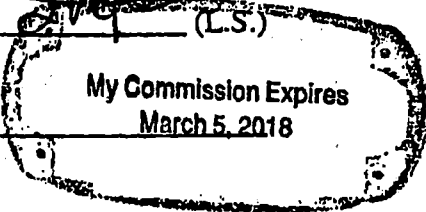
I, Arnold Watts, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Arnold Watts

SWORN to and subscribed before me this 21st day of February, 2014.

Susan H. [Signature] (L.S.)
Notary Public

My Commission Expires: _____



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

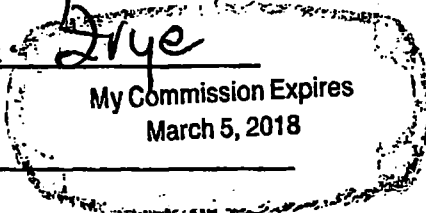
I, Harold Watts, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (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.

** Harold Watts*
Applicant

SWORN or affirmed to and subscribed before me this
25th day of February, 2014.

Auson H. Dye
Notary Public



My Commission Expires: _____

(A) Ineffective Assistance of Counsel

1. Counsel was ineffective when he failed to file notice of appeal as I requested. Counsel should have raised the concerns with the indictment. The court accepting a conditioned plea.

2. Counsel was ineffective when he failed to investigate the burglary charge. Had he investigated he would have found that this was my legal residence and the victim my common law wife.

3. Counsel was ineffective when he failed to seek a charge of a lesser offense than burglary. When the facts prove that this was not burglary, Counsel even stated on the record that defendant devices entering the residence.

(A) The Grand Jury did not meet on Sept 18, 2018 as dated.
(B) The Attempted Murder Charge lacks any elements that put appellant on notice of the charge.
(C) As a result Counsel was ineffective when he failed to object to the court having jurisdiction to accept a plea to defective indictment.

(4) Counsel was ineffective when he failed to provide me with all of my Rules 5 material with holding several parts that were very important to my decision to plead guilty.

- (5) Counsel was ineffective when he failed to have a mental Evaluation done on me given the serious nature of the Charges.
- (6) Counsel was ineffective when he failed to protect my Constitutional right to have a bond hearing.
- (7) Counsel was ineffective when he fail to investigate the indictment. Had he done any investigation he would have found the indictment to be defective.
- (8) Cumulative Error of Counsel constitute ineffective Assistance of Counsel and denial of a fair trial to the defendant.
- (9) Counsel was ineffective when he failed to request a Change of venue.
- 10 Counsel was ineffective he failed to have a crime scene investigation done. Had he had an investigation done he would have found that the facts as presented by the State did not line up with the crime area. An investigation of the Crime seen area would show that the events presented as fact could not have taken place as presented by the State. Had this information been available I would not have plead guilty. This information would show that the charges in the indictment are not supported by the evidence.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 Harold Watts,)
 S.C.D.C. No. 127180,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS
 C.A. No. 2014-CP-23-1117

RETURN

In response to the post-conviction relief application filed February 28, 2014, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the September 2012 term of General Sessions for attempted murder (2012-GS-23-5528, count 1) and first-degree burglary (2012-GS-23-5528, count 2). James W. Bannister, Esquire represented the Applicant.

On April 8, 2013, the Applicant pled guilty. The Honorable Letitia H. Verdin sentenced the Applicant to concurrent terms of thirty years for attempted murder and thirty-five years for first-degree burglary.

The Applicant filed a pro se notice of appeal at the South Carolina Court of Appeals. By order dated July 1, 2013, the Court of Appeals dismissed the matter due to the Applicant's failure to timely serve and file the notice of appeal. The Remittitur was sent on August 16, 2013.

Attached herewith and incorporated herein by reference are the records of the Greenville

County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, the guilty plea transcript, and the appellate records.

II.

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

1. Ineffective assistance of counsel:
 - a. "[F]ailed to file notice of appeal as I requested. Counsel should have raised the concerns with the indictment. The court accepting a conditioned plea."
 - b. "[F]ailed to investigate the Burglary Charge. Had he investigated he would have found that this was my leagal [sic] residence and the victim my common law wife."
 - c. "[F]ailed to seek a charge of a lesser offense than Burglary. When the facts prove that this was not Burglary. Counsel even stated on the record that defendant denies entering the residence."
 - d. "[F]ailed to object to the court having jurisdiction to accept a plea to a defective indictment."
 - e. Failed to provide the Applicant with all discovery material.
 - f. Failed to request a competency evaluation.
 - g. Failed "to protect my constitutional right to have a bond hearing."
 - h. Failed to investigate the indictment.
 - i. Failed to request a change of venue.
 - j. "[F]ailed to have a crime scene investigation done. Had he had an investigation done he would have found that the facts as presented by the State did not line up with the crime area."
2. Lack of subject matter jurisdiction.
3. Defective Indictment.
4. Prosecutorial misconduct.

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant

must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises

questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Respondent submits the Applicant's assertion that the plea court lacked subject matter jurisdiction is without merit. The true test of the sufficiency of an indictment is not whether it could be made more definite and certain, but whether it contains the necessary elements of the offense intended to be charged and sufficiently apprises the defendant of what he must be prepared to meet. State v. Gentry, 363 S.C. 93, 103, 610 S.E.2d 494, 500 (2005). The Respondent further notes that indictments are not evidentiary or jurisdictional documents – they are merely notice documents. Id. at 102, 610 S.E.2d at 500. The indictment in this case was true-billed and clearly sufficient to put the Applicant on notice of the charges he was facing. See State v. Tumbleston, 376 S.C. 90, 95-96, 654 S.E.2d 849, 852 (Ct. App. 2007).

V.

The Respondent denies each allegation not expressly admitted, qualified or explained.

VI.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.


Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By: 
Attorneys for Respondent

8/22, 2014

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

HAROLD WATTS, 127180)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent.)

IN THE COURT OF COMMON PLEAS


2014-CP-23-1117

AFFIDAVIT OF SERVICE BY MAIL

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

**Harold Watts, 127180
Broad River Correctional Institution
4460 Broad River Road
Columbia SC 29210**

DATED this 22nd day of August, 2014.


Judy A. C. Carey, Legal Assistant
For Respondent

State of South Carolina
IN THE COURT OF COMMON PLEAS
GREENVILLE COUNTY

Harold Watts
Petitioner

MEMORANDUM IN
SUPPORT OF POST
CONVICTION APPLICATION

v.

State of South Carolina
Respondent

2014-CP-23-0117

FILED
GREENVILLE COUNTY
PAUL J. ...
2014 SEP 5 AM 10 53

Standard of Review

A convicted defendant's claim that counsel's assistance was so defective as to require reversal of a conviction has two components: first, defendant must show that counsel's performance was deficient, requiring showing that counsel made errors so serious that counsel was not functioning as the "counsel" guaranteed defendant by the Sixth Amendment to the U.S. Constitution, second defendant must show that the deficient performance prejudiced the defendant by showing that counsel's errors were so serious as to deprive defendant of a fair trial.

Defense counsel has duty to make reasonable investigations or to make a reasonable decisions that make particular investigation unnecessary. *Strickland v. Washington* 104 S.Ct. 2052.

ISSUES.

1. Counsel was ineffective when he failed to file a notice of appeal as I requested. Had counsel file the notice of appeal as requested I have been able to raise the trial court's error in accepting a conditional plea to the charges of Burglary 1st Degree and Attempted Murder. Conditional Pleas are unconstitutional see White v. State 208 S.E.2d 35, Robinson v. State 754 S.E.2d 862.

2. Counsel was ineffective when he allowed defendant to plead guilty to Burglary 1st and Attempted Murder, when at the hearing trial counsel told the court that defendant denies "entering the dwelling", and that defendant denies any "intent" in the attempted murder charge. Once defendant made this denial (through his attorney) it created a conditional plea which the court has no jurisdiction to accept the plea, see 80 S.Ct 866, also 393 S.E.2d 186 State v. O'Leary, State v. Truesdale 296 S.E.2d 528.

3. Counsel was ineffective when he failed to request a change of venue as I requested. This case was receiving a lot of coverage in the news media prior to trial. There was fund raising drives being conducted in the county for the victim. The right of a defendant to a change of venue depends upon the conditions at the time of trial. A defendant who seeks a change of venue based on pretrial publicity has the burden to demonstrate actual prejudice as a result of pretrial publicity. See State v. Parker 671 S.E.2d 619, State v. Avery 449 S.E.2d 102.

