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SC SUPREME COURT

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

---

Appeal from Greenville County  
Edward W. Miller, Circuit Court Judge

---

JEFFREY BRIAN DEVALL

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-002309

---

APPENDIX

---

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Appellate Defender

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

ATTORNEY FOR PETITIONER

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ATTORNEYS FOR RESPONDENT

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Plea

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF GREENVILLE	)	Case No(s) : 2012GS4700013
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	
Jeff Devall,	)	
	)	
Defendant.	)	

August 26, 2013  
Greenville, South Carolina

B E F O R E:

HONORABLE LETITIA H. VERDIN, Judge.

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

CURTIS PAULING, Esquire  
Attorney for the Plaintiff

JOSEPH BALDWIN, Esquire  
Attorney for the Defendant

**Teresa B. Johnson**  
Certified Verbatim Reporter  
P.O. Box 2812  
Greenville, S.C. 29602

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I N D E X

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EXHIBITS PAGENO.DESCRIPTIONID EV**PLAINTIFF EXHIBITS**

(No exhibits offered.)

**DEFENSE EXHIBITS**

(No exhibits offered.)

**COURT EXHIBITS**

(No exhibits offered.)

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P R O C E E D I N G S

(WHEREUPON, the proceedings begin on the 26th day of August, 2013 at approximately 11:17 a.m.)

MR. PAULING: Thank you, Your Honor. May it please the court?

THE COURT: Yes, sir.

MR. PAULING: The State would call Jeff Devall. Your Honor, this is back on the Gotham City State Grand Jury case. Your Honor, this was the second case that was out for trial this week. At this time, it is my understanding Mr. Devall wishes to enter a plea of guilty. He was indicted on State Grand Jury Indictment 2012-GS-47-13, Count 1, Trafficking Methamphetamine 400 grams or more by Conspiracy and Count 9, Trafficking Methamphetamine 28 to 100 grams.

Your Honor, he is going to enter a plea of guilty today to a lesser included on Count 1, Trafficking Methamphetamine 28 to 100 grams by Conspiracy. And Count 9, he is entering a plea as charged. Both of these charges carry a range of mandatory minimum of 7 up to 25 years. At this time, it is the State's recommendation of a range of 15 to 18 years.

1           He is represented by Joe Baldwin of the  
2 private bar. Your Honor, this is pursuant to a  
3 plea agreement that we would like to make part  
4 of the record that has been passed up to the  
5 court.

6           **THE COURT:** All right.

7           **MR. PAULING:** Your Honor, just briefly, if  
8 Mr. Baldwin and I could just approach for one  
9 moment.

10          **THE COURT:** Absolutely.

11          (WHEREUPON, a bench conference is held off the  
12 record.)

13          **THE COURT:** Mr. Devall, would you raise  
14 your right hand please?

15          (WHEREUPON, the defendant is first duly sworn.)

16          **THE COURT:** You can put your hand down.

17          Mr. Baldwin, have you discussed his  
18 decision to plead guilty to these charges?

19          **MR. BALDWIN:** Yes. Yes, I have, Your  
20 Honor.

21          **THE COURT:** All right. You are in  
22 agreement with his decision to do so?

23          **MR. BALDWIN:** Yes.

24          **THE COURT:** Mr. Devall, you are here today  
25 to plead to two counts of Trafficking

1 Methamphetamine 28 to 100 grams as to  
2 Conspiracy which each carry 7 to 25 years. Is  
3 that your understanding?

4 MR. DEVALL: My understanding was first  
5 offense.

6 THE COURT: It is first offense. That is  
7 exactly right. Yes, sir. Is that your  
8 understanding?

9 MR. DEVALL: Yes, ma'am.

10 THE COURT: Okay. Have you discussed  
11 these charges with your attorney?

12 MR. DEVALL: Yes, ma'am.

13 THE COURT: Are you happy with what your  
14 attorney has done for you?

15 MR. DEVALL: Yes, ma'am.

16 THE COURT: Are you under the influence of  
17 drugs or alcohol here today?

18 MR. DEVALL: No, ma'am.

19 THE COURT: Has anybody forced you to  
20 plead guilty?

21 MR. DEVALL: No, ma'am.

22 THE COURT: Has anybody promised you  
23 anything to get you to plead guilty?

24 MR. DEVALL: No, ma'am.

25 THE COURT: You know when you plead

1 guilty, you give up your right to remain silent  
2 about these charges. Do you know that?

3 **MR. DEVALL:** Yes, ma'am.

4 **THE COURT:** Okay. In other words, you  
5 understood up until this point you had an  
6 absolute right to remain silent about these  
7 charges. You knew that, right?

8 **MR. DEVALL:** Yes, ma'am.

9 **THE COURT:** When you enter a plea of  
10 guilty, you give up that right to remain  
11 silent. In other words, I can ask you  
12 questions about these charges and you are  
13 compelled to answer, do you understand that?

14 **MR. DEVALL:** Yes, ma'am.

15 **THE COURT:** You also give up your right to  
16 a jury trial. At that trial, your attorney can  
17 call witnesses for you and cross-examine  
18 witnesses against you. The State would have to  
19 prove your guilt beyond a reasonable doubt. In  
20 fact, we had a trial scheduled for today. When  
21 you plead guilty, you give up your right to a  
22 jury trial. Do you know that?

23 **MR. DEVALL:** Yes, ma'am.

24 **THE COURT:** How do you plead to these  
25 charges? Guilty or not guilty?

1           **MR. DEVALL:**     I plead guilty.

2           **THE COURT:**   All right. Thank you, sir.

3                     Yes, sir.

4           **MR. PAULING:**   Thank you, Your Honor.

5                     Again, this case stems from the investigation  
6                     of a methamphetamine ring operating in the  
7                     Upstate, Your Honor, encompassing Anderson,  
8                     Greenville, Laurens, Oconee and Pickens  
9                     counties trafficking a large amount of  
10                    methamphetamine in those particular areas.

11                    Your Honor, Mr. Devall was involved to the  
12                    extent that he was receiving a quantity of  
13                    methamphetamine from Brenda Rojas and Sergio  
14                    Luna a.k.a. Checo. They were assisting Miguel  
15                    Gehan [phonetic spelling] in distributing  
16                    methamphetamine in the upstate area. He was  
17                    receiving ounce amounts from those individuals.  
18                    There were also times when he was receiving  
19                    methamphetamine directly from Miguel Gehan in  
20                    ounce amounts, Your Honor. That would be as to  
21                    Count 1, the overall conspiracy charge.

22                    As to Count 9, Your Honor, that occurred on  
23                    September 28th of 2011 here in Greenville  
24                    county. Your Honor, that particular time --  
25                    let me back up. A couple of days prior to

1           that, Mr. Devall had received two ounces of  
2           methamphetamine from Brenda Rojas and Sergio  
3           Luna. On the 28th, he provided them or  
4           actually gave them a quantity of that  
5           methamphetamine. Drug analysis came back. It  
6           was 38.3 grams of methamphetamine. He also  
7           gave them \$450 cash for what he had sold out of  
8           that portion that have been provided to him a  
9           couple of days prior to. That is the facts as  
10          to Count 9.

11           Your Honor, just for the record, the  
12          conspiracy count, those dates range from  
13          November 2010 to June 2012. Also, Your Honor,  
14          when Mr. Devall was approached by law  
15          enforcement on June the 19th of 2012, he  
16          indicated that he was -- from other sources,  
17          Your Honor, indicated that he was, at least  
18          from January to June 2012, still receiving  
19          methamphetamine at that time at the most, from  
20          what his statement said, quarter ounce amounts  
21          of methamphetamine and distributed them to  
22          other individuals, he indicated, to support his  
23          habit for using methamphetamine.

24                 We would ask that the sentence be deferred  
25          at this particular time. It is my understand

1           that Robbins Bail bonding has been on his bond.  
2           It is my understanding they will continue to be  
3           on bond until he is sentence, Your Honor. I  
4           believe the clerk's office have paperwork to  
5           fill out to that effect. I believe they are  
6           present in the courtroom and would address that  
7           matter.

8           **THE COURT:**     All right. You all are from  
9           the bonding company?

10          **MS. THOMPSON:**     Yes, ma'am. I am.

11          **THE COURT:**     Yes, ma'am. Tell me your name  
12          please.

13          **MS. THOMPSON:**     Robbin Thompson.

14          **THE COURT:**     All right. Ms. Thompson, your  
15          company intends to remain on the bond for Mr.  
16          Devall?

17          **MS. THOMPSON:**     Yes, ma'am.

18          **THE COURT:**     I'm sorry. I said that very  
19          low. I apologize. You understand there is  
20          some paperwork that needs to be done today  
21          before you leave?

22          **MS. THOMPSON:**     Yes, ma'am.

23          **THE COURT:**     Okay. All right.

24                 Mr. Devall, if there is nothing else that  
25                 you need to add at this point, then I will

1 accept your plea as being freely and  
2 voluntarily made with the advice of very  
3 competent counsel with whom you're well  
4 satisfied and the plea has a substantial  
5 factual basis. They're asking me to defer  
6 sentencing until another day. I am happy to do  
7 that. All right. That is what you want me to  
8 do and you understand the bonding company will  
9 remain on your bond?

10 **MR. DEVALL:** Yes, ma'am.

11 **THE COURT:** Okay. Mr. Baldwin, anything  
12 you need to add at this point?

13 **MR. BALDWIN:** Not at this time. I will  
14 certainly have something to say at his final  
15 sentencing.

16 **THE COURT:** Certainly. I will look  
17 forward to speaking with you about it then.  
18 All right. Good luck to you.

19 **MR. BALDWIN:** Thank you, Your Honor.

20 **THE COURT:** Thank you.

21 **MR. PAULING:** Thank you, Your Honor.

22 **THE COURT:** Thank you.

23  
24 **(WHEREUPON, the proceedings conclude at**  
25 **approximately 11:25 a.m.)**



## Sentencing

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF GREENVILLE	)	Case No(s):2012GS4700013
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	
Jeff Devall,	)	
	)	
Defendant.	)	
	)	

November 06, 2013  
Greenville, South Carolina

B E F O R E:

**HONORABLE LETITIA H. VERDIN**, Judge.

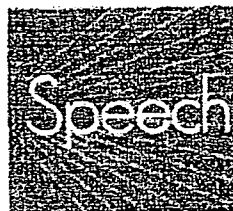
A P P E A R A N C E S:

**CURTIS PAULING**, Esquire  
Attorney for the Plaintiff

**JOSEPH BALDWIN**, Esquire  
Attorney for the Defendant

**Teresa B. Johnson**  
Certified Verbatim Reporter  
P.O. Box 2812  
Greenville, S.C. 29602

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Sentencing of the Court	4
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EXHIBITS PAGENO.DESCRIPTIONID EV**PLAINTIFF EXHIBITS**

(No exhibits offered.)

**DEFENSE EXHIBITS**

(No exhibits offered.)

**COURT EXHIBITS**

(No exhibits offered.)

**P R O C E E D I N G S**

1  
2 (WHEREUPON, the proceedings begin on the 6th day  
3 of November, 2013 at approximately 2:56 p.m.)

4 MR. PAULING: The State calls Jeff Devall.

5 (WHEREUPON, the defendant is first duly sworn.)

6 THE COURT: Yes, sir.

7 MR. PAULING: Thank you, Your Honor. May  
8 it please the court. Standing before you is  
9 Jeff Devall. This is on State Grand Jury  
10 indictment 2012-GS-47-13. Your Honor, Mr.  
11 Devall pled guilty back on August the 26th of  
12 this year. This was to Count 1, Trafficking  
13 Meth by Conspiracy. He was originally charged

14 --

15 THE COURT: Do you have the indictments?

16 THE CLERK: I have the indictments.

17 THE COURT: Or the sentencing sheet?

18 MR. PAULING: Wait a minute, Jim. I'm  
19 sorry. You can give that back to me. Jim, I  
20 got it. Sorry about that.

21 THE COURT: Thank you. Thank you.

22 MR. PAULING: Sorry about that, Your  
23 Honor.

24 THE COURT: No problem.

25 MR. PAULING: Count 1, pled to Trafficking

1 Meth by Conspiracy 28 to 100 grams was reduced  
2 from Trafficking Meth 400 grams or more. He  
3 also pled guilty to Count 9, Trafficking Meth  
4 28 to 100 grams.

