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SC SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Spartanburg County

Roger L. Couch, Circuit Court Judge

FRANK BECKHAM,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001235

APPENDIX

WANDA H. CARTER
Deputy Chief Appellate Defender

ALAN WILSON
Attorney General

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

ALICIA OLIVE
Assistant Attorney General
P. O. Box 11549
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

)
) IN THE COURT OF GENERAL SESSIONS

The State,
-vs-
Frank Beckham, Jr.,
Defendant.

)
) TRANSCRIPT OF RECORD
) 2012-GS-42-623,624
)
) August 28, 2012
) Spartanburg, South Carolina

B E F O R E :

HONORABLE J. DERHAM COLE, JUDGE

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

SCOTT SPIVEY, ESQUIRE
Attorney for the State

ROGER POOLE, ESQUIRE
Attorney for the Defendant

Linda D. Moffitt
Circuit Court Reporter

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1 MR. SPIVEY: Your Honor, Frank Beckham is here on two-
2 indictments.

3 The first is 2012-GS-42-00623. It is a -- for
4 distribution of cocaine base second offense. Your Honor,
5 he's pleading to possession of cocaine base first
6 offense -- condition of this plea.

7 Your Honor, the second indictment is 2012-GS-42-624
8 for distribution of cocaine base second offense. Your
9 Honor, he's pleading straight up to that offense with no
10 recommendation from the state.

11 Your Honor, the third indictment is actually being
12 dismissed, is Indictment 2012-GS-42-625. It was also for
13 distribution of cocaine base second offense.

14 Your Honor, this was on the trial docket this week,
15 and I apologize. I do not have that number. I believe it
16 was 105.

17 THE COURT: No. It's 89 or 99.

18 MR. SPIVEY: I apologize, Your Honor.

19 THE COURT: You are Frank Beckham, Jr.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Mr. Poole is your lawyer?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: How long has he been representing you?

24 THE DEFENDANT: About -- about almost a year, ain't
25 it?

1 THE COURT: Have you had plenty of time to talk to him
2 about your cases and your apparent decision to plead guilty
3 to them?

4 THE DEFENDANT: Yes, sir, we talked. We talked, yeah.

5 THE COURT: Has he been over each of these indictments
6 with you and explained to you what the state claims that
7 you did?

8 THE DEFENDANT: Yes, sir. He, yeah, had something
9 today he did. He went over them.

10 THE COURT: Did he explain to you what would have to
11 be proven in court before you could be found guilty of a
12 distribution of crack cocaine?

13 THE DEFENDANT: Uh-uh, no, sir. He didn't explain
14 that, but I understand it, you know.

15 THE COURT: Well, what do you understand would have to
16 be proven?

17 THE DEFENDANT: Have to be proven without a reasonable
18 doubt. But I was guilty, Your Honor. I was -- I went and
19 got it and brought it back and sold it to -- I know who the
20 informant was and everything. I went -- I was the runner
21 mostly, so I'm guilty. The hand of one is the hand of all.

22 THE COURT: Okay. The question was do you understand
23 what would have to be proven in court before you could be
24 found guilty of distribution of crack cocaine.

25 THE DEFENDANT: No. They didn't -- he didn't explain

1 that.

2 THE COURT: He didn't?

3 THE DEFENDANT: Uh-uh.

4 THE COURT: Well, they'd have to prove that you did,
5 in fact, make a distribution of some quantity of crack
6 cocaine. In other words, you transferred cocaine from
7 yourself to another person in exchange for money or in
8 exchange for something of value, or even gave it away. But
9 they'd have to prove that you -- you know what a
10 distribution is? Do you know what it means to distribute
11 something?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: They'd have to prove that you did
14 distribute crack cocaine.

15 THE DEFENDANT: Yes, sir. I did, so.

16 THE COURT: All right. And then the other indictment
17 that you're pleading guilty to is you're charged with
18 distribution, but they're letting you plead guilty to
19 possession of crack cocaine. And do you understand what
20 that consists of?

21 THE DEFENDANT: Well, time-ways and whatever, you
22 know. I know it's against the law.

23 THE COURT: Well, I mean, do you know what it means to
24 possess crack cocaine?

25 THE DEFENDANT: No, not really.

1 THE COURT: You don't. Do you know what it means to
2 possess a cane?

3 THE DEFENDANT: A cane like this or cane -- cocaine?

4 THE COURT: A cane like a wooden cane --

5 THE DEFENDANT: Oh, yes.

6 THE COURT: -- like if you have an infirmity that you
7 need steadying and you use a cane to walk with like you
8 have in your hand.

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Well, the fact that you have that in your
11 hand means that you are possessing the cane.

12 THE DEFENDANT: Okay.

13 THE COURT: That's what they'd have to prove with
14 regard to this crack cocaine. They'd have to prove you
15 possessed it, you had it on your person, in your
16 possession. Do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And they also claim that you have some
19 prior drug offenses.

20 THE DEFENDANT: Yeah. I had a --

21 THE COURT: How many prior drug convictions does he
22 have?

23 THE DEFENDANT: One possession.

24 THE COURT: Just a minute.

25 MR. SPIVEY: That's correct, Your Honor. He does have

1 one possession of crack.

2 THE COURT: He has one prior possession of crack?

3 MR. SPIVEY: Yes, Your Honor.

4 THE COURT: All right. And so that distribution will
5 be a second offense, which means it carries up to 30 years
6 in jail and a fine of \$50,000.

7 It requires a mandatory minimum sentence of not less
8 than five years in jail and a fine. Do you understand?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you still want to go forward and plead
11 guilty to it?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: The other indictment charges you with
14 possession of crack cocaine.

15 Possession of crack cocaine -- they're allowing it to
16 be treated as a first offense pursuant to some
17 negotiations, but it still carries up to three years and
18 \$5,000 in addition to the 30 years on the distribution
19 second. Do you understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you still want to go forward and plead
22 guilty?

23 THE DEFENDANT: Yes, sir. I'm guilty.

24 THE COURT: Has Mr. Poole explained to you each of the
25 constitutional rights that you have to give up if you want

1 to plead guilty?

2 THE DEFENDANT: No, sir.

3 THE COURT: He didn't explain those to you?

4 You're not -- did you and he not have any conversation
5 about you having the right to remain silent and not having
6 to answer any questions or make any statement or testify in
7 court?

8 You have a right to keep your mouth shut and not say
9 anything or answer questions that might tend to prove your
10 own guilt.

11 In other words, you never have to help the state prove
12 your guilt by you making statements that would incriminate
13 yourself or prove your own guilt.

14 Did you and Mr. Poole not have that discussion?

15 THE DEFENDANT: No, sir.

16 THE COURT: Did he explain to you about your right to
17 confront any witness that would offer evidence against you
18 and make the witnesses come to court and take the witness
19 stand and testify in your presence under oath so that you
20 can see them and hear them and have your lawyer
21 cross-examine them in court to test their credibility and
22 reliability in court?

23 THE DEFENDANT: No, sir.

24 THE COURT: He didn't tell you about that, sir?

25 THE DEFENDANT: No, sir.

1 THE COURT: No. Did he -- did you and he have a
2 discussion about your right to have a jury trial and for a
3 jury of 12 people to decide whether or not you're guilty of
4 any crime the state claims you committed?

5 THE DEFENDANT: No, sir. But I knew that though.

6 THE COURT: You knew about the jury trial.

7 Do you understand that if you elect to have a jury
8 trial you help pick the 12 jurors that decide your case?
9 Once those 12 are selected they sit over there in the jury
10 box, and they listen to the testimony and they consider the
11 evidence.

12 They decide what occurred on these dates alleged in
13 the indictment as it relates to charges brought against
14 you. And once they decide what the facts are they apply
15 the law that I'll provide them. They determine whether or
16 not you're guilty.

17 Before a jury can find you guilty of anything the
18 state must present sufficient evidence to convince that
19 jury beyond a reasonable doubt that you committed these
20 crimes.

21 You can have a jury trial and still not testify or
22 take the witness stand. You still have a right to remain
23 silent. And the jury can't find you guilty unless all 12
24 are convinced of your guilt beyond a reasonable doubt. If
25 you want to testify, you can, but nobody can make you.

1 You say you and Mr. Poole didn't talk about your right
2 to have a jury trial?

3 THE DEFENDANT: Yeah. We -- we talked about that but
4 we --

5 THE COURT: You did talk about that.

6 THE DEFENDANT: We was going to go on with a jury at
7 first.

8 THE COURT: You are?

9 THE DEFENDANT: We was.

10 THE COURT: You were. Do you want to now?

11 THE DEFENDANT: No, sir. I just want to get it over
12 with, Mr. Cole. My health is so bad I don't know what
13 to -- I just want to get it over with.

14 I did run and get the drugs and bring -- get the crack
15 rock and brought it back. But me and her smoked it, and
16 she took a piece back with her. So I -- I'm guilty of
17 that. I said I'm guilty of that. Without a doubt I'm
18 guilty of that.

19 THE COURT: All right. So you do understand your
20 right to remain silent.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: You do understand your right to make the
23 state prove your guilt in court by bringing the witnesses
24 down here so that you can confront them and your lawyer can
25 cross-examine them.

1 THE DEFENDANT: Yes, sir.

2 THE COURT: You do understand your right to have a
3 jury trial and for a jury to decide if you're guilty of
4 anything the state claims you committed?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And understanding each of those rights, do
7 you wish to give them up in order to plead guilty?

8 THE DEFENDANT: Yes, sir, because I'm guilty of
9 running and getting one crack rock.

10 THE COURT: All right. They agreed to reduce one of
11 the distributions to a possession.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And they agreed to dismiss another
14 distribution case in return for your pleading guilty to a
15 distribution, which is a second offense under the law
16 carrying 30 years and \$50,000.

17 And you -- and also agreed to plead guilty to the
18 possession of crack cocaine on one of the distribution
19 indictments.

20 Was that a correct statement of what was agreed upon
21 between you and your lawyer and the solicitor?

22 THE DEFENDANT: Well, I didn't get to talk to the
23 solicitor. I don't know what they agreed to, but he told
24 me --

25 THE COURT: Well, your lawyer would be talking to the

1 solicitor, and then he would relay to you what the
2 solicitor said. And then if he and the solicitor were
3 going to enter into an agreement, they would do so only
4 with your approval. You'd have to approve of it.

5 Did your lawyer ask you if you wanted to agree to what
6 I've just stated?

7 THE DEFENDANT: No. He didn't put it like that.

8 THE COURT: Well, how did he put it?

9 THE DEFENDANT: He just put it like he was going to --
10 asked me did I want to plead guilty, and said that I would
11 be facing this and that. And he was going to recommend
12 probation and whatever and it was up to you to give it to
13 me and whatever.