Counsel told defendant that the jury was going to take sides with the victim, as soon as they see the victim there was no way for a fair trial in Greenville County. Counsel was ineffective when he failed to request a change of venue see State v. Starks 741 S.E.2d 708. Counsel even stated "He would commit suicide if he was in my condition"

4. Counsel was ineffective when he failed to request a mental health exam or inform the court of defendant's mental health history. Counsel was informed by the defendant of his mental health history, Counsel did nothing about getting defendant the mental health exam, given the serious nature of the charges the defendant should have been given the exam. Counsel failed to inform the court of defendant's mental health history. 44-23-410 the judge has the duty in making the determination of capacity of persons to stand trial. Had Counsel informed the court of defendant's history the outcome of the case would have been different. The court would have ordered defendant an examination which would have proved to be helpful in defense.

5. Counsel failed to conduct reasonable investigation to discover mitigating evidence. see Taylor v. State 745 S.E.2d 97
- A. Counsel failed to investigate the burglary charge. Counsel was informed through documents provided by law enforcement that the victim stated to law enforcement that defendant was common law husband, and further investigation would have proved that defendant was paying rent and had not been evicted nor was there any order of protection against him.

Had he done any investigate into the facts surrounding this burglary charge, he would have discovered the above mentioned facts. And acting on this knowledge the outcome of this charge would have been different.

6. Counsel failed to raise any concerns with an indictment for attempted murder that lack the elements to put defendant on notice of the charge. And counsel was further ineffective when he failed to object to defendant pleading to an defective indictment. Had counsel objected the outcome of this charge would have been different.
7. Counsel was ineffective when he failed to inform the court of the improper conduct of the Greenville County Solicitor's Office. Defendant informed the counsel that his witness had received a letter from the solicitor's office requesting that they attend a meeting at the solicitor's office. Solicitor's office did not provide defendant or counsel with the exact nature of this meeting (these witness were on defendant's witness list). After this meeting defendant's witness informed him that he should plead guilty. After this meeting witness were unwilling to testify on the defendant's behalf. The testimony would unquestionably have aided in my trial strategy, and other important issues, see *State v. Teague* 737 F.2d 378. This can not be deemed harmless.

The Solicitor's Office used these witnesses to influence defendant this amounted to substantial interference, where after meeting with solicitor's office the witness support was changed see Gibson v. State 514 S.E.2d 320. The Solicitor's office with-held the information of this meeting from defendant and his counsel. witnesses were intimidated and my counsel failed to inform the court. After I had told him about the meeting it is improper for the Solicitor's office to intimidate the witness or to have a meeting with them without me or my attorney present or to inform me of the exact nature of the meeting or what was said.

cc: file

Dated. 8-15-2014

Harold Watts
 Broad River Court East
 4460 Broad River Rd
 Columbia, S.C. 29210

on the 15th day of August, 2014
 Susan H. Dye

My Commission Expires
 March 6, 2018

State of South Carolina
In the Court of Common Pleas
Greenville County

Harold Watts
Petitioner

v.

State of South Carolina

Honorable Clerk:

Please Amend my previously filed Application
for Post Conviction Relief filed on 2014 CP2301117
in this Court, this Memorandum in Support of
Post Conviction Relief.

Dated: 8-15-2014

Harold Watts
Broad River Court Trust
4460 Broad River Rd
Cata, S.C. 29210

I N D E X

(AW) - Denotes Applicant's Witness
(RW) - Denotes Respondent's Witness

Page No.

(AW) HAROLD WATTS:

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Cross-Examination by Ms. Ratigan.....21

(AW) JAMES F. RICHARDSON, M.D.:

Direct Examination by Ms. Horlbeck.....25
Cross-Examination by Ms. Ratigan.....31

(RW) JAMES W. BANNISTER:

Direct Examination by Ms. Ratigan.....33
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<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
	(Applicant's Exhibits)		
A-1	Notice of Pretrial Conference.....	27.....	31

All Exhibits were retained by the Clerk of Court for
Greenville County.

P R O C E E D I N G S

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MS. RATIGAN: May it please the Court.

THE COURT: Yes, ma'am.

MS. RATIGAN: This is the case of Harold Watts v. the State of South Carolina. The docket number is 2014-CP-23-1117. Mr. Watts was indicted for attempted murder and first degree burglary. He was represented on these charges by Mr. Bannister.

On April 8th of 2013, he pled guilty before Judge Verdin and received concurrent sentences of 30 years for attempted murder, and 35 years for first degree burglary.

I would note that Mr. Watts filed a pro se notice of appeal at the Court of Appeals. However, the matter was dismissed on July 1st of 2013, based on the failure to timely serve and file the notice of appeal.

This case was timely filed.

And the State is ready to proceed.

THE COURT: Okay. Ms. Horlbeck, are you ready?

MS. HORLBECK: I am, Judge.

THE COURT: All right.

MS. HORLBECK: And we would call Mr. Harold Watts to the stand.

THE COURT: Come forward, Mr. Watts, and be sworn.

THE CLERK: Mr. Watts, please, place your left hand on the Bible and raise your right hand the best you can.

1 WHEREUPON,

2 HAROLD WATTS,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Please state your full name for the
5 record.

6 THE WITNESS: Harold Watts.

7 THE CLERK: Thank you.

8 You may be seated.

9 DIRECT EXAMINATION

10 BY MS. HORLBECK:

11 Q Mr. Watts, did you plead guilty to attempted murder
12 and burglary first degree?

13 A Yes, ma'am.

14 Q Who represented you on those charges?

15 A Mr. Bannister.

16 Q You might have to scoot up a little bit to make sure
17 they can hear you. Okay.

18 A (Witness complied.)

19 Q Where are you currently incarcerated?

20 A At the Broad River Correctional Institution.

21 Q All right. Was Mr. Bannister retained, or was he
22 appointed to represent you?

23 A He was appointed.

24 Q Okay. How long did Mr. Bannister -- how long was he
25 your attorney?

1 A He was my attorney from the beginning to the end,
2 from December of 2011 until April of 2013.

3 Q Okay. And, during that time, did you ever have a
4 bond hearing?

5 A No, ma'am.

6 Q All right. Did you and Mr. Bannister discuss a bond
7 hearing?

8 A I requested one.

9 Q All right. To your knowledge, did Mr. Bannister file
10 a motion for a -- well, let me back up. Did you even --
11 did you have a bond set?

12 A No, ma'am.

13 Q Did Mr. Bannister file a motion to have your bond
14 set?

15 A No, ma'am.

16 Q All right. And do you -- tell -- explain to the
17 Court why -- Mr. Bannister's failure to request that your
18 bond be set, why is that ineffective. Why is that a
19 mistake?

20 A Well, it could have been -- I could have got out on
21 bond -- had a bond. I could have got out on bond. And
22 maybe I could have been able to afford a lawyer that would
23 have represented me fully, and I wouldn't have to be here
24 today for this.

25 Q All right. During the time that Mr. Bannister

1 represented you, did he visit you?

2 A Yes, ma'am.

3 Q And you were incarcerated at the jail the whole time;
4 right?

5 A Yes, ma'am.

6 Q How many times do you think Mr. Bannister came to the
7 jail to visit you?

8 A I think it was about eight times.

9 Q Okay. During those visits, did Mr. Bannister review
10 the State's case with you?

11 A Yes, ma'am.

12 Q Did he review all the police reports and the witness
13 statements with you?

14 A The victim's statement I never seen, so, no.

15 Q Okay. Did he review what the victim's statement said
16 with you?

17 A (There was no response.)

18 Q I understand what you're saying about you never saw
19 it. Did he, at least, go over with you what the victims
20 were saying?

21 A I -- he went over what the Prosecutor had, yes,
22 ma'am.

23 Q Okay. So he did go over those -- the substance of
24 those statements with you?

25 A Yes, ma'am.

1 Q Did you request that Mr. Bannister provide you with a
2 copy of discovery?

3 A Yes, ma'am.

4 Q Did you get a copy of discovery?

5 A I got part of the discovery.

6 Q All right.

7 A And I got the other part after I was sentenced.

8 Q All right. What parts did he give you before your
9 trial -- or before your plea?

10 A It was more the medical part and the phone calls.

11 Q Okay. What part did Mr. Bannister give you a copy of
12 after you pled guilty?

13 A Pretty much more the statements from the witnesses.

14 Q All right. Did Mr. Bannister explain to you his
15 reason for not giving you copies of the statements while
16 you were at the jail?

17 A No, ma'am. I don't recall.

18 Q Okay. And did you ever discuss with Mr. Bannister
19 the fact that you thought -- did you think you needed --
20 were you competent, in your opinion? Did you feel like
21 you needed to be evaluated at that point?