5 At that particular time on that day, the  
6 recommendation was 15 to 18 years, Your Honor.  
7 At that time, part of the plea agreement that  
8 was also entered into involved continued  
9 cooperation with law enforcement. Arrangements  
10 were made or at least attempts were made by  
11 Agent Seinfeld to get in contact with Mr.  
12 Devall. We had that plea hearing back in  
13 August. It was Mr. Devall's understanding and  
14 his attorney that he was to maintain contact  
15 with Agent Seinfeld. It was brought to my  
16 attention by Agent Seinfeld that he essentially  
17 failed to do that.

18 The plea hearing was August the 26th.  
19 Agent Seinfeld actually had to go out to his  
20 residence because he had not keep in contact  
21 with her. I believe it was about two weeks  
22 ago, she went to his residence. There were  
23 other individuals there. He was at the home  
24 but would not let her into the house. He  
25 indicated that he would make contact with her

1 the following week. He did not do that. So  
2 it's the State's position to go forward with  
3 the sentencing.

4 In light of that, Your Honor, the  
5 recommendation was 15 to 18. Of course, the  
6 recommendation itself was contingent upon him  
7 cooperating with law enforcement. We feel the  
8 upper end of that range is appropriate. We are  
9 asking that the court go along with an 18-year  
10 sentence, Your Honor.

11 **THE COURT:** All right. All right. Does  
12 he have any prior record?

13 **MR. PAULING:** He does, Your Honor. It  
14 dates back to 1981, Petty Larceny; '84, DUI;  
15 Disorderly Conduct in '86; Driving under  
16 Suspension, Resisting Arrest. I'm sorry, the  
17 Resisting Arrest in '92. Disorderly in '92;  
18 CDV in '99. It is showing Possession of Crack  
19 in 2005. Possession of Controlled Substance at  
20 the same time, 2005, Your Honor. Possession of  
21 Meth second offense. Looks like he got home  
22 incarceration for that. That was in 2009.  
23 That appears to be the extent of his criminal  
24 record, Your Honor.

25 **THE COURT:** All right. All right.

1 Mr. Baldwin?

2 **MR. BALDWIN:** Your Honor, Jeff is 49 years  
3 old. I have come to know him from a lot of  
4 conversations. I really believe that basically  
5 he is a good person. But as you heard with all  
6 these other people, he was on drugs. And I  
7 know the way the statute is written. What  
8 caused him to enter the plea is he was in  
9 possession of 42 grams, at one time, of meth.  
10 He did sell -- he tells me he kept three grams  
11 for his own use but he returned 39 grams to the  
12 undercover person because he told her that he  
13 couldn't sell it.

14 I question whether he really made any money  
15 at all out of his drug use over the years. I  
16 believe that the only reason he does this is so  
17 he can have some drugs for his own use. He has  
18 admitted that to me that he does this sometimes  
19 to have drugs for his own use.

20 I'd ask that you consider his actual  
21 involvement in this. In this whole conspiracy,  
22 there were a lot of people that were selling,  
23 actually selling it. He actually was only in  
24 possession. They really don't know that he  
25 actually sold it. He says that he sells very

1 small amounts and that is all. He just wants  
2 to have it for his own use.

3 I point out he works. He is a hard worker.  
4 His employer is actually here. He would like  
5 to explain that to the court. He is a good  
6 worker. He doesn't make a lot of money off of  
7 drugs. He has a regular job.

8 He has got a lot of people here with him  
9 today. This is his minister. He would like to  
10 say just a few words to you. His former wife  
11 would like to speak a few words to you.

12 **THE COURT:** I will hear from the employer  
13 and the former wife very briefly. Then I will  
14 hear from the minister.

15 **MR. BALDWIN:** Yes, ma'am.

16 **THE COURT:** Yes, very briefly.

17 **MS. DAVIS:** I am his first wife.

18 **THE COURT:** Tell me your name please.

19 **MS. DAVIS:** Nancy Davis.

20 **THE COURT:** Yes, ma'am.

21 **MS. DAVIS:** We were together back when we  
22 were 16 years old. He really is a good person.  
23 We have a son who committed suicide in 2010. I  
24 know for a fact Jeff is not a rich man. I  
25 don't know -- I know he doesn't have -- he is

1 not a rich man. He works hard and he is an  
2 honest person.

3 **THE COURT:** Let me say, I believe -- I  
4 believe that nobody in this operation really  
5 got rich. I certainly do not think Mr. Devall  
6 was anybody who made any kind of money from  
7 this whatsoever. I believe that. I believe  
8 that and I believe -- I believe he, along with  
9 most of the others, who were involved in this  
10 did sell to support a habit.

11 **MS. DAVIS:** That's all.

12 **THE COURT:** I understand.

13 **MS. DAVIS:** Thank you, ma'am.

14 **THE COURT:** All right. Yes, sir, the  
15 employer. The employer, sir.

16 **MS. DAVIS:** I think he went to the  
17 bathroom.

18 **THE COURT:** Oh, well. I think he was  
19 going to say that he was a hard worker. I  
20 believe that he was. Yes, sir. I would like to  
21 hear from the minister.

22 **SPEAKER:** I'm with Outreach ministries  
23 here in Greenville. I've known Mr. Devall for  
24 several years. This man is the type of person  
25 that I can call him at 2 o'clock in the morning

1           and say I've got a family in need, I don't have  
2           anything, can you help. He is there. He  
3           understands what he did was wrong. But the  
4           State wanting him to go as an informant on  
5           other people, that is not the way he was raised  
6           so the State can say he would not cooperate.  
7           That is not the way this man was wired. You  
8           have got to look at the whole man, somebody  
9           that is not wired to go and try and get other  
10          people in trouble because of something he did.

11                 At the same time, law enforcement come into  
12          his house the way they come and approached his  
13          house because I seen it. Sometimes they get a  
14          little too high strung. So we need to look at  
15          the whole picture here. It is easy to sit and  
16          read a report and say what they are going to  
17          say about the man but you need to learn the man  
18          too. You need to understand how everything was  
19          done. I think it is a real bad situation all  
20          the way around.

21                 **THE COURT:**     Thank you, sir, for being  
22          here.

23                 **MR. BALDWIN:**    Your Honor, I do believe  
24          that -- I'm not sure what the problem was after  
25          the sentencing but I could pick up in talking

1 to him that he's the type of person -- you  
2 know, they say there is no honor among thieves.  
3 I believe he is not the type of person that is  
4 going to get other people into trouble simply  
5 because he is into trouble. That is all, I  
6 mean, he -- well, his employer just wanted to  
7 submit a letter to you.

8 **THE COURT:** Oh, is there a letter?

9 (WHEREUPON, there is a pause.)

10 **THE COURT:** Mr. Devall, would you like to  
11 say anything?

12 **MR. DEVALL:** Yes, ma'am. I ain't what the  
13 district attorney is trying to make it out like  
14 I am. I do have a drug -- I do have an  
15 addiction of drugs. I don't deny that. I do  
16 take responsibility for what I did but I was  
17 also going to ask if the court would let me  
18 prolong this until after the first of the year.

19 **THE COURT:** All right. Well, I know that  
20 you would like to do that. I certainly  
21 understand your reasons for wanting to do that.  
22 You have a great deal of support here today.  
23 That is evident. But we're not going to be  
24 able to put it off any longer. I apologize to  
25 you for that. The sentence of the court is 16

1           years. Credit for any time that you served.

2           Good luck to you.

3                   **MR. PAULING:**     Thank you, Your Honor.

4

5                   **(WHEREUPON,** the proceedings conclude at

6 approximately 3:09 p.m.)

7

8

9

10



FORM 5

STATE OF SOUTH CAROLINA )  
 )  
 County of GREENVILLE )  
 )  
JEFFREY B. DENALL #333134 )  
 Full name and prison number (if any) of Applicant )  
 )  
 v. )  
 )  
 State of South Carolina )  
 )  
 )  
 )

IN THE COURT OF COMMON PLEAS

**2014-CP-23-02473**

APPLICATION FOR

POST-CONVICTION RELIEF

ENTERED COMPUTER

FILED  
 CLERK OF COURT  
 GREENVILLE COUNTY  
 SOUTH CAROLINA  
 APR 9 2014  
 29

*JW*

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 PERRY CORRECTIONAL INSTITUTION  
430 OAKLAWN ROAD / PELZER SOUTH CAROLINA 29669
2. Name and location of Court which imposed sentence CIRCUIT COURT DIVISION  
GREENVILLE COUNTY COURTHOUSE, GREENVILLE, SC 29601
3. Name(s) of co-defendant(s) (if any) FRANK LNU, BRENDA ROJAS, SERGIO LUNA,  
MIGUEL GUILLEN, PAMELA BRYANT, MIGUEL MASTACHE-SOLANO, ETC...
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2012G3-47-13 (TRAFFICKING IN METHAMPHETAMINE
  - (b) (CONSPIRACY), (TRAFFICKING METHAMPHETAMINE

- (c) 28-100 GRAMS
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) ON NOVEMBER 6, 2013, EIGHT (8) YEARS FOR
- (b) TRAFFICKING IN METHAMPHETAMINE (CONSPIRACY) AND
- (c) EIGHT (8) YEARS FOR TRAFFICKING METHAMPHETAMINE 28-100 GRAMS
6. Check whether a finding of guilty was made:
- (a)  after a plea of guilty \_\_\_\_\_
- (b) after a plea of not guilty \_\_\_\_\_
- (c) after a plea of nolo contendere \_\_\_\_\_
7. Did you appeal from the judgment of conviction or the imposition of sentence?
- \_\_\_\_\_
8. If you answered "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) MY DEFENCE ATTORNEY FAILED TO APPEAL MY CASE AFTER
- (b) I WAS CONVICTED WHEN I WANTED TO APPEAL

(c) \_\_\_\_\_

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

(a) SEE ATTACHED PAGE # 8

(b) \_\_\_\_\_

(c) \_\_\_\_\_

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

(a) SEE ATTACHED PAGE # 8

(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. \_\_\_\_\_

(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?

NO

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. \_\_\_\_\_

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) THE ISSUES PRESENTED WEREN'T AVAILABLE
- (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? N/A
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?  
N/A

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

- (a) the name and address of each attorney who represented you:
  - i. JOSEPH BALDWIN  
306 W. POINSETT STREET/GREER, SC 29650
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
- (b) the proceedings at which each such attorney represented you:
  - i. SENTENCING
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

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

APPOINT COMPETENT COUNSEL TO ASSIST APPLICANT, AND  
CONDUCT AN EVIDENTIARY HEARING

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

NO

STATE OF SOUTH CAROLINA )

County of GREENSVILLE )

VERIFICATION

I, JEFFREY BRIAN DEVALLE # 333134, 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.

Jeffrey B Devalle

SWORN to and subscribed before me this 17  
day of April, 2014.

Lamar C. Conwell (L.S.)  
Notary Public

My Commission Expires: September 25, 2023

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

I, JEFFREY BRIAN DEVALLE #333134, 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.

Jeffrey B. Devalle  
Applicant

SWORN or affirmed to and subscribed before me this  
12 day of April, 2014.