14 Mr. Cole, I'm 57 years old. My health is so bad I
15 can't -- I went to prison. I did 11 and a half years. I
16 had one infraction. That was for fighting. I been out 15
17 years. I don't like prison. That's why I come on out
18 here, and I ain't been back and --

19 THE COURT: Well, you haven't been back yet --

20 THE DEFENDANT: Yeah. I know.

21 THE COURT: But -- but you didn't like prison?

22 THE DEFENDANT: No, no, no, sir.

23 THE COURT: Well, then why would it be that you would
24 come out and do what you're offering to plead guilty to?

25 THE DEFENDANT: Well, I messed around and got into

1 crack cocaine. That's what I did. And I -- it hurt me
2 more because I was running for people to get it to smoke
3 with them. And they would turn me on or whatever. And
4 that's what -- I'm guilty of running to get it.

5 But I don't sell crack cocaine. But I went and got
6 it, so it's just like I -- I took the money and went and
7 got it. You know what I'm saying?

8 THE COURT: All right. Well, so far as the agreement
9 is concerned between you and your lawyer and the solicitor,
10 did I state it correctly?

11 THE DEFENDANT: Yes, sir, you stated it.

12 THE COURT: Has anybody promised you anything other
13 than what I stated?

14 THE DEFENDANT: What he's promising, he was going to
15 recommend probation.

16 THE COURT: He promised you he would recommend
17 probation?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Did he promise you that I would accept
20 that recommendation?

21 THE DEFENDANT: No, sir, he didn't promise me that,
22 now.

23 THE COURT: Did he tell you that it would still be up
24 to me no matter what anybody recommended?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Understanding that, do you still want to
4 go forward and plead guilty like you've indicated?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Has anybody forced you into that decision?

7 THE DEFENDANT: No, sir.

8 THE COURT: Anybody threatened you?

9 THE DEFENDANT: No, sir.

10 THE COURT: Anybody put any kind of pressure upon you
11 of any kind that caused you to make that decision against
12 your own will?

13 THE DEFENDANT: No, sir.

14 THE COURT: Are you pleading guilty freely and
15 voluntarily?

16 THE DEFENDANT: Freely and voluntarily.

17 THE COURT: And did you distribute the crack cocaine
18 on the date as alleged in the indictment?

19 THE DEFENDANT: Yeah, but only one, I did -- I know I
20 did that one. I don't know about the other two.

21 THE COURT: Well, on November the 23rd of 2010 did you
22 distribute a quantity of crack cocaine to somebody?

23 THE DEFENDANT: Not as I know of, Your Honor.

24 THE COURT: Not that you know of?

25 THE DEFENDANT: Not that I know of.

1 THE COURT: Well, why would you plead guilty to it if
2 you don't know?

3 THE DEFENDANT: Because, like I say, I was really
4 pleading guilty to the one that I really did, and I was
5 guilty of that.

6 THE COURT: which one is that?

7 THE DEFENDANT: The -- the one I went and got cocaine
8 first.

9 THE COURT: when was that?

10 THE DEFENDANT: Somewhere before that. It was before
11 the 8th. They say one on the 8th.

12 THE COURT: 8th of what?

13 THE DEFENDANT: 8th of what? I don't know. 8th of
14 December or January, somewhere around in there.

15 THE COURT: well, this indictment that has your
16 signature on it says that you wanted to plead guilty to
17 distribution of crack cocaine that occurred on November the
18 23rd of 2010.

19 Are you saying you don't want to plead guilty to
20 distribute from that day?

21 THE DEFENDANT: No. I want to plead guilty, Your
22 Honor.

23 THE COURT: You are?

24 THE DEFENDANT: I'm going to plead guilty.

25 THE COURT: All right. And the other indictment says

1 you possessed crack cocaine on November the 14th of 2010.
2 Is that what you want to plead guilty to?

3 THE DEFENDANT: I'm going to plead guilty to it, but I
4 don't -- they ain't never come and -- and searched me and
5 got no cocaine off me on 2000 and whatever, on November the
6 10th.

7 THE COURT: what do you mean, whatever? If you don't
8 even know the date how do you know what day?

9 THE DEFENDANT: Because, like I said, they -- he --
10 the officer came and got me on a Sunday night, was on the
11 8th, and I think it was on January or December or
12 something. I believe it was January. I believe it was on
13 January. They come and got me on Sunday night and said he
14 had a warrant for distribution of cocaine, and so I said
15 okay.

16 He said I got two more of these to serve on you. I
17 said, well, serve them then. He said no, if you help us
18 do -- as a matter of fact, he's in here. He pled guilty to
19 it.

20 If he -- if I rolled over on him that they would drop
21 all of that. He said he wouldn't serve them. I said,
22 well, just go ahead and serve them, man, because I don't
23 know nothing about what you're talking about, I'm not
24 putting my -- my life in jeopardy by rolling over on
25 nobody. And he said, well, you get out of jail, you call

1 me, and I didn't. And so they locked him up for walking,
2 jaywalking, and he brought some distribution charges
3 against him -- Mr. Black -- James McCluney back there.
4 They had him --

5 THE COURT: Who?

6 THE DEFENDANT: James.

7 THE COURT: Oh, in the plaid shirt?

8 THE DEFENDANT: Yeah. He pled guilty to it and
9 they -- and everything because he -- he said, well, "Frank,
10 I know you didn't sell nothing." He said, "You was working
11 for me. You was running for me." He said, "But I'm going
12 to tell my -- my lawyer and the solicitor that you didn't
13 sell no cocaine."

14 I was -- I was running for him. And he pleaded guilty
15 to all of these charges.

16 So, like I say, I did go get it. I ain't going to lie
17 about that. But I wasn't selling no cocaine. I went and
18 got it though, and I was using.

19 And she -- and I know the informant and everything.
20 We sat there and smoked, and she took a piece with her.
21 And that's when he came -- that's when he showed me, when
22 they come and got me out there -- a little bitty speck of
23 cocaine. That's all they had on me.

24 This other stuff, he ain't never come and searched me
25 or charged me. He just took them other two warrants on me.

1 That's all I know of.

2 THE COURT: All right. Well, solicitor, tell me about
3 the -- the event that I have here in this indictment that
4 alleges Mr. Beckham distributed some quantity of crack
5 cocaine on November the 23rd of 2010.

6 MR. SPIVEY: Yes, Your Honor.

7 On that date the -- the informant met with the Cowpens
8 police department and set up a -- a buy with -- with the
9 defendant at [REDACTED] which is in the Town of
10 Cowpens, which is also in the County of Spartanburg.

11 THE COURT: All right. Wait right there.

12 Do you know where [REDACTED] in the Town of
13 Cowpens is?

14 THE DEFENDANT: That's where I was staying.

15 THE COURT: That's where you were staying.

16 All right. Go ahead.

17 MR. SPIVEY: Your Honor, she was searched beforehand
18 by the officer, and the officer didn't find any contraband
19 on her.

20 She was also given a recording device which she wore
21 on her during the transaction.

22 She was driven to a location near the house, and she
23 walked the rest of the distance on foot.

24 She met the defendant outside and said, "Hey, Frank."
25 It appeared like she hugged him on the video. They went

1 inside.

2 He then left for a period of time, and the officers
3 were watching the residence. They say he did go to a
4 residence of James McCluney who goes by the name of Black.

5 He went in that residence for a short period of time
6 and then came back out, went back into the [REDACTED]
7 address and distributed -- at that -- that particular
8 incident he distributed .04 grams of crack cocaine to the
9 defendant for -- to the informant for \$20.

10 She came back and handed it to the officer and was
11 searched again. And no other contraband was found on her,
12 Your Honor.

13 That is essentially the facts of that particular
14 incident.

15 THE COURT: All right. Now, he just told me what he
16 contends happened on November the 23rd of 2010 as it
17 relates to these allegations against you for distribution
18 of crack cocaine. Do you agree or disagree with that?

19 THE DEFENDANT: I disagree with what they're saying
20 about the quantity because, Your Honor --

21 THE COURT: Well, how much -- how much was it?

22 THE DEFENDANT: 4 grams of cocaine would cost you
23 over -- over \$150. She got one crack rock, a \$20 rock.

24 MR. SPIVEY: Your Honor, maybe I misspoke. It's
25 .04 grams.

1 THE COURT: .04, not 4 grams.

2 THE DEFENDANT: Oh.

3 THE COURT: .04.

4 THE DEFENDANT: Okay. I don't know what that is
5 myself.

6 THE COURT: That's a little bit.

7 THE DEFENDANT: Yeah. That's what I'm saying, because
8 that's all she -- she sat there and she said, "Frank, I'm
9 going to hit me a piece and do you want a piece?" And I
10 said yeah. And she cut it down and give me a piece and she
11 hit a piece. I hit a piece, and she took a little piece
12 back with her. And that's the truth, Your Honor.

13 THE COURT: Okay. Well, you heard what he said. Do
14 you agree with that?

15 THE DEFENDANT: Yeah. That -- that little bit. I
16 thought you meant 4 grams. But, no, I -- I can go with
17 .04 grams. I don't know what it is. But it was a speck.

18 THE COURT: All right. But my point is did you do
19 that, what he said, on November the 23rd of 2010.

20 THE DEFENDANT: It could have been that. It could
21 have been the --

22 THE COURT: Okay. Do you still want to plead guilty
23 to that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: The other event that you have offered to

1 plead guilty to is a possession which the state claims
2 occurred on November the 14th of 2010.

3 THE DEFENDANT: A possession? I was never charged
4 with possession because he never come and got me.

5 THE COURT: They charged you with distribution, but
6 the solicitor and you and your lawyer apparently agreed to
7 plead it down to a possession. It was actually a
8 distribution that you were charged with.

9 THE DEFENDANT: Well, could you have him to read that,
10 what happened that day?

11 THE COURT: Well, sure. I'm going to get him to tell
12 us about that.

13 November the 14th of 2010, how about that, Mr. Spivey?

14 MR. SPIVEY: Thank you, Your Honor.

15 Again, they met with the informant. She was searched
16 beforehand, and no contraband was found on her.

17 She traveled to the location at [REDACTED] in
18 the Town of Cowpens, which is in the County of Spartanburg.

19 She went inside and met with the defendant. It
20 appears again that he left the residence for a short period
21 of time.

22 He was observed by other Cowpens Police Department
23 officers going to the residence of Mr. Black, and came out
24 and went back into the -- the [REDACTED] address. He met with the
25 informant. And at that time he handed her .06 grams --

1 .06 grams of crack cocaine.

2 Your Honor, again that was for \$20. She took that
3 particular contraband back to the police officers where she
4 was searched. And no other contraband was found upon her.

5 THE COURT: All right. Did you understand what he
6 said?

7 THE DEFENDANT: Yeah, I understand what he said, but
8 it's not true. She never did come back after she got the
9 first -- got me the first time with that little speck. She
10 never did come back.