22 A From the beginning of -- yes, ma'am. I thought
23 that -- for a crime that would -- took place like that,
24 yes, ma'am, I thought maybe there should have been an
25 evaluation done to determine -- because it was a

1 self-inflicted injury that -- so there should have been a
2 mental health evaluation.

3 Q Did you talk about that with Mr. Bannister?

4 A Yes, ma'am, I did.

5 Q All right. Did you explain to him why you thought
6 you needed to be evaluated?

7 A Yes, ma'am.

8 Q All right. And, as a result of that discussion with
9 your attorney, were you evaluated?

10 A No, ma'am.

11 Q All right. Do you recall ever appearing before a
12 judge to ask the judge to have -- to order that you be
13 evaluated?

14 A No, ma'am.

15 Q All right. And did you decide -- did you tell the
16 plea judge that you thought you needed to be evaluated?

17 A Well, at that time, I was -- 18 months later. And I
18 didn't -- no, ma'am, I didn't.

19 Q All right. Why did you not tell the plea judge that
20 you wanted to be evaluated?

21 A Well, my understanding was that I was to tell the
22 judge I plead, and that was it. And, of course, then the
23 other speech [phonetic] I shouldn't say.

24 Q All right. Did Mr. Bannister advise you whether or
25 not he thought you needed to be evaluated?

1 A No, ma'am. I asked him and he said that he was -- he
2 determined whether I get an evaluation or not, so.

3 Q Okay. Do you recall what his advice was about
4 whether or not you needed to be evaluated?

5 A No, ma'am.

6 Q Okay. But, at the end of the day, you were never
7 evaluated; is that right?

8 A That's true.

9 Q All right. And do you believe that was -- that
10 decision was the correct decision for your attorney to
11 make, or was that a mistake?

12 A No. I think that the outcome would have been
13 different if I would have had an evaluation because of
14 some of the things that I had mentioned at the crime.

15 Q Okay.

16 A And it was a serious crime. So I think it would have
17 been helpful to me if I would have had an evaluation.

18 Q How do you think an evaluation would have changed the
19 outcome of this case?

20 A Well, when you -- well, you know, the case -- so it
21 was a case where I was out of it in a way. So, by that,
22 the injury -- what happened caused me not to be able to
23 function at that time, not knowing what was going on.

24 Q Okay. Why -- when you say "out of it," tell me why
25 you were out of it.

1 A Well, I was in [phonetic] a chemical. So, now, I
2 breathed the chemical. So the chemical is in my nostril,
3 in my mouth. And so I don't know. It could have been a
4 brain -- something to the brain, or whatever. I don't
5 know.

6 Q What chemical are you referring to?

7 A Gasoline.

8 Q All right. Had you been sniffing gasoline prior to
9 doing this, or are you saying that when you -- when the
10 flames went up, you had gasoline all around you?

11 A See, the gasoline came about before any flames came
12 about.

13 Q Okay.

14 A See, the gasoline was all on me from my head to my
15 toes, so.

16 Q Okay. Were you under the influence of any drugs or
17 alcohol at the time?

18 A No, ma'am.

19 Q All right. Did you believe you had a mental defect?

20 A Well, I mean, it had to be something. I would say
21 that I believe that I just could have been checked for
22 that. Because there had to be something that would have
23 caused that.

24 Q All right. Regarding the burglary charge, now, whose
25 residence did that burglary involve?

1 A That burglary involved the residence where I was
2 living at with my girlfriend, which was my -- she would
3 say common-law husband.

4 Q Okay.

5 A That's what she gave a statement to the police
6 saying, that I was her husband.

7 Q How long had you lived there?

8 A I lived there for 18 months.

9 Q All right. Were you living there before the
10 incident, or at the time of the incident?

11 A During it, yes, ma'am.

12 Q Okay. Did you discuss that with your attorney? Did
13 you tell your attorney, hey, I was living at this
14 residence?

15 A Yes, ma'am.

16 Q Okay. And do you believe that's a defense? In your
17 mind, is that a defense to this burglary charge if you
18 were living there?

19 A I mean, I...

20 Q Is that -- okay. Do you believe that the fact that
21 you lived there would have resulted or could have resulted
22 in the dismissal of this burglary?

23 A Yes, ma'am. Because it was -- I mean, it wouldn't
24 have been a burglary. I lived there, yes, ma'am.

25 Q Okay. And did you ask your attorney to go on and

1 collect the evidence to show you were living at this
2 residence?

3 A I did.

4 Q What did -- what, if anything, did Mr. Bannister do?

5 A Well, he just told me that it wasn't -- it would seem
6 like -- I think he told me that it wouldn't make no
7 difference, I believe.

8 Q Okay. Did you believe that advice?

9 A No, ma'am. Because I knew it could have made a
10 difference because it would have been a lesser.

11 Q All right. And even though your attorney made that
12 mistake and didn't -- made the mistake of not
13 investigating the burglary to your satisfaction, did you,
14 ultimately, plead guilty?

15 A Yes, ma'am. I did plead guilty.

16 Q Okay. And if you'd known that that -- or if -- would
17 you -- looking back, would you still have pled guilty?

18 A No, ma'am.

19 Q What would you have done?

20 A I would have went to trial.

21 Q All right. You mentioned a second ago about the
22 burglary first being reduced. Tell the Court a little bit
23 about that issue -- or your desire for the burglary first
24 to be reduced.

25 A As -- I mean, the burglary -- that's where I lived

1 at. So, I mean, if it would have been a reduced -- it
2 wouldn't have been burglary. So that would have left the
3 attempted murder charge. So the outcome would have been
4 different.

5 Q Okay. What did you want Mr. Bannister to do
6 regarding your burglary charge?

7 A To get it dismissed.

8 Q Okay. And did you discuss that with him? Did you
9 ask him, hey, can you try to get this dismissed?

10 A I did.

11 Q To your knowledge, what did Mr. Bannister do about
12 trying to get the burglary charge dismissed, or reduced?

13 A Well, I think he stated that if he was to get the
14 burglary -- if he would get the burglary charge thrown
15 out, it would still be the attempted murder, so.

16 Q Right. Do you know if he asked -- do you know if
17 your attorney asked the State to dismiss or reduce the
18 burglary?

19 A No, ma'am.

20 Q Do you -- okay. Did he do any -- did he even talk to
21 the State about dismissing or reducing the burglary?

22 A If he did, it's not in writing. And he didn't tell
23 me.

24 Q All right. And, ultimately, you pled to the charges
25 as they were; correct?

1 A Yes, ma'am.

2 Q All right. And if -- looking back on things, would
3 you still have pled guilty, or would you have done
4 anything different?

5 A Yeah. I would have did the whole thing differently.

6 Q Okay. What would you have done differently?

7 A I would have went to trial with it.

8 Q All right. Now, you, also, allege that there was a
9 defect in the indictment. What defects are you referring
10 to?

11 A Well, I was seeing that the indictment would have
12 been defective as far as the burglary. If it would have
13 been reduced or thrown out, it would have been a -- there
14 wouldn't have been no -- indicted for no burglary.

15 Q Did you discuss these defects with Mr. Bannister?

16 A I did.

17 Q And what did he do about that -- did he do anything
18 as a result of that conversation?

19 A No, ma'am.

20 Q All right. Did he -- to your knowledge, did he file
21 a motion to quash the indictment, or try to have the
22 charge dismissed?

23 A No, ma'am.

24 Q All right. And you, also, allege you didn't think
25 that the Court had jurisdiction. Why is that?

1 A Well, my thinking of the burglary where he stated
2 that -- he stated that I did not enter the dwelling. And
3 I, also, did not -- the intent of the attempted murder.

4 So, by that, that brought on a conditioned plea. And
5 a conditioned plea is -- to me, is not recognized in South
6 Carolina. So that would have -- the Judge shouldn't have
7 accepted the plea.

8 Q All right. And so, based off your attorney's
9 mistakes, did you, ultimately, plead guilty to the
10 charges?

11 A Ma'am?

12 Q Based off these mistakes that your attorney made, you
13 pled guilty; right?

14 A Yes, ma'am.

15 Q All right. Would you have still pled guilty?

16 A No, ma'am. Because, I mean -- no, ma'am.

17 Q All right. Now, you, also, alleged prosecutorial
18 misconduct?

19 A Yes, ma'am.

20 Q All right. Tell the Court a little bit about that.
21 Describe what misconduct you're talking about.

22 A I was speaking on a letter that was written to my
23 witnesses stating that they be -- come to the Prosecutor's
24 office for a meeting concerning me.