Tamar C. Powell  
Notary Public

My Commission Expires: My Commission Expires  
September 25, 2023

10. STATE CONCISELY THE GROUNDS ON WHICH YOU  
BASE YOUR ALLEGATION THAT YOU ARE BEING HELD  
IN CUSTODY UNLAWFULLY:

(a): APPLICANT WAS DENIED THE RIGHT TO EFFECTIVE  
ASSISTANCE OF COUNSEL — GUARANTEED BY THE SIXTH AND  
FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION  
AND BY ARTICLE I, §§ 3 AND 14 OF THE SOUTH CAROLINA  
CONSTITUTION

11. STATE CONCISELY AND IN THE SAME ORDER THE FACT  
WHICH SUPPORT EACH OF THE GROUNDS SET OUT IN (10):

(a): THE APPLICANT WAS PROVIDED WITH DEFICIENT  
REPRESENTATION BY HIS ATTORNEY AND THE CONDUCT OF HIS  
ATTORNEY WAS OBJECTIVELY UNREASONABLE UNDER THE CIRCUMSTANCES.  
STRICKLAND V. WASHINGTON, 466 U.S. 668 (1984). THE OUTCOME  
OF THE APPLICANT'S PROCEEDING WAS PREJUDICED, AND IT IS  
REASONABLE PROBABLE THAT THE OUTCOME WOULD HAVE BEEN  
DIFFERENT HAD COUNSEL'S PERFORMANCE NOT BEEN DEFICIENT.  
STRICKLAND, 466 U.S. at 694. DEFENSE COUNSEL WAS INEFFECTIVE  
BASED ON ONE OR MORE OF THE FOLLOWING:

1. MY DEFENSE ATTORNEY FAILED TO CONSCIENTIOUSLY DISCHARGE  
HIS PROFESSIONAL RESPONSIBILITIES WHILE HE WAS HANDLING MY  
CASE.

2. MY DEFENSE ATTORNEY FAILED TO EFFECTIVELY CHALLENGE THE ARREST AND SEIZURE OF APPLICANT.

3. MY DEFENSE ATTORNEY FAILED TO ACT AS MY DILIGENT, CONSCIENTIOUS ADVOCATE.

4. MY DEFENSE ATTORNEY FAILED TO GIVE ME HIS COMPLETE LOYALTY.

5. MY DEFENSE ATTORNEY DID NOT HAVE MY BEST INTEREST IN MIND WHILE HE WAS SUPPOSED TO BE INVESTIGATING AND PREPARING MY CASE.

6. MY DEFENSE ATTORNEY FAILED TO SERVE MY CAUSE IN GOOD FAITH.

7. MY DEFENSE ATTORNEY NEGLECTED THE NECESSARY INVESTIGATIONS AND THE PREPARATION OF MY CASE.

8. MY DEFENSE ATTORNEY DID NOT DO THE NECESSARY FACTUAL INVESTIGATIONS ON MY BEHALF.

9. MY DEFENSE ATTORNEY DID NOT DO THE NECESSARY LEGAL RESEARCH.

10. MY DEFENSE ATTORNEY DID NOT CONSCIENTIOUSLY GATHER ANY INFORMATION TO PROTECT MY RIGHTS.

11. MY DEFENSE ATTORNEY DID NOT TRY TO HAVE MY CASE SETTLED IN A MATTER THAT WOULD HAVE BEEN TO MY BEST ADVANTAGE.

12. MY DEFENSE ATTORNEY DID NOT ADVISE ME OF ALL MY RIGHTS OR TAKE ANY OF THE ACTIONS THAT WERE NECESSARY TO PROTECT OR PRESERVE THEM; KNOWING THAT I WAS NOT VERSED IN THE LAW.

13. MY DEFENSE ATTORNEY, KNOWING I WAS ILLITERATE IN THE LAW, NEVER PROPERLY ASCERTAINED WHETHER OR NOT I ACTUALLY UNDERSTOOD OR COMPREHENDED ALL OF THE ISSUES THAT WERE INVOLVED IN MY CASE.

14. MY DEFENSE ATTORNEY NEVER PROPERLY CONSULTED WITH ME OR KEPT ME INFORMED WITH WHAT WAS GOING ON AS FAR AS MY CASE WAS CONCERNED.

15. MY DEFENSE ATTORNEY NEVER EXPLAINED TO ME OR DISCUSSED WITH ME ANY OF THE ELEMENTS OF THE CRIME CHARGED.

16. MY DEFENSE ATTORNEY NEVER MADE ANY ATTEMPT TO ASCERTAIN WHETHER OR NOT I ACTUALLY KNEW WHAT THE ELEMENTS FOR THE CRIME CHARGED WERE OR WHETHER OR NOT I UNDERSTOOD EXACTLY WHAT THE TERM "CRIMINAL ELEMENT" ACTUALLY MEANT.

17. MY DEFENSE ATTORNEY NEVER EXPLAINED TO ME OR DISCUSSED WITH ME HOW THE ELEMENTS OF THE CRIME CHARGE AND THE

EVIDENCE THAT THE PROSECUTION PLANNED TO INTRODUCE INTO EVIDENCE AGAINST ME RELATED TO ONE ANOTHER AND DID NOT DISCLOSE HOW THE SENTENCING WOULD BE DONE ESPECIALLY AS IT RELATED TO THE ELEMENTS OF THE CRIME AS IN STATE V. BOYD.

18. MY DEFENSE ATTORNEY NEVER INFORMED ME OF ANY OF THE DEFENSES THAT WERE AVAILABLE TO ME.

19. MY DEFENSE ATTORNEY NEVER INTENDED TO OFFER ANY DEFENSE TO THE COURT ON MY BEHALF.

20. MY DEFENSE ATTORNEY NEVER EXPLAINED TO ME OR DISCUSSED WITH ME ANY KIND OF DEFENSE STRATEGY.

21. MY DEFENSE ATTORNEY NEVER EXPLAINED TO ME OR DISCUSSED WITH ME ANY OF THE TACTICAL CHOICES THAT THEY EITHER MADE OR WERE PLANNING TO MAKE.

22. MY DEFENSE ATTORNEY DICTATED TO ME EXACTLY HOW MY CASE WAS GOING TO BE HANDLED AND OFFERED NO ALTERNATIVE OPTIONS.

23. MY DEFENSE ATTORNEY FAILED TO PROPERLY ACQUAINT HIMSELF WITH THE LAW AND THE FACTS SURROUNDING MY CASE AND AS A DIRECT RESULT OF HIS INTENTIONAL NEGLIGENCE, THERE WAS A VERY SERIOUS ERROR IN HIS ASSESSMENT OF BOTH THE LAW AND THE FACTS.

24. BECAUSE OF MY DEFENSE ATTORNEY'S GROSS NEGLIGENCE AND HIS MANY LEGAL ERRORS NO DEFENSE AT ALL WAS PUT IN ISSUE FOR ME DURING THE COURT PROCEEDINGS.

25. MY DEFENSE ATTORNEY DID NOT SUBJECT THE PROSECUTION'S CASE TO ANY ADVERSARIAL TESTING.

26. MY DEFENSE ATTORNEY FAILED TO OPPOSE THE PROSECUTION'S CASE WITH ANY ADVERSARIAL LITIGATION.

27. MY DEFENSE ATTORNEY FAILED TO FUNCTION AS THE GOVERNMENT'S ADVERSARY IN ANY SENSE OF THE WORD.

28. MY DEFENSE ATTORNEY FAILED TO PURSUE ANY OF THE LEGAL RECOURSE THAT WERE AVAILABLE TO HIM.

29. THE ATTORNEY THAT REPRESENTED ME ON THIS CHARGE IN COURT FAILED TO FUNCTION AS THE COUNSEL THAT THE CONSTITUTION'S SIXTH AMENDMENT GUARANTEES.

30. MY DEFENSE ATTORNEY FAILED TO APPEAL MY CASE AFTER I WAS CONVICTED WHEN I WANTED TO APPEAL.

MY COUNSEL'S REPRESENTATION WAS NOT WITHIN THE RANGE AND SCOPE OF COMPETENCE DEMANDED BY STRICKLAND AND ITS PROGENY.

A CONVICTED DEFENDANT'S CLAIM THAT COUNSEL'S ASSISTANCE WAS SO DEFECTIVE AS TO REQUIRE REVERSAL OF A

CONVICTION REQUIRES THAT THE DEFENDANT SHOW FIRST, THAT THE DEFICIENT PERFORMANCE PREJUDICED THE DEFENSE SO AS TO DEPRIVE THE DEFENDANT OF A FAIR PROCEEDING; BOSEBEE V. LEEKE, 3.C. 362, F.2d 221 (1987), CITING STRICKLAND V. WASHINGTON, 46 S.E. 2D 813 (1984), SEE ALSO BUTLER V. STATE, 286 S.C. 441, 334 S.E. 2d 813 (1985), ALSO HILL V. LOCKHART, 474 U.S. 88 (1985).

DATED: 4-17-2014

RESPECTFULLY SUBMITTED,  
*Jeffrey B. Conwell*

SWORN TO AND SUBSCRIBED BEFORE ME THIS  
17 DAY OF April, 2014.

Yamara Conwell  
 NOTARY PUBLIC

MY COMMISSION EXPIRES: September 25, 2023

JEFFREY B. DEVALL #333134  
PERRY CORRECTIONAL INSTITUTION (043117)  
430 GAKLAWN ROAD  
PELZER, SOUTH CAROLINA 29669

RE: POST-CONVICTION APPLICATION

DEAR CLERK,

PLEASE FIND ENCLOSED A COPY ACCOMPANIED WITH THE ORIGINAL POST-CONVICTION APPLICATION WHICH IS TO BE CLOCK STAMPED AND FILED WITH THIS COURT. IN ADDITION, I'M RESPECTFULLY REQUESTING THAT YOU FORWARD A CLOCKED STAMPED COPY UNTO ME FOR MY OWN PERSONAL FILE.

YOUR ASSISTANCE IN THIS MATTER WOULD BE HIGHLY APPRECIATED. I THANK YOU IN ADVANCE!

DATED: APRIL 8, 2014.

MOST SINCERELY,  
*Jeffrey B. Devall*  
JEFFREY B. DEVALL #333134  
(PRO-SE)

CC: RETAINED IN PERSONAL FILE.

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENVILLE )  
 )  
 Jeffrey Brian Devall, #333134, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

---

IN THE COURT OF COMMON PLEAS  
 THIRTEENTH JUDICIAL CIRCUIT  
 Case No: 2014-CP-23-2473

**RETURN AND REQUEST FOR  
 APPOINTMENT OF COUNSEL**

FILED - CLERK OF COURT  
 GREENVILLE SO. S.C.  
 PAUL B. WICKENSIMMER  
 2014 DEC 29 AM 9 51

*JD*

The Respondent, making its Return to the application for post conviction relief (PCR) filed May 2, 2014 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 State Grand Jury Clerk of Court. The Applicant was indicted at the June 2012 term of the State Grand Jury for Trafficking in Methamphetamine (Conspiracy) and Trafficking in Methamphetamine 28-100 Grams (2012-GS-47-0013). Joseph R. Baldwin, Esquire, represented the Applicant. On August 26, 2013, the Applicant pled guilty as indicted. The Honorable Letitia Verdin sentenced the Applicant to confinement for a period of sixteen (16) years.

The Applicant did not appeal his guilty plea or sentence.