11 THE COURT: Okay.

12 THE DEFENDANT: Never, never did come back.

13 THE COURT: All right. So do you want a jury trial on
14 that charge?

15 THE DEFENDANT: I don't know. I need to talk with Mr.
16 Poole a little more, because she never did come back. She
17 never did.

18 That one time she came back she carried that piece off
19 and took that piece back. She never did come back. I
20 never did see her no more. I never sold her nothing else.
21 Never went and got nothing else for her. And that's the
22 honest truth.

23 If I did I would go ahead and plead guilty to it.
24 That's why I'm saying I wanted him to read that because
25 when he said that -- possession of the other charge, she

1 never did come back. That was the -- that was the only
2 time she came, the first time, and cut that piece off. She
3 never did come back. Never.

4 THE COURT: well --

5 THE DEFENDANT: I'm guilty of that, Your Honor.

6 THE COURT: sir?

7 THE DEFENDANT: I am guilty of the first one, but I'm
8 not guilty of them other two.

9 THE COURT: well, I thought you said you were guilty
10 of the one that happened on November the 23rd.

11 THE DEFENDANT: No. That's the one I'm saying I'm
12 guilty of.

13 THE COURT: Okay. well, this would have happened
14 before that, November 14th.

15 THE DEFENDANT: well.

16 THE COURT: Are you saying you never sold it to her
17 but once?

18 THE DEFENDANT: But one time, is what I am saying.

19 THE COURT: You only sold it once?

20 THE DEFENDANT: One time. Them other charges, I don't
21 know what he's talking about. I didn't sell it but one
22 time to her.

23 THE COURT: All right. well, do you just want me to
24 accept your plea on the distribution occurring on
25 November the 23rd?

1 THE DEFENDANT: Yes, sir, because I'm guilty of that.
2 I went and got that.

3 THE COURT: You don't want to plead guilty to the one
4 that they allege occurred on November the 14th of 2010?

5 THE DEFENDANT: I would have a jury trial on that, and
6 I can't prove -- Your Honor, I'm just going to go ahead and
7 plead guilty, because I -- it cost me \$1,500 to get out of
8 jail. It took me a year to pay Carolina Bondsman,
9 Mr. Park, and I just want -- I just want to go on and get
10 it over with.

11 THE COURT: Well, apparently y'all worked out
12 something so you're pleading guilty to something lesser
13 like possession on that distribution. Is that what you
14 want to do?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you think if your case went to trial
17 before a jury there's a significant likelihood they'd
18 convict you perhaps of the distribution instead of a
19 possession?

20 THE DEFENDANT: I don't know. I mean, like I say,
21 Mr. Cole, I talked with Mr. Poole. And when I first went
22 to a preliminary hearing he told me all of these charges
23 were bogus and not to plead guilty to it, but then he come
24 back later --

25 THE COURT: Mr. Poole told you that the charges were

1 bogus?

2 THE DEFENDANT: Yeah. He came to the preliminary
3 hearing and he had -- he had a motion in discovery. And he
4 kept saying audio and video didn't take the first time.
5 Audio and video didn't take the second time. Audio and
6 video didn't take the third time. And he said, "Man, this
7 is bogus. Don't plead guilty to it."

8 THE COURT: Well, Mr. Spivey says he's got a video.
9 Is that true?

10 MR. SPIVEY: Your Honor, there are two videos that
11 are -- that do not show any part of the defendant.

12 The third video does not clearly show his face. It
13 shows the back of him and the clothing he was wearing.

14 In addition, there's -- there's audio commentary,
15 which on all three of them makes you believe that it is the
16 defendant.

17 THE COURT: Well, it's your -- it's your decision.

18 THE DEFENDANT: I'm going to plead guilty, Mr. Cole.

19 THE COURT: You want to plead guilty to it?

20 THE DEFENDANT: I'm going to plead guilty.

21 THE COURT: Do you think you'd be convicted if you
22 went to trial?

23 THE DEFENDANT: Chances are I could, yes.

24 THE COURT: Based on that belief do you want to plead
25 guilty?

1 THE DEFENDANT: Yes, sir.
2 THE COURT: You're 57 years old?
3 THE DEFENDANT: Yes, sir.
4 THE COURT: How far did you go in school?
5 THE DEFENDANT: Eleventh.
6 THE COURT: Are you married?
7 THE DEFENDANT: No, sir. Divorced.
8 THE COURT: Do you have children?
9 THE DEFENDANT: Eight grandchildren and three kids.
10 They grown.
11 THE COURT: Do you work?
12 THE DEFENDANT: No. I draw S.S.I.
13 THE COURT: And that's because of what?
14 THE DEFENDANT: Chronic arthritis in both legs and
15 hips and in -- in my back. And then I'm a diabetic, and I
16 got high blood pressure.
17 THE COURT: What kind of work have you done in the
18 past?
19 THE DEFENDANT: I used to do cement work, but I
20 couldn't do it no more.
21 When I got out of prison 11 and a half years, I tried,
22 and I passed out. So they told me I couldn't do it no
23 more.
24 THE COURT: All right. The solicitor told me about
25 the facts that relate to these cases.

1 Do you have any other information you need to provide
2 me, Mr. Spivey?

3 MR. SPIVEY: Yes, Your Honor. I'll give you the
4 defendant's record.

5 1981, stealing dogs; 1984, simple possession of
6 marijuana; 1985, burglary first; 1985, trespass; 1986,
7 burglary first; 1986, criminal sexual conduct second
8 degree; 2006, possession of crack cocaine.

9 THE COURT: Did you understand what he just told me?

10 THE DEFENDANT: Yeah, I understand.

11 THE COURT: Do you agree with it?

12 THE DEFENDANT: Yes, I do.

13 THE COURT: Do you still want me to accept your pleas
14 of guilty?

15 THE DEFENDANT: Yes, sir. But, Your Honor, I just
16 want you to accept --

17 THE COURT: Do you understand me to accept your pleas?

18 THE DEFENDANT: Yes, sir, but I want you to --

19 THE COURT: I'll accept them and hear from you and Mr.
20 Poole.

21 THE DEFENDANT: Okay. But I want you to accept and
22 know -- and -- and know that I did 11 and a half years. I
23 had one conviction for fighting -- 11 and a half. And I
24 been out 15 years. I'm not really a bad person. I done
25 turned -- turned my life around a little bit.

1 Like I said, I got on crack cocaine when I was in
2 prison. And, you know, that was a bad move. I wish I
3 never would have put that thing I done.

4 Your Honor, I'm a good person. I'm in church and
5 everything. I go to the Hanger every Friday night. I'm
6 trying to turn my life around. But I'm guilty, like I say,
7 of that running to get that cocaine.

8 But I just -- I don't sell cocaine, crack cocaine.
9 And I went and got that. So the hand of one is the hand of
10 all.

11 THE COURT: Well, it was your hand, wasn't it?

12 THE DEFENDANT: Yes, sir. I just wish you would take
13 it into consideration.

14 THE COURT: All right. Mr. Poole, have you got
15 anything you need to tell me?

16 MR. POOLE: Your Honor, may it please the Court.

17 The codefendant in this case, Mr. James McCluney, is
18 here. He was under subpoena for purposes of going to trial
19 this week.

20 He was sentenced to a probationary sentence. He pled
21 guilty to my understanding, basically these same types of
22 charges or these same charges.

23 Mr. Beckham has already told you about his health
24 status. His income is \$698 per month.

25 On his behalf I would ask the Court to consider a

1 suspended sentence given his age and health, and show as
2 much leniency as you possibly could.

3 THE COURT: On 2012-624, distribution of crack
4 cocaine, second offense, sentence is you be confined to the
5 Department of Corrections for a period of five years.

6 Indictment 2012-623, possession of crack cocaine,
7 three years concurrent.

8 END OF REQUESTED TRANSCRIPT OF RECORD

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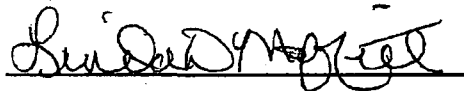
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 28th day of August 2012.

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

April 11, 2013



Linda D. Moffitt
Circuit Court Reporter

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SPARTANBURG COUNTY
Court of General Sessions

J. Derham Cole, Circuit Court Judge

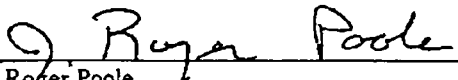
Case No(s): 2012-GS-42-00623, 2012-GS-42-00624

The State Respondent,
v.
Frank Beckham Appellant.

EXPLANATION OF APPEAL PURSUANT TO RULE 203(D)(1)(B), SCACR

Pursuant to Rule 203(d)(1)(B), SCACR, Frank Beckham files this explanation of his appeal of his guilty plea, conviction and sentence in this case. The sentence was imposed by the Honorable J. Derham Cole on August 28, 2012. No issues were raised during the guilty plea; however, the client insisted upon an appeal; therefore, this appeal was filed pursuant to Weathers v. State, 319 S.C. 59, 459 S.E.2d 838 (1995), and State v. Thrift, 378 S.C. 70, 661 S.E.2d 373 (2008).

August 30, 2012



J. Roger Poole
Bar No.: 4499
Seventh Judicial Circuit Public Defender Office
366 N Church Street, Suite 3000
Spartanburg, South Carolina 29303
(864) 596-2561
Attorney for Appellant

Other Counsel of Record:

Scott Spivey, Esq.
Seventh Judicial Circuit Solicitor's Office
180 Magnolia Street
Spartanburg, South Carolina 29306
Attorney for Respondent

FILED
COURT OF COMMON PLEAS
2012 SEP 11 AM 9:05
M. HOPE BLACKLEY

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SPARTANBURG COUNTY
Court of General Sessions

J. Derham Cole, Circuit Court Judge

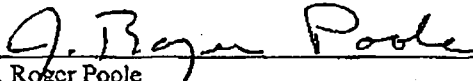
Case No(s): 2012-GS-42-00623, 2012-GS-42-00624

The State Respondent,
v.
Frank Beckham Appellant.

PROOF OF SERVICE

I certify that I served the Explanation of Appeal Pursuant to Rule 203(d)(1)(B), SCACR, on the State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on August 31, 2012 addressed to its attorney of record, Scott Spive, Esq., Assistant Circuit Solicitor, 180 Magnolia Street, Spartanburg, S.C. 29306.

August 30, 2012


J. Roger Poole
Bar No.: 4499
Seventh Judicial Circuit Public Defender Office
366 N Church Street, Suite 3000
Spartanburg, South Carolina 29303
(864) 596-2561
Attorney for Appellant

FILED
CLERK OF COURT
2012 SEP 11 AM 9:05
M. HOPE BLACKLEY

The South Carolina Court of Appeals

The State, Respondent

v.

Frank Beckham, Appellant

Appellate Case No. 2012-212859

ORDER

Appellant has failed to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv) of the South Carolina Appellate Court Rules (SCACR). Accordingly, this matter is dismissed, and the remittitur will be sent as required by Rule 221(b), SCACR.


