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SC SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Jasper County

Edgar W. Dickson, Circuit Court Judge

JASON L. MIXON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001944

A P P E N D I X

ROBERT M. PACHAK
Appellate Defender

ALAN WILSON
Attorney General

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

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Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
 COUNTY OF JASPER) CASE NO.: 2012-CP-27-00114;
 2012-GS-27-520; 2013-GS-27-158

STATE OF SOUTH CAROLINA,)
)
)
 v.) TRANSCRIPT OF RECORD
)
 JASON LEE MIXON,)
)
 DEFENDANT.)
)

APRIL 16, 2013
 JASPER COUNTY, SOUTH CAROLINA
 BEFORE THE HONORABLE PERRY M. BUCKNER, JUDGE.

APPEARANCES:

ASST. SOL. ERIN G. VAUX, ESQUIRE
 14TH CIRCUIT SOLICITOR'S OFFICE
 POST OFFICE BOX 1880
 BLUFFTON, SOUTH CAROLINA 29910
 Attorney for the State of South Carolina

MR. STEPHEN T. PLEXICO, ESQUIRE
 14TH CIRCUIT PUBLIC DEFENDER'S OFFICE
 POST OFFICE BOX 1114
 VARNVILLE, SOUTH CAROLINA 29944
 Attorney for the Defendant

Rebecca H. Hill
 Official Court Reporter

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EXHIBITS

NONE.

1 THE COURT: Call your case, Solicitor.

2 ASST. SOL. VAUX: This is indictment 2012-GS-27-520 for
3 distribution of marijuana and 2013-GS-27-158 with possession
4 of contraband by a prisoner. The State is recommending two
5 years to serve concurrent to the sentence he is currently on
6 and that is indictment 2006-GS-15-124 for armed robbery.

7 THE COURT: 2006-GS-15-124, two years concurrent to
8 each other and concurrent to 2006 at 124?

9 ASST. SOL. VAUX: That's correct, Your Honor.

10 THE COURT: Mr. Plexico, do you represent Mr. Mixon?

11 MR. PLEXICO: Yes, Your Honor, I do.

12 THE COURT: Has the solicitor accurately stated the
13 conditions of the plea?

14 MR. PLEXICO: Yes, Your Honor.

15 THE COURT: Madame Clerk, would you swear the
16 defendant?

17 MADAME CLERK: Would you raise your right hand the best
18 you can?

19 (Whereupon, Mr. Jason Lee Mixon is duly sworn.)

20 THE COURT: All right. I want you to give me a verbal
21 answer for the court reporter and me. That is, say yes or
22 no. Don't shake your head, don't nod your head. Say yes or
23 no, so she can take it down. Do not say uh-huh or unh-unh,
24 so I'll understand what you're telling me and the court
25 reporter will be able to accurately transcribe your answers.

1 I need you to speak up so everybody in this courtroom can
2 hear you. You can hear me, can't you?

3 MR. MIXON: Yes, sir.

4 THE COURT: I want to be able to hear you. Do you
5 understand what I've just told you?

6 MR. MIXON: Yes, sir.

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

8 MR. MIXON: Jason Lee Mixon.

9 THE COURT: Mr. Mixon, how old are you?

10 MR. MIXON: Twenty-eight.

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

12 MR. MIXON: I completed.

13 THE COURT: Completed what?

14 MR. MIXON: High school.

15 THE COURT: What kind of work do you do?

16 MR. MIXON: Cook.

17 THE COURT: Are you married?

18 MR. MIXON: No, sir.

19 THE COURT: Do you have any children?

20 MR. MIXON: Yes, sir.

21 THE COURT: How many?

22 MR. MIXON: Two.

23 THE COURT: How old?

24 MR. MIXON: Nine.

25 THE COURT: They're both nine?

1 MR. MIXON: Nine year olds.

2 THE COURT: Do you pay child support?

3 MR. MIXON: No, sir.

4 THE COURT: Do they live with you?

5 MR. MIXON: Yes, sir.

6 THE COURT: Have you ever been treated in the past for
7 drug abuse, alcohol abuse, or mental illness?

8 MR. MIXON: No, sir.

9 THE COURT: Have you taken any drugs, alcohol, or
10 anything else within the past 24 hours that might keep you
11 from understanding what you're doing in Court today?

12 MR. MIXON: No, sir.

13 THE COURT: All right. Mr. Plexico, I understand you
14 represent Mr. Mixon. Have you advised him of the charges in
15 each of these indictments, as well as the maximum penalty or
16 punishment, and its direct consequences, as well as his
17 constitutional rights?

18 MR. PLEXICO: Yes, Your Honor.

19 THE COURT: In your opinion, Mr. Plexico, does he
20 understand all the charges, the maximum penalty or
21 punishment, the direct consequences, as well as his
22 constitutional rights?

23 MR. PLEXICO: Yes, Your Honor.

24 THE COURT: And how does he indicate to you that he
25 desires to plead, guilty or not guilty?

1 MR. PLEXICO: Guilty, Your Honor.

2 THE COURT: All right. Mr. Mixon, you've heard your
3 lawyer tell me that he's advised you of the charges in these
4 two indictments handed to me by the solicitor. He's advised
5 you of the maximum penalty or punishment and its direct
6 consequences, and he's advised you of your constitutional
7 rights, and according to your attorney, you understand each
8 of the charges, the maximum penalty or punishment, the
9 direct consequences and your constitutional rights; is that
10 correct?

11 MR. MIXON: Yes, sir.

12 THE COURT: I've been handed, first of all, by the
13 solicitor, indictment 2012-GS-27-00520, the State v. Jason
14 Mixon, an indictment for possession with intent to
15 distribute marijuana, true billed by the Jasper County Grand
16 Jury. This indictment alleges that you did in Jasper County
17 on or about September 21st, 2012, that you unlawfully did
18 possess with the intent to distribute a quantity of
19 marijuana. Do you understand that charge in that
20 indictment?

21 MR. MIXON: Yes, sir.

22 THE COURT: Do you understand that if I accept your
23 plea to that charge, that I could sentence you to a term of
24 imprisonment of up to five years?

25 MR. MIXON: Yes, sir.

1 THE COURT: Next, I've been handed indictment 2013-GS-
2 27-00158, the State v. Jason Mixon. This is an indictment
3 for contraband possession by a prisoner; true billed by the
4 Jasper County Grand Jury. This indictment alleges that you
5 did in Jasper County, on or about September 21st, 2012, that
6 you, Jason Mixon, did possess marijuana, a substance
7 declared contraband, or that you did furnish or distribute
8 contraband to another prisoner at the Ridgeland Correctional
9 Institution. Said marijuana having been declared contraband
10 at the Ridgeland Correctional Institute by the director and
11 notice of such having been displayed in a conspicuous place
12 available and visible to visitors and prisoners. Do you
13 understand that charge in that indictment for possession of
14 contraband by a prisoner?

15 MR. MIXON: Yes, sir.

16 THE COURT: Do you understand if I accept your plea to
17 that charge, I can sentence you to a maximum term of
18 imprisonment of up to 10 years?

19 MR. MIXON: Yes, sir.

20 THE COURT: Any other direct consequences of the plea
21 in which counsel for the State is aware?

22 ASST. SOL. VAUX: No, Your Honor, except for the fact
23 that the drugs, they are enhanced, Judge.

24 THE COURT: You understand if you are to be convicted
25 of a drug charge in the future, you could face greater or

1 more enhanced penalties?

2 MR. MIXON: Yes, sir.

3 THE COURT: Any other direct consequences of the plea
4 in which counsel for the defendant is aware?

5 MR. PLEXICO: None, Your Honor.

6 THE COURT: Understanding each of the charges against
7 you, Mr. Mixon, understanding the maximum penalty or
8 punishment and its direct consequences, I ask you, now, how
9 do you wish to plead, guilty or not guilty?

10 MR. MIXON: Guilty.

11 THE COURT: Do you understand by pleading guilty that
12 you're giving up your constitutional right to remain silent?

13 MR. MIXON: Yes, sir.

14 THE COURT: Do you understand by pleading guilty that
15 you're giving up your constitutional right to a trial by
16 jury?

17 MR. MIXON: Yes, sir.

18 THE COURT: Do you understand if you had a jury trial
19 you could have the right to confront any witnesses or
20 evidence which the State may have against you and if you had
21 a jury trial the State would be required and have the burden
22 of proving your guilt beyond a reasonable doubt and if you
23 had a jury trial, you could put up any witnesses or evidence
24 in your defense if you so chose. Do you understand you have
25 each of those rights as to a jury trial?

