

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Appeal from Jasper County  
Roger L. Couch, Circuit Court Judge

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RECEIVED  
JUL 8 2016  
SC SUPREME COURT

CHRISTOPHER DOVILLE

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-002431

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APPENDIX

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF JASPER	)	IND. NO.: 2012-GS-27-00057

STATE OF SOUTH CAROLINA,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
CHRISTOPHER DOVILLE,	)	
	)	
DEFENDANT.	)	
	)	

August 14, 2012  
Ridgeland, South Carolina

B E F O R E:

THE HONORABLE J. MICHAEL BAXLEY, JUDGE.

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

ERIN VAUX, ESQ.  
Attorney for the State of South Carolina

ROBERT HUGHES, ESQ.  
Attorney for the Defendant

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EXHIBITS

None.

1           **THE COURT:** All right, Counsel, let me say to you  
2 that what I would intend to do, because the jury is  
3 present and they are here, is to take the initial part of  
4 the plea wherein Mr. Doville actually agrees to plea and  
5 agrees that he's guilty and then bring the jury in, let  
6 them watch the remainder of the plea, which would include  
7 another recitation of the facts and then sentence him. I  
8 feel like they've committed now two days of their life to  
9 this case, and they are entitled to see that part of this  
10 proceeding.

11           And is there an objection to that from either side?

12           **ASSISTANT SOLICITOR VAUX:** No, Your Honor.

13           **MR. HUGHES:** No, Your Honor.

14           **THE COURT:** All right. Let's begin by placing Mr.  
15 Doville under oath.

16           **CLERK:** Raise your right hand, please.

17                   CHRISTOPHER DOVILLE, after being duly sworn,  
18 testified as follows:

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

20           Mr. Hughes, let's begin with you, sir. Have you had  
21 ample time with Mr. Doville to discuss the elements of  
22 this charge, the penalty for it, and his right to a trial  
23 on this charge?

24           **MR. HUGHES:** Yes, I have, Your Honor.

25           **THE COURT:** And in your opinion, has he understood

1 the things that you've explained to him?

2 **MR. HUGHES:** Yes, sir.

3 **THE COURT:** And so our record will be clear, what did  
4 you tell him that grand larceny at this level, at the  
5 level of the charge, carries?

6 **MR. HUGHES:** Grand larceny, greater than ten thousand  
7 dollars, I told him carries up to ten years. It is a  
8 non-serious, non-violent crime.

9 **THE COURT:** Okay. And, again, he's understood these  
10 things, in your opinion?

11 **MR. HUGHES:** Yes, sir.

12 **THE COURT:** And understanding these things, how does  
13 he wish to plead?

14 **MR. HUGHES:** He tells me now he wishes to plead  
15 guilty.

16 **THE COURT:** All right. Do you believe that this is  
17 in his best interest?

18 **MR. HUGHES:** Yes, sir.

19 **THE COURT:** All right. Obviously, we're here really  
20 in the middle of the trial, although we haven't started  
21 the testimonial phase of it. Tell me why you believe it's  
22 in his best interest at this point for him to plead guilty  
23 in the middle of trial.

24 **MR. HUGHES:** Because, Your Honor, there are facts I  
25 believe that will come out that would prove that he did

1 take the patrol car. That, combined with his previous  
2 record and the damage to the patrol car itself, I believe  
3 would potentially assure a guilty verdict from the jury.  
4 I also believe that because of that, there's a chance that  
5 -- I'm not sure exactly what will come out, Your Honor,  
6 but I've been in enough trials to know that sometimes  
7 something comes out that I wouldn't want a judge to hear  
8 and some time gets tacked on.

9 **THE COURT:** All right.

10 Then, Mr. Doville, you've heard your lawyer tell me  
11 that you intend to plead guilty to this charge; is that  
12 correct?

13 **DEFENDANT, MR. DOVILLE:** Yes, sir.

14 **THE COURT:** Are you guilty?

15 **DEFENDANT, MR. DOVILLE:** Yes, sir.

16 **THE COURT:** All right. First of all, today here in  
17 the courtroom, do you have any alcohol or illegal drugs in  
18 your system?

19 **DEFENDANT, MR. DOVILLE:** No, sir.

20 **THE COURT:** Do you take any kind of medicine?

21 **DEFENDANT, MR. DOVILLE:** Yeah.

22 **THE COURT:** Is that a yes, sir?

23 **DEFENDANT, MR. DOVILLE:** Yes, sir.

24 **THE COURT:** And what medicine do you take?

25 **DEFENDANT, MR. DOVILLE:** I ---

1           **MR. HUGHES:** What do you take? What are you on now?

2           **DEFENDANT, MR. DOVILLE:** I ain't on nothing now. I  
3 didn't take any medicine today.

4           **THE COURT:** You're not taking any medicine today.  
5 All right.

6           So do you have any kind of mental health or emotional  
7 problems that prevent you from understanding what we're  
8 doing here?