FOR THE COURT

Columbia, South Carolina

cc:
J. Roger Poole
Scott Daniel Spivey

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COURT OF APPEALS
2012 NOV 29 AM 8:39
M. HOPE BLACKLEY

FILED

10/24/12 AT

DM

STATE OF SOUTH CAROLINA)
County of Spartanburg)
Frank Beckham, Jr. #133580)
Full name and prison number (if any) of Applicant)

IN THE COURT OF COMMON PLEAS

v.

State of South Carolina)

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 Corr. Inst., 4848 Goldmine Highway, Kershaw, S.C. 29067
2. Name and location of Court which imposed sentence Spartanburg County Court Of General Sessions, Spartanburg, S.C. 29304-3483
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2012-GS-42-00623, Possession Of Cocaine Base 2nd offense
 - (b) 2012-GS-42-00624, Distribution Of Cocaine Base 1st offense

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H. H. JACKLE

- (c) _____
- 5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 8/28/2012, 3yrs concurrent
 - (b) 8/28/2012, 5yrs concurrent
 - (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?
no

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

- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) No right to direct appeal guilty pleas in SoC.
 - (b) _____

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 MICHIGAN COURT SYSTEM

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

- (a) I
- (b) _____
- (c) _____

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

- (a) See: (Initial Brief In Support of Application to be amended)
- (b) _____
- (c) _____

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

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

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

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

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M. HENRY BLACKLEY

FILED

2013-CP-42-00884

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

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

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

15. If you answered "yes" to (14) identify:
 (a) which grounds have been presented:
 i. N/A
 ii. _____
 iii. _____

(b) the proceedings in which each ground was raised:
 i. N/A
 ii. _____
 iii. _____

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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) First time challenged
- (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? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
No

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

- (a) the name and address of each attorney who represented you:
 - i. Public Defender, Roger J. Poole, Spartanburg, County
Public Defenders Office, 366 N. Church St., Spartanburg, SC, 29306
 - ii. // // // // // // //
 - iii. _____

- (b) the proceedings at which each such attorney represented you:
 - i. Plea and Sentencing
 - ii. _____
 - iii. _____

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M. HOPKINS-ATKINLEY

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

Vacated Plea and remand for further proceedings

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

No

STATE OF SOUTH CAROLINA)
County of Spartanburg)

VERIFICATION

I, Frank Beckham Jr. # 133580, 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.

Frank Beckham Jr

SWORN to and subscribed before me this 21 day of February, 2013.

Cathrine A. Comas (L.S.)
Notary Public

My Commission Expires Dec 31 2013

2013 FEB 25 PM 1:57
HOPKINS COUNTY

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

I, Frank Beckman, Jr. # 133580, 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.

Frank Beckman Jr. Applicant

SWORN or affirmed to and subscribed before me this 21 day of February 2013.

Cathrine A. Amador Notary Public My Commission Expires:

My Commission Expires:

2013 FEB 25 PM 1:57 M. HOPE BLACKLEY

2013-CP-42-008841

Date: 2/21/2013

Dear Clerk,

Please find enclosed, my Application For Post Conviction Relief, With Motion For Transcript And Case Documents and Certificate Of Service, with Copies thereof.

Please file an original, clock the copy, and return copy in envelope provided.

Thank you for your kind services.

Respectfully,

Frank Beckham Sr

Frank Beckham, Jr, #133580
Kershaw C.I., Mag. A-12
4848 Goldmine Highway
Kershaw, S.C. 29062

State Of South Carolina
County Of Spartanburg

In The Court Of Common Pleas
Case No:

Frank Beckham, Jr. #133580,
Applicant,

v.

State Of South Carolina,
Respondent.

Certificate Of Service

The Applicant in the above-captioned matter, do hereby under oath and penalty of perjury certify that I have served an Application For Post Conviction Relief, Motion For Transcript And Case Documents and Certificate of Service upon the below listed parties on the same date.

(1) Mr. Alan Wilson
Attorney General
P.O. Box 11549
Columbia, S.C. 29211-1549

(2) M. Hope Blackley, Clerk Of Court
Spartanburg County
P.O. Box 3483
Spartanburg, South Carolina 29304-3483

Sworn To Before Me, This 19
Day Of February, 2013.
Notary Public For South Carolina:
Catherine A. Cross
My Commission Expires: _____

2013 FEB 25 PM 1:55
M. HOPE BLACKLEY

Respectfully Submitted,
[Prose], Frank Beckham Jr
Frank Beckham, Jr. #133580
Kershaw C.I., Mag. A12
4848 Goldmine Highway
Kershaw, S.C. 29069

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG)	
)	
)	2013-CP-42-0884
Frank Beckham, Jr., #133580,)	
)	
Applicant,)	
)	
v.)	RETURN
)	
State of South Carolina,)	
)	
Respondent.)	

Respondent, making its Return to the application for post-conviction relief (PCR) filed February 25, 2013¹, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. He was indicted at the February 2012 term of the Spartanburg County Grand Jury for two counts of distribution of crack cocaine (2012-GS-42-0623, -0624)². The Applicant was represented by J. Roger Poole, Esquire. On August 28, 2012, the Applicant pled guilty to the lesser included offense of possession of crack - 1st offense (-0623) and distribution of crack - 2nd offense (-0624). The Honorable J. Derham Cole sentenced Applicant to concurrent sentences of five years for distribution of crack cocaine – 2nd offense and three years for possession – 1st offense.

¹ Applicant also filed a *pro se* Motion to Relieve Counsel and Expedite the PCR hearing on November 25, 2013.

² A third indictment for distribution of crack cocaine – 2nd offense was dismissed in accordance with Applicant's agreement to plead guilty to the other charges.

A timely notice of appeal was filed on Applicant's behalf. The South Carolina Court of Appeals dismissed the appeal for failure to establish any preserved issues on October 24, 2012. The Remittitur was returned on November 13, 2012.

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

II.

In his current Application, the Applicant fails to set forth any allegations that he is being held in custody unlawfully.

III.

The Court should summarily dismiss this application for failure to state a claim cognizable under the Post-Conviction Procedure Act, S.C. Code Ann. § 17-27-10 to -160 (2003). An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law,

statutory or other writ, motion, petition, proceeding or remedy.... S.C. Code Ann. § 17-27-20 (1976).

The Uniform Post-Conviction Procedure Act requires the Applicant to "*specifically set forth the grounds upon which the application is based.*" S.C. Code Ann. § 17-27-50 (1985). The Respondent respectfully submits that it is incumbent on the Applicant to amend the application and provide specifics so that adequate preparation is possible.

The Respondent therefore moves for summary dismissal of this application pursuant to S.C. Code Ann. § 17-27-70(c) (2003), unless the PCR Application is amended to include with specificity what Applicant alleges.

IV.

WHEREFORE, having made its Return, the State requests that the application be amended to include specific allegations, or be summarily dismissed.


Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Deputy Attorney General

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

March 28, 2014.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)
)
)
)
 FRANK BECKHAM, JR., #133580)
)
 Applicant,)
)
 vs)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS


2013-CP-42-0884

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:

J. Brandt Rucker, Esquire
Brandt Rucker Attorney At Law
522 North Church Street
Greenville, South Carolina 29601

DATED this 28th day of March, 2014.


 Kelly Oppenheimer, Legal Assistant
 For Respondent

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) COURT OF COMMON PLEAS NONJURY

3
4 FRANK BECKHAM, JR.,) TRANSCRIPT
5 APPLICANT,) OF
6 vs.) RECORD
7 STATE OF SOUTH CAROLINA,)
8 RESPONDENT.) 2013-CP-42-884

9
10 September 15th, 2014
11 Spartanburg, South Carolina

12
13 B E F O R E:

14 THE HONORABLE ROGER L. COUCH, Judge.

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

16 J. BRANDT RUCKER
17 ESQ.
18 Attorney for the Applicant

19 J. CLAYTON MITCHELL
20 ASSISTANT ATTORNEY GENERAL
21 Attorney for the Respondent

22
23 PAMELA E. GREEN
24 Circuit Court Reporter
25 Seventh Judicial Circuit

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I N D E X O F W I T N E S S E S

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P R O C E E D I N G S

1
2
3 THE COURT: All right. The State may proceed in the
4 next case.

5 MR. MITCHELL: May it please the Court.

6 This case is Frank Beckham versus the State of South
7 Carolina. Docket Number 2013-CP-42-0884.

8 Applicant is presently confined in the South Carolina
9 Department of Corrections pursuant to Orders of Commitment
10 of the Spartanburg County Clerk of Court. He was indicted
11 in the February of 2012 term by the Spartanburg County Grand
12 Jury for two counts of distribution of crack cocaine.
13 Indictment Number 2012-GS-42-623 and-624. Applicant was
14 represented by Mr. J. Roger Poole, and on August 28th,
15 2012, Applicant pled guilty to the lesser included offense
16 of possession of crack cocaine first offense and
17 distribution of crack second offense.

18 The Honorable J. Derham Cole sentenced Applicant to
19 concurrent terms of five years for distribution of crack
20 cocaine, cocaine second offense, and three years for
21 possession first offense. Timely notice of, of appeal was
22 filed on the Applicant's behalf and the South Carolina Court of
23 Appeals dismissed the appeal for failing to state -- to
24 establish any preserved issues and the remittitur was
25 returned on November 13th of 2012.

Frank Beckham - Direct examination
by Mr. Rucker

1 THE COURT: And are you Junior?

2 THE WITNESS: Junior, yes, sir.

3 THE COURT: Okay. Thank you, sir.

4 Counselor, you may proceed.

5 MR. RUCKER: Your Honor, may it please the Court?

6 THE COURT: Yes, sir.

7 DIRECT EXAMINATION

8 BY MR. RUCKER:

9 Q Mr. Beckham, what sentence -- what are you currently
10 sentenced to?

11 A I was -- well, I, I'm -- I pled guilty to -- in front
12 of Mr. Cole and solicitor Ivy -- I mean Spicy (sic) and
13 Roger Poole with an agreement that I have three charges.
14 They threw one out. They dropped one down from a
15 distribution to a possession, and I had a possession back in
16 '06 and I pled guilty to it first offense distribution and
17 second offense possession.

18 Q Okay.

19 A That was my -- that's -- that was my, you know, ability
20 to it. That's what I was pleading to it.

21 Q So you're currently serving a sentence of five years?

22 A Yes, sir.

23 Q When is your max out date?

24 A They got it -- it's '16.

25 Q Okay. And you understand that the -- all that the

Frank Beckham - Direct examination
by Mr. Rucker

1 Judge can give you is a new trial?

2 You understand that?

3 A What I was, what I was really, what I was really --
4 they told me at Kirk -- at Kershaw, the classifications say,
5 "Frank, say they doing a lot of people like that from
6 Spartanburg. Why I don't know." He said, "but the only way
7 you can get it fixed is file a post-conviction and go back."