25 Q Okay.

1 A And the Prosecutor didn't advise me or my attorney of
2 this meeting. And he didn't -- after the meeting, he
3 didn't let me know nothing about it.

4 Q Okay. How did that affect your decision to plead or
5 not? How did that affect your decision what to do about
6 your case?

7 A Well, my witnesses was forward for me going to trial.
8 But after their meeting with the Prosecutor, that brought
9 doubt to them. And they was influenced by the Prosecutor
10 to get me to plead guilty because of the life without
11 parole.

12 Q All right. So after these witnesses met with the
13 Prosecutor, did you have a visit with some of these
14 witnesses?

15 A I did.

16 Q Okay. Where did the visit happen?

17 A At the county jail.

18 Q And, during your visit, did you talk -- did you
19 discuss whether or not to plead guilty?

20 A We did.

21 Q Okay. And, based off that discussion, what did you,
22 ultimately, do?

23 A I went with the decision of my witness by him stating
24 that I should plead guilty because of life if I didn't.

25 Q Okay. Did you tell your attorney that the Prosecutor

1 had had a conference with some of your witnesses?

2 A Yes, ma'am.

3 Q All right. And what did -- so you and your attorney
4 discussed that. What advice did -- do you recall your
5 attorney giving you about that issue?

6 A I mentioned it to him. And I was asking him could he
7 do that. And his answer was, yes, he could do that.

8 Q Okay. Did he file any motions, or, you know, do
9 anything to --

10 A Not about no...

11 Q Okay. Did he allege any prosecutorial misconduct?

12 A No, ma'am. It's not in the transcript.

13 Q Okay. And do you believe that that was a mistake
14 that your attorney made?

15 A Well, maybe -- I wouldn't say the attorney, but the
16 Prosecutor I would say. Because he's influencing my
17 witnesses.

18 Q Okay. Do you believe your attorney made a mistake
19 when he did not pursue prosecutorial misconduct?

20 A That could have been true, yes, ma'am.

21 Q And everything you've told us today, you believe that
22 your attorney made these mistakes; right?

23 A I do.

24 Q And is it your position today that these mistakes
25 that your attorney made that they led you to believe --

1 they led you to plead guilty?

2 A They did.

3 Q All right. Now, did you ask your attorney to file an
4 appeal of this guilty plea?

5 A After the guilty plea, yes, ma'am.

6 Q Where were you when you asked your attorney to file
7 an appeal?

8 A After I left out of the courtroom, we went to the --
9 I went to the holding cell. And he came in the holding
10 cell.

11 Q And what issues did you want to appeal? What issues
12 about the guilty plea did you want to appeal?

13 A The denying of the burglary, and the denial of the
14 attempted murder, the intent.

15 Q Okay. Tell me that one more time. You wanted to --
16 you wanted to appeal what -- on what grounds?

17 A The intent of the attempted murder --

18 Q Okay.

19 A -- and the denial of entering the dwelling.

20 Q Okay. Was there anything about the Judge's sentence
21 that you wished to appeal?

22 A Yes, ma'am.

23 Q What part of -- tell me what about the sentence.

24 A Well, the sentence was supposed to have been
25 15 years.

1 Q Why do you say that?

2 A Well, that was my recognition [phonetic]. That was
3 my understanding.

4 Q Okay. Was it your understanding that the State was
5 making a recommendation?

6 A For 15 years.

7 Q Okay. Is that "yes" or -- you did understand there
8 was a recommendation, or you did not?

9 A I didn't -- I don't understand what you're saying.

10 Q Okay. Was there a recommendation? Just "yes" or
11 "no."

12 A No, ma'am.

13 Q There was no recommendation when you pled?

14 A No.

15 Q Okay. What did your attorney tell you about a
16 recommendation when you pled?

17 A He didn't -- I don't -- he didn't say anything about
18 the recommendation.

19 Q Okay. And, ultimately, did your attorney file the
20 appeal?

21 A No, ma'am.

22 Q Who filed the appeal?

23 A I did.

24 Q Was the appeal served on all the different parties
25 that it needed to be served on?

1 A No, ma'am.

2 Q Okay. Did you know that you were supposed to serve
3 it on different parties?

4 A No, ma'am.

5 Q And, ultimately, was your appeal dismissed?

6 A Yes, ma'am.

7 Q All right. Is there anything else that you want to
8 raise today, any other issues that I didn't -- we didn't
9 mention already?

10 A No, ma'am.

11 MS. HORLBECK: All right. Please answer any
12 questions that Ms. Ratigan may have.

13 CROSS-EXAMINATION

14 BY MS. RATIGAN:

15 Q Mr. Watts, I believe you testified that Mr. Bannister
16 came and he reviewed the State's case with you?

17 A He did.

18 Q Okay. And so he told you that the State, basically,
19 was going to argue that you went into Mary's house without
20 permission, and that you ended up lighting her on fire?
21 That was what the State was going to argue?

22 A Yes, ma'am.

23 Q Okay. And did you tell him your version of what had
24 happened that night?

25 A I did.

1 Q Okay. And did you understand -- when you were having
2 these conversations with him, did you understand your
3 conversations with Mr. Bannister?

4 A Some of them.

5 Q Okay. When you didn't understand, did you ever tell
6 Mr. Bannister, you know, I don't understand what you're
7 saying? Did you ever tell him that?

8 A Yes.

9 Q Do you have any kind of prior mental health history?

10 A I've been -- not -- yeah. I have been evaluated
11 several times.

12 Q Okay. And did you tell that to Mr. Bannister?

13 A I did.

14 Q Okay. And what did he say when you told him you had
15 been evaluated prior to this?

16 A About the mental health issue, he -- like I said, he
17 said that he was the one that determined whether I get an
18 evaluation or not.

19 Q And this case was set for a jury trial, was it not?

20 A The first plea, no, ma'am.

21 Q Okay. So it was never set for trial?

22 A Yeah. At -- yes, ma'am.

23 Q So it was set for trial, but you ended up pleading
24 guilty?

25 A Yes, ma'am.

1 Q Okay. And why did you decide to plead guilty,
2 instead of going to trial?

3 A Because of the errors that I had seen.

4 Q The errors that you had seen with Mr. Bannister?

5 A Yes, ma'am.

6 Q Well, why didn't you tell the Judge that day that you
7 were unhappy with him?

8 A My understanding was to ask the Judge -- I mean, it
9 was to plead.

10 Q So you just went along with it, even though you were
11 unhappy with Mr. Bannister?

12 A I did.

13 Q Okay. Now, you had some prior convictions, so you
14 had been to court before; correct?

15 A Yes, ma'am.

16 Q So you understood how the plea process worked?

17 A I did.

18 Q Okay. And you just thought you needed to go in there
19 and answer the questions?

20 A That's what was always told to me.

21 Q Okay. Now, in terms of the first degree burglary
22 charge, your testimony is that you were living there with
23 Mary at the time?

24 A I were [sic].

25 Q Okay. But y'all hadn't broken up?

1 A No, ma'am.

2 Q You hadn't moved out?

3 A No, ma'am.

4 Q So those facts -- you dispute those facts? You don't
5 agree?

6 A Yeah.

7 Q Okay. Now, you testified that you understood you
8 would get a 15-year sentence?

9 A I did.

10 Q Okay. Now, was that something Mr. Bannister told
11 you, or is that something you hoped you would get?

12 A Well, that's what I was telling him.

13 Q Okay. So you told Mr. Bannister you wanted 15 years?

14 A That's right.

15 Q Okay. Did he ever tell you that you would get
16 15 years, or just that he would ask for it? Or what did
17 he tell you when you said you wanted 15 years?

18 A He said that he would ask for it at the trial [sic].

19 Q So it's not that you were promised it, that was just
20 what you hoped you would get?

21 A That was more like his decision, too.

22 Q I'm sorry. What?

23 A That was more like his decision, too.

24 Q What do you mean?

25 A Whether I would get the 15 years or not. He was

1 going to request it, I guess.

2 Q Okay. And you testified you wanted an appeal because
3 you wanted to be able to dispute some of the facts about
4 the burglary and the attempted murder?