9           **DEFENDANT, MR. DOVILLE:** Yes, sir.

10          **MR. HUGHES:** You've got to speak up.

11          **DEFENDANT, MR. DOVILLE:** Yes, sir.

12          **THE COURT:** All right. Tell me what kind of mental  
13 health treatment have you had before?

14          **DEFENDANT, MR. DOVILLE:** I -- I was going to Coastal  
15 Empire in Ridgeland.

16          **THE COURT:** Yes, sir.

17          **DEFENDANT, MR. DOVILLE:** And they said they diagnosed  
18 me with multiple personality disorder.

19          **THE COURT:** All right.

20          And, Mr. Hughes, are there any Blair issues, in your  
21 opinion, here?

22          **MR. HUGHES:** Your Honor, every time I've talked to  
23 him, he was lucid. He understood what I -- he appeared to  
24 understand what I was telling him. I have never had any  
25 moment where I actually considered a Blair motion.

1           **THE COURT:** Okay.

2           And, Mr. Doville, so do you understand what you're  
3 doing today?

4           **DEFENDANT, MR. DOVILLE:** Yes, sir.

5           **THE COURT:** That you're pleading guilty to a charge  
6 that carries up to ten years in prison?

7           **DEFENDANT, MR. DOVILLE:** Yes, sir.

8           **THE COURT:** All right. You have someone standing  
9 with you. Who is that, please?

10          **DEFENDANT, MR. DOVILLE:** That's my mother.

11          **THE COURT:** Your mother. All right. And what's her  
12 name, sir?

13          **DEFENDANT, MR. DOVILLE:** Christine.

14          **MR. HUGHES:** Speak up.

15          **DEFENDANT, MR. DOVILLE:** Christine James.

16          **THE COURT:** All right. Thank you.

17          Ms. James, welcome to the courtroom.

18          Mr. Doville, how old are you?

19          **DEFENDANT, MR. DOVILLE:** Twenty-three.

20          **THE COURT:** Do you have children?

21          **DEFENDANT, MR. DOVILLE:** No. No, sir.

22          **THE COURT:** All right. And where do you live, Mr.  
23 Doville?

24          **DEFENDANT, MR. DOVILLE:** With my mother.

25          **THE COURT:** All right. When you come into this

1 courtroom to plead guilty, you give up some constitutional  
2 rights. I want to discuss those with you. First of all,  
3 you have the right in this courtroom to remain silent.

4 You have the right to a jury trial, and you know that  
5 because we actually are in your jury trial at this point.  
6 You're presumed innocent of these charges, and you're not  
7 required to incriminate yourself, which is what you're  
8 doing by pleading guilty.

9 Do you realize you're waiving these constitutional  
10 protections today when you plead guilty?

11 **DEFENDANT, MR. DOVILLE:** Yes, sir.

12 **THE COURT:** In this courtroom, if you wanted a trial,  
13 as you know, this is how the process works. You and Mr.  
14 Hughes could pick a jury, strike from this jury people you  
15 thought might oppose you, just like we did yesterday.

16 Now that we're getting ready to start the trial of  
17 the case, you would have the right to testify to the jury  
18 to tell your version of what happened here. You'd have  
19 the right to confront any evidence and witnesses against  
20 you.

21 You could summon other people in here with a subpoena  
22 to testify on your behalf about your good character or  
23 other things that would be favorable about you to the  
24 jury, all of this so the jury would hear your version  
25 about whatever happened here, not just the State's

1 version. So do you realize you're waiving these trial  
2 protections today by pleading guilty?

3 **DEFENDANT, MR. DOVILLE:** Yes, sir.

4 **THE COURT:** I said you are presumed innocent a moment  
5 ago. What I mean by that is this, you don't have anything  
6 to prove here. The State has the burden of proof.

7 The State has to prove these charges against you  
8 beyond a reasonable doubt. That's a high standard, and it  
9 has to convince all twelve jurors unanimously that you're  
10 guilty beyond a reasonable doubt, which is a high  
11 standard, or you would not be convicted.

12 And even if you were convicted, you could appeal the  
13 jury's decision. You're giving that right up today, too.

14 Do you understand you're waiving all those  
15 constitutional protections today by pleading guilty?

16 **DEFENDANT, MR. DOVILLE:** Yes, sir.

17 **THE COURT:** So I ask you, then, is it your decision  
18 to plead guilty, waive a jury trial, to actually stop your  
19 jury trial, give up these constitutional rights and be  
20 sentenced by this Court today?

21 **DEFENDANT, MR. DOVILLE:** Yes, sir.

22 **THE COURT:** All right. Are you satisfied with Mr.  
23 Hughes' services?

24 **DEFENDANT, MR. DOVILLE:** No.

25 **THE COURT:** Tell me why you're not.

1           **DEFENDANT, MR. DOVILLE:** Because, like every time he  
2 trying to tell me, you know what I'm saying, what I need  
3 done in the best interest of myself. He always seem like  
4 he helping them. Okay? You know what I'm saying?