Attached herewith and incorporated herein are the records of the State Grand Jury Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, and the guilty plea transcript. Any of the above not so attached will be forwarded upon receipt. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

*Appoint Counsel  
 Copy to Applicant  
 and A.G.*

## II.

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

1. Ineffective assistance of counsel in that "my defense attorney failed to conscientiously discharge his professional responsibilities while he was handling my case," "my defense attorney failed to effectively challenge the arrest and seizure of applicant," "my defense attorney failed to act as my diligent conscientious advocate," "my defense attorney failed to give me his complete loyalty," "my defense attorney did not have my best interest in mind while he was supposed to be investigating and preparing my case," "my defense attorney failed to serve my cause in good faith," "my defense attorney neglected the necessary investigations and the preparation of my case," "my defense attorney did not do the necessary factual investigations on my behalf," "my defense attorney did not do the necessary legal research," "my defense attorney did not conscientiously gather any information to protect my rights," "my defense attorney did not try to have my case settled in a matter that would have been to my best advantage," "my defense attorney never properly consulted with me or kept me informed with what was going on as far as my case was concerned," "my defense attorney never intended to offer any defense to the court on my behalf," "my defense attorney failed to properly acquaint himself with the law and the facts surrounding my case and as a direct result of his intentional negligence, there was a very serious error in his assessment of both the law and the facts," "Because of my defense attorney's gross neglect and his many legal errors no defense at all was put in issue for me during the court proceedings," "my defense attorney did not subject the prosecution's case to any adversarial testing," "my defense attorney failed to oppose the prosecution's case with any adversarial litigation," "my defense attorney failed to function as the government's adversary in any sense of the word," "my defense attorney failed to pursue any of the legal recourse that were available to him," "the attorney that

represented me on this charge in court failed to function as the counsel that the Constitution's Sixth Amendment guarantees," and "my defense attorney failed to appeal my case after I was convicted when I wanted to appeal;"

2. Involuntary guilty plea in that "my defense attorney did not advise me of all my rights or take any of the actions that were necessary to protect them knowing that I was not versed in the law," "my defense attorney, knowing I was illiterate in the law, never properly ascertained whether or not I actually understood or comprehended all of the issues that were involved in my case," "my defense attorney never explained to me or discussed with me any of the elements of the crime charged," "my defense attorney never made any attempt to ascertain whether or not I actually knew what the elements for the crime charged were or whether or not I understood exactly what the term 'criminal element' actually meant," "my defense attorney never explained to me or discussed with me how the elements of the crime charge and the evidence that the prosecution planned to introduce into evidence against me related to one another and did not discuss how the sentencing would be done especially as it related to the elements of the crime as in State v. Boyd," "my defense attorney never informed me of any of the defenses that were available to me," "my defense attorney never explained to me or discussed with me any kind of defense strategy," "my defense attorney never explained to me or discussed with me any of the tactical choices that they either made or were planning to make," and "my defense attorney dictated to me exactly how my case was going to be handled and offered no alternative options;"

### III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as

having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

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

#### IV.

Respondent submits that the Applicant's allegation that his guilty plea was involuntary is without merit. In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of

ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4<sup>th</sup> Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4<sup>th</sup> Cir. 1976).

Respondent submits that the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper v. State, 305 S.E.2d 247.

V.

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

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held and counsel be appointed to represent the Applicant.

Respectfully submitted,

ALAN WILSON  
Attorney General

LARONE K. WASHINGTON  
Assistant Attorney General

By: Ashley A. Walkman for  
ATTORNEYS FOR RESPONDENT

Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211

December 10, 2014

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	2014-CP-23-2473
COUNTY OF GREENVILLE	)	
	)	
	)	
	)	
JEFFREY BRIAN DEVALL,	)	
PLAINTIFF,	)	
	)	
Vs.	)	TRANSCRIPT OF RECORD
	)	
STATE OF SOUTH CAROLINA,	)	
DEFENDANT.	)	
_____	)	

April 22, 2015  
Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, JUDGE

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

R. MILLS ARIAIL, JR., ESQ.  
Attorney for the Plaintiff

LaRONE KASHOD WASHINGTON, ESQ.  
Attorney for the Defendant

CHERYL A. SMITH  
Circuit Court Reporter

INDEX

(PW) - Denotes Plaintiff's Witness  
 (SW) - Denotes State's Witness

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EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>
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There were no exhibits introduced.

P R O C E E D I N G S

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THE COURT: All right. Call your first witness.

MR. WASHINGTON: Judge, do you want the caption first or just go ahead and call?

THE COURT: Well, give us a caption.

MR. WASHINGTON: All right. Jeffrey B. Devall vs. South Carolina, 14-CP-23-02473. His case, he was represented by Mr. Joseph Baldwin. He pled guilty to trafficking meth and conspiracy, 28 to 100, as well as an additional count of trafficking meth, 28 to 100. He got 16 years. There was no appeal, and his PCR was timely filed on the basis of ineffective assistance of counsel as well as involuntary guilty plea.

MR. ARIAIL: Your Honor, we're ready to proceed with Mr. Devall.

THE COURT: Okay. Come on around and get sworn.  
WHEREUPON,

JEFFREY B. DEVALL,

After first having been duly sworn, testified as follows:

THE CLERK: State your full name for the record.

THE WITNESS: Jeffrey Brown Devall.

THE CLERK: Thank you. You may be seated.

THE COURT: All he got was eight years?

MR. ARIAIL: No.

THE COURT: No?

1 MR. ARIAIL: He got 16.

2 THE COURT: Oh, it was consecutive. Okay.

3 DIRECT EXAMINATION

4 BY MR. ARIAIL:

5 Q Mr. Devall, how are you doing today?

6 A I'm doing fine, sir.

7 Q Good. And I want to go through and just we discussed  
8 your case. We were going through it. Mr. Baldwin  
9 represented you in regards to this, right?

10 A Yes.

11 Q The key thing I see in which we talked about on the  
12 telephone, you signed a plea agreement for this, correct?

13 A When we was in that room on August the 26th, I told  
14 Mr. Baldwin I would sign a plea to plead guilty to the  
15 7 grams that I bought.

16 Q Okay.

17 A And he handed me a piece of paper, and there was three  
18 places for a signature. And I signed the bottom, I signed  
19 the top. And he said when we went to trial, that he would  
20 get me the least amount of time possible for my  
21 involvement. I said I didn't have no involvement. And --

22 Q Okay. This is a statewide grand jury case, correct?

23 A Yes.

24 Q Okay. And I've done a lot of these cases, and most of  
25 the time they're conspiracy over 400 grams which carries a

1 mandatory minimum of 25 years. Do you understand that?

2 A I understand that.

3 Q So that was one of the charges you had, right?

4 A Trafficking methamphetamines --

5 Q Correct.

6 A -- and conspiracy to traffic methamphetamines.

7 Q Right. So that was the charge.

8 Did you know that you were looking at 25 years?

9 A He told -- Mr. Baldwin told me I should get no more --  
10 7, no more than 10 years.

11 Q Okay. And here's the dilemma I'm having. You signed  
12 a plea agreement, which is a part of this record, which, if  
13 I'm not mistaken -- I've got to pull it up again -- says  
14 there's a range. I think it was 15 to 18 years was your  
15 range that you were looking at under a recommendation. Did  
16 you know that?

17 A I never read -- I never read the plea agreement, and  
18 Mr. Baldwin never went over it with me.

19 Q Okay. And I can give you the plea agreement. I'm  
20 trying to just figure out, there's some signatures on here.  
21 There's --

22 A Sir, I have not even had my Rule 5. I've not had my  
23 Rule 5. He sent me a partial Rule 5. I have not really  
24 been able to prepare for this case at all.

25 Q Okay. So let's just go back to that. What

1 discussions did you have with Mr. Baldwin about your case?

2 A I told him my guilt was buying 7 grams.

3 Q Okay. Did you tell him you were willing to plead to  
4 the 7 grams?

5 A That's exactly right.

6 Q Okay. Did he tell you that you were pleading to  
7 something that was 28 to 100 grams, and then 28 to 100  
8 grams of conspiracy?

9 A That ain't what he said.

10 Q Okay. But you signed this document, and that's what  
11 I'm trying to understand is to signing the document, going  
12 in front of a judge and now saying you didn't know you were  
13 pleading to it.

14 A Sir, when I went in front of the judge, I was so high,  
15 I couldn't understand what she was even saying. It sounded  
16 like the Charlie Brown show, wa, wa, wa, wa, wa. All I  
17 could do was say, "Yes, ma'am. Yes, ma'am. Yes, ma'am."

18 THE COURT: High on what?

19 THE WITNESS: I was high on methamphetamines and  
20 OxyContin.

21 BY MR. ARIAIL:

22 Q So you now, you're saying you didn't have any  
23 knowledge or any understanding what you were pleading to at  
24 the time you pled?

25 A Mr. Baldwin knew that I was under the influence

1 because he asked me if I could pass a drug test, and I told  
2 him I couldn't.

3 Q When he asked you that, did you tell him that I'm --  
4 I've had ones tell me before, "I'm so high I don't know  
5 what's going on in here."

6 A I didn't tell him I was high. He knew that I was  
7 high.

8 Q Okay. So did you tell him, "We need to continue this  
9 hearing or" ---

10 A I asked him to let's continue -- could I get a  
11 continuance. And he said "No. They're ready. We're going  
12 to go on forward with it."

13 Q What other things did Mr. Baldwin not do that you  
14 asked him to do?

15 A Mr. Baldwin -- Mr. Baldwin didn't interview the chief  
16 witness, the State's chief witness, which was Brenda Rojas  
17 [phonetic].

18 Q They found him?

19 A Brenda Rojas?

20 Q Yeah.

21 A Yeah. She got --

22 Q Found her.

23 A She's in -- she's in prison. She got seven years for  
24 all them charges.

25 Q Okay. So you're saying he didn't talk to her as to

1 your involvement in the conspiracy?

2 A Exactly, sir. This is what -- this is what happened  
3 on that case. She come to my house. I was working on my  
4 truck.

5 Q Okay.

6 A I bought 7 grams of dope from her.

7 Q Okay.

8 A She was going up to the store to get some change and  
9 come back. She left her bag inside my house. She never  
10 come back. I called her, I asked her, I said, "Where are  
11 you at?"

12 She said, "Oh, I had to come on home, get the girls on  
13 the bus." She said, "Go ahead and try and get rid of  
14 that."

15 I said, "I can't get rid of that. I've got a job."

16 So she come back two days later. She had SLED in the  
17 car with her, and she was wired. She come in, got her  
18 38 grams and the \$450 that I paid her for the 7 grams that  
19 I bought. And they charged me with all that, and  
20 Mr. Baldwin wouldn't represent me to that fact.

21 Q Okay. Now ---

22 A Sir, I'm guilty. I'm guilty of buying the 7 grams,  
23 but I'm not guilty of trafficking no dope, and I've not  
24 conspired to traffic nothing.

25 Q And I understand that.

1           When you signed these documents, you're now saying you  
2 didn't know what you were signing, is that right, this plea  
3 agreement or sentencing sheet?

4           A     Sir, she handed me this piece of paper. It didn't  
5 have nothing on it. I have the plea agreement right here.  
6 It was -- it was just one piece of paper. It was one piece  
7 of paper. He said, "Sign here and we'll go to court after  
8 2014," okay. Between 2014 -- I mean between August the  
9 26th and November the 6th, he allowed SLED to come to my  
10 house and question me without him being present ---

11           Q     Okay.

12           A     --- okay? And I called Mr. Baldwin. I said,  
13 "Mr. Baldwin," I said, "did you send SLED to my house?"

14                   He said, "No. I most certainly didn't."

15                   I said, "Well, they said you did."

16                   And he said, "Well, they said -- they did call." He  
17 said, "They did call me," but he didn't admit to sending  
18 them.

19           Q     What did he tell you in regards to his expertise in  
20 these cases or his --

21           A     He told me -- when I first met Mr. Baldwin, he said  
22 that I have never had a grand jury indictment case, and I  
23 don't know how to advise you concerning it.

24                   MR. ARIAIL: Okay. I've got no further questions,  
25 Your Honor.

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

2 THE WITNESS: I went to the 11th grade.

3 THE COURT: Do you have anything, Mr. Washington?

4 MR. WASHINGTON: I think just briefly, Judge.

5 CROSS EXAMINATION

6 BY MR. WASHINGTON:

7 Q Now, Mr. Devall, you were actually indicted for  
8 trafficking meth, 100 to 200 grams; is that right?

9 A It was a conspiracy to traffic 400 grams.

10 Q Right. So there were two --

11 A They dropped it to a lesser included offense of  
12 trafficking 28 to 100 grams, and conspiracy to traffic  
13 28 to 100 grams.

14 Q Those are the two charges that you pled guilty to,  
15 right?

16 A That's the two charges that they pled me guilty to.

17 Q And that would have been -- the plea itself was  
18 actually back in August of 2013?

19 A It was August the 26th, to be exact.

20 Q Okay. Now, when you did the plea, the judge swore you  
21 in, or he had somebody from the courthouse swear you in  
22 before you answered the questions from the judge. Do you  
23 remember that?

24 A The -- when I went to trial?

25 Q When you were pleading guilty, did somebody swear you

1 in, just sort of like you did here today?