8 Q Okay. And you want to go forward knowing that all the
9 Judge can do is give -- grant you a new trial?

10 A Grant me a new trial or correct my conviction because I
11 pled guilty to first offense distribution.

12 Q Okay.

13 A I didn't plead guilty to no second offense
14 distribution.

15 Q All right. And why do you believe you, you pled guilty
16 to first offense rather than second offense?

17 A Because they told me that I had three charges. They
18 threw one out. They dropped one down to a, a possession
19 from a distribution and I pled guilty to first offense
20 distribution cause I ain't never had none, and, like I say,
21 I got, I got paperwork saying one thing and, and my
22 transcript saying something else.

23 They got a possession on Page 27 where he said, "give
24 me all you got on him, solicitor," and he said, "Your Honor,
25 he had a possession in 2006," and with the one in 2012, I

Frank Beckham - Direct examination
by Mr. Rucker

1 pled guilty to second offense possession and first offense
2 distribution. But they got it first offense possession and
3 the 2006 ain't on there, but it's on the transcript.

4 Now, why would I plead guilty to something that he say
5 "give me all you got on him, solicitor"?

6 Q All right. Was Mr. Poole present during the plea?

7 A Yes, sir.

8 Q Okay. Did you have time to talk with him before the
9 hearing?

10 A Yes, sir, he told me, he said, said, "Frank, said they
11 done, they done brought a tape in, a DVD or something,
12 saying that it looks like you." I said "well, why, why
13 wasn't I told this before now where me and you and the
14 solicitor could of set down and went, went over it." He
15 said, "I don't know why he, why you didn't get it, why." He
16 said, "they just showed it to me." It's -- it just wasn't
17 adding up.

18 So -- but just as I say, I just want to get it over
19 with cause see I'm, I'm 59 years old now. I was 57 at the
20 time, and I got bad health, real bad. I got chronic
21 arthritis. I'm, I'm a diabetic. I'm now on Insulin since I
22 been in there and I'm blind in one eye and I got high blood
23 pressure. I'm taking so much medication I can't even pay
24 for it down there.

25 Q Okay.

Frank Beckham - Direct examination
by Mr. Rucker

1 A And said well, I ain't -- just sleeping on this steel
2 and all, walking on this concrete, it ain't doing nothing
3 but killing me, and so I said I got to try to get some
4 relief and then---

5 Q All right.

6 A And I looked at the transcript, and, like I say, he
7 said, "give me all you got on him, solicitor." And he said,
8 "well, Your Honor, he had a possession in 2006" and that's
9 why I pled guilty. He said, "well, that will make a second
10 possession." I said "yes, sir." He said, "you, you gonna
11 plead to that too?" I said, "I have to cause I had it in
12 2006 and if you give me a possession now, that's gonna make
13 it second offense possession, and that's what I'm pleading
14 to, first offense distribution and second offense
15 possession."

16 Q But what you were actually sentenced though, the
17 sentencing sheet shows---

18 A It's saying, it's saying first offense possession and
19 second offense distribution, and I said no, no, no, I didn't
20 plead guilty to that.

21 Q So you believe it was backwards that they---

22 A Yeah, they done, they done -- that's what I'm saying
23 because the, the 2006 is not on there. That would of made
24 the second, second offense possession because I had it in
25 2006, and if I plead guilty to that in 2012, that's gonna

Frank Beckham - Direct examination
by Mr. Rucker

1 make it a second offense possession and it's not on there.

2 It's not on the sentencing sheet, but it's, it's on
3 that Page 27 where he said give me all you got on him,
4 solicitor.

5 Q Okay. When did you notify Mr. Poole -- well, when did
6 you find out about the error?

7 A When they told me at -- when I left -- I left Kirkland
8 and went to Kershaw and I had to go in front of the
9 classification team, and that's when they told me, said,
10 "well, you get out in 2016." I said, "holdup, 2016." I
11 said, "no, sir, something ain't right." I said, "I was
12 sentenced to five years distribution first offense and three
13 years concurrent for second offense possession." He said,
14 "nah, they got you first offense possession and second
15 offense distribution." I said, "no, no, no, no."

16 Q Did Mr. Poole explain to you the way prior drug
17 convictions worked in the drug---

18 A Nope.

19 Q ---scheme?

20 A No, he just told me that I agreed to plead to the first
21 offense because I had never had a first---

22 Q And---

23 A ---distribution. I had a possession, but not a
24 distribution, and he explained to me what distribution was,
25 which I already know, because it's selling to an undercover

Frank Beckham - Direct examination
by Mr. Rucker

1 agent or either selling to an informant and he taking it --
2 he or she taking it back to the agents.

3 Q Okay. And you did not believe you were pleading guilty
4 to a second distribution?

5 A No. No, sir, I know I wasn't pleading guilty cause he
6 told me, "off the top, Frank, I sentence you to five years
7 for first offense distribution and I give you three years
8 concurrent second offense possession." But it ain't saying
9 that on the transcript. It took me almost a year to get the
10 sentencing sheet. I couldn't never -- I didn't understand
11 that.

12 Q Okay. So outside of that error, is there anything else
13 that you believe that Mr. Poole did not do that he should of
14 done?

15 A Well, he did, he did, he coerced me into pleading
16 guilty, but which I pleaded guilty free and voluntary. But
17 I was pleading guilty to first offense distribution and
18 second offense possession, and that's what I went in front
19 of Judge Cole on. And when I came back from the hearing,
20 for the hearing on April the 7th, I asked him the same
21 thing, and he told me you had a prior possession. I said,
22 "but that's not distribution. That's just possession."

23 Q Okay. Are, are there any other issues that you believe
24 Mr. Poole didn't follow through on?

25 A Oh, he didn't follow through on subpoenaing nobody. So

Frank Beckham - Direct examination
by Mr. Rucker

1 I had to go through with the, with the plea.

2 Q Were you---

3 A He said it was ready to go to trial with it and I said,
4 "well, what about the people I asked you to subpoena."

5 "Oh, I didn't, I didn't have the chance to do that."

6 I, I---

7 Q Did---

8 A I didn't understand.

9 Q Did Mr. Poole make a motion for continuance or attempt
10 to talk to the solicitor's Office about a continuance?

11 A Yep, and did none of that go. He said, "we gonna take
12 you in front of Mr. Cole today at two o'clock." He said,
13 "I'm gonna try to get you what your codefendant got."

14 The guy that they was trying to get me to roll over on
15 and I didn't do it cause I told him, I said, "look, man,
16 I'm -- I done got so old now I'm not trying to tell nothing
17 on nobody. I'm not trying to do the narc's jobs or nothing.
18 Let them do they own job." I said, "that's dangerous." I
19 said, "I'm not gonna do it."

20 But some kind of way, he went before me and they talked
21 him into taking the guilty plea. They give him probation
22 and he was the one they wanted me to roll over on.

23 Q what was your codefendant's name?

24 A James McClooney.

25 Q All right. was it your impression from Mr. Poole that

Frank Beckham - Direct examination
by Mr. Rucker

1 you were gonna get probation as well?

2 A Yeah, the same thing and McClooney went -- he was there
3 with me and he said, "Mr. Clooney's here." He said he, he
4 took everything saying that Frank was just -- I was on
5 crack. I wasn't no, no dealer. It took me a year to pay
6 for a bond, Carolina Bondsman, to get me from -- to get me
7 out of jail.

8 Q Were you under the influence when you entered the plea?

9 A No, I wasn't under the influence. I had -- I been
10 stopped smoking the crack almost a year cause it took them a
11 little over a year to get my case. I was back in church
12 singing on two choirs. I was doing good, man --

13 Q Okay.

14 A -- and I couldn't understand why they done me like that
15 and give him probation when he was the one making the -- all
16 the money. I wasn't making no money.

17 Q Did you ever go over the discovery with Mr. Poole other
18 than when you---

19 A Yes, sir, I went -- I had a preliminary --

20 Q Okay.

21 A -- and, at the preliminary, he read it and he said
22 audio and video didn't take the first time. Audio and video
23 didn't take the second time. Audio and video didn't take
24 the third time. He said, "man, this crap is bogus. Don't
25 plead guilty to this" and that's what -- I, I had the

Frank Beckham - Direct examination
by Mr. Rucker

1 intentions that we going to trial.

2 But when I -- he called me and tell me that I'm going
3 to trial, I get up there, he done, he done changed his mind.
4 He want me to plead guilty. You see---

5 Q How many times did you actually meet with him?

6 A I seen him at roll call about two or three times. But
7 as far as just sitting down, no, I didn't meet with him no
8 more after that preliminary hearing, and every time I called
9 him or try to see him he was -- I leave a message, leave a
10 message. I didn't see him.

11 MR. RUCKER: Okay. No further questions.

12 THE COURT: You may cross-examine.

13 CROSS-EXAMINATION

14 BY MR. MITCHELL:

15 Q Good morning, Mr. Beckham.

16 A Good morning.

17 Q Now, you were charged with distribution of crack
18 cocaine second offense?

19 A Nope, not -- that's what I'm charged with now on the
20 paperwork.

21 Q That's right.

22 A But I didn't, I didn't plead guilty to that.

23 Q Okay. Okay. But you -- the indictment say second
24 offense.

25 They were three indictments, right?

Frank Beckham - Cross-examination
by Mr. Mitchell

1 A Right.

2 Q Now, the first -- they're two indictments for
3 distribution of crack and then one of them was pled down to
4 possession of crack, right?

5 A Right. Only one---

6 Q And you had a prior possession -- 2006 possession---

7 A Uh-huh. (Affirmative).

8 Q ---of crack then too, right?

9 Now, you understand that's a drug offense also?

10 A Yes, but that's possession. That's not distribution.

11 Q Okay. Well, do you remember the hearing you had in
12 front of Judge Cole to relieve counsel a few months ago?

13 A Yes.

14 Q I think that was maybe April?

15 A April the 7th, yeah.

16 Q Did Judge Cole go over that with you then saying
17 this---

18 A He say -- he give me some insights talking about well,
19 you had a -- he said, "you had a drug offense back in
20 summertime or another." He didn't make the exact statement.
21 I said, "yes, sir."

22 Q Right.

23 A In 2006. He said, "well, we see -- that's what it -- I
24 said, "that's not possession. He said, "oh, now you're
25 trying to tell -- that's what's wrong. You're trying to

Frank Beckham - Cross-examination
by Mr. Mitchell

1 tell the judge---

2 Q Well, it was possession.

3 You had a prior conviction of possession in 2006,
4 right?

5 A Yeah, it was possession, yeah.

6 Q Okay. So then you had these three other indictments in
7 2012?

8 A They threw one out.

9 Q Right. Threw one out.

10 A They plead one down to---

11 Q Pled one down to possession and a second offense you
12 pled guilty to still?

13 A But I -- the -- this part that they told me first
14 offense.

15 Q Okay. I understand. I understand.

16 A Yeah, and that's what I -- that was my intention.
17 That's what I was doing, pleading to first offense.

18 Q Okay. Now, Mr. Poole, was he appointed or retained by
19 you in your case?

20 A He was appointed. He was a public defender.

21 Q And he represented you for about a year before the plea
22 when you---

23 A Yeah, and I didn't see him but just at the preliminary
24 hearing, the first preliminary hearing.

25 Q You never saw him before?

Frank Beckham - Cross-examination
by Mr. Mitchell

1 Never met him before?

2 A I see him at roll call, and I asked him, I said, "well,
3 why don't you make a motion that these charges be dismissed
4 on me." He said, "don't worry about it. It's probably
5 what's gonna happen any, any." I said -- I don't know
6 what's going on with him, but, you know, he act like he was
7 really in my favor.