1 MR. MIXON: Yes, sir.

2 THE COURT: Understanding your rights as to a jury
3 trial, do you now want a jury trial or do you wish to plead
4 guilty?

5 MR. MIXON: Plead guilty.

6 THE COURT: You heard the solicitor tell me at the
7 onset of this hearing, and it was confirmed to me by your
8 attorney, Mr. Plexico, there is a recommendation in regards
9 to your plea. The recommendation was published to me as a
10 sentence of two years to run concurrent with the sentence
11 you're presently serving in 2006-GS-15-124, and concurrent
12 to each of these charges; is that your understanding of the
13 recommendation?

14 MR. MIXON: Yes, sir.

15 THE COURT: You understand I'm not bound by a
16 recommendation. If I accept your plea, I can sentence you
17 to a maximum amount of time I advised you these offenses
18 carried consecutively; do you understand that?

19 MR. MIXON: Yes, sir.

20 THE COURT: Other than the recommendations I've placed
21 on the record of this hearing, has anybody promised you
22 anything in order to get you to plead guilty?

23 MR. MIXON: No, sir.

24 THE COURT: Has anybody threatened you in any manner in
25 order to try to get you to plead guilty?

1 MR. MIXON: No, sir.

2 THE COURT: Are you fully satisfied with the services
3 of your attorney?

4 MR. MIXON: Yes, sir.

5 THE COURT: Has he done everything on your behalf that
6 you feel like he should or could have done?

7 MR. MIXON: Yes, sir.

8 THE COURT: Have you had enough time to talk to your
9 lawyer? MR. MIXON: Yes, sir.

10 THE COURT: Have you understood all of your talks with
11 your lawyer?

12 MR. MIXON: Yes, sir.

13 THE COURT: Are you fully satisfied with the services
14 of your attorney?

15 MR. MIXON: Yes, sir.

16 THE COURT: Do you have any complaints against any law
17 enforcement officers, court officials, or members of the
18 Solicitor's Office?

19 MR. MIXON: No, sir.

20 THE COURT: Are you pleading guilty to these offenses
21 of your own free will and your own accord?

22 MR. MIXON: Yes, sir.

23 THE COURT: Are you, in fact, guilty of the possession
24 of marijuana with the intent to distribute in Jasper County
25 on or about September 21st, 2012?

1 MR. MIXON: Yes, sir.

2 THE COURT: Are you, in fact, guilty of possession of
3 contraband by a prisoner at the Ridgeland Correctional
4 Institute on or about September 21st, 2012?

5 MR. MIXON: Yes, sir.

6 THE COURT: Solicitor.

7 ASST. SOL. VAUX: Thank you, Your Honor. This incident
8 did occur at the Ridgeland Correctional Institute here in
9 Jasper County. Officers were moving some inmates. They saw
10 the defendant pass a small package wrapped in white paper to
11 another inmate. They approached the other inmate and told
12 them to give what was in his hand; he did, and inside the
13 package was discovered a large quantity of marijuana. It
14 was sent off for testing and came back as 40.4 grams of
15 marijuana. His prior record: in 2001, hit and run with
16 accident damage, driving without a license. In 2002,
17 driving without a license. 2003, malicious injury to
18 personal property and fraud checks, times 28. In 2007, burg
19 first, burg second, nonviolent, ABHAN, times two, and armed
20 robbery, which is what he is currently in on for a 10-year
21 sentence.

22 THE COURT: Very well. I find that there is a
23 sufficient factual basis for the plea. I find, Mr. Mixon,
24 that your decision to plead guilty is freely, voluntarily,
25 knowingly and intelligently made. You've had the advice and

1 counsel of a competent attorney with whom you tell me you
2 are completely satisfied. I will accept your plea of
3 guilty. Mr. Plexico?

4 MR. PLEXICO: Thank you, Your Honor. Your Honor, I
5 would like to be appointed on direct indictment 2013 ending
6 in 158.

7 THE COURT: You are appointed, Mr. Plexico.

8 MR. PLEXICO: Thank you, Your Honor.

9 THE COURT: That would be the contraband indictment?

10 MR. PLEXICO: Yes, Your Honor. My client has been very
11 up front about this charge, Judge. He's been in there a
12 long time. We've had a long talk about this. He's about to
13 come out and doesn't need more complicating his life now.
14 He's going to have to go out and build a life when he gets
15 back. We are just grateful for the plea negotiations ---

16 THE COURT: They are not negotiations, Mr. Plexico;
17 it's a recommendation.

18 MR. PLEXICO: The recommendation from the State, Judge.
19 Your Honor, it seems like he is going to be able to adjust
20 well. When I talked with him, he was polite, and seems to
21 be an intelligent guy. His grades are higher than certainly
22 my average client when you look at his abilities as has been
23 tested at SCDC, Judge. I think he has the skills to make
24 it; I just hope he has the change to when he gets out.
25 Thank you, Your Honor.

1 THE COURT: Anything you want to tell me prior to
2 sentencing, Mr. Mixon?

3 MR. MIXON: No, sir.

4 THE COURT: On indictment 2012-GS-27-00520 and
5 indictment 2013-GS-27-00158, the sentence on each of them is
6 the defendant is committed to the State Department of
7 Corrections for a term of two years. They will run
8 concurrent to each other. They will also be concurrent to
9 2006-GS-15-124. Thank you very much.

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FORM 5

STATE OF SOUTH CAROLINA)
)
 County of Tripel)
)
Jasen Lee Mixon # 300006)
 Full name and prison number (if any) of Applicant)
)
 v.)
)
 State of South Carolina)
)
)
)

IN THE COURT OF COMMON PLEAS

2013-CP-27-572

2013 NOV -7 AM 9:17
 MARGARET POSTNICK
 CLERK OF COURT
 JASPER COUNTY SC

FILED

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Kershaw Correctional Inst

2. Name and location of Court which imposed sentence Tripel county
General sessions court

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

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2013GS2700158 prison's / convicted
 - (b) 2012A272020114 P.W. I

- (c) _____
- 5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) April, 16, 2013 2 years concurrent on each charge
 - (b) _____
 - (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?
 _____ ~~YES~~ NO

- 8. If you answered "yes" to (7), list:
 - (a) the name of each Court to which you appealed:
 - i. _____
 - ii. N/A
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. _____
 - ii. N/A
 - iii. _____
 - (c) the date of each such result:
 - i. _____
 - ii. N/A
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. _____
 - ii. N/A
 - iii. _____

- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) Doing so now in past conviction since I took plea..
 - (b) _____

(c) _____

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

(a) Ineffective assistance counsel

(b) _____

(c) _____

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

(a) Attorney failed to conduct a pre-trial

(b) investigation, which would have resulted in a different

(c) outcome if it was conducted

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

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

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO

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

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

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

(a) the specific nature thereof:

i. _____

ii. _____

iii. N/A

iv. _____

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

i. _____

ii. N/A

iii. _____

iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____ *N/A*
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____ *N/A*
- iii. _____
- iv. _____

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

- i. _____
- ii. _____ *N/A*
- iii. _____
- iv. _____

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

NO

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

(a) which grounds have been presented:

- i. _____
- ii. _____ *N/A*
- iii. _____

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

- i. _____
- ii. _____ *N/A*
- iii. _____

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) _____ *v/H*
- (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? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

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

- (a) the name and address of each attorney who represented you:
 - i. Steven Plexico
Jasper county public defender's office
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. plea arraignment
 - ii. _____
 - iii. _____

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

case be over-ruled and re-heard

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

NO

STATE OF SOUTH CAROLINA)
County of Jasper)

VERIFICATION

I, Jason Lee Nixon, 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.

Jason Lee Nixon

SWORN to and subscribed before me this 16 day of October, 2013.

Catherine A. Amador (L.S.)
Notary Public

My Commission Expires: December 22, 2018

FILED
2013 NOV - 7 AM 9:17
MARGARET BOSTICK
CLERK OF COURT
JASPER COUNTY SC

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

I, Jason Lee Nixon, 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.

Jason Lee Nixon
Applicant

SWORN or affirmed to and subscribed before me this
16 day of October, 2013.

Catherine A. Amador
Notary Public

My Commission Expires ~~My Commission Expires~~ October 22, 2018

2013 NOV -7 AM 9: 17
MARGARET BOSCHON
CLERK OF COURT
JASPER COUNTY, SC

FILED

STATE OF SOUTH CAROLINA)
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 COUNTY OF JASPER)
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)
 Jason Lee Mixon, #300006,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS

2013-CP-27-0572

RETURN

The Respondent, making its Return to the application for post-conviction relief (PCR) filed November 7, 2013, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Jasper County Clerk of Court. The Applicant was indicted at the March 2013 term of the Jasper County Grand Jury for possession of contraband by a prisoner (2013-GS-27-0158) and possession with intent to distribute marijuana (2012-GS-27-0114). The Applicant was represented by Steve Plexico, Esquire.