5           It just really couldn't register with me. I was  
6 confused. You know what I'm saying?

7           I was left out in the cold. You know what I'm  
8 saying?

9           He wanted me to take pleas, instead of understanding  
10 with what the charge was really about. That's it,  
11 basically.

12           **THE COURT:** Well, do you understand the charge is  
13 about you being in a police car, being put in there by the  
14 police, stealing the car and driving off and wrecking it?  
15 Do you understand that?

16           **DEFENDANT, MR. DOVILLE:** Yeah, I understand that.

17           **THE COURT:** All right, sir. And do you understand  
18 that the police tell me, at least through the prosecutor,  
19 they say you're the only suspect in this case and the only  
20 person who could have stolen the car, because you were  
21 locked inside, so that they have strong evidence against  
22 you? Do you understand that?

23           **DEFENDANT, MR. DOVILLE:** Right.

24           **THE COURT:** All right, sir. So tell me, what defense  
25 do you have against this case, this charge, that he's

1 either not raised or not cooperated with you in raising?

2 DEFENDANT, MR. DOVILLE: (NO RESPONSE.)

3 THE COURT: So you don't have any, do you?

4 DEFENDANT, MR. DOVILLE: (NODDED NEGATIVELY.)

5 THE COURT: Sir?

6 DEFENDANT, MR. DOVILLE: No, sir.

7 THE COURT: Then I suspect that what Mr. Hughes was  
8 trying to help you do was to enter a plea that would be  
9 more advantageous to you than going all the way to a jury  
10 trial, having some bad things come out against you, which  
11 is what he just mentioned, and then possibly being  
12 sentenced more harshly. Did Mr. Hughes tell you that  
13 that's what he was attempting to do?

14 DEFENDANT, MR. DOVILLE: I don't know what he be  
15 talking about. He was talking about going to trial and  
16 arguing about some value of some car.

17 THE COURT: All right. Now, this decision to plead  
18 guilty, is it your decision?

19 DEFENDANT, MR. DOVILLE: Yes, sir.

20 THE COURT: And has anyone tried to force you to do  
21 this?

22 DEFENDANT, MR. DOVILLE: No, sir.

23 THE COURT: So you're telling me that regardless of  
24 how you feel about Mr. Hughes and his representation, you  
25 have yourself voluntarily made this decision to plead

1 guilty?

2           **DEFENDANT, MR. DOVILLE:** Yes, sir.

3           **THE COURT:** All right. This indictment says that you  
4 stole a police car and that you wrecked the police car and  
5 that you did that at a time when you were under arrest for  
6 another charge. Is that correct, Mr. Doville?

7           **DEFENDANT, MR. DOVILLE:** Yes, sir.

8           **THE COURT:** All right. Then based on that, I find  
9 that -- and did you do that?

10           **DEFENDANT, MR. DOVILLE:** Yes, sir.

11           **THE COURT:** Then based on that, I find these charges  
12 are valid charges and there's a factual basis for these  
13 charges, and you've made your decision yourself  
14 voluntarily to enter this plea, and you've done this after  
15 I've advised you of your rights and you've waived them,  
16 and you've done this with the advice of a capable lawyer.  
17 Although you have some differences of opinion with your  
18 lawyer, you tell me you've understood what your lawyer has  
19 explained to you. So for all of these reasons, I'm going  
20 to accept your plea.

21           And what I intend to do is to bring the jury in at  
22 this point and let the jury observe the rest of this  
23 proceeding. We would begin with me explaining to the jury  
24 what we just talked about here, and then the State giving  
25 me a recitation of the facts as to what you believe Mr.

1 Doville has done.

2 All right. Are we ready? Is the State ready?

3 **ASSISTANT SOLICITOR VAUX:** The State is ready, Your  
4 Honor.

5 **THE COURT:** Is the defense ready?

6 **MR. HUGHES:** Yes, Judge.

7 **THE COURT:** All right. Mr. Doville and Ms. James,  
8 I'll just let you remain where you are, please.

9 Let's bring in the jury.

10 (WHEREUPON, JURY ENTERED THE COURTROOM.)

11 **THE COURT:** All right, ladies and gentlemen, welcome  
12 to the courtroom. And let me ask if since we were last  
13 together if there is any member of the jury panel that has  
14 had a discussion concerning the facts of this case with  
15 any third party? If you have, please raise your hand.

16 (NO RESPONSE.)

17 **THE COURT:** Let's let the record reflect no one has  
18 raised their hand, and thank you for complying with the  
19 Court's instructions.

20 Mr. Major, we -- I got a message from you this  
21 morning through the clerk that you are a member of the  
22 fire department in Ridgeland. I think you might be a  
23 volunteer; is that correct, sir?

24 **JUROR:** Yes, sir.

25 **THE COURT:** Let me ask you, would the fact that you

1 volunteer with the fire department prevent you from being  
2 fair and impartial in this case?