2 A Basically, yeah.

3 Q All right. And they asked you if you were under the  
4 influence of any alcohol or drugs, right?

5 A They did.

6 Q And you told the judge no?

7 A I told the judge no because Mr. Baldwin told me not to  
8 tell her I was under the influence.

9 Q But you did swear to tell the truth, and then you told  
10 her no?

11 A Exactly.

12 Q And you remember being asked if you had discussed  
13 these charges with your attorney?

14 A Have I discussed them?

15 Q Right. Did the judge ask you if you had discussed the  
16 charges with your lawyer?

17 A I don't remember her asking me that.

18 THE COURT: You have read the transcript?

19 THE WITNESS: No, sir.

20 THE COURT: You read it a million times. Come on.

21 THE WITNESS: I don't even have my Rule 5. I don't  
22 have none of that. I can show you exactly what he sent me.  
23 He didn't send me nothing.

24 THE COURT: Go ahead. I'm sorry to interrupt.

25 MR. WASHINGTON: All right. No problem.

1 BY MR. WASHINGTON:

2 Q I'd like to show you, this is part of the plea  
3 transcript. Can you see here where the Court -- and it  
4 says, "Have you discussed these charges with your  
5 attorney"?

6 A Yes.

7 Q And then you answered, "Yes, ma'am"?

8 A "Yes, ma'am."

9 Q All right. And then they asked you if anybody forced  
10 you to plead guilty. What did you say to that one?

11 A I said, "No, ma'am."

12 Q And the Court told you when you plead guilty, you give  
13 up certain rights, right?

14 A She said I give up certain rights, yeah.

15 Q And the right to remain silent, a jury trial, the  
16 right to call witnesses, right? All of those?

17 A I believe so.

18 Q And you said "yes," and you understood all of that?

19 A I really didn't understand all of nothing. I was  
20 under the influence of drugs.

21 Q Okay. Now, the Court also asked you if you were  
22 guilty or not guilty, and then you said what?

23 A I was guilty.

24 Q All right. And then, actually, because of the way the  
25 case worked, they stopped the plea at that point to come

1 back for sentencing later; is that right?

2 A I believe so.

3 Q And the sentence you got depended on what your  
4 cooperation with law enforcement would be, right?

5 A What they wanted me to do was snitch on everybody, and  
6 I didn't know nothing on nobody but Brenda Rojas. And  
7 that's what I told them.

8 Q And you didn't end up cooperating with law  
9 enforcement?

10 A I told them what they wanted to know, and Mr. Baldwin  
11 know I did.

12 Q You didn't give law enforcement any extra information  
13 on anyone in the case?

14 A I didn't know no extra information.

15 Q So you didn't give them any?

16 A I don't guess I did. They had -- they had copies of  
17 what I told them, and that was it.

18 Q And also during the plea, they asked you if you were  
19 happy with your lawyer. The judge asked you that, right?

20 A Yeah. I believe -- I believe she did ask me that.

21 Q And you said "yes"?

22 A I said "yes."

23 MR. WASHINGTON: Okay. Nothing further, Judge.

24 MR. ARIAIL: Nothing further, Your Honor.

25 THE COURT: Okay. Thanks. You can step down.

1 Thanks.

2 MR. ARIAIL: Your Honor, I call Mr. Kenneth Pittman to  
3 the stand.

4 THE COURT: Let me just ask Mr. Devall one question.  
5 You can read and write, can't you?

6 DEFENDANT DEVALL: To a certain extent, sir, yes.

7 THE COURT: Well, what do you mean, to a certain  
8 extent?

9 DEFENDANT DEVALL: I can read -- I can read some  
10 words, yeah. I can read and write, yeah.

11 THE COURT: Okay. Why did you quit school?

12 DEFENDANT DEVALL: I went to work.

13 THE COURT: Okay. All right. How old are you?

14 DEFENDANT DEVALL: I just turned 51.

15 THE COURT: Okay. Thanks.

16 All right. I'm sorry to interrupt. Go ahead,  
17 Mr. Ariail.

18 MR. ARIAIL: Mr. Pittman. Your Honor, Kenneth  
19 Pittman.

20 WHEREUPON,

21 KENNETH PITTMAN,

22 After first having been duly sworn, testified as follows:

23 THE CLERK: Please state your full name for the  
24 record.

25 THE WITNESS: It's Kenneth Pittman.

1 THE CLERK: Thank you. You may be seated.

2 DIRECT EXAMINATION

3 BY MR. ARIAIL:

4 Q Mr. Pittman, tell me your relationship to Mr. Devall.

5 A I've known Jeff since 2005. A good friend. He's done  
6 work on our cars.

7 Q Okay. Did you come to his, I guess, sentencing?

8 A I did. I was there before he was -- the very first  
9 time when they told him -- brought up his -- what his  
10 sentence was going to be, and he was out on bond during  
11 that period. And I was also there the second time when he  
12 was sentenced. We actually met Mr. Baldwin.

13 Q Okay. And you met Mr. Baldwin after the sentencing, I  
14 guess?

15 A Before he was sentenced.

16 Q Before. And then did you have a discussion with him  
17 during that time?

18 A Yes.

19 Q And what was his discussion with Mr. Baldwin about?

20 A We had a discussion downstairs here with Jeff's case  
21 and everything. He had stated to us that day that he had  
22 never had a grand jury indictment, didn't really know how  
23 to do a grand jury indictment, that, you know, I feel that  
24 SLED intimidated him and SLED knew he never had a grand  
25 jury indictment. And they said, "Well, we're going to give

1 him 16 years," and that's pretty much it. Mr. Baldwin  
2 really didn't know what else to do other than say "okay,"  
3 because he had never had a grand jury indictment. He said  
4 it out of his own mouth. He's a real estate lawyer.

5 MR. ARIAIL: Okay. Your Honor, I have no further  
6 questions.

7 THE COURT: Any cross?

8 CROSS EXAMINATION

9 BY MR. WASHINGTON:

10 Q Mr. Pittman, you say you're good friends with  
11 Mr. Devall?

12 A Yes.

13 Q You've known him since 2005?

14 A Yes.

15 Q Went to his sentencing?

16 A Yes.

17 Q Now, Mr. Baldwin, how do you know him?

18 A We met him that morning. We went downstairs on a  
19 break, and we spoke to him outside.

20 Q And are you familiar with his years of experience in  
21 practicing law?

22 A Nothing other than he said that he was a real estate  
23 lawyer and he never had a grand jury indictment, that he  
24 had never done one. This was his very first one.

25 MR. WASHINGTON: Okay. I don't have anything further,

1 Judge.

2 THE COURT: Well, you say "we" went downstairs. Who's  
3 "we"?

4 THE COURT: Me and my husband, Larry Guthrie. He's  
5 the second witness for Mr. Devall.

6 THE COURT: Okay. And you said Mr. Devall had worked  
7 on your car since 2005?

8 THE WITNESS: That's how we met each other.

9 THE COURT: Okay. So how often would you see him?

10 THE WITNESS: After that, we became really good  
11 friends. I'd say we've probably seen Jeff at least once a  
12 month, once every two months.

13 THE COURT: Okay. Were you there when Mr. Devall  
14 signed the plea agreement.

15 THE WITNESS: I believe we were, yes.

16 THE COURT: Okay. And just one other thing, to back  
17 up a little bit. On the car thing, did he run a business?

18 THE WITNESS: No. He was just like a side mechanic.  
19 He would do brake works, things as that for us, or if we  
20 needed, you know, brakes. Just minor things.

21 THE COURT: Okay. So you were there. Now, did you  
22 say you were there when he signed the plea agreement?

23 THE WITNESS: Yes. I wasn't in the exact room when he  
24 signed it, but we were here in the courthouse that day,  
25 yes.

1 THE COURT: Okay. Well, tell me what you observed  
2 during that little period of time. Anything unusual?

3 THE WITNESS: Just, you know, I felt that, you know,  
4 Jeff really didn't know what he was signing at that time.

5 THE COURT: Well, not what you felt. What you saw,  
6 what you observed. Anything out of the ordinary? Anything  
7 unusual? If not, I mean, just say that.

8 THE WITNESS: I mean, not really. No. I mean, just  
9 other than I don't think he knew what he was signing, no.

10 THE COURT: Well, he didn't -- did he talk to you  
11 about what he was signing?

12 THE WITNESS: No.

13 THE COURT: Did you ever see the document?

14 THE WITNESS: No, I did not.

15 THE COURT: Okay. So your feeling is was what you  
16 developed after the fact; would that be a fair statement?

17 THE WITNESS: On that, yes.

18 THE COURT: Okay. All right. Thanks. That's all  
19 I've got. You can step down. Thank you.

20 MR. ARIAIL: Your Honor, I have no further witnesses.

21 THE COURT: You've got anything?

22 MR. WASHINGTON: Judge, we call Joseph Baldwin.

23 THE COURT: All right.

24 ///

25 ///

1 WHEREUPON,

2 JOSEPH BALDWIN,

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

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

6 THE WITNESS: Joseph Baldwin.

7 THE CLERK: Thank you. You may be seated.

8 DIRECT EXAMINATION

9 BY MR. WASHINGTON:

10 Q All right. Now, Mr. Baldwin, where do you work?

11 A I have an office in Greer.

12 Q Okay. You do criminal defense at your firm?

13 A Yes.

14 Q How long have you been doing criminal defense?

15 A Probably four years.

16 Q Okay. How about drug cases? Have you done a number  
17 of those?

18 A Yes. I've had some of them.

19 Q Okay. When did you start representing Mr. Devall?

20 A I think it was in July of 2013, or maybe it was 2012.

21 Q How many -- what kind of case was it?

22 A Well, it was a state grand jury case, and I believe  
23 that's where their confusion comes in. I'd never handled a  
24 state grand jury case before, and that's the first time I  
25 ever had one of those type of cases. I -- certainly, I've

1 had plenty of cases where people have been indicted before,  
2 indicted for drug offenses, also.

3 Q Once you get into the courthouse, how is it different  
4 or similar to handling the other drug cases?

5 A Well, the law is the same, but the dealing with the  
6 attorney general is different. Even though I had a lot of  
7 discussions with the attorney general, you know, I'm used  
8 to dealing with the solicitor on cases.

9 Q Just so we're clear, did you only represent  
10 Mr. Devall? I know there are usually a whole bunch of  
11 defendants in those cases.

12 A Yes. There -- there were a lot of defendants in this  
13 case.

14 Q How many times had you met with Mr. Devall before the  
15 date of his plea?

16 A At least five times.

17 Q Where would you meet with him at?

18 A The very first time I met him, he was in jail. And,  
19 of course, at that time, I tried to find out what the case  
20 was all about, and I requested discovery. And, of course,  
21 that was one of the things -- I told them I'd never had one  
22 of these. I wasn't exactly sure how to go about requesting  
23 discovery, so I had to call the state grand jury and find  
24 out. But I did what I would normally do in any drug case.

25 Q When you call the state grand jury, what did you find

1 out how -- what you had to do to request discovery?

2 A Well, I had to send it down -- I had to send it to  
3 them.

4 Q Did you do that?

5 A Yes, I did.

6 Q And what did they give you in return?

7 A Well, I ended up getting a cassette that had over  
8 1,300 pages on it.

9 Q Did you go through all of it?

10 A Yes. It was a -- it was a job, but I went through all  
11 of it.

12 Q Did you go through all of it with Mr. Devall?

13 A I'm not sure I went through all of it. I went through  
14 the part that pertained to him.

15 Q The -- well, and that will be good.

16 How long were these meetings when you were with him?

17 A They would -- they would last over an hour most of the  
18 time, you know. They might have even lasted an hour and a  
19 half to two hours sometimes.

20 Q How about the sort of general process you go through  
21 with clients when you get the discovery and when you're  
22 meeting with them?

23 A Well, I got an offer from Mr. Devall, and I think that  
24 was like in January before he entered his plea. And it was  
25 a 15- to 18-year offer. And I came in and told Mr. Devall

1 that's what the offer was. And I tried to -- and I went  
2 over the discovery with him, and we had a lot of  
3 discussions about his possible defenses in this case and  
4 what I thought they were.

5 Q All right. Let's get into the offer a little more.  
6 Did you ever go back and do any negotiating?

7 A Yes. I called the attorney general, and I had a lot  
8 of phone conversations with him since he was in Columbia.  
9 But basically, I was -- I kept asking him why so much. I'm  
10 going through this discovery, and there's other people that  
11 are much more deeply involved in this conspiracy or in the  
12 discovery than Mr. Devall is. And the only thing he would  
13 tell me is he -- those people cooperated, and your client  
14 wouldn't.