On April 16, 2013, the Applicant pled guilty as indicted. The Applicant was sentenced by the Honorable Perry M. Buckner, III, to confinement for a period of two years on both charges. The sentences are to be served concurrently to each other and to the Applicant's sentences for Colleton County charges. The Applicant did not appeal his sentences or convictions.

Attached herewith and incorporated herein are the records of the Jasper County Clerk of Court regarding the subject convictions, the guilty plea transcript, and the Applicant's records

from the South Carolina Department of Corrections. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. Ineffective assistance of counsel.
 - a. Counsel failed to conduct a pretrial investigation.

III.

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

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing

Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

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

IV.

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

V.

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

[Signature on the following page.]

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

ASHLEIGH R. WILSON
Assistant Attorney General

By: Al. R. W.S.
ATTORNEYS FOR RESPONDENT

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

May 29, 2014.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF JASPER)
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 JASON LEE MIXON, #300006)
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 Applicant,)
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 vs)
)
 STATE OF SOUTH CAROLINA,)
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)
 Respondent.)
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IN THE COURT OF COMMON PLEAS

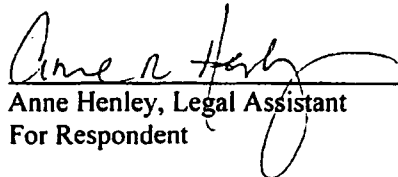
2013-CP-27-0572

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the abovecaptioned 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:

Tristan M. Shaffer
4701 Oleander Drive
Myrtle Beach, SC 29577

DATED this 30th day of May, 2014



 Anne Henley, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA
14TH JUDICIAL CIRCUIT
COUNTY OF JASPER
COURT OF COMMON PLEAS
CASE NUMBER 2013-CP-27-00572

JASON LEE MIXON

APPLICANT

VERSUS

OCTOBER 30, 2014

TRANSCRIPT OF POST-CONVICTION RELIEF HEARING

BEAUFORT, SOUTH CAROLINA

STATE OF SOUTH CAROLINA

RESPONDENT

B E F O R E:

HON. EDGAR W. DICKSON, JUDGE

WANDA H. ROWE, CVR-M
OFFICIAL COURT REPORTER

APPEARANCES

ON BEHALF OF APPLICANT
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10-30-14 MIXON PCR

1 BEGINNING 5:35 P.M.

2 BY THE COURT:

3 MS. WILSON: Your Honor, this is Jason Lee Mixon
4 versus the State of South Carolina. And that is Docket
5 Number 2013-CP-27-0572. And this is the State of South
6 -- this is Ashleigh Wilson representing the State of
7 South Carolina.

8 Mr. Mixon was indicted in March 2013 for one count
9 of possession of contraband by a prisoner and possession
10 of -- possession with intent to distribute marijuana.
11 And those are Indictment Numbers -- well, the possession
12 of contraband by a prisoner was Indictment Number 2013-
13 GS-27-158. The other was Indictment Number 2012-GS-27-
14 114. Mr. Mixon pled guilty to these charges on April
15 16, 2013. He pled guilty before Judge Buckner. He was
16 represented by Steve Plexico. And he was sentenced to a
17 two-year sentence. And I believe that they were run
18 concurrent with other charges, other Colleton County
19 charges that Mr. Mixon was already sentenced on. It's
20 my understanding that he has maxed out on his sentence
21 with these charges, and is serving currently in SCDC on
22 other charges.

23 He filed his application for post-conviction relief
24 on November 7, 2013. And the State filed a return. And
25 he raises a claim of ineffective assistance of counsel.

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1 And the State would just ask that he -- he's here,
2 represented by Mr. Shaffer. We just ask that Mr.
3 Shaffer enumerate the allegations Mr. Mixon is going to
4 go forward on today, for the record.

5 THE COURT: Okay. And Mr. Shaffer, he's maxed out
6 of these sentences?

7 MR. SHAFFER: Yes, your Honor.

8 THE COURT: So, he wants a chance to go back and
9 see if he can get more time?

10 MR. SHAFFER: Yes, your Honor. I explain to him
11 that, in my opinion, it's not a good idea to go forward
12 with this PCR. He has decided that he wants to go
13 forward, regardless. We've had a couple of
14 conversations about it, but just for the record, I have
15 to explain to him that it is -- I don't believe it's in
16 his best interests to go forward.

17 THE COURT: How much more time is he facing?
18 Fifteen?

19 MR. SHAFFER: Yes, your Honor. I believe -- I
20 believe 10, and then --

21 MS. WILSON: I have he's maxed out on the one he's
22 serving now, is February 14, 2015. That's what was on
23 the SCDC record.

24 THE COURT: Okay.

25 MR. SHAFFER: He pled to -- he pled to, I believe,

1 the contraband. Contraband first, and then, the PWID.

2 MS. WILSON: Up to five.

3 MR. SHAFFER: Five? So.

4 THE COURT: So, you got two years on each one,
5 concurrent?

6 MR. SHAFFER: Yes, your Honor.

7 THE COURT: Okay.

8 MS. WILSON: Well, your Honor, just at the State's
9 -- just at the State's request, would you go over this
10 with Mr. Mixon on the record, and advise him of the
11 remedy for PCR? Because, also, I was trying to figure
12 out what remedy he requested. But, anyway. So, if you
13 would please do that at the State's request on the
14 record.

15 THE COURT: Okay. And Mr. Shaffer, I'm sure you've
16 explained to him that his remedy, he would go back for a
17 new trial.

18 MR. SHAFFER: Yes, your Honor, I have.

19 JASON LEE MIXON

20 EXAMINATION, BY THE COURT:

21 THE COURT: Okay. And Mr. Mixon, you mind to stand
22 up for a second, please, sir. Do you mind raising your
23 right hand. Do you swear to tell the truth, the whole
24 truth, and nothing but the truth, so help you God?

25 A Yes, sir.

1 THE COURT: Okay. And Mr. Mixon, I thought I saw
2 you come in here on crutches.

3 A Yeah.

4 THE COURT: Okay.

5 A I have a brace on.

6 THE COURT: You've got a brace on? Okay. Mr.
7 Mixon, you understand that -- you have talked with your
8 attorney about what you win if your PCR is granted.
9 Have you not?

10 A Yes, sir.

11 THE COURT: What are you going to win?

12 A If we get it overturned?

13 THE COURT: Yeah.

14 A A new trial.

15 THE COURT: A new trial on these charges?

16 A Yes, sir.

17 THE COURT: And you understand what the actual
18 sentence is for the possession of contraband?

19 A Yes, sir.

20 THE COURT: How much?

21 A Ten years.

22 THE COURT: And you understand what the maximum
23 sentence is for possession with intent to distribute
24 marijuana is?

25 A I don't know the maximum, no.

1 THE COURT: I think it's five.

2 A All right.

3 THE COURT: Okay? So, you're facing -- now, you've
4 got a concurrent sentence of two years on this. Is that
5 correct?

6 A Yes, sir.

7 THE COURT: Okay. And so, you're facing up to 15.
8 You understand that.

9 A Yes, sir.

10 THE COURT: And you want to go forward?

11 A Yes, sir.

12 THE COURT: You want a chance to do this all over
13 again?

14 A Yes, sir.

15 THE COURT: Do you mind telling me why?

16 A It's really the evidence in the case. I had a co-
17 defendant in the case that said that the officer saw me
18 hand another inmate the contraband. He allowed me to
19 walk off, and he got the contraband from the inmate. I
20 heard about it two days later, when they charged me.
21 They took me and this inmate to a hearing, a in-house,
22 institution hearing. The inmate simply told them, I did
23 not give him nothing. It was said on record.
24 Institution found both of us guilty, and then they gave
25 us these charges. From that point, I'm supposed to max

1 out. I really go home December 1st, 30 days from now.
2 And at that point, I was so close to maxing out, I said,
3 well, the officer said he lying already; I'm not going
4 to risk going to trial. So, I told my co-defendant, I
5 said, *well, I'm going to go ahead and plea*. He said,
6 *I'm going to trial*. So, in the process of me waiting on
7 him, I went on plead. It was in my interest. I said
8 I'm going to just plea. I mean, it going to run
9 concurrent; it is what it is. I went and plead.