3 **JUROR:** No, sir.

4 **THE COURT:** All right. Good. First of all, thank  
5 you for your candor in coming forward to the clerk to make  
6 sure we knew that and then for your response as well this  
7 morning.

8 Ladies and gentlemen, you will notice that the  
9 parties are standing in a different place than they were  
10 when you last left the courtroom. Everyone was seated at  
11 the table, and now they're standing before the bar.

12 And let me tell you that we have been here earlier  
13 than you this morning doing some things to prepare for the  
14 trial, and in the course of those preparations, the Court  
15 made certain rulings on issues, and we'll discuss that in  
16 a moment. And perhaps based upon that or perhaps based  
17 upon other reasons, the defendant advised me through  
18 counsel, and directly from the defendant, that they have  
19 changed their minds this morning with regard to going  
20 through with the trial and have decided to enter a plea of  
21 guilt. And the Court has -- I have discussed, while  
22 you've been in the jury room, several things with Mr.  
23 Doville, and I want to talk with you about that.

24 First of all, we're in the middle of the trial.  
25 Really we're at the start of the trial, but for us, we've

1 already picked the jury. For you, this is our second day,  
2 so we're already in the trial and there's certainly no  
3 reason to believe we're not all prepared to go forward to  
4 the end of the trial.

5 So I've talked with Mr. Doville first of all this  
6 morning to find out and make sure that he was not under  
7 the influence of any alcohol or drugs, whether they be  
8 illegal drugs or medications, or didn't have some mental  
9 health issue or some emotional issue that would prevent  
10 him from thinking clearly. And he's explained that he is  
11 thinking clearly and that he's voluntarily made this  
12 decision to plead guilty.

13 I've discussed with him in the course of our  
14 colloquy, our discussion this morning, that first of all,  
15 he has the right to this jury trial, because again, we're  
16 in the jury trial. He has the right to remain silent. He  
17 has the right not to incriminate himself and that he's  
18 presumed innocent of these charges, and he tells me he  
19 realizes he's waiving these rights by coming forward and  
20 pleading guilty.

21 I've also explained to him that during the course of  
22 the trial he would have no burden of proof. The State  
23 would have the burden of proof. The State would have to  
24 convince you beyond a reasonable doubt, which is a high  
25 standard. All twelve jurors would have to be convinced

1 that Mr. Doville was guilty before a finding of guilt  
2 could occur.

3 And furthermore, even if the jury found Mr. Doville  
4 guilty, he could appeal the jury's decision, and he's  
5 giving these rights up as well, to appeal the jury's  
6 decision. He tells me that he has made this decision  
7 himself voluntarily. No one has coerced him to do this.  
8 He's standing with his mother, Ms. James, who has appeared  
9 with him yesterday and today here in the courtroom.

10 All of these things we've discussed for me to make  
11 sure that what Mr. Doville is doing is a free and  
12 voluntary product of his own will, and I'm convinced after  
13 our discussion that it is. We stopped the plea at that  
14 point so that you could come out and join us, because I  
15 believe that you've invested two days of your life, and  
16 you have the right to see what's going to happen in this  
17 proceeding and to observe the rest of the proceeding.

18 I would have brought you out for the first part of  
19 it, but we had to first make sure that Mr. Doville  
20 intended to plead guilty and was committed to do so,  
21 because if we got started into it and then there was a  
22 change of mind and you were sitting here watching it,  
23 well, it wouldn't be fair for you then to be the jury,  
24 simply because if you already knew he was getting ready to  
25 plead guilty. So for that reason, we made sure that what

1 he wished to do was appropriate and that, indeed, it was  
2 his voluntary wish.

3 Now that we have established that, we're going to go  
4 into the plea, discuss the facts of the plea and then  
5 enter a sentence. So just, if you will, just join us at  
6 this point.

7 And, Madam Solicitor, please tell us what is it that  
8 you've accused Mr. Doville of doing.

9 **ASSISTANT SOLICITOR VAUX:** Thank you, Your Honor.  
10 This incident occurred on January 19th of this year about  
11 1:00 o'clock or a little after 12:00 at the Plantation Inn  
12 at 11469 North Jacob Smart Boulevard here in Ridgeland,  
13 which is in Jasper County. Law enforcement received a  
14 call of a suspicious person at the hotel in one of the  
15 rooms that was supposed to be unoccupied.

16 When Officer Lowther responded from the Ridgeland  
17 Police Department, he went to the room and found that  
18 there was somebody in the room with the door chained.  
19 That person was identified as the defendant, Christopher  
20 Doville.

21 At that point, he was placed under arrest for  
22 trespassing and defrauding an innkeeper, for breaking into  
23 a room without paying for it. He was arrested, handcuffed  
24 and placed in the backseat of the patrol vehicle, which  
25 the officer locked, because he had a spare key.