5 A Yes, ma'am.

6 MS. RATIGAN: That all I have, Your Honor.

7 THE COURT: Anything else, Ms. Horlbeck?

8 MS. HORLBECK: No, Judge, not from this witness.

9 THE COURT: Come on down.

10 MS. HORLBECK: Your Honor, the Petitioner calls
11 Dr. Richardson.

12 THE CLERK: Mr. Richardson, please, place your left
13 hand on the Bible and raise your right hand.

14 WHEREUPON,

15 JAMES F. RICHARDSON, M.D.,
16 after first having been duly sworn, testified as follows:

17 THE CLERK: Please state your full name for the
18 record.

19 THE WITNESS: Richardson, James F., M.D., retired.

20 THE CLERK: Thank you.

21 You may be seated.

22 DIRECT EXAMINATION

23 BY MS. HORLBECK:

24 Q Dr. Richardson, how long have you known Mr. Watts?

25 A From about two years prior to his incarceration.

1 Q All right. And how did you become acquainted with
2 him? Did he work for you?

3 A He was one of the caregivers for my mother-in-law.

4 Q Okay --

5 A And -- excuse me. Go ahead.

6 Q That's okay. Go ahead. I don't want to cut you off.

7 A Well, he was -- just came to be a -- almost a
8 [inaudible] in the family. He was so kind, and gentle,
9 and helpful with her. And we had a lot of confidence in
10 him.

11 And so we would have him bring her over for lunch
12 every Sunday. And, during those periods, we would get to
13 know him a little better.

14 Q Let me ask you to -- I can barely hear you. So let
15 me --

16 A I'm sorry. My voice doesn't carry very well.

17 MS. HORLBECK: Is this on?

18 THE COURT: It says it is.

19 MS. HORLBECK: Okay.

20 BY MS. HORLBECK:

21 Q So tell me again how you became acquainted with
22 Mr. Watts.

23 A He was one of the caregivers during the latter days
24 of my mother-in-law.

25 Q Okay.

1 A And she was early 90s at that point, and had a good
2 many things wrong with her. And he was exceptionally kind
3 and gentle with her. And we were very impressed with his
4 character.

5 Q All right. How long was he a caregiver for your
6 mother-in-law?

7 A I, honestly, don't remember the months, but a good
8 long while.

9 MS. HORLBECK: I would just ask that this be marked
10 as Petitioner's Exhibit No. 1.

11 (WHEREUPON, Applicant's Exhibit No. 1 was marked for
12 identification only.)

13 BY MS. HORLBECK:

14 Q Dr. Richardson, I'm handing you a copy of
15 Petitioner's Exhibit No. 1. I'd just ask that you take a
16 look at that. And I'll ask you few questions about it.

17 A Yes, ma'am.

18 Q All right. Tell me what is in Petitioner's Exhibit
19 No. 1. What is that?

20 A I'm sorry. I didn't understand.

21 Q What is that document?

22 A It's simply -- it's a -- requesting or stating that
23 we're to meet -- my wife and myself with Mr. Fretwell from
24 the Solicitor's Office in a pre-trial conference. And
25 Mr. Wilkins, I believe, was the one whose office sent the

1 letter.

2 Q Where did that letter come from again?

3 A Mr. Wilkins office, apparently.

4 Q Okay. What's the date of that letter?

5 A Let me see. 12/20/2012.

6 Q Okay. Did you and your wife attend the conference?

7 A Yes.

8 Q And did you, also, speak with Mr. Fretwell?

9 A He met with both of us at the same time.

10 Q Okay. And, during that discussion, were you
11 encouraged to ask Mr. Watts to plead guilty?

12 A Well, we -- the conversation went well, really. It
13 was pleasant. And we talked to him about what fine
14 character we thought he was.

15 And he began to build up a number of things involved
16 that were going to have a bearing on things. And he said
17 that he felt as these things were stacking up that if he
18 went to trial, he was, essentially, sure to get life in
19 prison.

20 Q Okay. Who's saying these things to you?

21 A Mr. Fretwell.

22 Q I'm sorry. Say that again.

23 A And then --

24 Q Say that name again.

25 A Mr. Fretwell.

1 Q Okay.

2 A And that he felt that if he -- that his -- to plead
3 guilty was probably his only good option to avoid life in
4 prison.

5 Q Okay. Did Mr. Fretwell ask you to speak to Mr. Watts
6 about pleading guilty?

7 A I don't think he, actually, asked me to.

8 Q Okay.

9 A But, clearly, the implication was there.

10 Q Okay.

11 A In the sense that we were to talk with him soon. And
12 I'm sure he felt sure we would say something about it.
13 Because he made it pretty positive to the point that you
14 felt obligated to say this looks like an option of whether
15 you take it or not.

16 I tried my best not to encourage him to do it. I
17 think to ask someone -- or to encourage someone to plead
18 guilty to things that maybe they could prove they were not
19 in jail -- I mean not on trial. But if he intended to go
20 to trial, if you -- in all likelihood, based on the prior
21 happenings, were going to go to jail for life left you
22 with a bad situation. We simply told him that that's
23 going to --

24 Q Told who?

25 A We told Mr. Watts that that was what we had been

1 told.

2 Q Okay. So, after you talked to the Prosecutor, did
3 you visit Mr. Watts?

4 A Yes.

5 Q All right.

6 A We visited Mr. Watts just about every week.

7 Q All right. And when you visited with Mr. Watts after
8 seeing -- after talking to the Prosecutor's office, did
9 you explain to Mr. Watts -- did you talk to Mr. Watts
10 about the conference you'd had with the Solicitor?

11 A Yes.

12 Q And did you encourage Mr. Watts to plead guilty?

13 A As I say, I didn't really encourage him to. I simply
14 presented him with what we were told. I wouldn't have
15 been comfortable, I think, encouraging that. Because that
16 would hardly be my place.

17 Q Okay. Is it fair to say you did not put any pressure
18 or force Mr. Watts to plead guilty?

19 A Oh, absolutely not.

20 MS. HORLBECK: That's all I have.

21 Please answer any questions Ms. Ratigan may have for
22 you.

23 THE WITNESS: Thank you.

24 MS. RATIGAN: Just a couple of very quick questions.

25 MS. HORLBECK: Oh, let me move that into evidence, if

1 I can. I totally forgot to do that.

2 MS. RATIGAN: I have no objection.

3 THE COURT: All right.

4 (WHEREUPON, Applicant's Exhibit No. 1 was admitted into
5 evidence.)

6 MS. HORLBECK: I'm sorry. I didn't mean to interrupt
7 you, Ms. Ratigan.

8 MS. RATIGAN: That's okay.

9 MS. HORLBECK: I just knew if I didn't do it now, I'd
10 forget.

11 MS. RATIGAN: Just a couple of quick questions.

12 CROSS-EXAMINATION

13 BY MS. RATIGAN:

14 Q Were you going to be a witness for the State at trial
15 if it came down to it --

16 A It never got that far. We didn't know what -- that
17 there was going to -- if there was going to be a trial.
18 And, if so, there was no planning of any kind.

19 Q Okay.

20 A That I know about anyway.

21 Q Okay. So it was just kind of like a preliminary talk
22 with the State?

23 A Do you -- are you talking about the prosecutions talk?

24 Q Uh-huh.

25 A Yeah. It was just a pre -- a pre-set up. Because we

1 were never -- I never really talked to the attorney at
2 all.

3 Q Okay. And that was going to be my next question.
4 Did you ever speak to Mr. Watts attorney about the case?

5 A No.

6 Q Okay. Did Mr. Watts ever ask you to talk to
7 Mr. Bannister about his case?

8 A No.

9 MS. RATIGAN: That's all I have, Your Honor.

10 THE COURT: All right.

11 MS. HORLBECK: I don't have anything further, Judge.

12 THE COURT: All right. You may step down.

13 THE WITNESS: Thank you.

14 MS. HORLBECK: And, Judge, I'm going to -- I didn't
15 subpoena him, but I don't see why he needs to stay.

16 THE COURT: He's free to go.

17 MS. HORLBECK: And that's all I have, Judge.

18 THE COURT: Okay. Ms. Ratigan.

19 MS. RATIGAN: Yes, Your Honor.

20 The State would call Mr. Bannister.

21 THE CLERK: Mr. Bannister, please, place your left
22 hand on the Bible and raise your right hand.

23 WHEREUPON,

24 JAMES W. BANNISTER,

25 after first having been duly sworn, testified as follows:

1 THE CLERK: Thank you.

2 Please state your full name for the record.

3 THE WITNESS: James W. Bannister.

4 THE CLERK: Thank you.

5 DIRECT EXAMINATION

6 BY MS. RATIGAN:

7 Q Mr. Bannister, were you appointed in this case?

8 A I was.

9 Q And did you file the usual Brady and Rule 5 motions
10 for discovery?

11 A I did.

12 Q To the best of your knowledge, did you receive full
13 discovery from the State?

14 A Yes.

15 Q And did you review those materials with Mr. Watts?

16 A I did. My notes reflect that I may have gone over
17 them with him earlier. But on April 3rd and April the 4th
18 of 2012, we had pretty lengthy reviews of discovery. I
19 suspect I broke it up into two parts, because it was a
20 pretty significant file.