15 Q So what did Mr. Devall have to do to get the deal or  
16 get a better deal?

17 A Well, they never really offered him a better deal  
18 unless he was willing to cooperate. And I had another  
19 meeting, it probably lasted a couple of hours at the law  
20 enforcement center with the SLED agent and some of the  
21 other law enforcement people involved with Mr. Devall. And  
22 it was sort of inconclusive. But before he entered his  
23 plea, he indicated to them that he would help them in some  
24 other investigations. And I got a -- what -- I asked the  
25 attorney general for several things. One thing, I asked

1 him if he could plead straight up, and he insisted that he  
2 was going to make a recommendation.

3 Based on the evidence, he had 42 grams. And it's true  
4 he only sold 3 1/2 grams, but the statute says if you're in  
5 possession of it, that there's a presumption your  
6 trafficking. There were some text messages and other  
7 things. So I did not think he had that great of a chance  
8 if he went to trial, you know, that there probably would be  
9 a presumption that he was trafficking.

10 Q Did you ever tell him he would get anything for  
11 certain if he pled guilty?

12 A No. I told him that it could possibly get better if  
13 he cooperated. And the attorney general told me that he  
14 would state to the judge at the time of sentencing that he  
15 had -- you know, that he had cooperated and that other  
16 people who were more deeply involved got less time.

17 Q At the plea, what did you ask the judge for?

18 A At the plea, I asked her to -- I believe I asked her  
19 to deviate from the sentence -- I mean from the  
20 recommendation.

21 Q I do want to back up a little bit and get a little  
22 more into the meetings. What did you discuss with  
23 Mr. Devall as far as the elements of the crime, penalties,  
24 natures of the offense, all of that kind of stuff?

25 A I told him there was a possibility he could end up

1 getting more time if he went to trial. And his problem was  
2 he placed confidence in -- he was loyal to somebody who set  
3 him up and was willing to testify against him because she  
4 was trying to make a deal. If they believed he was  
5 involved in a larger conspiracy, he would have faced even  
6 more time, and I told him that. But I told him that -- you  
7 know, that the lady that set him up was willing to testify  
8 against him, also.

9 Q Okay. So if he did plead guilty, did you talk to him  
10 about the rights he might be giving up?

11 A I talked to him about the jury nullification. Well, I  
12 talked to him about a trial, you know, that we would have a  
13 right to arguments, cross-examination and that type of  
14 thing. I basically told him what jury nullification was,  
15 and I told him what entrapment was. And I believe that  
16 entrapment would not work in this case, and the only thing  
17 that possibly could would have been jury nullification.

18 Q Okay. He mentioned something about being high during  
19 the plea. As far as you could tell, how was he?

20 A He was nervous. But I -- he never told me he was  
21 high, and I couldn't tell that he was. And he was there  
22 with other family members, and none of them said that he  
23 was high. And I don't -- I couldn't tell that he was.

24 Q How did he seem to understand everything that was  
25 going on that day?

1 A Well, he wasn't happy, but, you know, he was -- he  
2 wanted to go forward with it. And I did tell him that if  
3 he cooperated, that the attorney -- you know, my  
4 conversation with the attorney general, and I think he  
5 thought he might get less time. We left it open-ended.

6 MR. WASHINGTON: Nothing further, Judge.

7 MR. ARIAIL: Your Honor, may it please the Court.

8 THE COURT: Yes.

9 CROSS EXAMINATION

10 BY MR. ARIAIL:

11 Q With regards to your representation, were you  
12 appointed on this case?

13 A That's correct.

14 Q Okay. And was he out on bond at any time?

15 A He was out on bond for most of the time. He spent  
16 quite -- you know, a month or so in jail before he made  
17 bond, but he was out most of this time.

18 Q Okay. Did y'all go over -- did he come to your office  
19 and y'all go over the information, the discovery?

20 A Yes. Yes, we did.

21 Q Okay.

22 A And he actually listened to the tape of the  
23 conversation he had when he got the 42 grams.

24 Q Okay. And I know there's that conversation. There's  
25 an allegation that, I guess, Ms. Rojas, that you didn't

1 interview her. Was that ever a discussion or --

2 A Well, I never did interview Brenda Rojas. He knew  
3 exactly who it was, but I never did interview her.

4 Q Okay. Was there any reason why or did y'all have a  
5 discussion of what she was going to say or how she was  
6 going to help him out?

7 A It was obvious from the tape that she was working with  
8 the State.

9 Q Okay. Did she implicate him in, you know, I guess,  
10 any of these allegations?

11 A All that she did was she set up the buy and then the  
12 tape, you know. I heard the tape where she went back and  
13 was talking to him after she got through retrieving the  
14 drugs and the money.

15 Q Okay. And as part of this, he was looking at 25 to  
16 30 years, correct?

17 A I think he might have been looking for more because  
18 they had a 400 gram conspiracy charge against him. I think  
19 that's 25 to 40.

20 Q And he had that charge, he had the other trafficking  
21 charge. So, I mean, I guess, if you add them together, it  
22 was in addition to that, correct?

23 A That's correct.

24 Q So you got it down to the plea agreement says a range,  
25 and I know I think you testified that you were trying to

1 get it below that, I guess, in front of Judge Verdin. But  
2 was he aware and understood that if he pled guilty, it was  
3 going to likely be within that range? That was the  
4 recommendation?

5 A That's correct. And I did try to ask the attorney  
6 general just to not even make a recommendation. A lot of  
7 times the solicitor will allow people just to plead  
8 straight up, and he wouldn't even do that.

9 Q Right, right. And the day of the -- and I know the  
10 main crux of his arguments is that he didn't understand  
11 what was going on. Were you aware -- did you have  
12 discussion with him about being under the influence of  
13 drugs at that time?

14 A No.

15 Q Did he tell you that if I'm drug tested, I'm going to  
16 test positive?

17 A He never told me that.

18 Q Okay. Did you tell him or have any conversation with  
19 him about this is my first statewide grand jury case and I  
20 really don't know how to handle these?

21 A Well, I told him it was my first case involving the  
22 state grand jury and that it was different than any other  
23 case I handled because I dealt directly with the attorney  
24 general. And it was a little bit frustrating because I  
25 really didn't know them that well. But I did -- I mean, I

1 did make that point to him, that it was the only case I  
2 ever had with the state grand jury.

3 Q Okay. Did he, at any time, ask you to relieve  
4 yourself or get off the case or I'm going to hire another  
5 attorney? Anything like that?

6 A He never said that.

7 Q Okay. Did anybody help you prepare this case or work  
8 it up or anything of that nature?

9 A No.

10 Q Okay.

11 A I did discuss it with at least one of the other -- one  
12 of the other codefendant's attorneys.

13 Q Okay. So there's nothing that you saw as of the time,  
14 I guess it was August 26, 2013, that showed that he didn't  
15 understand what was going on, any competency issues, and  
16 under the influence of drug or alcohol?

17 A No. He knew about the plea offer from January or  
18 February on until he made the plea, and we discussed that  
19 offer on several occasions. Every time he talked to me, we  
20 -- he knew that that's what the offer was.

21 Q Did he have a copy of this plea offer a while back, I  
22 mean, in February?

23 A Yeah. I'm sure he did, but he fully well knew. Every  
24 time he'd come and talk, that's what we would talk about,  
25 what the offer was and what possible defense he would have.

1 MR. ARIAIL: Okay. I have no further questions, Your  
2 Honor.

3 THE COURT: You went over the agreement before he  
4 signed it?

5 THE WITNESS: Yes.

6 THE COURT: With him?

7 THE WITNESS: Yes.

8 THE COURT: Were you there when he signed the  
9 agreement?

10 THE WITNESS: I was.

11 THE COURT: Okay. Did he seem fully competent to  
12 execute this agreement?

13 THE WITNESS: Yes.

14 THE COURT: And you went over the terms and conditions  
15 of the plea agreement?

16 THE WITNESS: I did.

17 THE COURT: Okay.

18 THE WITNESS: I did --

19 THE COURT: Part of the plea agreement was that he'd  
20 cooperate with law enforcement; isn't that right?

21 THE WITNESS: That's correct.

22 THE COURT: And if he didn't do it, the agreement  
23 could be null and void, but he agreed that he wouldn't be  
24 allowed to withdraw his plea. Isn't that a term of the  
25 agreement?

1 THE WITNESS: That's correct.

2 THE COURT: And, in fact, he did not cooperate, and  
3 yet you still managed to get the Court to sentence him  
4 within the range contained in the agreement; is that right?

5 THE WITNESS: That's correct.

6 THE COURT: Okay. Thanks. You can step down.

7 Any other witnesses?

8 MR. WASHINGTON: No. Nothing further, Judge.

9 THE COURT: All right. Mr. Devall, I'm going to deny  
10 your petition. You have not met your burden. I don't find  
11 your testimony to be credible about your claimed  
12 intoxication at the time of the plea based on my reading of  
13 the transcripts and the discussion of even your own witness  
14 who said he didn't notice anything unusual about anything  
15 on the day that you entered the plea. So I wish you the  
16 best of luck. Thank you.

17 \*\*\*\*\*END OF TRANSCRIPT OF RECORD\*\*\*\*\*

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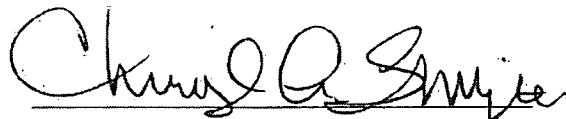
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA        )  
COUNTY OF GREENVILLE        )

I, CHERYL A. SMITH, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 22nd day of April, 2015.

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

December 3, 2015



Cheryl A. Smith, CVR-M

Court Reporter

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENVILLE )  
 )  
 JEFFREY B. DEVAL, #333134, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 THIRTEENTH JUDICIAL CIRCUIT  
 2014-CP-23-02473

ENTERED COMPUTER

**ORDER OF DISMISSAL**

FILED-CLERK OF COURT  
 GREENVILLE CO. S.C.  
 PAUL B. WICKENSIMMER  
 2015 OCT 20 AM 11 07

Presiding Judge:	Edward W. Miller
Applicant's Attorney:	R. Mills Arial, Jr.
Respondent's Attorney:	LaRone K. Washington, Esquire
Plea Counsel:	Joseph R. Baldwin, Esquire
Date of Hearing:	April 22, 2015
Court Reporter:	Cheryl Smith

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed May 2, 2014. The Respondent made its Return on January 20, 2015. An evidentiary hearing into the matter was convened on April 22, 2015 at the Greenville County Courthouse. The Applicant was present at the hearing and represented by R. Mills Arial, Jr., Esquire. LaRone K. Washington, Esquire, of the South Carolina Attorney General's Office represented the Respondent.

The Applicant testified on his own behalf and a Mr. Pittman testified at the PCR hearing. Applicant's plea counsel, Joseph R. Baldwin, Esquire, also testified at the hearing. This Court had before it the guilty plea and sentence transcripts, the records of the Greenville County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections, the PCR application, and Respondent's Return thereto.

*E-mail to Atty.*

### PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the State Grand Jury Clerk of Court. The Applicant was indicted at the June 2012 term of the State Grand Jury for Trafficking in Methamphetamine 400g or More (Conspiracy) and Trafficking in Methamphetamine 28-100g. Joseph R. Baldwin, Esquire, represented the Applicant. The Applicant pled guilty to Trafficking Methamphetamine 28-100g (Conspiracy) and Trafficking Methamphetamine 28-100g. Pursuant to a recommended plea agreement, the Honorable Letitia H. Verdin sentenced the Applicant to confinement for sixteen years. The sentences were to run concurrently. Applicant did not appeal the plea or sentence.