10 My co-defendant, he said he was going to go to
11 trial. In the process of him waiting to go to trial,
12 the investigator -- he was already under -- the
13 investigator for SCDC was already under investigation,
14 but he was still investigating cases. And came to find
15 out, he ended up getting fired for professional
16 misconduct and all types of stuff. Before --

17 THE COURT: The guy that reported you.

18 A Yeah, the guy that -- the investigator on the case.
19 So, here it is now, the solicitor, I go for a
20 disposition on the case of my co-defendant, and I get a
21 paper back saying that the solicitor said the dude --
22 the dude that got the drugs, they threw his case out,
23 because the investigating officer, he lacked
24 credibility.

25 THE COURT: Okay.

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1 A So, if he lacked credibility, how you going to try
2 me if you done fired him, and I got paperwork saying he
3 lacked credibility, and he got a record of stuff that he
4 been fired for. So, now, the individual who they got
5 the drugs on, he's scot-free.

6 THE COURT: Okay. All right. That makes sense.
7 So, you want to go back and see what happens.

8 A Yes. And I got evidence stating that the
9 investigator stood up in court under oath and lied. I
10 got the actual evidence today to show that he lied.

11 BY THE COURT:

12 THE COURT: Okay. All right.

13 MR. SHAFFER: Your Honor, there's -- the
14 allegations that we're here to raise first is that -- a
15 *Brady* violation in this case.

16 MS. WILSON: Your Honor, I'm going to object to
17 that, because, not only was it not raised in his
18 application, I don't know anything about that, because
19 if I did, I would have had the solicitor, whoever
20 prosecuted the case, here to discuss that on the State's
21 behalf.

22 MR. SHAFFER: Your Honor, I believe that we've
23 talked pretty thoroughly about what the evidence is.
24 She's had the evidence for as long as I have. You've
25 known I was trying to get the evidence.

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1 MS. WILSON: What evidence are you speaking about?

2 MR. SHAFFER: We have evidence -- okay. The
3 officer who investigated the case said that he was at
4 the prison --

5 THE COURT: You can sit down.

6 MR. SHAFFER: -- on days that he wasn't at the
7 prison. SCDC records, that document we just submitted
8 through stipulation would be the evidence of logs from
9 SCDC showing he was not present whenever he claims that
10 he was present at the facility and taking statements.
11 Those logs were never turned over. They were in
12 possession of the State. They were never turned over to
13 the Applicant or his attorney. Okay? They weren't
14 turned over until fairly recently.

15 ITEM IDENTIFIED AS EVIDENCE LOGS
16 FROM SCDC MARKED
17 APPLICANT'S EXHIBIT NUMBER 1,
18 ADMITTED AS EVIDENCE.

19 MR. SHAFFER: You know, I've made an allegation of
20 failure to investigate, as well. That's what was in the
21 original application. I have to suspect that -- or Ms.
22 Wilson knew that a *Brady* violation was coming along with
23 this, as well, if I'm saying, well, the State's in
24 possession of evidence that is exculpatory in nature,
25 and wasn't provided to him. I would have to expect that

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1 she was aware that that would be coming.

2 THE COURT: Yeah.

3 MS. WILSON: Assumption, your Honor? I'm not --

4 MR. SHAFFER: I might have told her that. I don't
5 know if I told her that, because I don't recall
6 specifically saying.

7 THE COURT: And Mr. Shaffer, you know, a number of
8 times this week, we've had this same conversation. So,
9 let me just suggest, since you do this -- , and I'm
10 assuming you're going to do it when you're off the case,
11 as well. Or you're probably not going to do it, because
12 you're tired of it?

13 MR. SHAFFER: No, your Honor, I am not. That's not
14 true. I enjoy to be doing it; just not as much.

15 THE COURT: Okay. Well, just let me just suggest,
16 I think that the best practice, whenever you continue to
17 do this, is, when you have official charges or different
18 issues on these applications, is to -- and I don't think
19 it needs to be as any more detailed than just say
20 amended application, and go, (1) *Brady* violation; (2)
21 whatever; and send it to them. I know you said the
22 emails.

23 MR. SHAFFER: Yes, your Honor.

24 THE COURT: I know you all talk.

25 MR. SHAFFER: Yes, your Honor.

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1 THE COURT: And I know you don't send her flowers.
2 You may.

3 THE COURT: And but, you know, we need to just make
4 it -- make sure that the record's clean. Okay?

5 MR. SHAFFER: Yes, your Honor.

6 THE COURT: All right. But I understand. The
7 document, that's the log document that's stipulated to
8 go in?

9 MR. SHAFFER: Yes, your Honor.

10 THE COURT: Have you looked at that?

11 MS. WILSON: I have looked at that, your Honor.

12 THE COURT: Okay.

13 MS. WILSON: But it's my understanding that the
14 basis of his claim is counsel's failure to investigate.
15 Not, like -- so, basically, counsel's failure to go to
16 SCDC and get the records, as opposed to the State's
17 failure to turn it over. Because, for one, it's not
18 exculpatory, but that's just the State's position.

19 THE COURT: Okay.

20 MS. WILSON: So, if he intends to pursue that, you
21 know.

22 THE COURT: No, but I mean, if he's proceeding on
23 the failure to investigate, and he didn't get it, you
24 know, I mean, I -- we'll just -- I'll note your
25 objection, on the record. I want to go forward and hear

1 it, because, you know, I'm intrigued.

2 MS. WILSON: And also, your Honor, just request
3 opportunity to present additional testimony from the
4 solicitor's office, if needed.

5 THE COURT: If, at the close of Mr. Shaffer's case,
6 if Mr. Plexico can't answer all the questions, and you
7 need somebody else, we will continue it to do that.

8 MS. WILSON: Thank you, your Honor.

9 THE COURT: Okay. Thank you.

10 MR. SHAFFER: Thank you, your Honor.

11 THE COURT: Mr. Shaffer.

12 MR. SHAFFER: Applicant would call Mr. Mixon to the
13 stand.

14 THE COURT: Okay. And Mr. Mixon, remember, you're
15 under oath already. I've already sworn you in.

16 JASON MIXON: Yes, sir.

17 THE COURT: Okay. And you've already answered a
18 number of my questions, so I know Mr. Shaffer is not
19 going to repeat those questions.

20 MR. SHAFFER: No, your Honor. And I --

21 THE COURT: I knew you wouldn't. Okay. Thank you,
22 sir.

23 JASON MIXON

24 DIRECT EXAMINATION, BY MR. SHAFFER:

25 Q Mr. Mixon, you pled guilty to these charges and

1 received two years, correct?

2 A Yes, sir.

3 Q Why did you plead guilty?

4 A I pled guilty because I was close to going home,
5 and didn't want to take the chance of taking it to
6 trial. I mean, getting more time. And also, already
7 lied. I mean. And it's his word against my word. And
8 it was clearly stated by Mr. Plexico, who you think
9 they're going to believe? a officer or a convicted felon
10 already doing time.

11 Q Okay. So, you pled guilty because you thought that
12 the jury would have believed the officer over you.

13 A Yes, sir.

14 Q Okay. And if you could, were you aware of the fact
15 that -- or did you have any sort of proof of the fact
16 that the investigator who came to talk to you was not
17 present the day he claims that he talked you?

18 A I had all -- he never talked to me. That's how I
19 know that was a lie, flat out. He stated in preliminary
20 hearing that he spoke with me and my co-defendant on the
21 23rd. I had never spoke to him, never seen him, until I
22 got in court and he made -- made that statement. So,
23 when I got the motion, and I saw that document stating
24 that he had spoke with me, I mean, I knew that was a
25 lie.

1 Q Okay. Did you tell Mr. Plexico it was a lie?

2 A I told Mr. Plexico in the preliminary hearing, and
3 his exact words were: *be quiet, you worrying about the*
4 *wrong thing. He said that, you don't need to be*
5 *worrying about the investigator; you need to be worried*
6 *about the officer. But I'm telling him, but he's*
7 *standing up there lying. He's like, don't worry about*
8 *it. He said, that should be the least of my worries.*
9 Those was his exact words.

10 Q Okay. And had you known that the investigator
11 lied, would you have -- if you could have proved that he
12 lied, would you have gone to trial, or would you have
13 pled guilty?

14 A I would have went forward, being that I knew that
15 he was lying. If an investigation was done, I could
16 have got those records, I mean, I clearly would have
17 went forward.

18 Q Okay. And you've seen Applicant's Exhibit 1 at
19 this point.

20 A Yes, sir.

21 Q Is that what you were talking about, those records?

22 A Yes, sir.

23 Q Okay. So, you're saying that, if you had received
24 Applicant's Exhibit 1, you would have gone to trial,
25 instead of pleading guilty.