8 Q well, weren't y'all -- y'all were planning on going to
9 trial initially, correct?

10 A Yeah, initially.

11 Q So you were ready to go?

12 A Yeah, he told me don't plead guilty. He said, "all
13 this bogus."

14 Q Okay. Now, you spoke of a codefendant earlier.
15 He got a probationary sentence?

16 A He got three, three years probation and I think it was
17 a six -- three months or six months house arrest. Three
18 months---

19 Q Okay.

20 A ---house arrest.

21 Q So you thought you were gonna get a more lenient
22 sentence along the lines of what he got, right?

23 A Yeah, cause like he done said -- he, he told the
24 judge -- he throwed his hands up and say, "yeah, that was
25 stuff. Mr. Beckham was just working for me. He was a user"

Frank Beckham - Cross-examination
by Mr. Mitchell

1 and the judge said, "haven't you been sentenced." He said,
2 "yeah." He said, "well, you sit down then. I don't want to
3 hear from you." I didn't understand that.

4 Q Now, the plea hearing, you went through all the rights
5 with Judge Cole where you waived your Constitutional rights?
6 Isn't that right?

7 A Yeah, he was -- yeah, to the -- yeah.

8 Q You waived your right to a jury trial?

9 A Yeah.

10 Q Waived your right to remain silent?

11 A Yeah, because the way that he presented it to me is
12 like I can get you 30 years for this. I can give you 30
13 years for that. Man, I'm 57 years old. I can't do no 30
14 years. I done did 11 and a half year about---

15 Q Right. Right. Right.

16 But you knew you were, you knew -- you knew you were
17 pleading guilty to distribution of crack cocaine, right?

18 A Yeah, first.

19 Q You just thought it was a first, not a second?

20 A Not a second.

21 Q Now, the transcript, it's over and over. It's second
22 offense.

23 A Yeah.

24 Q You say in there -- he says, "do you understand this is
25 a second offense" and you said, "yes, sir."

Frank Beckham - Cross-examination
by Mr. Mitchell

1 A No, no, no. That's what -- that's the part that don't
2 get me. That's the part I don't get.

3 If I pled guilty to a second offense distribution, what
4 happened to the second offense possession and it's not even
5 on there?

6 It's just got first offense. I had a 2006.

7 Q Right. Right. Right.

8 A Yeah, it should of been one cause that's what I plead
9 to.

10 Q They dropped it down with your agreement to plead?

11 A No, no, no, no.

12 Q That was in your favor, right?

13 A No, no, no. They dropped another down to a possession.
14 That would of made it second offense possession --

15 Q Right.

16 A -- cause I had one in 2006. This was in 2012 and
17 that's what I -- that -- my intentions I was pleading to it
18 because that's what it was. He said, "so, in other words,
19 it's a second offense possession." I said, "yes, sir." He
20 said, "I give you five years---

21 Q Hold on.

22 A -- on first offense distribution, and I give you three
23 years concurrent on second offense possession." But this is
24 not on the transcript. That's what, that's what don't get
25 me.

Frank Beckham - Cross-examination
by Mr. Mitchell

- 1 Q Okay. So your contention is that the transcript is
2 inaccurate---
- 3 A It's---
- 4 Q Okay. But you signed the sentencing sheet that says---
- 5 A I didn't sign that sheet.
- 6 Q ---that you're---
- 7 A I got two sheets right now and it's not my signature---
- 8 Q That's what you---
- 9 A ---and everybody that look at it say, "Frank, it's
10 clearly not your signature." Roger Poole signed that. Look
11 at Roger Poole's name on there and then look at my name.
12 It's signed the same. He left a, a letter out my name.
- 13 Q All right.
- 14 A I know my name, B-E-C-K-H-A-M. He got B-E-C-H-A-M. I
15 ain't -- that, that -- I did not sign that.
- 16 MR. MITCHELL: Your Honor, may I approach?
- 17 THE COURT: You may.
- 18 Q All right. Mr. Beckham, this is the sentencing sheet.
19 It's your contention that's not your signature?
- 20 A No, look at it. Look at---
- 21 Q Uh-huh. (Affirmative).
- 22 A ---Roger Poole's writing and look at that writing.
- 23 Q Okay.
- 24 A I signed with a pen on the sentencing sheet that I
25 signed. I didn't sign with no nothing like that.

Frank Beckham - Cross-examination
by Mr. Mitchell

1 Q Okay. But it does say second offense distribution of
2 crack cocaine, right?

3 A It says -- no, not that one. Not the one I signed.

4 Q That says it right there though?

5 A That one there saying it, but not the one I signed.

6 Look at the stick -- the signature.

7 MR. MITCHELL: Okay. No further questions.

8 THE WITNESS: I didn't sign that.

9 MR. RUCKER: Your Honor, no redirect.

10 THE COURT: You may step down, sir.

11 Applicant may call its next witness.

12 MR. RUCKER: That's our case, Your Honor.

13 THE COURT: I'll hear from the State.

14 MR. MITCHELL: Your Honor, the State calls Mr. Roger
15 Poole.

16 THE COURT: Mr. Poole, come forward and be sworn
17 please.

18 THE WITNESS: Yes, sir.

19 ROGER POOLE, being first duly
20 sworn, testified as follows:

21 THE COURT: Have a seat please. State your name once
22 you're seated.

23 THE WITNESS: My name is Roger Poole.

24 THE COURT: You may proceed, counselor.

25 DIRECT EXAMINATION

Roger Poole - Direct examination
by Mr. Mitchell

1 BY MR. MITCHELL:

2 Q Mr. Poole, how long have you been practicing law?

3 A Thirty-four years.

4 Q Now, you work for the Public Defender's office now?

5 A That's correct.

6 Q How long have you been there?

7 A About five.

8 Q Okay. Now, you remember, you remember Mr. Beckham's
9 case?

10 A I remember Mr. Beckham's case. Sure I do.

11 Q Have you had an opportunity to review your file?

12 A Yes, I have.

13 Q Some of your notes?

14 A I have this morning.

15 Q How many guilty pleas have you handled?

16 A I have no idea.

17 Q I'd assume it's a good many?

18 A A vast number I would say over that long period of
19 time.

20 Q Now, you heard the Applicant say you only met with him
21 I think once or twice leading up to the guilty plea.

22 Do you---

23 A I don't have any notes from the preliminary hearing,
24 but if he says I met with him then, then, of course, I did.
25 I do have notes where I spoke to him during the course of my

Roger Poole - Direct examination
by Mr. Mitchell

1 representation with him conveying offers that were made by
2 the state at various times.

3 We picked up this case, I think it was in the beginning
4 of 2011, and I've got notes where I met with him at roll
5 calls on July -- in July or two, two occasions in July and
6 once in August, and that's direct face-to-face
7 conversations, and I did speak to him several times on the
8 telephone.

9 An offer was made in May of 2011 by then solicitor Ryan
10 McCarthy, and the offer was to allow him to plead to one
11 count of distribution of crack cocaine first offense, and I,
12 quote I, Ryan McCarthy, will dismiss the remaining charges.
13 I relayed this offer to him on that date. He rejected it
14 and said he wanted a jury trial.

15 Scott Spivey took the case up almost a year later on
16 April 13th, 2012. He e-mailed me a reiteration of this
17 offer and I spoke with Mr. Beckham about it on the telephone
18 and it was rejected again.

19 So that kind of brought us back around to square one
20 when we were on the trial docket for the week of August 20
21 something. I think he pled later on that week, on
22 August 28th. I subpoenaed the witness he asked me to
23 subpoena. That was a Jim McClooney who was a codefendant,
24 and, by that time, they had the confidential informant ready
25 to testify. We talked. And so Mr. Beckham went ahead and

Roger Poole - Direct examination
by Mr. Mitchell

1 took the plea that -- as it stood at that point in time and
2 pled guilty to it signing the sentencing sheet with his own
3 hand.

4 Q So I'm -- you reviewed these charges against him and he
5 knew that it was a second offense distribution?

6 A Yes, sir.

7 Q And you -- did you review that he had a prior
8 conviction for possession and that that could be used to
9 enhance his current charges to a second offense?

10 A That was my impression I have, of course, his N.C.I.C.

11 Q So it's your general practice to review all -- anything
12 that could enhance the current charges to, of course, go
13 back and look at prior charges to see if the current charges
14 could be enhanced to something?

15 A Yes, sir, of course.

16 Q There were -- was there really any -- did Mr. Beckham
17 take issue with the facts as presented by the state?

18 A Not really. To his benefit, I will say that he served
19 a -- like an accommodating middle person so to speak going
20 from one spot to another to accommodate somebody who wished
21 to make a purchase. I'm not so sure that the DVDs or the
22 audio visuals that they had were that good. But when he
23 took the plea, there was a CI present who was ready to
24 testify.

25 Q So you considered the evidence against Mr. Beckham at

Roger Poole - Direct examination
by Mr. Mitchell

1 that point?

2 A It would of been enough, enough to establish the cases,
3 the State's case beyond a reasonable doubt in my opinion.

4 Q Do you feel that pleading guilty was in the Applicant's
5 best interest?

6 A Yes.

7 Q And was it ultimately, ultimately his decision to plead
8 guilty?

9 A That's correct.

10 Q And did you sign the sentencing sheet for Mr. Beckham?

11 A No, I signed my name.

12 MR. MITCHELL: No further questions.

13 THE COURT: You may cross-examine.

14 MR. RUCKER: May it please the Court?

15 THE COURT: Yes, sir.

16 CROSS-EXAMINATION

17 BY MR. RUCKER:

18 Q Mr. Poole, is it fair to say that even some lawyers get
19 confused about enhancement on drug cases about previous
20 convictions and subsequent convictions?

21 A Certainly. That's quite fair to say.

22 Q Okay. And is there, is there a chance that, in your
23 communication, you were talking in lawyer speak to my client
24 and he may of misunderstood or he misunderstood that
25 since -- even though he didn't have a prior distribution

Roger Poole - Cross-examination
by Mr. Rucker

1 this would be counted as a distribution?