1           At that point, the officer went into the motel office  
2 to speak with the employees to finish filling out the  
3 report. They noticed blue lights outside and went outside  
4 to see that the defendant had stolen the police car,  
5 somehow managed to get through the middle panel window and  
6 into the front seat and at that point drove off in the  
7 car.

8           He called for backup. Another officer from Jasper  
9 County Sheriff's Office picked him up.

10          A witness called in to dispatch to say that they saw  
11 the patrol car wrecked in a ditch. They went to the  
12 scene. At that point, the defendant was not in the car.  
13 They started searching.

14          An officer saw him down the road some. They went  
15 down to that area, and one of the officers was shining a  
16 flashlight on a porch and found the defendant lying there  
17 with the handcuffs still on him. At that point, he was  
18 again detained and arrested and charged with grand larceny  
19 of a vehicle, value more than ten thousand dollars.

20          **THE COURT:** All right. Just one moment, then.

21          Mr. Doville, the facts given to me about you being  
22 under arrest for a particular charge and stealing the  
23 patrol car and then reeking it, are those facts true, sir?

24          **DEFENDANT, MR. DOVILLE:** Yes, sir.

25          **THE COURT:** All right. Then based on that, again, I

1 find there's a factual basis for this charge against you.  
2 You've made this decision to enter this plea voluntarily.  
3 You've done this after I've advised you of your rights,  
4 and you've waived those rights.

5 You've done this with a capable lawyer assisting you.  
6 You tell me it's your voluntary decision. So for all  
7 these reasons, the Court is going to accept your plea.

8 Now, does Officer Lowther wish to give us any further  
9 information about this matter, or does he have a comment  
10 he wishes to make to the Court, Madam Solicitor?

11 **ASSISTANT SOLICITOR VAUX:** I don't believe so, Your  
12 Honor. I did also just want to say that the damage to the  
13 car was valued at six thousand, four hundred and  
14 twenty-nine dollars and eighty-eight cents.

15 **THE COURT:** Very good. And the value of the car  
16 itself was what?

17 **ASSISTANT SOLICITOR VAUX:** It was found to be, using  
18 the database, the actual value before the equipment was  
19 nine thousand, five hundred and fifty dollars. With the  
20 equipment, it would take it up to about fifteen hundred --  
21 fifteen thousand. Sorry.

22 **THE COURT:** All right. Very good.

23 Ladies and gentlemen of the jury, I will tell you  
24 that under South Carolina law, grand larceny of an item  
25 greater than ten thousand dollars in value or more carries

1 up to ten years in prison. If it's less than the amount  
2 of ten thousand, it carries only five years in prison, so  
3 it makes a sentencing difference based on the level of the  
4 charge.

5 All right. Now, tell us what prior record Mr.  
6 Doville has, please.

7 **ASSISTANT SOLICITOR VAUX:** Your Honor, he has some  
8 convictions out of Florida; a 2010 petit larceny, a  
9 burglary of an unoccupied dwelling, a grand theft third  
10 degree, distribution of marijuana, and then in 2011, he  
11 has a trespassing.

12 **THE COURT:** All right. Very good. Anything further  
13 now from the State?

14 **ASSISTANT SOLICITOR VAUX:** Nothing from the State,  
15 Your Honor.

16 **THE COURT:** Mr. Hughes, what do you have to say for  
17 your client?

18 **MR. HUGHES:** Your Honor, I'm going to make  
19 explanations but not excuses. He suffers from multiple  
20 personality disorder. He was on medication for that. He  
21 did not have his medication with him that evening. He  
22 knew what he did was wrong, but he still wasn't able to  
23 totally control himself.

24 We ask for you to listen to both his mother and to  
25 him in mitigation. Fortunately, no one has been hurt by

1 this. It is just property damage. We ask that you take  
2 that also under consideration. And I will let either him  
3 or his mother speak, if they desire.

4 **THE COURT:** All right. Mr. Doville and Ms. James,  
5 please follow our clerk's instructions and accept the oath  
6 of a witness.

7 **CLERK:** Please raise your right hands.

8 CHRISTOPHER DOVILLE, after being duly sworn,  
9 testified as follows:

10 CHRISTINE JAMES, after being duly sworn,  
11 testified as follows:

12 **THE COURT:** All right. And before you came into the  
13 courtroom, Mr. Doville was placed under oath when he began  
14 to discuss with me the guilty plea itself.

15 Mr. Doville, do you have something you wish to say  
16 for yourself, sir?

17 **DEFENDANT, MR. DOVILLE:** Not really.

18 **THE COURT:** All right.

19 Ms. James, do you have something you wish to say,  
20 ma'am?

21 **MS. JAMES:** Yes, sir.

22 **THE COURT:** And come forward to the microphone so we  
23 can all hear you. Ma'am, please tell us your full name.

24 **MS. JAMES:** Christine James.

25 **THE COURT:** All right, Ms. James. And may I ask, how

1 many children do you have?

2 **MS. JAMES:** Eleven.

3 **THE COURT:** And what number is Mr. Doville?

4 **MS. JAMES:** Seven.