1 A That, and other evidence.

2 Q Okay. And what other evidence are you referring
3 to?

4 A Ms. Wilson made a statement that -- about the *Brady*
5 violation. If anyone got the original copy of my PCR
6 amendment, that's one of my -- that was one of my
7 claims, that I had never received co-defendant's
8 statements stating that he never gave me nothing. That
9 was one of my claims in there.

10 Q Okay.

11 A Anybody got that on record, you would see that --
12 that's the evidence I'm talking about far as *Brady*. If
13 I was presented that, saying, okay, and they never gave
14 me nothing, I would have went to trial, because this is
15 the person you supposed to got the drugs from.

16 MR. SHAFFER: Okay. No further questions.

17 THE COURT: Ms. Wilson.

18 MS. WILSON: Yes, your Honor.

19 THE COURT: And remember, he was under oath when I
20 was questioning him.

21 MS. WILSON: Thank you.

22 THE COURT: So, if you want to go into that, you
23 can do that, as well.

24 MS. WILSON: Beg the Court's indulgence.

25 THE COURT: Take your time.

1 JASON MIXON

2 CROSS-EXAMINATION, BY MS. WILSON:

3 Q Mr. Mixon, so you're saying that the investigator
4 was untruthful and he didn't come visit you?

5 A Yes, ma'am.

6 Q Did you give Mr. -- who did you say the
7 investigator was? What did you say his name was?

8 A Hamar. Frederick Hamar.

9 Q And did you make any statements to Mr. Hamar?

10 A Never spoke with him.

11 MS. WILSON: Thank you.

12 EXAMINATION, BY THE COURT:

13 THE COURT: Before you answer, Investigator Hamar
14 is the one that said you gave the drugs.

15 A No. Officer D'Angelo Ford said that he saw me pass
16 a package to an individual. And the investigator, he
17 was the one that -- he investigated it. He said what
18 goes forth, what don't go forth.

19 THE COURT: Okay. But Ford is the one that was not
20 at work that day.

21 A No.

22 THE COURT: Hamar.

23 A The incident occurred on September the 21st.
24 D'Angelo Ford wrote it out. From the next process will
25 be the investigator speak to you. He made a statement

1 in court that, on the 23rd, which would have been a
2 Saturday, I believe, or a Sunday, he said that he spoke
3 with us; he spoke with me and my co-defendant, and we
4 refused to give him any statement. That's when he came
5 into play.

6 THE COURT: Okay.

7 A And he stood up at the preliminary hearing and said
8 that.

9 THE COURT: Okay. And you say he never spoke to
10 you.

11 A Yeah, he never -- I, never in my life, spoke to
12 him.

13 THE COURT: Okay.

14 A Pertaining to that incident.

15 THE COURT: Okay. All right. Mr. Shaffer.

16 MR. SHAFFER: No further questions.

17 THE COURT: Okay. Thank you, sir.

18 MS. WILSON: Ms. Wilson.

19 MS. WILSON: Yes, your Honor?

20 THE COURT: Do you have any questions as a result
21 of my questions?

22 MS. WILSON: I don't, your Honor.

23 THE COURT: Okay. Thank you, sir. You may step
24 down. Okay. Mr. Shaffer, your next witness.

25 MR. SHAFFER: Applicant would call Mr. Plexico to

1 the stand.

2 THE COURT: Mr. Plexico.

3 MADAM CLERK: Do you solemnly swear or affirm that
4 the testimony you give to the Court in this trial shall
5 be the truth, so help you God?

6 STEPHEN T. PLEXICO: Yes.

7 THE COURT: Mr. Plexico, get comfortable, please.

8 STEPHEN T. PLEXICO: Yes, sir.

9 THE COURT: Okay. And you know to speak up.

10 STEPHEN T. PLEXICO: Yes, sir.

11 THE COURT: All right. Mr. Shaffer.

12 STEPHEN T. PLEXICO

13 DIRECT EXAMINATION, BY MR. SHAFFER:

14 Q Mr. Plexico, when did you first represent Jason
15 Mixon?

16 A At the preliminary hearing, I was appointed.
17 12/11/12, we requested a preliminary hearing, filed a
18 Rule 5, as is standard in opening all our cases. He was
19 -- we had a preliminary hearing on 1/22. He was present
20 on 1/22. I interviewed him there. I have notes from an
21 interview what he wants, and what his original version
22 of the facts are before he pled guilty.

23 Q Okay. Now, when you -- or, when you were doing
24 your investigation for this case, what did you do?

25 A I get the file, and I go over the file. Here,

1 essentially, a one-witness case. C.L. Ford is
2 Correction Officer Ford. He's standing out watching the
3 guys go from one area to the other area. He says he
4 sees a white piece of paper being passed by my client to
5 D'Angelo Harrison, maybe -- I don't remember the other
6 guy's name -- to the other inmate who was charged. He
7 retrieves that, he looks at it. He goes, wow, it looks
8 like marijuana to me. Sticks it in his pocket, end of
9 his shift or something, and takes it down to contraband.
10 He turns it in.

11 At that point in time, I've got -- somewhere in
12 here, I've got a chain of custody, and I've got a report
13 to where they found 40.4 grams of marijuana, and that
14 Mr. Ford turned over the contraband that was tested and
15 came out positive, which is the basis for a possession
16 of contraband, him having it and giving it away; then,
17 retrieving it and being able to prove it; and
18 distribution of marijuana, because he took it from his
19 hand to the possession of another, being the co-
20 defendant. And that's the basis for the distribution
21 charge. And Mr. Hamar actually had precious little to
22 do with it.

23 Q Okay. And if you could, Mr. Hamar, he did become
24 involved at some point, right?

25 A He was in the chain of custody.

1 Q Okay. What else happened with Mr. Hamar?

2 A I'm not sure. He was fired. Something about a
3 closet, the lights being off, and a female employee.

4 Q Okay.

5 A I'm not certain about that.

6 Q Okay.

7 THE COURT: Lights being off on a?

8 A The lights were off. The lights were off.

9 BY MR. SHAFFER:

10 Q All right. And Mr. Hamar had -- in your
11 possession, you have a report from Mr. Hamar, indicating
12 that he came to speak with Mr. Mixon, right?

13 A Yes. It says:

14 *Mr. Mixon stated he did not wish to*
15 *make any statement.*

16 It's dated September 23rd. I think he provided the
17 State and showed me a document on regards to who signed
18 in the jail that day. But I don't know the procedure
19 for investigators signing in to, not the jail, for the
20 prison.

21 Q Okay.

22 A I don't know what procedure they have. They may
23 come in and out. They may sign in and out. I don't
24 know how much leeway they have.

25 Q Now, if you could, if you could, please, provide --

1 would you mind if I actually took your copy of that
2 statement and make it an exhibit?

3 A Sure. This is -- of course, not. This is Report
4 of Interview. It's dated September 23rd. One is for
5 Inmate Jason Mixon. The other one is for Derrick
6 Haigler (phonetic spell). And they're both -- says,
7 date transcribed -- I'm sorry, it's September 23rd, is
8 what it says. Date transcribed, I don't know when it
9 was. But it says, date, September 23rd; then, date
10 transcribed, September 23rd.

11 Q Okay.

12 A So, I assume they both were -- it is September
13 23rd, the date they were done on.

14 Q Okay. Could I have these marked Applicant's 1 and
15 2.

16 THE COURT: You mean 2 and 3?

17 MR. SHAFFER: Oh, 2 and 3. Yes, your Honor. Thank
18 you.

19 COURT REPORTER: It would be, yes, 2 and 3.

20 THE COURT: Are those the statements that your
21 office did, Mr. Plexico?

22 A No, your Honor. This was -- this is a SCDC
23 document that was provided to me in discovery that cites
24 actions by Investigator Hamar, where he attempted to
25 interview the -- the moving party in this action, Mr.

1 Mixon, and the other fellow who was charged as the co-
2 defendant.

3 Q Okay.

4 A Neither one gave a statement, so it's not a fact
5 witness. I mean, he wouldn't be pointing the finger at
6 my client, I wouldn't think what little chain of custody
7 issues, if they chose not to call him, they could
8 probably, as the way the law is now, not being an
9 essential part of the chain of custody, probably, most
10 judges would have not -- even with the new ruling, would
11 not have a problem with that.

12 Q Okay.

13 A I mean, it's like I took Bin A to Bin B, or
14 whatever.

15 COURT REPORTER: I'm sorry. I took it from?

16 A Bin A to Bin B. I mean, you know, you want a whole
17 chain, but it doesn't have to be complete. It has to be
18 reasonable. I mean, they could have gone forward, even
19 without. If that makes sense.