21 Q Did you, also, review with Mr. Watts the elements of
22 the charges?

23 A Yes. We had a number of conversations about those.

24 Q And sentence ranges?

25 A Yes. He was looking at life without parole because

1 of his prior record.

2 Q Now, had it gotten to the point where the LWOP notice
3 had been served, or that was just something that was out
4 there?

5 A I think the LWOP notice was served pretty early in
6 the case. But I don't have a recollection of the exact
7 date. When I got it, life without parole was on the
8 horizon.

9 Q Okay. And did you explain to Mr. Watts what a life
10 without parole -- what that notice meant in terms of if he
11 was convicted, he would automatically get that sentence?

12 A Yes.

13 Q Do you recall whether or not he ever requested a bond
14 hearing?

15 A I do. We had a number of conversations about a bond
16 hearing.

17 Q Did you ever move to set bond?

18 A No, I did not.

19 Q Why is that?

20 A Each time we would have a discussion about a bond
21 hearing, I would ask him -- I would say, Look, you know,
22 given the nature of the charges and the length of time
23 that you are looking at, I think it's unlikely that you'll
24 get a bond. But, even if you do, it's going to be a
25 pretty substantial one. I'm not in the habit of doing

1 things for no reason. What kind of funds have you got
2 that you can put towards a bond? And it was -- he never
3 could give me an answer to that, so.

4 Q Did he tell you his version of what had happened with
5 the victim that night?

6 A He did.

7 Q Okay. Did he ever tell you that he did not
8 understand your conversations with him?

9 A No. Now, I would say that sometimes we had to go
10 over things in different ways. Because Harold is not a
11 lawyer and his education was limited. But he was -- I
12 felt like once we had concluded our discussions that I was
13 satisfied he had an understanding of what it is that we
14 were talking about.

15 Q Did he ever tell you he had had any kind of prior
16 mental health history or mental health treatment?

17 A I don't have any recollection of him telling me he
18 had had prior mental health treatment.

19 Now, we probably did go over what would happen if he
20 went down for an evaluation, or things of that nature,
21 just from the standpoint of kind of covering all the
22 options. But I never saw any indication that there was
23 any mental defect that needed to be explored.

24 Q Okay. Let's see. Did Mr. Watts tell you that he was
25 still living in the home with the victim?

1 A Well, it was more of the idea that because he had not
2 formally been evicted from the victim's home -- that is
3 that the magistrate hadn't served him with papers -- he
4 had been through that process before, if my recollection
5 is correct, and had -- maybe had some disagreements with
6 the landlord. And it took the magistrate getting involved
7 to get him out of whatever place he was staying.

8 So the fact that he had not been formally evicted, in
9 his mind, meant that he still had rights to be inside her
10 home. I kept trying to explain to him that, okay, great,
11 that's a good jury argument. But, at the end of the day,
12 even if you get convicted of a reduced charge, if it's
13 violent, you're still looking at life without parole.

14 So I just didn't -- it wasn't -- it didn't get us
15 past life without parole, even if he had the right to
16 access that home.

17 Q Would it be fair to say that was something he was
18 kind of fixated on was the residential aspect?

19 A Yes. If there was something that he never really got
20 clear in his own mind, I'd say that was, certainly,
21 something he seemed to really struggle with.

22 Q Now, Mr. Watts has testified that the State sent a
23 letter to several of his witnesses about having a
24 pre-trial conference. Are you at all familiar with that
25 having gone on?

1 A I would say that sitting here and listening to some
2 of the -- what Mr. Watts has testified to and to the
3 doctor that I want to say, at one point, when we were
4 preparing for this trial, I had gone to the Solicitor and
5 said, Given Mr. Watts's age, putting the victim through
6 all of this -- she was in terrible physical shape because
7 of the severity of the burns. I said, Give me something
8 that we maybe can live with.

9 So it is possible, at one point, that we, actually,
10 may have been in a position to have a recommendation for
11 15 years. Although, I was looking through my notes. I've
12 given Mr. Watts my discovery. So I'm a little bit
13 hampered by the fact that I don't have that in my file.
14 But I think there were some discussions that if he would
15 plead guilty in a timely manner, we might have been
16 looking at a much reduced sentence than what he ended up
17 with.

18 When we were ready for trial and everybody had been
19 prepared, then -- I mean, literally, we were about to do
20 opening arguments and Mr. Watts told me, I want to plead
21 guilty. So we sent the jury out to just wait to see if he
22 was, actually, going to enter the plea of guilty. And
23 then when he did, that was the end of the case. But, at
24 that point, the recommendations were all off the table.
25 However, there's some benefit to not having life without

1 parole. There's still some potential for him later on,
2 especially as he becomes aging [phonetic] for the
3 Department of Corrections to release him, even though he
4 might not have served all of his time.

5 Q So you wouldn't have ever promised him a 15-year
6 sentence at any point?

7 A I may, certainly, have talked to him about that
8 earlier. But not when -- when we got ready for trial, and
9 the jury was here, and witnesses were here, and everybody
10 was under subpoena, at that point, absolutely not. I
11 would have made it clear to him that this is just a
12 straight-up plea at the Judge's discretion.

13 MS. RATIGAN: May I approach, Your Honor?

14 THE COURT: Yes, ma'am.

15 BY MS. RATIGAN:

16 Q I'm going to hand you what's been entered as
17 Exhibit No. 1 for the Applicant. Are you familiar with
18 that type of a letter being issued from the Solicitor's
19 Office?

20 A I am, yes.

21 Q And can you explain, in your experience, the purpose
22 of that letter -- of such a letter?

23 A Well, I don't want to speak for the Solicitor. But,
24 obviously, the -- there's some request to speak with
25 somebody that may potentially be a witness in a case. I'm

1 not fond of this practice. But, at the end of the day, I
2 think there's been some decision, specifically, saying
3 that this is not necessarily unethical.

4 Q So, in your opinion, was -- would there have been any
5 basis to object to the assistant solicitor having spoken
6 to some of the witnesses about the case?

7 A No. And -- it would not have been unusual. Because
8 I was having a lot of conversations with Mr. Fretwell
9 about Mr. Watts reluctance to plead guilty, especially if
10 I'm correct and we're looking at maybe a sentence of
11 somewhere in the 15-year range, you know. We were
12 probably talking about waivers of appeals, and stuff like
13 that given the severity of the case.

14 But it would not have been unusual for me to call
15 some of the close family members of Mr. Watts or, in this
16 case, some of his friends, and other folks to try to
17 engage them to help me convince the client that this was
18 in his best interest. Sometimes, they don't trust the
19 attorney, but they may trust their family members. Do I
20 have a specific recollection of that? No. But that -- it
21 may have been that Mr. Fretwell and I both were moving in
22 that direction.

23 I know that we had talked about an offer that was
24 going to be something that I thought he should have taken.

25 Q My last question is, did Mr. Watts ever ask you to

1 file a notice of appeal after the guilty plea?

2 A No. I don't -- I have absolutely no recollection of
3 that. And there's a procedure I have to go through when I
4 have an appointed case when a notice of appeal is filed
5 like after a plea. So I would have gone through that
6 procedure had I known he wanted to appeal.

7 MS. RATIGAN: That's all I have, Your Honor.

8 THE COURT: All right. Ms. Horlbeck.

9 MS. HORLBECK: Just briefly, Judge.

10 CROSS-EXAMINATION

11 BY MS. HORLBECK:

12 Q Mr. Bannister, did you discuss with Mr. Watts whether
13 or not it was okay with him for you to contact -- or
14 potentially contact friends and family to talk to them
15 about a guilty plea?

16 A Again, I can't remember having any conversation with
17 friends and family --

18 Q Okay.

19 A -- about that. I'm not saying that -- it would have
20 been something I have done in the past. But the names of
21 the friends and family would have been folks that I got
22 from Mr. Watts. Now, whether I asked his permission to
23 talk about a potential plea or not, it would have -- I
24 don't think I would have done that. It would have been
25 obvious I was talking to him about a plea. And I wouldn't

1 have revealed any attorney-client privileged information.
2 But, on the other hand, I, certainly, would have discussed
3 what the evidence was that was being provided to me by the
4 State and my view of that.