### ALLEGATIONS

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

1. Ineffective assistance of counsel
2. Involuntary guilty plea

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

The Applicant testified Mr. Baldwin was too inexperienced to handle State Grand Jury and criminal defense cases. Mr. Pittman testified the same. The Applicant further testified that

his lawyer did not meet with him enough to adequately advise him on the case. Specifically, the Applicant claimed his lawyer did not advise him on the elements of the offenses, any defenses to the crimes, and the rights a defendant gives up when he pleads guilty.

Applicant also claimed he never saw discovery in the case and Mr. Devall also testified his lawyer did not review the discovery enough. Specifically, Applicant thought his attorney should have investigated the confidential informant in his case more. Mr. Devall testified there was not enough evidence to convict him, and therefore, his attorney should not have let him plead guilty. Alternatively, Mr. Devall said he thought Mr. Baldwin should have gotten him a better offer from the Attorney General's Office.

Additionally, Applicant stated Mr. Baldwin did not explain the plea agreement with South Carolina Law Enforcement Division while Applicant was out on bond. Mr. Pittman testified the same. The two men claimed Mr. Devall made Applicant sign the plea agreement with little or no review of and advice on the agreement.

Furthermore, Mr. Devall further testified he was under the influence of drugs during his guilty plea and could not understand the rights he was giving up. He and Mr. Pittman also testified that because of his intoxication, he was not able to understand the plea agreement he signed with the South Carolina Law Enforcement Division on the day of the guilty plea. However, Mr. Devall did acknowledge that he told the plea judge he was not under the influence of alcohol or drugs that day in court.

Plea counsel testified he has been practicing criminal law for four years and has handled numerous drug cases. He noted that there was no to very little difference in his preparation and defense of the State Grand Jury case other cases he handled in the past. In preparing for the case, Mr. Baldwin testified he met with his client approximately four times for one to two hours each

meeting. During the meetings plea counsel advised Mr. Devall about the plea agreement. Mr. Baldwin also advised his client on the discovery he had received and how the evidence related to elements of the offenses and defenses to the crimes. Additionally, Mr. Baldwin spoke with Mr. Devall about the rights given up in a guilty plea.

Plea counsel testified that he went over all discovery pertaining to Mr. Devall before advising his client. According to Mr. Baldwin, discovery included an audio of Applicant distributing approximately forty-two grams of methamphetamine to the confidential informant. After reviewing all of the evidence, he also asked the Attorney General's Office for a lower recommendation than offered or to make no recommendation at all. Mr. Baldwin went on to say he advised Mr. to plead guilty and enter into the plea agreement with South Carolina Law Enforcement Division. Mr. Baldwin then went on to testify that his client did not follow the terms of the plea agreement and his client's inaction was reported to the judge during sentencing. Mr. Baldwin testified he renewed his request for a lesser sentence with the plea judge.

Furthermore, Mr. Baldwin testified Mr. Devall showed no signs of intoxication neither when signing the plea agreement nor during the guilty plea.

#### **Ineffective Assistance of Counsel**

The Applicant alleges that he received ineffective assistance of counsel. In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813.

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

Courts use a two-pronged test to evaluate allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Id. at 117, 386 S.E.2d at 625 (citing Strickland, 466 U.S. 668). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leeke, 282 S.C. 131, 318 S.E.2d

360 (1984)). When a defendant pleads guilty on the advice of counsel, the plea may only be attacked through a claim of ineffective assistance of counsel. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2002) (citations omitted).

This Court finds that Applicant's attorney was not ineffective in his assistance.

Counsel is a trial practitioner who has extensive experience in the investigation, preparation, and defense of criminal offenses. Counsel conferred with the Applicant on numerous occasions. During conferences with the Applicant, counsel discussed the pending charges, the elements of the charges and what the State was required to prove, Applicant's constitutional rights, Applicant's version of the facts, possible defenses or lack thereof, and offers conveyed by the State. Counsel made a reasonable decision to advise Applicant to plead guilty. And counsel took reasonable measures to procure a lesser recommendation for Applicant. The record also reflects that Applicant's plea was entered freely, voluntarily, knowingly, and intelligently. Applicant acknowledged that he was guilty of these offenses. Applicant told the plea court that he was satisfied with his attorney and that he was not under the influence of drugs or alcohol when he pleaded guilty. This Court finds that Applicant understood the terms of the negotiated plea agreement and sentence. This Court also finds that the testimony of Mr. Pittman was not credible.

Regarding the Applicant's claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds that Applicant's attorney demonstrated the normal degree of skill, knowledge, professional judgment, and representation that are expected of an attorney who practices criminal law in South Carolina. State v. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977); Strickland, 466 U.S. at 668; Butler, 286 S.C. 441, 334 S.E.2d 813. This Court further finds counsel adequately conferred with the Applicant,

conducted a proper investigation, and provided thorough representation. This Court finds that counsel's representation did not fall below an objective standard of reasonableness.

This Court finds that trial counsel was not ineffective for Jeffrey B. Devall.

This Court finds that this allegation is without merit and the Applicant has failed to carry his burden of proving ineffective assistance of counsel and involuntary guilty plea.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test, specifically that counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that counsel committed either errors or omissions while representing the Applicant. The Applicant failed to show that counsel's performance was deficient. Therefore, this Court need not address prejudice. Applicant's complaints concerning counsel's performance are without merit and are denied and dismissed.

#### Involuntary Guilty Plea

In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive

unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4<sup>th</sup> Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4<sup>th</sup> Cir. 1976).

This Court finds that Applicant's plea was not involuntary.

This Court finds that this allegation is without merit and the Applicant has failed to carry his burden of proving involuntary guilty plea.

#### **All Other Allegations**

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.

#### **CONCLUSION**

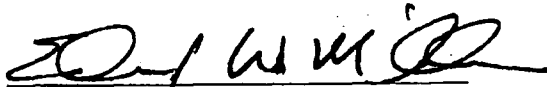
Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner, nor was the Applicant prejudiced by counsel's representation.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

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

**IT IS THEREFORE ORDERED:**

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

**AND IT IS SO ORDERED** this 20 day of Oct., 2015



Edward W. Miller  
Presiding Judge  
Thirteenth Judicial Circuit

Greenville, South Carolina.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

IN THE COURT OF  
GENERAL SESSIONS FOR  
THE THIRTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA )  
 )  
-VERSUS- )  
 )  
JEFF DEVALL, )  
 )  
 )  
DEFENDANT. )  
\_\_\_\_\_ )

CASE NO.: 2012-GS-47-13  
(COUNTS 1 & 9)

PLEA AGREEMENT

**FILED**

AUG 26 2013

JAMES R. PARKS  
CLERK, STATE GRAND JURY

AGREEMENT made this 26<sup>th</sup> day of August, 2013, between and among the State of South Carolina, as represented by Attorney General Alan Wilson and Assistant Deputy Attorney General Curtis A. Pauling, III and the Defendant, and his attorney, Joseph Baldwin, Esquire.

1. The Defendant, Jeff Devall, agrees to plead guilty to the offense of Trafficking in Methamphetamine 28-100 grams (Conspiracy), first offense, a violation of S.C. Code Ann. §44-53-375(C)(1)(a), a lesser-included offense of that alleged in Indictment Number 2012-GS-47-13 Count One, which carries a sentence range from seven (7) years to twenty-five (25) years, and a fine of fifty <sup>Court</sup> thousand dollars (\$50,000.00). The State will make a recommendation of a sentence range of fifteen to eighteen (15-18) years to run concurrently with the Defendant's sentences on all other State charges listed in this agreement. This is considered a violent and serious offense.

2. The Defendant, Jeff Devall, agrees to plead guilty to the offense of Trafficking in Methamphetamine 28-100 grams, first offense, a violation of S.C. Code Ann. §44-53-375(C)(1)(a), as alleged in Indictment Number 2012-GS-47-13 Count Nine, which carries a sentence range from seven (7) years to twenty-five (25) years, and a fine of fifty thousand dollars (\$50,000.00). The State will make a recommendation of a sentence range of fifteen to eighteen (15-18) years to run

concurrently with the Defendant's sentences on all other State charges listed in this agreement. This is considered a violent and serious offense.

3. The Defendant, Jeff Devall, agrees to fully and truthfully cooperate with the Office of the Attorney General of South Carolina, and any local, state and federal law enforcement agents in their investigation of the importation, possession, and distribution of controlled substances and related unlawful activities. This cooperation is to include, but is not limited to, truthful and complete debriefings of the Defendant's knowledge concerning unlawful drug activities and related unlawful activities. Also, the Defendant understands that he must fully disclose and provide truthful information to the State including any books, papers, or documents or any other items of evidentiary value to the investigation. The Defendant must also testify fully and truthfully before any grand juries and at any trials or other proceedings if called upon to do so, subject to prosecution for perjury for not testifying truthfully. The failure of the Defendant to be truthful or to cooperate at any stage

*C. & P. 111* can cause the obligations of the State of South Carolina under this Agreement to become null and void. Further, it is expressly agreed that if the obligations of the State under this Agreement become null and void due to the lack of truthfulness or cooperation on the part of the Defendant, the Defendant understands that: (1) the Defendant will not be permitted to withdraw his plea of guilty to the offense described above; (2) any and all additional charges known to the State may be filed in the appropriate county; (3) the State may argue for a maximum sentence for the offenses to which the Defendant has pled guilty; (4) the State may use any and all information and testimony provided by the Defendant in the prosecution of the Defendant for all charges; and, (5) the State may advise the Department of Corrections of the Defendant's status as an uncooperative defendant and may accordingly recommend redesignation of the Defendant to a higher custodial level.

4. The Defendant, Jeff Devall, understands and agrees that any and all assets or portions thereof acquired or obtained as a result of illegal trafficking in drugs shall be surrendered to the South Carolina Law Enforcement Division (SLED), and/or other law enforcement related organizations in South Carolina to be designated by the South Carolina Attorney General, in portions to be determined by the South Carolina Attorney General. The assets so surrendered to South Carolina authorities will be disposed of according to South Carolina law. The assets to be surrendered include, but are not limited to, cash, stocks, bonds, certificates of deposit, personal property, and real estate. Further, the Defendant agrees to fully assist the Office of the Attorney General and SLED in the recovery and return to SLED, and/or other designated law enforcement agencies in South Carolina of any drug-related assets or portions thereof, either domestic or foreign, which have been acquired or obtained either indirectly or directly through unlawful drug activities. The Defendant must prevent the disbursement and immediately and voluntarily surrender to the Office of the Attorney General, SLED, and/or other designated law enforcement agencies in South Carolina, all other domestic and foreign assets in which she has any direct or indirect interest or control, if the assets are the proceeds of unlawful drug activities or are directly or indirectly related to the unlawful drug activities. The Defendant further agrees to immediately and voluntarily surrender to the Office of the Attorney General, SLED, and/or other designated law enforcement agencies in South Carolina, in portions to be determined by the South Carolina Attorney General, all conveyances, including but not limited to, aircraft, vehicles, or vessels, which have been used or were intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of controlled substances. By signing this Agreement, the Defendant consents to civil forfeiture of all assets currently in the possession of the government and further

C.G.P.H.

consents to civil forfeiture of all drug related assets seized by law enforcement agents in connection with this investigation.

5. The Defendant, Jeff Devall, further agrees to submit to polygraph examination(s) by any qualified state polygraph examiner should he be requested to do so regarding his knowledge of and involvement in drug-related activities, other related unlawful activities, and any and all assets and conveyances acquired and/or used by the Defendant or others, whether drug-related or not. This Plea Agreement is expressly contingent upon successful completion, to the satisfaction of the State, of the polygraph examination(s).

6. The Attorneys for the State reserve the right to summarize all evidence, which would have been presented at trial to establish a factual basis for the plea.


7. The Attorneys for the State agree to advise any Court or other authority of the extent and value of the Defendant's cooperation if called upon to do so by the Defendant.

*C. CAPPELL*  
8. The Defendant, Jeff Devall, understands that the State's obligations under this Plea Agreement are expressly contingent upon the Defendant's abiding by state and federal laws, and complying with the terms and conditions of this Agreement, both before and after sentencing, and any bond executed in this case. This Agreement in no way limits or affects the Defendant's potential exposure to further prosecution by any Solicitor's Office in the State of South Carolina or the United States Attorney for conduct which is not a basis for her indictment and prosecution by the State Grand Jury of South Carolina.