2 A That's certainly true.

3 Q Okay.

4 A That's certainly a possibility.

5 Q All right. And generally, when he's pleading guilty
6 while he's being asked these questions, you explained to him
7 to cooperate with what the judge is doing I would assume?

8 A Yes.

9 Q Okay.

10 A Uh-huh. (Affirmative).

11 Q Now, as far as the videotape that my client mentioned
12 earlier, do you recall that videotape in discovery?

13 A I, I have no independent recollection of what's on that
14 videotape. I have something in my file.

15 Q Okay.

16 A But I have not looked at it lately.

17 Q Okay. But you believed, based on that videotape, he
18 was going to be convicted?

19 A I'm not so sure -- my notes have someone saying come
20 here, Frank, or something to that effect, and I'm not so
21 sure that the quality of the visual or the audio was that
22 good. I can't say right here, from where I sit, that yes,
23 the audio was really good and that it was him. I can't say
24 that. But there was some mention of one Frank.

25 Q Okay. All right. And was it your understanding from

Roger Poole - Cross-examination
by Mr. Rucker

1 the solicitor's office that my client could get the same
2 deal as the codefendant?

3 A I have in my notes will recommend codefendant's
4 sentence and I have the codefendant's sentence, but this was
5 what I noted down on May 2, 2012. I conveyed this offer to
6 him on May 8th and it was rejected.

7 Q But, but on the day of the actual plea, did you tell
8 him that he would get the same deal as the other
9 codefendant?

10 A I think I told him I would ask the Court to do that for
11 him---

12 Q Okay.

13 A ---and I think I, I tried to.

14 Q Okay. And did the -- and I may misremember this.
15 so did the other defendant plead first and then my
16 client plead?

17 Did y'all plead at the same time or was it in reverse
18 order?

19 A Codefendant plead first.

20 Q Okay. Did you know what he got at the time he pled
21 guilty by the time you went to the guilty plea with my
22 client?

23 A I got in my notes recommend -- well, it was ten years
24 suspended to 90 days probation, three years, 50 hours public
25 service, P.D. fee, et cetera.

Roger Poole - Cross-examination
by Mr. Rucker

1 Q All right. Was my client under the influence in anyway
2 when he, when he pled guilty that day?

3 A No, Mr. Beckham wasn't, no, sir.

4 Q Okay. Do you agree that his signature looks different
5 from his sentencing sheets from his normal signature?

6 A Well, I see the first name -- the first signature is --
7 of his name Frank is in cursive and it appears that his last
8 name is written in manuscript type.

9 Q Okay. And was that different than his normal writing
10 signature?

11 A I do not know.

12 Q All right. Did -- is it unusual that he would of
13 misspelled his own name when he signed the sentencing sheet?

14 A It's a possibility. I remember Mr. Beckham as being
15 very, very nervous at the time of his plea.

16 Q Okay. If, if he would of gone to trial, how much time
17 was he looking at?

18 A I don't have my cheat sheet with me. Sorry.

19 Q All right.

20 A It's 30 years maybe?

21 THE COURT: The transcript indicates he was facing 30
22 years and a fine of 50,000.

23 MR. RUCKER: Yes, sir.

24 Q How, how many times did you actually meet with Mr.
25 Beckham?

Roger Poole - Cross-examination
by Mr. Rucker

1 A A minimum of five.

2 Q Okay. Did you meet with him at the jail or at your
3 office?

4 A I met with him most of the time at the terms of Court
5 when his case was scheduled.

6 Q Okay. And when you met with him where were you
7 meeting, in a conference room or --?

8 A We were meeting out here in the lobby.

9 Q Okay. So how many times was it continued?

10 A Well, it's hard for me to say. It may of been on at
11 least two trial dockets.

12 Q Okay. And when -- did you produce the evidence to go
13 over the evidence with him out in the hallway or did y'all
14 have a meeting in your office about that?

15 A Most of our conversations transpired here at the
16 courthouse that we have rooms around here. I can't say if
17 it was out in the hallway, in the lobby, or in the room. I
18 just don't remember.

19 Q Okay.

20 A I remember having most of our conversations
21 face-to-face---

22 Q Did you go over---

23 A ---that way.

24 Q I apologize.

25 Go ahead. I'm sorry.

Roger Poole - Cross-examination
by Mr. Rucker

1 A I'm through.

2 Q Okay. Did you go over the actual discovery, including
3 that tape with him, at your office?

4 A No, I told him -- I don't recall meeting him at the
5 office, although I may have. I told him what I observed on
6 the tape.

7 Q Okay. But you never actually showed him the tape
8 yourself?

9 A I don't think I did.

10 Q All right. When did they first get you that tape in,
11 in response to your discovery requests?

12 A I have, I have what appears to be the DVD right here
13 with the attached notes from my observing it. I don't know
14 what date it was.

15 Q Okay.

16 A I don't have anything in here to tell me.

17 Q Is it, is it your practice not to go over the discovery
18 with the defendants, with your clients?

19 A There's a practice to go over the discovery.

20 Q Okay. In this case you just did not have an
21 opportunity to go over the discovery with him?

22 A Well, I talked to him about it and I told him what I
23 observed on the tape.

24 Q Okay.

25 A There was somebody saying what's up, Frank. This was

Roger Poole - Cross-examination
by Mr. Rucker

1 at [REDACTED] or Woods Street and some comment
2 walking to the back, don't that look a little suspicious, a
3 woman talking, somebody smoking crack. A quotation "Frank
4 got it from Black." That's what I meant to say earlier as
5 a -- like a small accommodation that Mr. Beckham was making
6 for someone.

7 Q Right.

8 A And I told him, you know, what I observed and it was
9 more, you know, a lot more than that, but I can't remember
10 exactly what it said.

11 Q Okay. All right. What was -- at the day of the actual
12 plea, what was the actual offer that was made as y'all went
13 in to do the plea what -- that was standing before you at
14 that time?

15 A I don't have a transcript with me nor do I have any
16 notes. I just know that the -- an offer had been rejected.

17 MR. RUCKER: All right. Your Honor, I have the
18 transcript. Sir, I will---

19 THE COURT: You may.

20 MR. RUCKER: ---pass up---

21 THE COURT: You can pass a copy up.

22 A I see that the Court stated that, on Page 11, Line 10:

23 The Court: All right. They agreed to reduce one of
24 the distributions to a possession.

25 Number 13. They agreed to dismiss another distribution

Roger Poole - Cross-examination
by Mr. Rucker

1 case in return for your plea.

2 Line 17. You agree to plead guilty to the possession
3 of crack cocaine.

4 And then 20, was that a correct statement of what was
5 agreed upon between you and your lawyer and the solicitor.

6 I see that now.

7 Q Okay. Did you go over that specific terminology or,
8 you know, for a lay person, with that specific terminology
9 with my client that this is what you're going to get if you
10 plead?

11 A I'm sure I did.

12 Q Okay. And---

13 A Yes, that's the practice, of course.

14 Q Okay. And in that discussion, would you tell him that
15 the judge is limited or not limited in what the sentence
16 could be based on the charges?

17 A Well, typically, what I do, I say what the, the
18 exposure is. I mean zero to thirty or whatever it is, you
19 know---

20 Q Okay.

21 A ---or zero to five, whatever.

22 Q But, in this case, if it would of gone to trial,
23 obviously he was looking at a 30 year sentence, but there
24 was a recommendation by the State to at least dismiss one
25 charge?

Roger Poole - Cross-examination
by Mr. Rucker

1 A Yes, sir.

2 Q Okay. And did you explain, and let me get back to this
3 and talk briefly about it, did you explain that having a
4 prior possession could tick up or add a second to a
5 distribution charge?

6 A Yes, sir.

7 MR. RUCKER: Okay. No further questions.

8 THE COURT: Anything further from the State of this
9 witness?

10 MR. MITCHELL: Just very briefly.

11 THE COURT: Yes, sir.

12 REDIRECT EXAMINATION

13 BY MR. MITCHELL:

14 Q On the videotape, the -- what was recorded on the
15 videotape would of been consistent with what the CI was
16 gonna testify to.

17 Isn't that correct?

18 A Sure.

19 Q Mr. Beckham clearly admitted to committing the acts at
20 the guilty plea hearing?

21 A Yes, sir.

22 Q And Judge Cole went through this independent of all
23 your advice that this is a second offense multiple times I
24 believe, right?

25 A Yes, sir, he did.

Frank Beckham - Direct examination
by Mr. Rucker

1 MR. MITCHELL: That's all I have.

2 MR. RUCKER: No further questions.

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

4 I'll hear from the Petitioner.

5 MR. RUCKER: Your Honor, I need to speak with my client
6 briefly as far as potential rebuttable.

7 THE COURT: Yes, sir.

8 (Pause.)

9 MR. RUCKER: Your Honor, I would like to recall my
10 client who would -- wants to rebut one of the allegations by
11 defense counsel.

12 THE COURT: You may return to the stand, sir.

13 (Witness returns to the stand.)

14 THE COURT: Mr. Beckham, I'll remind you that you're
15 still under oath.

16 THE WITNESS: Yes, sir.

17 THE COURT: Do you understand that?

18 THE WITNESS: Yes, sir.

19 THE COURT: All right. Have a seat.

20 (Witness complies.)

21 THE COURT: Counselor, your witness.

22 MR. RUCKER: Thank you, Your Honor.

23 FRANK BECKHAM, having been
24 previously sworn, testified as follows:

25 DIRECT EXAMINATION

Frank Beckham - Direct examination
by Mr. Rucker

1 BY MR. RUCKER:

2 Q Frank, did you go over the terms of the agreement with
3 your attorney, with your -- with Mr. Poole, your defense
4 attorney?

5 A I never met with Mr. Poole but, like I say, on the
6 preliminary hearing and I seen him at roll call, and I kept
7 asking him about making the motion about the charges being
8 dismissed. And he never -- he would always give me the
9 runaround. But as far as him saying he called me and told
10 me about a plea, he never talked to me on the telephone till
11 the day before the -- my trial suppose to been coming up.

12 Q Okay. Did you ever go over the discovery with him at
13 all?

14 A At the preliminary hearing.

15 Q Okay.

16 A That was the first time.

17 Q Did you go over any subsequent discovery that may of
18 come including a videotape?

19 A No, when he told me about the videotape was the same
20 day that he told me to be in Court for the trial --

21 Q Okay.

22 A -- and I gets there and that's when he tell me. I say
23 well, why you didn't let me know about this before me and
24 the solicitor would sit down and go over this. I didn't
25 know about it, that's what he said.

Frank Beckham - Direct examination
by Mr. Rucker

1 Q And what did you believe you were pleading guilty to
2 that day?

3 A First offense distribution and second offense
4 possession --

5 Q All right.

6 A -- cause I got one in 2006.

7 MR. RUCKER: No further questions.

8 THE COURT: Anything further from the witness?

9 MR. MITCHELL: No questions.

10 THE COURT: You may step down.

11 All right. I'll hear from the Petitioner's attorney.

12 MR. RUCKER: Your Honor, we are arguing that my client
13 did not fully and voluntarily enter into the guilty plea
14 because he didn't fully understand the implications of
15 pleading guilty with a prior drug conviction. It's our
16 belief that the evidence shows that my client is more
17 credible and that he did not understand what's going on at
18 the time and he wants a new trial to correct these errors.