5 **THE COURT:** I'll be glad to hear from you, ma'am.

6 **MS. JAMES:** Yes, sir. My concern with Christopher  
7 today and being this charge against him, grand theft, is  
8 that I'm a law enforcement officer of the State of South  
9 Carolina as well. I resigned from it because I'm a  
10 minister now, but I know the law a little, and I know that  
11 he was placed in the vehicle and that he took the vehicle,  
12 but my time is -- my time is ---

13 (WHEREUPON, MR. HUGHES DROPPED A GLASS OF WATER ON  
14 THE CLERK'S DESK.)

15 **MR. HUGHES:** I'm sorry.

16 **THE COURT:** Wait just one moment.

17 **MS. JAMES:** Okay.

18 **MR. HUGHES:** I apologize, Your Honor.

19 **THE COURT:** All right, Ms. James, go ahead.

20 **MS. JAMES:** Yes. I would like to ask the Court that  
21 when he arrested Christopher that night for coming out of  
22 the hotel, how long was Christopher in that car by himself  
23 before he could get them handcuffs in front of him and  
24 through that divider in that car?

25 See, Chris does have a history of mental illness. He

1 lost -- his father was deceased before he was born, and I  
2 carried Chris for nine months under a lot of stress. So,  
3 yes, he does have a problem.

4 In school, he couldn't get through school. They put  
5 him in different classes, whatever. He still doesn't have  
6 his diploma, because he couldn't deal with that. He  
7 couldn't deal with them. It wasn't no ADHD out there at  
8 that time.

9 So I asked Chris when I went to visit him how did he  
10 do this. You know? What provoked you to want to, you  
11 know, get out of your handcuffs? And he's like he don't  
12 even know because he was high on the drugs and alcohol,  
13 and then he don't even know how he got to think about  
14 getting the handcuffs off and getting into the front of  
15 the police car to even drive it off.

16 So I'm saying, well, how long does it take an officer  
17 to arrest somebody? And that's my question for them.

18 **THE COURT:** All right. Thank you, ma'am.

19 Anything further now from the defense?

20 **MR. HUGHES:** Other than, Your Honor, we do ask for  
21 you to take all of that into consideration, and the fact  
22 that he has voluntarily pled to this. We're asking you  
23 for your mercy, Your Honor.

24 **THE COURT:** All right.

25 Anything further from the State?

1           **ASSISTANT SOLICITOR VAUX:** Nothing further, Your  
2 Honor.

3           **THE COURT:** Has Mr. Doville been in corrections  
4 before, to your knowledge?

5           **ASSISTANT SOLICITOR VAUX:** He has, Your Honor, in  
6 Florida.

7           **THE COURT:** Florida corrections. All right.

8           How many days -- Mr. Doville is currently in custody;  
9 is he not?

10           **ASSISTANT SOLICITOR VAUX:** That's correct, Your  
11 Honor.

12           **THE COURT:** All right. What was his amount of time?  
13 Do you have that, Madam Solicitor?

14           **ASSISTANT SOLICITOR VAUX:** I do, Your Honor. Two  
15 hundred and nine.

16           **THE COURT:** Two hundred and nine days. Thank you.

17           And ladies and gentlemen of the jury, when Mr.  
18 Doville -- just as when everyone is arrested, typically  
19 the next morning you go before the magistrate, who sets a  
20 bond for you.

21           The bond it not intended to punish someone. It is  
22 intended to ensure that you return to trial.

23           So the bond will be in some cases ten thousand  
24 dollars surety, meaning you sign over property, or five  
25 thousand dollars cash, or twenty-five thousand dollars

1 cash. It depends on what the magistrate believes the bond  
2 is.

3 If you can't meet that bond, then you remain in  
4 custody. And you just heard Mr. Doville has been in  
5 custody for two hundred and nine days now, apparently  
6 unable to meet his bond, or back on a bench warrant.

7 Tell me, what was the status? Was he unable to meet  
8 the bond?

9 **MR. HUGHES:** Unable to meet bond, sir.

10 **THE COURT:** All right. Very good.

11 **ASSISTANT SOLICITOR VAUX:** It was a twenty thousand  
12 cash or surety bond, Your Honor.

13 **THE COURT:** All right. And out of fairness, Mr.  
14 Doville is entitled to credit for that time against any  
15 sentence that's imposed by the Court, because he's done  
16 that time based on this charge. Just one moment, please.

17 All right. Ladies and gentlemen, let me also mention  
18 to you, we had a hearing this morning. Many times we'll  
19 have hearings that are outside of your presence on issues  
20 as we prepare for trial. It had to do with the  
21 admissibility of certain evidence.

22 There was an issue as to whether or not it would be  
23 admissible in evidence that Mr. Doville was actually under  
24 arrest at the time he allegedly committed this crime,  
25 because if you're under arrest, well, you've already

1 committed some type of bad act. And is it prejudicial to  
2 the defendant for the jury to know that he's already in  
3 custody allegedly when he commits the crime for which he  
4 is currently on trial?