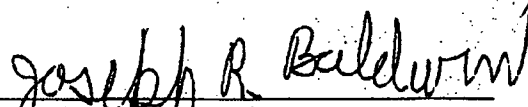
9. The parties hereby agree that this Plea Agreement supersedes all prior promises, representations and statements of the parties; that this Agreement may be modified only in writing signed by all parties; and that any and all other promises, representations and statements, whether

made prior to or after this Agreement, are null and void.

8-26-13  
DATE

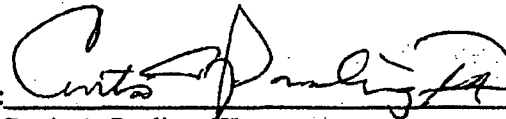
  
Jeff DeWall  
Defendant

8/26/2013  
DATE

  
Joseph Baldwin, Esquire  
Attorney for Defendant

Alan Wilson  
Attorney General of South Carolina

8/26/13  
DATE

By:   
Curtis A. Pauling, III  
Assistant Deputy Attorney General  
State Grand Jury

**FILED**

JUN 13 2012

STATE GRAND JURY OF SOUTH CAROLINA

JAMES R. PARKS  
CLERK, STATE GRAND JURY

STATE OF SOUTH CAROLINA )

vs. )

FNU LNU, A/K/A CHIVA, )  
BRENDA ROJAS, )  
SERGIO LUNA, A/K/A "CHECO" )  
MIGUEL GUILLEN, )  
PAMELA BRYANT, )  
MIGUEL MASTACHE-SOLANO, )  
MARK OCHOA, )  
JEFF DEVALL, )  
TINA RICHARDSON, A/K/A "LIL BIT" )  
ASHLEY HOLT, A/K/A "TWO FOOT" )

DEFENDANTS. )

CASE NO.: **2012GS 47 18**

**INDICTMENT FOR  
UNLAWFUL DRUGS**

Trafficking in Methamphetamine  
(Conspiracy)  
S.C. Code Ann. § 44-53-375(C)(5)  
(1 count)

Distribution of Methamphetamine  
S.C. Code Ann. § 44-53-375(B)  
(4 counts)

Trafficking in Cocaine  
S.C. Code Ann. § 44-53-370(e)(2)(a)(1)  
(2 counts)

Trafficking in Methamphetamine  
S.C. Code Ann. § 44-53-375(C)(1)(a)  
(1 count)

Trafficking in Methamphetamine  
S.C. Code Ann. § 44-53-375(C)(2)(a)  
(2 counts)

At a session of the State Grand Jury of South Carolina, convened in Columbia,  
South Carolina, on June 12, 2012, the State Grand Jurors present upon their oath:

**COUNT ONE  
TRAFFICKING IN METHAMPHETAMINE (CONSPIRACY)  
S.C. Code Ann. § 44-53-375(C)(5)**

That FNU LNU, A/K/A CHIVA, BRENDA ROJAS, SERGIO LUNA, A/K/A  
"CHECO", MIGUEL GUILLEN, PAMELA BRYANT, MIGUEL MASTACHE-SOLANO,  
MARK OCHOA, JEFF DEVALL, TINA RICHARDSON, A/K/A "LIL BIT" and ASHLEY  
HOLT, A/K/A "TWO FOOT" and other persons whose names are both known and unknown to

the State Grand Jury, did in Anderson, Greenville, Laurens, Oconee and Pickens counties of South Carolina, from November 2010 until June 12, 2012, knowingly conspire with each other to sell, manufacture, deliver, purchase, or bring into this State or provide financial assistance to sell, manufacture, deliver, or purchase four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT TWO**  
**DISTRIBUTION OF METHAMPHETAMINE**  
**S.C. Code Ann. § 44-53-375(B)**

That BRENDA ROJAS did, in Greenville County, South Carolina, on or about July 6, 2011, knowingly distribute, dispense, or deliver a quantity of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT THREE**  
**DISTRIBUTION OF METHAMPHETAMINE**  
**S.C. Code Ann. § 44-53-375(B)**

That BRENDA ROJAS did, in Greenville County, South Carolina, on or about August 2, 2011, knowingly distribute, dispense, or deliver a quantity of methamphetamine ("ice" or

“crank”), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT FOUR**  
**TRAFFICKING COCAINE 10-28 GRAMS**  
**S.C. Code Ann. § 44-53-370(e)(2)(a)(1)**

That BRENDA ROJAS did, in Greenville County, South Carolina, on or about August 10, 2011, knowingly possess (actually or constructively), deliver, sell, or bring into this State, ten (10) grams or more but less than twenty-eight (28) grams of cocaine, a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT FIVE**  
**TRAFFICKING COCAINE 10-28 GRAMS**  
**S.C. Code Ann. § 44-53-370(e)(2)(a)(1)**

That BRENDA ROJAS and SERGIO LUNA, A/K/A “CHECO” did, in Greenville County, South Carolina, on or about September 13, 2011, knowingly possess (actually or constructively), deliver, sell, or bring into this State, ten (10) grams or more but less than twenty-eight (28) grams of cocaine, a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized

by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT SIX**  
**DISTRIBUTION OF METHAMPHETAMINE**  
**S.C. Code Ann. § 44-53-375(B)**

That BRENDA ROJAS and SERGIO LUNA, A/K/A "CHECO" did, in Greenville County, South Carolina, on or about September 20, 2011, knowingly distribute, dispense, or deliver a quantity of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT SEVEN**  
**TRAFFICKING METHAMPHETAMINE 10-28 GRAMS**  
**S.C. Code Ann. § 44-53-375(C)(1)(a)**

That BRENDA ROJAS and SERGIO LUNA, A/K/A "CHECO" did, in Greenville County, South Carolina, on or about September 27, 2011, knowingly possess (actually or constructively), deliver, sell, or bring into this State, ten (10) grams or more but less than twenty-eight (28) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having

significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT EIGHT**  
**TRAFFICKING METHAMPHETAMINE 28-100 GRAMS**  
**S.C. Code Ann. § 44-53-375(C)(2)(a)**

That MIGUEL MASTACHE-SOLANO and MARK OCHOA did, in Oconee County, South Carolina, on or about September 27, 2011, knowingly possess (actually or constructively), deliver, sell, or bring into this State, twenty-eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT NINE**  
**TRAFFICKING METHAMPHETAMINE 28-100 GRAMS**  
**S.C. Code Ann. § 44-53-375 (C)(2)(a)**

That JEFF DEVALL did, in Greenville County, South Carolina, on or about September 28, 2011, knowingly possess (actually or constructively), deliver, sell, or bring into this State, twenty-eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or

arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT TEN  
DISTRIBUTION OF METHAMPHETAMINE  
S.C. Code Ann. § 44-53-375(B)**

That TINA RICHARDSON, A/K/A "LIL BIT" did, in Greenville County, South Carolina, on or about December 8, 2011, knowingly distribute, dispense, or deliver a quantity of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

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

A TRUE BILL

Michael E. Earnheart  
FOREMAN

Alan Wilson  
ALAN WILSON (CAPIII) by JMC  
ATTORNEY GENERAL

**FILED**

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE  
STATE

IN THE COURT OF GENERAL SESSIONS

NOV 06 2013

INDICTMENT/CASE#: 2012 -GS- 47 - 13

VS.

**JAMES R. PARKS**  
CLERK, STATE GRAND JURY

AW#: \_\_\_\_\_

Count 1

JEFF DEVALL

AKA: \_\_\_\_\_

Race: W

Sex: M

Age: 49

Date of Offense: 11/1/10-6/12/12

S.C. Code §: 44-53-375 (C)(5)

DOB: \_\_\_\_\_

SS#: \_\_\_\_\_

CDR Code #: 0370

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

DL# \_\_\_\_\_

SID# \_\_\_\_\_

**SENTENCE SHEET**

7-25

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

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

TO: **TRAFFICKING METHAMPHETAMINE 28-100 GRAMS (CONSPIRACY)**

In violation of § 44-53-375(C)(2)(a) of the S.C. Code of Laws, bearing CDR Code # 0392

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

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (def.'s initials)

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

ATTEST:

*Cate A. Ponder*  
Clerk

SC Bar # 68621

Defendant

*Jeffrey Devall*  
Attorney for Defendant

SC Bar # \_\_\_\_\_

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center,

for a determinate term of 16 days/months/years  under the Youthful Offender Act not to exceed \_\_\_\_\_ years

and/or to pay a fine of \$ \_\_\_\_\_ ; provided that upon the service of \_\_\_\_\_ days/months/years and or payment of \$ \_\_\_\_\_ ; plus costs and assessments as applicable\*; the balance is suspended with probation for

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

CONCURRENT or  CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

**SPECIAL CONDITIONS:**

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered **PTUP**

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_ days/hours Public Service Employment

Payment Terms:

Set by SCDPPPS

Obtain GED

Attend Voc. Rehab. Or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ Beginning

\$ \_\_\_\_\_ Paid to Public Defender Fund

Other:

*2500*  
*1500*  
*11/6/13*

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

Recipient:

\*Fine:

§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 2500
§14-1-213 (Drug Court Surcharge)	\$150	\$ 1500
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in instalments)	\$	\$ 8.40
<b>TOTAL</b>		<b>\$ 288.40</b>

Clerk of Court/Deputy Clerk

*James R. Parks*

Court Reporter:

*Teresa Johnson*

Presiding Judge

Judge Code:

Sentence Date

*2/16/12*  
*8/10/12*

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF GREENVILLE  
STATE

**FILED**

NOV 06 2013

INDICTMENT/CASE#: 2012 -GS- 47 - 13

vs.

JEFF DEVALL

**JAMES R. PARKS**  
CLERK, STATE GRAND JURY

AWW#:

Count 9

AKA:

Date of Offense: 9/28/11

Race: W

Sex: M

S.C. Code §: 44-53-375 (C)(2)(a)

DOB:

SS#:

CDR Code #: 0392

Address:

City, State, Zip:

DL#

SID#

SENTENCE SHEET

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7-25

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NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  \$17-25-45  
(CSC w/minor 1<sup>st</sup> or Lewd Act)

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Defendant Waives Presentation to Grand Jury. (def.'s initials)

The plea is:  Without Negotiations or Recommendation,

Negotiated Sentence,  Recommendation by the State.

ATTEST

*Curtis A. Adams*  
Solicitor A.D.A.G.

SC Bar # 68671

Defendant

*Jeff Devall*  
Attorney for Defendant

Attorney for Defendant

*Joseph Ballman*  
SC Bar #

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and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable; the balance is suspended with probation for \_\_\_\_\_

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Attend Voc. Rehab. Or Job Corp.

Recipient:

May serve W/E beginning

\*Fine:

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\$14-1-206 (Assessments 107.5%)

Random Drug/Alcohol Testing

\$14-1-211 (A)(1)(Conv. Surcharge) \$100

Fine may be pd. in equal consecutive weekly/monthly

\$14-1-211 (A)(2)(DUI Surcharge) \$100

pmts. of \$ \_\_\_\_\_ Beginning

\$56-5-2995 (DUI Assessment) \$12

\$ \_\_\_\_\_ Paid to Public Defender Fund

\$56-1-286 (DUI Breath Test) \$25

Other:

Proviso 47.9 (Public Def/Prob) \$500

\$14-1-212 (Law Enforce. Funding) \$25

\$14-1-213 (Drug Court Surcharge) \$150

\$50-21-114 (BUI Breath Test Fee) \$50

\$56-5-2942(J) (Vehicle Assessment) \$40/ea

Proviso 90.5 (SCCJA Surcharge) \$5

3% to County (if paid in installments) \$

TOTAL

\$ 100.00  
\$ 25.00  
\$ 150.00  
\$ 5.00  
\$ 8.40  
\$ 288.40

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

Clerk of Court/Deputy Clerk  
Court Reporter:  
SCCA/217 (03/2011)

*James R. Parks*  
*Fuse Johnson*

Presiding Judge  
Judge Code:  
Sentence Date

*J. H. Li*  
*File 2*  
*8/26/12*