20 THE COURT: Mr. Shaffer, which one of those applies
21 to the Applicant, 2 or 3?

22 MR. SHAFFER: 3, your Honor.

23 THE COURT: 3 is the Applicant?

24 MR. SHAFFER: Yes, your Honor.

25 THE COURT: And 2 is for the co-defendant?

1 MR. SHAFFER: Yes, your Honor.

2 THE COURT: And Ms. Wilson, you've had an
3 opportunity to view those?

4 MS. WILSON: I did, just now, your Honor.

5 THE COURT: And there's no objection?

6 MS. WILSON: No objection, your Honor.

7 MR. SHAFFER: Thank you.

8 THE COURT: They are both in evidence without
9 objection.

10 MR. SHAFFER: Thank you, your Honor.

11 DOCUMENT IDENTIFIED AS STATEMENT
12 OF DERRICK CO-DEFENDANT MARKED
13 APPLICANT'S EXHIBIT NUMBER 2,
14 ADMITTED AS EVIDENCE.

15 DOCUMENT IDENTIFIED AS STATEMENT
16 OF JASON LEE MIXON MARKED
17 APPLICANT'S EXHIBIT NUMBER 3,
18 ADMITTED AS EVIDENCE.

19 THE COURT: Okay.

20 BY MR. SHAFFER:

21 Q And you've had a chance to review Applicant's
22 Exhibit 1, correct?

23 A Was that --

24 Q SCDC.

25 A I glanced over it. I made some notes on the one

1 that I had. I mean, I'm certain yours is the same as
2 the one you gave me.

3 Q I'm showing you what's been marked Applicant's --
4 or what's in evidence as Applicant's 1.

5 A Yes. This is -- I glanced over this, yes.

6 Q Okay.

7 A And made a few marks on some things that I
8 remember.

9 Q Was that document provided to you in discovery?

10 A No.

11 Q Okay. And does that document indicate that Mr.
12 Hamar was present at Ridgeland Correctional Institution
13 on the 23rd?

14 A I haven't scrutinized the names, but I'm sure you
15 have scrutinized them, and if you represent that as a
16 member of the Bar of the Court, I wouldn't argue with
17 you. No idea. I don't see his name on it.

18 A But it does indicate he is -- if I told you that it
19 indicated he was present on the 21st and the 15th of the
20 following month -- or the 21st of September, and then
21 October 15th, you wouldn't disagree with that, would
22 you?

23 A No. No, I would not.

24 MR. SHAFFER: No further questions.

25 THE COURT: Ms. Wilson.

1 MS. WILSON: Briefly, your Honor.

2 THE COURT: Okay.

3 STEPHEN T. PLEXICO

4 CROSS-EXAMINATION, BY MS. WILSON:

5 Q You would agree, Mr. Plexico, that Mr. Hamar's
6 visit to the prison was the basis of Mr. Mixon's
7 charges. Is that correct?

8 A No, it's not the basis of his charges. Mr. Hamar
9 had nothing to do with the case, really, at all, because
10 my client didn't 'fess up about anything. Nor did the
11 co-defendant in regards to Mr. Hamar. So, the entire
12 case rested on a C.O., Correctional Officer Ford, and
13 that would have risen or fallen on -- upon the testimony
14 of Ford and the officer's SLED report. I mean, you
15 know, he just didn't have anything to do with the case
16 of any significance.

17 Q Mr. Mixon testified that the incident took -- the
18 incident which he pled guilty to took place, I think he
19 said, on September 21st? Does that sound correct? Do
20 you recall the date of the incident?

21 A No, I have -- there are so many numbers.
22 9/21/2012.

23 Q Okay.

24 A Is the date that he's charged. The warrant was
25 signed about a month and a half later.

1 Q Okay.

2 A That's -- I'm sorry. That's the date of activity
3 in the warrant.

4 Q Okay.

5 A Dated on September 21st.

6 Q All right. And do you have a copy of this record
7 from SCDC up there with you?

8 A I have an affidavit of authenticity from Tevis
9 Shealy. First one here says, *Resource director retained*
10 *entry, employee entry logs, RCI, Ridgeland*
11 *Correctional Institute, September 21st, September 23rd,*
12 *October 15th, all being in 2012.*

13 Q What was attached -- what was attached to that
14 email listed out that had the printout of all the
15 visits?

16 A Apparently, yes.

17 Q Okay. Could you look on the second page? It's
18 listed as Page -- I don't know. It's Page 2 on the
19 printout. Do you see that?

20 A Yes, I see Line 21 here.

21 Q Okay. And could you -- by looking at the right
22 side of where the names are, can you see if Officer Ford
23 was present on the jail at that day?

24 A I've already looked, and I saw that he was present
25 on one day. Let me -- there's D'Angelo. Ford came in

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1 at 6:44:25; left at 6:08:50. He came in at 9/21, looks
2 like, 9/21/12, at 6:44:25 seconds, and apparently left
3 at 9/22, the following day, at 6:08:58.

4 Q Okay. So, the officer who -- who was -- who saw
5 Mr. Mixon pass the drugs was present on the day of the
6 incident.

7 A Yes. If he's -- first name is D'Angelo Ford, which
8 I can tell you in a second. Sorry.

9 Q Thank you.

10 A Yes, it is Sergeant D'Angelo.

11 Q Okay.

12 MS. WILSON: Nothing further.

13 BY THE COURT:

14 THE COURT: Anything on re-direct?

15 MR. SHAFFER: No further questions, your Honor.

16 THE COURT: All right. You may step down. Thank
17 you, sir. All right. Mr. Shaffer.

18 MR. SHAFFER: Yes, your Honor.

19 THE COURT: Any other witnesses?

20 MR. SHAFFER: No further -- nothing further, your
21 Honor.

22 THE COURT: Okay. Ms. Wilson.

23 MS. WILSON: Your Honor, just briefly, for one
24 minute, we would like to re-call Mr. Plexico. I'm sorry
25 he got all the way down, but. Sorry.

1 THE COURT: Okay.

2 MS. WILSON: Sorry.

3 THE COURT: That's okay. You're still under oath,
4 Mr. Plexico.

5 STEPHEN T. PLEXICO: Yes, sir.

6 THE COURT: All right.

7 MS. WILSON: Thank you, your Honor. May it please
8 the Court?

9 THE COURT: Yes, ma'am.

10 STEPHEN T. PLEXICO

11 RE-CROSS-EXAMINATION, BY MS. WILSON:

12 Q Mr. Plexico, did you think that the SCDC records,
13 these visitation records presented by Mr. Mixon, were
14 exculpatory?

15 A No. They don't have anything to do with the case.
16 He didn't make any statements to him. He's not a
17 relevant witness as to what actually happened here and
18 the facts.

19 MR. SHAFFER: I object, your Honor.

20 THE COURT: Hold it.

21 MR. SHAFFER: Your Honor, really, that's a legal
22 question for the judge to answer. It's not really a
23 question for the --

24 MS. WILSON: Well, your Honor, it's --

25 THE COURT: Well, you're asking whether he was

1 ineffective as counsel. You've given him these to look
2 at, and it's got to be his opinion about whether or not
3 these would help him in trial or not.

4 MR. SHAFFER: And yes, your Honor, it probably
5 would help him rele -- it would be relevant to the
6 second issue, your Honor.

7 THE COURT: Okay. Thank you, sir. Go ahead, Mr.
8 Plexico. I'm sorry.

9 BY MS. WILSON:

10 A I just -- I don't see the -- how it would
11 determine any factual issue in the case as to whether or
12 not he passed those drugs, which they clearly show are
13 drugs. The question is, do you believe Officer -- or
14 Sergeant Ford that he saw that substance being passed by
15 the -- Mr. Mixon to his co-defendant. And what -- he
16 just didn't have anything to add to that. I mean,
17 there's -- my client made no statement to Investigator
18 Hamar.

19 MS. WILSON: Okay. Thank you, your Honor.

20 THE COURT: Anything else? On the statement.
21 Sorry.

22 STEPHEN T. PLEXICO

23 RE-DIRECT EXAMINATION, BY MR. SHAFFER:

24 Q So, it's your testimony that, when the lead
25 investigator lies about something that happened in the

1 case, it's not relevant or it's not material or it's not
2 July 4, 2015a *Brady* -- it's not a *Brady* violation for
3 them not to turn it over to you.

4 A That's a very general statement. Here, we don't
5 have him here. We don't have SCDC here to explore when
6 they transcribed it. Did she put the date of
7 transcription as the date of the interview? We know
8 from the document that you put into the record, I
9 believe it shows that Hamar was there on the 21st. This
10 is alleged to have happened on the 21st. I don't know
11 when they interviewed him, how quickly they interviewed
12 him. I know that the date that's purported on the
13 document and the date of transcription is the same.