5 Q Okay. Do you recall Mr. Watts giving you
6 Dr. Richardson's name and contact information?

7 A I had -- I was looking for that. I had a phone
8 number for Dr. Richardson. I know that I spoke with Gail
9 Richardson, who I'm surmising is his -- maybe his sister.
10 Because I was talking to her about how Mr. Watts had
11 helped their mother. And, again, this is just purely from
12 my memory. But I think I had her -- I've got her listed
13 as a witness. And I think I had her under subpoena for
14 the purpose of talking about how he had done with -- how
15 Harold had done with the Richardsons mother.

16 MS. HORLBECK: Okay. That's all I have.

17 Thank you.

18 THE COURT: Anything else?

19 MS. RATIGAN: Nothing further.

20 And the State would rest, Your Honor.

21 THE COURT: Thank you, Mr. Bannister.

22 You may step down.

23 Anything else?

24 MS. RATIGAN: The State would rest, Your Honor.

25 THE COURT: Very well.

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Anything else from you, Ms. Horlbeck.

MS. HORLBECK: No, Your Honor.

THE COURT: All right. I'd like to read everything and review the submissions, exhibits, and my notes. And I'll let y'all know my decision.

*****END OF TRANSCRIPT OF RECORD*****

CERTIFICATE OF REPORTER

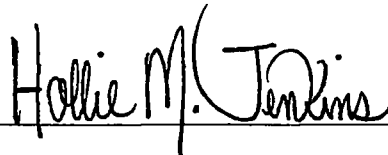
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 16th day of December, 2014.

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

June 10, 2015



Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

**STATE OF SOUTH CAROLINA
THIRTEENTH JUDICIAL CIRCUIT**

Telephone: 8644678647
Telefax: 8644678610

Greenville County Courthouse
305 E. North Street, Suite 325
Greenville, SC

NOTICE OF PRETRIAL CONFERENCE

TO: Gail Richardson [REDACTED]	DATE: 12/20/2012
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RE: STATE OF SOUTH CAROLINA VS. HAROLD WATTS

CHARGE: Murder / Attempted Murder

WARRANT: M990997

CASE #: 012011182701

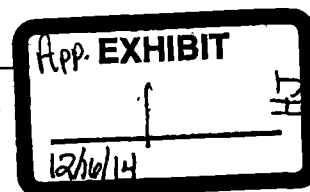
YOU ARE HEREBY CALLED ON TO BE AT A PRE-TRIAL CONFERENCE IN THE ABOVE CAPTIONED CASE AT THE OFFICE OF THE THIRTEENTH CIRCUIT SOLICITOR, GREENVILLE COUNTY COURTHOUSE, 305 E. NORTH STREET, SUITE 325, GREENVILLE, SOUTH CAROLINA ON **Tuesday, January 8, 2013 at 11:00 a.m.**

BRING AUDIO/OR VIDEO TAPES AND OTHER DOCUMENTS AND ANY OTHER INFORMATION YOU HAVE ON THIS CASE.

Please see: **Allen Fretwell, Assistant Solicitor**
Phone # 8644678647

PLEASE CALL INVESTIGATOR Lynn Crouch AT 8644678647 IF YOU NEED ANY ASSISTANCE OR IF THIS TIME IS NOT SUITABLE TO YOUR SCHEDULE.

I SERVED THE ABOVE NAMED PERSON ON _____



STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 Harold Watts,)
 S.C.D.C. No. 127180,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 C.A. No. 2014-CP-23-1117

ORDER OF DISMISSAL

FILED - CLERK OF COURT
 GREENVILLE CO. S.C.
 PAUL B. WICKENSIMMER
 2015 MAR 16 PM 2 53

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed February 28, 2014. The Respondent made its return on August 22, 2014. An evidentiary hearing was held on December 16, 2014 at the Greenville County Courthouse. The Applicant was present and represented by Caroline Horlbeck, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying were Dr. Richardson and the Applicant's plea counsel, James W. Bannister, Esquire. The Court had before it the transcript of the guilty plea hearing, the Greenville County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, the return, the appellate records, and Applicant's Exhibit 1.

PROCEDURAL HISTORY

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Applicant was indicted at the September 2012 term of the Greenville County Grand Jury for attempted murder (2012-GS-23-5528, count 1) and first-degree burglary (2012-GS-23-5528, count 2). He was

represented by James W. Bannister, Esquire.

On April 8, 2013, the Applicant pled guilty. The Honorable Letitia H. Verdin sentenced the Applicant to concurrent terms of thirty years for attempted murder and thirty-five years for first-degree burglary.

The Applicant filed a pro se notice of appeal at the South Carolina Court of Appeals. By order dated July 1, 2013, the Court of Appeals dismissed the matter due to the Applicant's failure to timely serve and file the notice of appeal. The Remittitur was sent on August 16, 2013.

ALLEGATIONS

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

1. Ineffective assistance of counsel:
 - a. "[F]ailed to file notice of appeal as I requested. Counsel should have raised the concerns with the indictment. The court accepting a conditioned plea."
 - b. "[F]ailed to investigate the Burglary Charge. Had he investigated he would have found that this was my leagal [sic] residence and the victim my common law wife."
 - c. "[F]ailed to seek a charge of a lesser offense than Burglary. When the facts prove that this was not Burglary. Counsel even stated on the record that defendant denies entering the residence."
 - d. "[F]ailed to object to the court having jurisdiction to accept a plea to a defective indictment."
 - e. Failed to provide the Applicant with all discovery material.
 - f. Failed to request a competency evaluation.
 - g. Failed "to protect my constitutional right to have a bond hearing."
 - h. Failed to investigate the indictment.
 - i. Failed to request a change of venue.
 - j. "[F]ailed to have a crime scene investigation done. Had he had an investigation done he would have found that the facts as presented by the State did not line up with the crime area."
2. Lack of subject matter jurisdiction.
3. Defective Indictment.
4. Prosecutorial misconduct.

In a pro se "Memorandum in Support of Post Conviction Application" filed September 5,

2014, the Applicant made the following allegations:

1. Ineffective assistance of counsel:
 - a. Failed to file a notice of appeal as requested.
 - b. Allowed the Applicant to plead guilty when plea counsel told the plea judge he denied any intent in the attempted murder charge.
 - c. Failed to request a change of venue as requested.
 - d. Failed to request a mental health exam or inform the plea judge of the Applicant's mental health history.
 - e. Failed to conduct an investigation to discover mitigating evidence.
 - f. Failed to raise concerns that the attempted murder indictment lacked the elements necessary to put the Applicant on notice of the charge.
 - g. Failed to inform the plea judge of improper conduct by the solicitor's office.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v.

State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). 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, 58-59, 106 S. Ct. 366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

The Applicant stated plea counsel visited him at the jail eight times and that they reviewed the State's case and his version of events. The Applicant stated he wanted the first-degree burglary charge reduced, as he had been living in the residence with the victim. The Applicant stated he asked plea counsel to collect evidence to prove this. The Applicant stated he told plea counsel about a prior mental evaluation but did not tell plea counsel he wanted another evaluation. The Applicant stated he understood some of the conversations with plea counsel. The Applicant stated he decided to plead guilty because of plea counsel's errors. The Applicant stated he went along with the plea and did not tell the plea judge he was unhappy with plea counsel. The Applicant stated he asked plea counsel to file an appeal because he wanted to argue the facts of the case.

Dr. Richardson stated he has known the Applicant since two years before his incarceration because the Applicant was one of his mother-in-law's caregivers. Dr. Richardson stated he received a letter¹ from the State dated December 20, 2012 about a pre-trial conference. Dr. Richardson stated he and his wife met with the assistant solicitor, who said he was sure the Applicant would receive a life sentence if he went to trial. Dr. Richardson stated the assistant solicitor did not ask him to speak to the Applicant, but that he did tell him about the conversation. Dr. Richardson stated the Applicant did not ask him to tell plea counsel about this.

¹ Applicant's Exhibit 1.

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Plea counsel testified he was appointed in this case and filed discovery motions. Plea counsel testified he received those materials and reviewed them with the Applicant. Plea counsel testified his notes indicated he had lengthy reviews of the materials with the Applicant on April 3-4, 2012. Plea counsel testified they discussed the elements of the charges, sentence ranges, and the Applicant's version of events. Plea counsel testified a notice of intent to seek life without parole was served and that he explained this to the Applicant. Plea counsel testified the Applicant said he was not formally evicted from the victim's home so he was still a resident and had a right to be there. Plea counsel testified the Applicant was fixated on this but that he told the Applicant this was an argument for a jury to consider. Plea counsel testified he had no recollection of whether the Applicant had prior mental health treatment. Plea counsel testified there was no indication the Applicant had a mental defect and that the Applicant never said he did not understand their conversations. Plea counsel reviewed Applicant's Exhibit 1 and stated this letter was not unusual and he had no basis to object. Plea counsel testified the Applicant wanted to plead guilty once they were ready for trial and that there were no recommendations available at that time. Plea counsel testified he did not recall the Applicant requesting an appeal and that he had a procedure for reviewing these rights with his appointed clients.