19 THE COURT: Hear from the State.

20 MR. MITCHELL: Your Honor, we would say that the record
21 fully reflects the intelligent and voluntary waiver of all
22 his rights, and that he fully understood what he was doing
23 and that he was pleading guilty to a second offense. And if
24 he didn't, then Judge Cole went through and cured any
25 alleged mistakes -- alleged ineffectiveness of counsel.

1 THE COURT: All right. Thank you.

2 I have reviewed the, the transcript as the testimony
3 was going forward, and I find, in several places, at least
4 two, maybe three, Judge Cole clearly explained to the
5 defendant what he was pleading to and the possible sentences
6 that were involved. The -- in fact, they went over
7 specifically the agreement starting on Page 11, it goes
8 through Page 13, and they had a discussion as to what had
9 been -- what the defendant had gone over with his attorney
10 and the fact he didn't want to go to prison, and then he
11 indicated that -- it all ended up by the Court asking the
12 defendant if he had correctly stated the agreement between
13 your lawyer and the solicitor, and the defendant said yes,
14 sir, you stated it, which acknowledge a second offense for
15 the distribution charge. Later on it was explained again as
16 a second offense distribution charge and the law would
17 support such a charge.

18 I find the -- Mr. Poole's testimony to be credible,
19 more credible than that of the defendant since the, the
20 Applicant, in this case, doesn't even acknowledge those
21 conversations in the, in the transcript itself, which speak
22 for themselves.

23 So I find that the conviction of the Applicant should
24 be sustained. I deny the relief.

25 I'll ask the State to prepare an order.

1 MR. RUCKER: Thank you, Your Honor.

2 MR. MITCHELL: Thank you, Your Honor.

3 THE COURT: Thank you very much.

4

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6 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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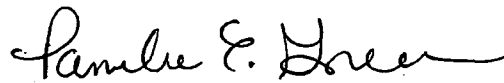
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I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas Nonjury for Spartanburg County, South Carolina, on the 15th day of September, 2014.

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

August 4th, 2015



PAMELA E. GREEN, Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Frank Beckham, Jr., #133580,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2013-CP-42-0884

ORDER OF DISMISSAL

CLERK OF COURT
SPARTANBURG COUNTY
2015 APR 23 PM 3:21
M. HOPE BLACKLEY

This matter comes before this Court by way of an application for post-conviction relief filed February 25, 2013. Respondent filed its Return on April 1, 2014. A hearing was convened at the Spartanburg County Courthouse on September 15, 2014, at which time Applicant was present in court and represented J. Brandt Rucker, Esquire. J. Clayton Mitchell of the South Carolina Attorney General's Office represented Respondent. Applicant testified on his own behalf. Also testifying was Applicant's plea counsel, J. Roger Poole. The Court had before it the Spartanburg County Clerk of Court records', Applicant's South Carolina Department of Corrections records, the PCR application, the Return, Applicant's appellate records, and the guilty plea transcript.

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. He was indicted at the February 2012 term of the Spartanburg County Grand Jury for two counts of distribution of crack cocaine (2012-GS-42-0623, -0624)¹. Applicant was represented by J. Roger Poole, Esquire. On August 28, 2012, the Applicant pled guilty to the lesser included offense of possession of crack - 1st offense (-0623) and distribution of crack - 2nd offense (-0624). The

¹ A third indictment for distribution of crack cocaine - 2nd offense was dismissed in accordance with Applicant's agreement to plead guilty to the other charges.

[Handwritten signature]

[Handwritten initials]

Honorable J. Derham Cole sentenced Applicant to concurrent sentences of five (5) years' imprisonment for distribution of crack cocaine – 2nd offense and three (3) years' imprisonment for possession – 1st offense.

A timely notice of appeal was filed on Applicant's behalf. The South Carolina Court of Appeals dismissed the appeal for failure to establish any preserved issues on October 24, 2012. The remittitur was returned on November 13, 2012.

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

1. Involuntary guilty plea in that Applicant believed he was pleading to a first offense rather than a second offense distribution charge.

II. SUMMARY AND EVIDENCE PRESENTED AT THE PCR HEARING

Applicant's Testimony

Applicant testified he pled guilty to possession of crack cocaine and to distribution of crack cocaine. Applicant testified he was represented by Counsel Poole for about a year before his guilty plea. He testified he reviewed discovery with his attorney and that they discussed the evidence the State was prepared to present against him if the case were to go to trial. Applicant recounted the plea deal that he ultimately entered into. The solicitor dropped one charge of distribution in exchange for his plea. Applicant testified that he was hoping to get a more lenient sentence because his codefendant received a probationary sentence. Applicant asserted that he could not be charged with second offense distribution of crack cocaine because he had no prior convictions for distribution. Applicant acknowledged that Judge Cole advised him that he was pleading to a second offense distribution charge.

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Counsel J. Roger Poole's Testimony

Counsel testified he represented Applicant on the charges currently before the Court. Counsel testified he was appointed to represent Applicant through his position with the Spartanburg County Public Defender's Office. Counsel testified he reviewed the charges Applicant was facing, including the maximum penalties for each charge. Counsel testified he reviewed discovery with Applicant which included a video and audio recording of Applicant purchasing crack cocaine. Counsel testified that there was some back and forth with the prosecuting solicitor discussing various plea options. Counsel noted that Applicant rejected an offer in May 2011 that would have allowed him to plead to one count of distribution of crack cocaine, 1st offense.

III. APPLICABLE LAW

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). When 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. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

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N. HOPKINS BLVD.
SPARTANBURG, SC 29303

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).

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the guilty plea transcript, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, the appellate records, and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

As a matter of general impression, this Court finds Applicant's testimony and assertions to be not credible. In contrast, this Court finds Counsel's testimony to be credible and persuasive on all matters. These credibility findings have been applied to the Court's findings and conclusions set forth below:

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Involuntary Guilty Plea

Applicant argues he did not plead guilty knowingly and voluntarily. This Court finds otherwise and concludes that Applicant's guilty plea was entered freely and voluntarily. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S. Ct. 1709, 23 L.Ed.2d 274 (1969). Defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). A guilty plea is a solemn judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 43 U.S. 63, 97 S. Ct. 1621, 52 L.Ed.2d 136 (1977)). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347 (4th Cir.1975).

Applicant claims he did not know he was pleading guilty to a second offense charge of distribution of crack cocaine, but believed he was pleading to a first offense. Applicant testified he could not be charged with second offense distribution because he had never been charged with a first offense. This Court finds this contention meritless. This Court finds the record reflects Applicant was advised that he was pleading guilty to a second offense by the plea court's very thorough colloquy with Applicant. This Court finds very credible Counsel's testimony

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regarding his preparation and advice concerning the case and the amount of time Applicant was facing. The record reflects Applicant admitted his guilt to the plea court. This Court finds Applicant's testimony regarding his belief that he was pleading to a first offense to be unpersuasive. The record reflects that Applicant was further advised by the plea court of the minimum and maximum sentence he could receive on each charge, which included a thirty (30) year sentence on the distribution, second offense charge. (Plea Tr. p. 7); See Wolfe v. State, 326 S.C. 158, 164, 485 S.E.2d 367, 370 (1997) (any possible misconceptions about sentence length cured by colloquy at guilty plea hearing). This Court notes Applicant was properly charged with a second offense because he had prior drug convictions and charges to satisfy the statute. See S.C. Code § 44-53-375(B)(2).

This Court finds the plea judge correctly found Applicant's plea was freely, voluntary, and intelligently made. This allegation is denied and dismissed with prejudice.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing on the 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 such allegations.

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V. 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. Applicant failed to demonstrate counsels' performance was unreasonable under prevailing professional norms. Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625; Stalk v. State, 383 S.C. 559,

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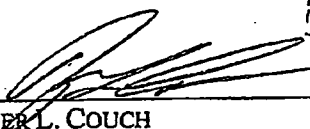
563, 681 S.E.2d 592, 594 (2009). Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

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 will remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 23^d day of April



 ROGER L. COUCH
 Presiding Judge

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 SPARTANBURG COUNTY
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 M. HOPE BLADKLEY

 _____, South Carolina

12-GS-42-0624

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M. HOPE BLACKLEY

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

FEB 27 2012

TERM

THE STATE
vs.

FRANK BECKHAM JR

Indictment for

DISTRIBUTION OF COCAINE BASE
SC Code: 44-53-375

WITNESSES

Steve Holt

COMPENS POLICE DEPT
SERVING AS JURY
Compute

CASE FILED

NOTED

CHECKED WARRANTS

CHECKED SIGNATURES

REASONABLE AND
TRUE ARREST WARRANT NUMBER

WARRANT VIOLATIONS UNIT

M751860

ACTION OF GRAND JURY

True Bill

True Bill

FEB 23 2012

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

42

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

FEB 23 2012

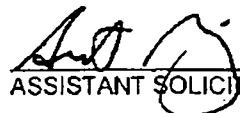
At a Court of General Sessions, convened on _____ the

Grand Jurors of Spartanburg County present upon their oath:

DISTRIBUTION COCAINE BASE

That Frank Beckham Jr. did in Spartanburg County on or about November 23, 2010, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Cocaine Base, a schedule II controlled substance under provisions of § 44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.*

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



ASSISTANT SOLICITOR

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M. HOPE BLACKLEY

DOCKET NO. **12-GS-42-0623**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

FEB 27 2012

TERM

THE STATE
vs.

FRANK BECKHAM JR

Indictment for

DISTRIBUTION OF COCAINE BASE
SC Code: 44-53-375

WITNESSES

Steve Updegraff

COPIES POLICE DEPT. **5**

CARD FORWARDED

INDEXED

CHECKED WARRANTS

CHECKED SIGNATURE

RECORDED SERIALIZED NUMBER

MAILED TELEPHONE UNIT

M751149

ACTION OF GRAND JURY

Jane C. ...
True Bill

Foreperson of Grand Jury
Date: FEB 23 2012

VERDICT

Foreperson of Petit Jury
Date:

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STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

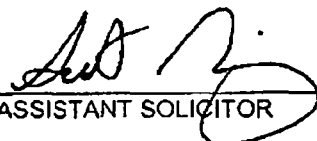
FEB 23 2012

At a Court of General Sessions, convened on _____ the
Grand Jurors of Spartanburg County present upon their oath:

DISTRIBUTION COCAINE BASE

That Frank Beckham Jr. did in Spartanburg County on or about November 14, 2010, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Cocaine Base, a schedule II controlled substance under provisions of § 44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.*

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



ASSISTANT SOLICITOR