14 If I went in and showed that he had made up his
15 attempt -- say he had some kind of work performance
16 problem, and he had made up his attempt to even had the
17 interview, okay, we go to trial.

18 Now, Mr. -- they have their normal, what I would
19 call the case I always thought they had. At this point
20 in time, am I going to call Mr. Hamar up to say that you
21 lied about saying that my client didn't admit this or
22 didn't say anything? I would look like an utter fool.
23 In this particular fact situation, there is no possible
24 relevance of what Hamar says that my client didn't say,
25 because he didn't say anything. It just doesn't help my

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1 client. It -- just -- I don't know how to answer.

2 COURT REPORTER: I'm sorry, *just -- I don't?*

3 A I don't know how to answer. I think I covered all
4 of it. You just -- just wouldn't do that. I mean, then
5 you lose your closing argument and your last argument to
6 the jury after doing something as silly and foolish as
7 that.

8 Q If it had gone to trial, should it have been
9 disclosed, in your opinion?

10 THE COURT: Repeat that question. I didn't
11 understand.

12 Q If it had gone to trial, should it have been
13 disclosed to you?

14 A Yes, everything should be disclosed to -- disclosed
15 to the defense lawyer, and that's -- that's just --
16 that's *Brady*, and that's all the responsibility, so duh,
17 duh, duh, duh, that's it.

18 MR. SHAFFER: No more questions.

19 BY THE COURT:

20 THE COURT: Anything on re-direct?

21 MS. WILSON: Nothing on re-direct.

22 THE COURT: We'll give you one more shot to get
23 down.

24 Ms. Wilson, anything?

25 MS. WILSON: Nothing from the State, your Honor.

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1 THE COURT: All right. What I will do, let me go
2 back, I'll read the transcript, review these documents,
3 and get back with you all about my decision.

4 MR. SHAFFER: Thank you, your Honor.

5 THE COURT: Thank you.

END PROCEEDING 5:19 P.M.

10-30-14 MIXON PCR

CERTIFICATE OF REPORTER

OCTOBER 30, 2014 TRANSCRIPT OF
POST-CONVICTION RELIEF HEARING

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

I, Wanda H. Rowe, CVR-M, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing October 30, 2014, Transcript of Post-conviction Relief Hearing is a true, accurate, and complete record of the proceedings had and exhibits admitted on said date, in the case of Jason Lee Mixon versus State of South Carolina, Beaufort County, South Carolina, Court of Common Pleas, Case Number 2013-CP-27-00572; that I am of neither kin, counsel, nor interest to any party hereto.

THIS CERTIFICATE OF REPORTER CONTAINING MY ORIGINAL SIGNATURE IS ATTACHED TO THIS COPY OF THIS TRANSCRIPT. PURSUANT TO SCACR 607, REQUESTS FOR COPIES OF THIS TRANSCRIPT MUST BE MADE TO THE COURT REPORTER. UNAUTHORIZED COPYING OF THIS TRANSCRIPT IS PROHIBITED.

Witness my signature September 24, 2015.


S/ Wanda H. Rowe
Wanda H. Rowe, CVR-M
Official Court Reporter

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF SOUTH CAROLINA

Jason Lee Mixon)	2013-CP-27-0572
)	
Plaintiff,)	
)	
vs.)	
)	
State of South Carolina)	AFFIDAVIT OF AUTHENTICITY
)	Travis Shealy
Defendants.)	
)	
)	

PERSONALLY APPEARED BEFORE ME, Travis Shealy, who being first duly sworn, deposes and says:

1. That I am employed as Division Director for Resource and Information Management at the South Carolina Department of Corrections.
2. That as a result of my duties and responsibilities, I have obtained the employee entry logs of Ridgeland Correctional Institution for the following dates: September 21, 2012, September 23, 2012 and October 15, 2012. I have attached hereto a copy of the employee entry logs as Exhibit "1," which is attached and incorporated by reference.

Travis Shealy

 Travis Shealy

Sworn to and Subscribed before me
 This 29th day of October 2014:
M. D. [Signature]
 NOTARY PUBLIC FOR SOUTH CAROLINA
 My Commission Expires: March 12, 2024



Dayne Haile (C027588)

From: Dayne Haile (C027588)
Sent: Monday, October 27, 2014 9:01 AM
To: Daniel Crooks III (C055212)
Subject: FW: Jason Lee Mixon # 300006 v. State of South Carolina

See below for response to Mixon subpoena. Do you want to produce to Axelrod and AG's office?

N. Dayne Haile
 South Carolina Department of Corrections Office of General Counsel Post Office Box 21787 Columbia, South Carolina
 29221-1787
 (803)896-2380 (Office)
 (803)896-1766 (Fax)

-----Original Message-----

From: Angela Patterson (Angela)
Sent: Friday, October 24, 2014 8:20 AM
To: Dayne Haile (C027588)
Cc: Trevis Shealy (Trevis); Joey Moss (Moss); Todd Williamson (WilTodd)
Subject: Jason Lee Mixon # 300006 v. State of South Carolina

NAME	LOC	DATE IN	TIME IN	DATE OUT	TIME OUT
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YOUNG JAMES A	0442	09/20/12	17:50:32	09/21/12	06:46:41
DRAPER SEAN P	0442	09/20/12	17:53:20	09/21/12	06:43:41
MYRICK GLYNN A	0442	09/20/12	17:54:46	09/21/12	06:53:48
JOHNSON JR LEONARD S	0442	09/20/12	17:57:59	09/21/12	06:52:02
JENKINS TYNIKA T	0442	09/20/12	17:58:00	09/21/12	06:49:55
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SCOTT MARION L	0442 09/21/12 18:00:34	09/22/12 06:58:23
CAMPBELL CONNIE R	0442 09/21/12 18:00:40	09/22/12 06:13:31
HENDERSON CASEY L	0442 09/21/12 18:01:03	09/22/12 06:47:05
COOK MICHAEL A	0442 09/21/12 18:02:41	09/21/12 18:02:47
CHISHOLM KATHY J	0442 09/21/12 18:06:39	09/22/12 06:06:52
SALTERS MERLIN L	0442 09/21/12 18:07:18	09/22/12 06:57:44
BROWN CONNIE L	0442 09/21/12 18:07:45	09/21/12 18:07:47
MOSS MARY J	0442 09/21/12 19:42:15	09/21/12 21:33:36
HILL JANEAN	0442 09/21/12 20:59:46	09/22/12 06:39:41
JARRETT MERLINE	0442 09/22/12 06:43:04	09/23/12 06:15:56
HOLMES PATRICIA	0442 09/22/12 17:47:28	09/23/12 06:36:21
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JACKSON VALERIE	0442 09/22/12 17:53:09	09/23/12 06:56:30
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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DIVISION OF INVESTIGATIONS

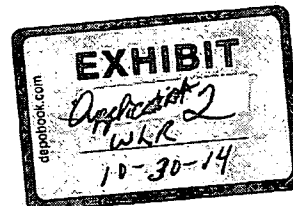
REPORT OF INTERVIEW

CASE NUMBER: 20-3222
INTERVIEWEE: Inmate Derrick Haigler, SCDC #210521, B/M
DATE: September 23, 2012
LOCATION: Ridgeland Correctional Institution
INVESTIGATOR: Fred Hamer
DATE TRANSCRIBED: September 23, 2012

Inmate Derrick Haigler, SCDC #210521, Ridgeland Correctional Institution, was advised of the identity of the interviewing Investigator and the nature of the inquiry. He then provided the following information:

Inmate Haigler stated that he did not wish to make any statement.

Inmate Haigler stated that he did not have any further information.



**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DIVISION OF INVESTIGATIONS**

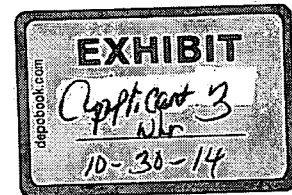
REPORT OF INTERVIEW

CASE NUMBER: 20-3222
INTERVIEWEE: Inmate Jason Mixon, SCDC #300006, B/M
DATE: September 23, 2012
LOCATION: Ridgeland Correctional Institution
INVESTIGATOR: Fred Hamer
DATE TRANSCRIBED: September 23, 2012

Inmate Jason Mixon, SCDC #300006, Ridgeland Correctional Institution, was advised of the identity of the interviewing Investigator and the nature of the inquiry. He then provided the following information:

Inmate Mixon stated that he did not wish to make any statement.

Inmate Mixon stated that he did not have any further information.