This Court finds plea counsel had numerous meetings with the Applicant and that they reviewed all aspects of his case. This Court finds they discussed the discovery materials, the elements of the charges, the sentence ranges, and the Applicant's version of events. This Court notes the Applicant admitted to the plea judge that, while he may have disputed some of the State's facts, he did not dispute the elements of the charges. (Plea transcript, pp.11-12). The Applicant also told the plea judge that he understood the trial rights he was waiving in pleading guilty, was satisfied with counsel, and had not been coerced in any way. (Plea transcript, pp.3-

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[Handwritten signature]

5). This Court finds plea counsel thoroughly and properly reviewed and prepared this case for trial. While the Applicant stated he was not happy with plea counsel's representation at the time he pled guilty, this Court finds this testimony is not credible.

This Court finds the Applicant failed to meet his burden of proving plea counsel should have challenged the first-degree burglary charge. Plea counsel testified the Applicant was fixated on the idea that, as he had not been formally evicted by the sheriff, he had the right to be in the victim's residence. The State's presentation of facts at the guilty plea hearing, however, was that the Applicant had moved out of the victim's house before he subsequently broke the chain on the door, entered the victim's home, and chased the victim outside and set her on fire. (Plea transcript, pp.7-10). While plea counsel disputed some of the State's facts, he did not argue the Applicant was a resident of the house. The Applicant told the plea judge he agreed with the comments made by his attorney. (Plea transcript, pp.11-12). The Applicant entered a voluntary plea to the first-degree burglary charge. See, e.g., Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999) (finding that, before a defendant can enter a guilty plea, he "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived"). This Court finds the Applicant failed to present any evidence he was a resident of the victim's home. This Court also finds the Applicant failed to present any evidence that one is a resident of a home – even after he has moved out – unless formally evicted by the sheriff. This Court finds the Applicant failed to present compelling evidence that plea counsel would have been successful in having the first-degree burglary charge reduced if he had advanced the argument that he was a resident of the victim's home because there had not been a formal eviction process. See Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (holding in a post-conviction relief proceeding, the

applicant bears the burden of proving the allegations in their application).

This Court finds the Applicant failed to meet his burden of proving plea counsel should have requested a competency evaluation. Plea counsel testified he did not recall the Applicant informing him of any prior mental health history and that there were no signs the Applicant had a mental defect. This Court finds plea counsel's testimony is credible and he did not render deficient representation. This Court also finds the Applicant failed to demonstrate prejudice. A PCR applicant "bears the burden of proof and is required to show by a preponderance of the evidence he was incompetent at the time of his plea." Jeter v. State, 308 S.C. 230, 232, 417 S.E.2d 594, 596 (1992). To sustain a claim that plea counsel was ineffective for failing to request competency hearing, the petitioner must show reasonable probability that he would have been found incompetent. Id. at 233, 417 S.E.2d at 596. The Applicant failed to present any credible testimony or evidence to support his claim either that he had prior mental health treatment or was in need of a competency evaluation before he pled guilty.

This Court finds the Applicant failed to meet his burden of proving plea counsel should have objected to the letter sent to Dr. Richardson and the subsequent meeting between Richardson and the State. Dr. Richardson stated he received a letter and had a meeting with the assistant solicitor, who stated the Applicant would likely receive a life sentence if he went to trial. Dr. Richardson admitted (1) the assistant solicitor did not ask him to talk to the Applicant and (2) the Applicant did not ask him to tell plea counsel about this conversation. Plea counsel testified such letters were not unusual and that there was no basis to object to such. Based upon the testimony presented at the PCR hearing, this Court finds the Applicant has failed to demonstrate there was a legitimate, cognizable basis for plea counsel to object to the letter and meeting, and that his case was prejudiced because counsel did not make such an objection. See

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Butler v. State, 286 S.C. at 442, 334 S.E.2d at 814.

This Court finds the Applicant failed to meet his burden of proving plea counsel did not file an appeal as requested. Plea counsel testified he did not recall the Applicant asking him to file an appeal and that he has a procedure he follows in advising his appointed clients of this right. This Court finds plea counsel's testimony is credible. This Court finds the Applicant, after having been advised of his appellate rights, chose not to pursue them. See Sheppard v. State, 357 S.C. 646, 651, 594 S.E.2d 462, 465 (2004) ("To waive a direct appeal, a defendant must make a knowing and intelligent decision not to pursue the appeal.").

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that plea counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by plea counsel's performance.

This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

All Other Allegations

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

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not

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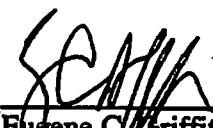
established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner and the Applicant was not prejudiced by counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants 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 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 10th day of February 2015.



Eugene C. Griffith, Jr.
Presiding Judge
Thirteenth Judicial Circuit

Newberry, South Carolina.

WITNESSES

W.T. Campbell 

Greenville County Sheriffs Office

12/3/2011

ARREST WARRANT NUMBER
M990997 and M-991214

ACTION OF GRAND JURY

TRUE BILL



FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012-GS-23-005528

AOJ

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

September TERM 2012

THE STATE

vs.

HAROLD WATTS

Indictment for

3410 and 0079

**ATTEMPTED MURDER and
BURGLARY IN THE FIRST DEGREE**

VIOLATION §16-03-0029 and §16-11-0311

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ATTEMPTED MURDER and BURGLARY IN THE FIRST DEGREE

At a Court of General Sessions, convened on **SEP 18 2012** the Grand Jurors of Greenville
County present upon their oath:

COUNT I — ATTEMPTED MURDER

That HAROLD WATTS did in Greenville County, on or about the 3rd day of December 2011,
unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Mary Darnell. This is in
violation of §16-03-0029 of the South Carolina Code of Laws (1976) as amended.

COUNT II — BURGLARY IN THE FIRST DEGREE

That HAROLD WATTS did in Greenville County, on or about the 3rd day of December 2011, willfully
and unlawfully enter or attempted to enter the dwelling of Mary Darnell, located at [REDACTED]
Road, Piedmont, without consent and with the intent to commit a crime therein, accompanied by
circumstances of aggravation, to wit: the entering and/or remaining did occur during the night time
hours. This is in violation of §16-11-311 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.



SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
STATE VS.

INDICTMENT/CASE#: 2012GS2305528

Harold Watts

A/W#: M990997

AKA:

Date of Offense: 12/3/2011

Race: BLACK Sex: M Age: 52

S.C. Code §: 16-03-0029

DOB: -1960 SS#: [REDACTED]

CDR Code #: 3410

Address: [REDACTED]

City, State, Zip: Piedmont, SC 29673

DL#: [REDACTED] SID#: [REDACTED]

SENTENCE SHEET

430

*CDL Yes No CMV Yes No Hazmat Yes No

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was TO: Attempted Murder

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

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

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

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

ATTEST: Fretwell, Allen; SC Bar# 17016; Defendant Harold Watts; Attorney for Defendant J. Barrow; SC Bar# 8895

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP days/hours Public Service Employment Obtain GED Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling Random Drug/Alcohol testing Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender Fund Other:

Table with 3 columns: Description, Amount, Total. Rows include assessments, surcharges, and fees.

Clerk of Court/ Deputy Clerk: Paw B... Court Reporter: Hanky SCCA/217 (03/2011)

Presiding Judge: [Signature] Judge Code: 2162 Sentence Date: 4-2-2013

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
STATE VS. Harold Watts

INDICTMENT/CASE#: 2012GS2305528
A/W#: M991214
Date of Offense: 12/3/2011
S.C. Code §: 16-11-0311
CDR Code #: 0079

AKA:
Race: BLACK Sex: M Age: 52
DOB: -1960 SS#:
Address:
City, State, Zip: Piedmont, SC 29673
DL#: SID#:

SENTENCE SHEET

0301
15-Life

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was TO: Burglary in the First Degree

CONVICTED OF or PLEADS

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45 w/minor 1st or Lewd Act

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

ATTEST: Fretwell, Allen 17016 SC Bar# Defendant Attorney for Defendant 8895 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 35 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

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

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

SPECIAL CONDITIONS:

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

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

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

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

Clerk of Court/ Deputy Clerk Paul B. H...
Court Reporter: Hanks
SCCA/217 (03/2011)

Presiding Judge [Signature]
Judge Code: 2162
Sentence Date: 4-8-2013