STATE OF SOUTH CAROLINA)
 COUNTY OF JASPER)
 Jason L. Mixon,)
 Applicant,)
 v.)
 State of South Carolina,)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE FOURTEENTH JUDICIAL CIRCUIT

Case No. 2013-CP-27-572

2014 AUG 21 AM 9:59
 CLERK
 JASPER

ORDER OF DISMISSAL

This matter comes before the Court by way of an Application for Post-Conviction Relief filed November 7, 2013. Respondent made a timely Return on or about May 30, 2014. The Court convened an evidentiary hearing into the matter on October 30, 2014. Applicant was present at the hearing and represented by Tristan M. Shaffer, Esquire. Ashleigh R. Wilson, Esquire, of the South Carolina Attorney General’s Office, represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Applicant’s plea counsel, Stephen T. Plexico, Esquire, also testified. The Court had before it a copy of the plea transcript, the records of the Jasper County Clerk of Court regarding the subject convictions, Applicant’s records from the South Carolina Department of Corrections, the pleadings, and the exhibits introduced at the hearing. The Court finds as follows:

I. PROCEDURAL HISTORY

Applicant was indicted at the March 2013 term of the Jasper County Grand Jury for possession of contraband by a prisoner (2013-GS-27-0158) and possession with intent to distribute marijuana (2012-GS-27-0114). Applicant was represented by Stephen T. Plexico, Esquire (“plea counsel”). On April 16, 2013, Applicant pled guilty as indicted. Applicant was sentenced by the Honorable Perry M. Buckner, III, to confinement for a period of two years on

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 BY *2/21/15*

both charges. The sentences were to be served concurrently to each other and to Applicant's sentences for Colleton County charges. Applicant did not appeal his sentences or convictions.

II. ALLEGATIONS

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

1. Ineffective assistance of counsel.
 - a. Counsel failed to conduct a pretrial investigation.

At the evidentiary hearing, Applicant amended his application to include an allegation of a violation of Brady v. Maryland, 373 U.S. 83 (1963).

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

A. Ineffective Assistance of Plea Counsel

In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Id. at 442, 334 S.E.2d at 814 (citing Strickland v. Washington, 466 U.S. 668 (1984)).



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

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

The Court finds Applicant failed to meet his burden to show plea counsel ineffective for failing to investigate. Applicant testified he only pled guilty because he did not want to take the charges to trial. He now alleges he wants a new trial because one of the officers involved in his case was later investigated for wrongdoing. He testified he would have gone to trial had he known the officer had a history of lying. On the other hand, plea counsel testified he was aware of the investigation against the officer. However, he recalled the officer was not a fact witness,

but a chain witness. Plea counsel adamantly maintained the officer was not important to the case against Applicant, and any further information about him would not have affected the case.

The Court finds plea counsel's testimony credible and gives it great weight. Correspondingly, the Court finds Applicant's testimony neither credible nor supported by the record. The Court finds trial counsel conducted a proper investigation, adequately conferred with Applicant, and was thoroughly competent in his representation. Applicant failed to demonstrate how further investigation of the officer would have uncovered any information helpful to his defense. See Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998). Accordingly, Applicant failed to satisfy the first prong of the Strickland analysis.

Applicant also failed to satisfy the second prong of the Strickland analysis. Specifically, Applicant failed to show that but for the lack of further information he would have insisted upon a trial. Hill, 474 U.S. at 59; see also Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 594 (2009) (applicant must show "something that would have affected counsel's advice to [the applicant] to accept the plea bargain offered or that would have caused [the applicant] to decline to accept it"). Accordingly, relief is denied on this ground.

B. Brady Violation

The Court further finds Applicant failed meet his burden to show the State committed a Brady violation. "Brady only requires disclosure of evidence which is both favorable to the accused and material to guilt or punishment." State v. Taylor, 333 S.C. 159, 177, 508 S.E.2d 870, 879 (1998) (citing United States v. Bagley, 473 U.S. 667 (1985)). Evidence is material only if it would have changed the result of the proceeding had it not been intentionally withheld. Id. In reviewing an alleged Brady violation, the court must consider the evidence in the context of the entire record. Id. (citing United States v. Agurs, 427 U.S. 97 (1976)).

Here, Applicant alleged the State violated Brady by failing to disclose Department of Corrections' visitation records. However, the Court fails to discern how these records were favorable to Applicant. The Court finds very credible trial counsel's testimony that these records were not relevant to the prosecution of Applicant. The Court further fails to discern how these records were material to Applicant's guilt or innocence. The records do not establish any officer in Applicant's case was untruthful about the investigation of Applicant's crimes. Accordingly, the Court finds Applicant has not demonstrated the likelihood of a different outcome to his case had the State provided these records to plea counsel. *See, e.g., Giglio v. United States*, 405 U.S. 150, 154 (1972) ("We do not, however, automatically require a new trial whenever 'a combing of the prosecutors' files after the trial has disclosed evidence possibly useful to the defense but not likely to have changed the verdict'" (citations omitted)). Therefore, relief is likewise denied on this ground.

C. All Other Allegations

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

IV. CONCLUSION

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

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant must be remanded to the custody of the Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 14th day of August, 2015.



EDGAR W. DICKSON
Presiding Judge

Orangeburg, South Carolina

DOCKET NO. 2012GS2700520

The State of South Carolina

County of Jasper

COURT OF GENERAL SESSIONS

March Term 2013

THE STATE

vs.

Jason Mixon

Indictment for

Drugs / Manuf., poss. of other sub. in Sch. I, II,
III - (PWID Marijuana)

SC Code: 44-53-0370(b)(2)
CDR Code: 0186

WITNESSES

Hamer - SCDC

[Handwritten signature]

ARREST WARRANT NUMBER

2012A2720200114

ACTION OF GRAND JURY

TRUE BILL

NO BILL

FOREMAN *[Handwritten signature]*

[Handwritten signature]

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

TRUE COPY
MARGARET BOSTICK
CLERK OF COURT
JASPER COUNTY, SC.

BY: *[Handwritten signature]*

DATE: 1-14

STATE OF SOUTH CAROLINA)
)
COUNTY OF JASPER)

INDICTMENT
2012GS2700520

At a Court of General Sessions, convened on March 21, 2013, the Grand Jurors of Jasper County present upon their oath:

Drugs / Manuf., poss. of other sub. in Sch. I, II, III - (PWID Marijuana)

That in Jasper County, South Carolina, on or about September 21, 2012, the Defendant, Jason Mixon, unlawfully did possess with intent to distribute, dispense, or deliver a quantity of marijuana, a controlled substance under provisions of Section 44-53-110, et seq., Code of Laws of South Carolina (1976), as amended, or did otherwise aid, abet, attempt, or conspire to manufacture, distribute, dispense, or deliver marijuana, all in violation of Section 44-53-370, Code of Laws of South Carolina (1976), as amended.

RECORDED
INDEXED
JAN 09 2013
CLERK OF COURT
JASPER COUNTY
SOUTH CAROLINA

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

RECEIVED

Leanne M. Stevenson
Solicitor

JAN 09 2013

Referred to Ash, Wilson ds
Answered _____

DOCKET NO. 2013GS2700158

WITNESSES

Hamer - SCDC

The State of South Carolina

County of Jasper

COURT OF GENERAL SESSIONS

March Term 2013

THE STATE

vs.

Jason Mixon

Indictment for

Prisoners / Contraband, possession by prisoner, furnishing or attempting to furnish

SC Code: 24-03-0950
CDR Code:0074

ACTION OF GRAND JURY

TRUE BILL

NO BILL

FOREMAN J. SMITH

DATE 3/21/13

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

TRUE COPY
MARGARET BOSTICK
CLERK OF COURT
JASPER COUNTY, SC

BY: [Signature]

DATE: 3-21-13

STATE OF SOUTH CAROLINA)
)
 COUNTY OF JASPER)

INDICTMENT

2013GS2700158

At a Court of General Sessions, convened on March 21, 2013, the Grand Jurors of Jasper County present upon their oath:

Prisoners / Contraband, possession by prisoner, furnishing or attempting to furnish

That in Jasper County, South Carolina, on or about September 21, 2012, the Defendant, Jason Mixon, did possess Marijuana, a substance declared contraband, or did furnish, deliver or distribute said contraband to another prisoner at or in the Ridgeland Correctional Institute; said Marijuana having been declared contraband at the Ridgeland Correctional Institute by the Director and notice of such having been displayed in a conspicuous place available and visible to visitors and prisoners; all in violation of Section 24-3-950, Code of Laws of South Carolina, (1976, as amended).

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


 Solicitor