5 And the Court had to determine that, because many  
6 times a prior bad act may be excluded from evidence unless  
7 the defendant takes the stand, and then that prior bad act  
8 might come into evidence as to whether the defendant is a  
9 credible or believable person, but not to prejudice them  
10 that they're more likely to have committed the charge for  
11 which they are on trial.

12 The Court determined that that evidence would come in  
13 and should come in, because first of all you, the jury,  
14 would need an explanation as to why Mr. Doville was in the  
15 patrol car in the first place. And if you think about it,  
16 it could have been something as serious as a murder  
17 charge, which it was not, and you should know that it was  
18 for defrauding an innkeeper as to how he came to be seated  
19 in the car. So the Court had made that decision earlier  
20 this morning. I told you that we already had a hearing on  
21 that evidentiary issue.

22 There are many factors that go into imposing a  
23 sentence in our system. Some states do it differently.  
24 The juries do not impose the sentence, the Court does.  
25 And the reason for that is because we are in the courtroom

1 on a daily basis. We have some sense and experience in  
2 what is a typical or average or common sentence for a  
3 particular crime, as well as what factors that went in  
4 that may be aggravating or may be mitigating.

5 I will tell you that in South Carolina jurisprudence,  
6 the only time the jury imposes a sentence is in a death  
7 penalty case, which fortunately this is not. The jury  
8 makes a determination of death or life, but that's the  
9 only time. And so I don't want you to think somehow you  
10 bear any responsibility for whatever is happening here.

11 It's the Court's responsibility to sentence. It's  
12 the jury's determination to find guilt or innocence.

13 Here, that decision, in a way, was made for you  
14 because the defendant came forward to admit his guilt.  
15 And I'm going to give him some credit for that, for not  
16 putting the State to the burden of proof, taking the  
17 valuable and precious resource of judicial time and the  
18 public resource associated with that, your time further  
19 and tying the court up in what really appears to the Court  
20 to be a rather obvious question of guilt, because there  
21 was no one else in the car but the defendant when the car  
22 was stolen, and he was locked in the car. So it would  
23 seem improbable that anyone else could have committed the  
24 crime.

25 Also, I'm aware that Mr. Doville has some

1 psychological or emotional issues. I intend to note on  
2 the sentencing sheet, which I'm filling out, for the  
3 ladies and gentlemen at the R&E Center, which is Reception  
4 and Evaluation in corrections that he has a potential  
5 mental illness disorder for which they should be aware  
6 whenever they decide to classify him, decide his security  
7 level, as well as for whom or with whom he should be  
8 incarcerated, because he may be, depending on what his  
9 condition is, a vulnerable individual in the department of  
10 corrections. All of that will be noted as well.

11 Based on these things, the Court finds it  
12 appropriate, Mr. Doville, for your theft of the public  
13 property and the vehicle which belonged to the City of  
14 Ridgeland, to sentence you to six years in the Department  
15 of Corrections. I'm going to credit you for two hundred  
16 and nine days that you have served, which means we're  
17 going to remand you now to the custody of the detention  
18 center, and you'll be transported to the Department of  
19 Corrections, and good luck to you, sir.

20 All right. Ms. James, thank you for being here.  
21 Good luck to you, ma'am, as well.

22 (END OF REQUESTED TRANSCRIPT OF RECORD.)  
23  
24  
25

CERTIFICATE OF REPORTER

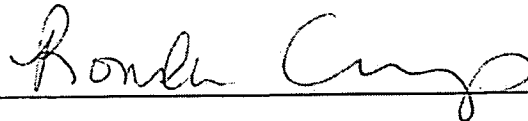
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STATE OF SOUTH CAROLINA     )  
  )  
COUNTY OF JASPER            )

I, Ronda T. Cummings, Official Court Reporter for the  
Judicial Department 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 General Sessions for  
Jasper County, South Carolina, on the 14th day of August,  
2012.

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

October 7, 2013



Ronda T. Cummings, CVR  
Official Court Reporter

FORM 5

STATE OF SOUTH CAROLINA

County of Jasper

2013 JUN

8

IN THE COURT OF COMMON PLEAS

AM 8:48

Christophe Daile #352112

Full name and prison number (if any) of Applicant

JASPER COUNTY SC  
CLERK OF COURT

2013-CP-27-333

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

**INSTRUCTIONS - READ CAREFULLY**

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

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

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

1. Place of detention Allendale Correctional Institution

---

2. Name and location of Court which imposed sentence Jasper County  
General Sessions

---

3. Name(s) of co-defendant(s) (if any) N/A

---

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) unknown indictment number
  - (b) WARRANT number J-386209

(c) Grand Larceny

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

(a) August 2013

(b) 6 years non-violent

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

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ✓

(b) after a plea of not guilty \_\_\_\_\_

(c) after a plea of nolo contendere \_\_\_\_\_

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

No

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

(a) the name of each Court to which you appealed:

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(b) the result in each such Court to which you appealed:

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(c) the date of each such result:

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(d) if known, citations of any written opinion or orders entered pursuant to such

results:

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

(a) Lack of knowledge of Appellable Issues

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

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

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

(a) Violation of 6th Amendment right to effective Assistance

(b) of Counsel

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

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

(a) Counsel failed to properly Advise me (see Attachments)

(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) First Application
- (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?  
NO

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

- (a) the name and address of each attorney who represented you:
  - i. Mr. Robert Hughes, P.O. Box 506  
Hampton, SC 29924
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
- (b) the proceedings at which each such attorney represented you:
  - i. plea and sentencing
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

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

Correcting / Vacating Sentencing And  
Conviction

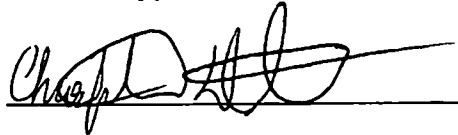
20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA )  
County of Allendale )

VERIFICATION

I, Christopher Daville, 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.



SWORN to and subscribed before me this 30  
day of May, 2013.

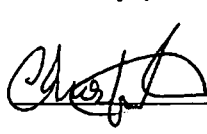
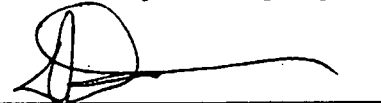
 (L.S.)  
Notary Public

My Commission Expires: 12-12-22

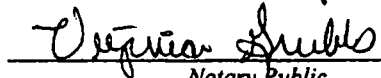
**APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF**

I, Christodora Douille, 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.

   
 Applicant

SWORN or affirmed to and subscribed before me this 30 day of May, 2013.

  
 Notary Public

My Commission Expires: 12-12-22

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF JASPER	)	FOURTEENTH JUDICIAL CIRCUIT
	)	
	)	
Christopher Doville, #352112,	)	2013-CP-27-0333
Applicant,	)	
	)	
v.	)	<b>RETURN</b>
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
<hr/>		

The Respondent, making its Return to the application for post conviction relief (PCR) filed June 8, 2013, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Jasper County Clerk of Court. The Applicant was indicted at February 2012 term of the Jasper County Grand Jury for Grand Larceny (2012-CP-27-0053). Robert Hughes, Esquire, represented him. On August 14, 2120, the Applicant pled guilty as indicted before the Honorable J. Michael Baxley and was sentenced to imprisonment for six (6) years. Applicant did not appeal his conviction or sentence.

Attached herewith and incorporated herein are the records of the Jasper County Clerk of Court regarding the subject conviction(s), Applicant's records from SCDC, the application and the guilty plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. "Violation of 6<sup>th</sup> Amendment right to effective assistance of counsel"
  - i. "Counsel failed to properly advise me"

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at evidentiary hearing. All amendments should be made well in advance of hearing and should be filed as required by Rule 11, SCRCP(a).

### III.

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

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

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

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

#### IV.

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

#### V.

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

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

KAREN C. RATIGAN  
Senior Assistant Deputy Attorney General

J. RUTLEDGE JOHNSON  
Assistant Attorney General

By:   
~~ATTORNEYS FOR RESPONDENT~~

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

May 8, 2015.

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF JASPER )  
 )  
 )  
 )  
 CHRISTOPHER DOVILLE, )  
 )  
 Applicant, )  
 )  
 vs )  
 )  
 STATE OF SOUTH CAROLINA, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS

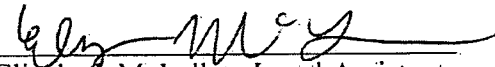
2013-CP-27-0333

AFFIDAVIT OF SERVICE BY MAIL

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

**Tristan Michael Shaffer, Esq.**  
**Axelrod & Associates, P.A.**  
**4701 Oleander Dr.**  
**Myrtle Beach, SC 29577**

DATED this 8<sup>th</sup> day of May, 2015.

  
 Elizabeth McLellan, Legal Assistant  
 For Respondent

2015 JUL 13 AM 10:51  
CLERK OF COURT  
JASPER COUNTY SC

Sede # 352112  
Dawville Christopher  
EVANS Correctional Inst.  
Waxhaw - B Room 220  
610 Hwy 9 West  
Bennettsville, SC 29512

09/07, 2015

To the Hon. MARGARET BOSTICK  
JASPER County Clerk of Court  
P.O. Box 248  
Ridgeland, SC 29936

Re: Dawville Christopher Sede # 352112  
V.  
The State of South Carolina

Dear MARGARET BOSTICK,

It is an absolute necessity that this enclosed motion, to Amendment to post-Conviction Relief Application be filed and a clock stamp copy forwarded to me for my records. And, also, I need you to forward a clock stamp copy to the Attorney General at P.O. Box 11549 Columbia, SC 29211 on my behalf for their records. I would most definitely appreciate all the above and your time and effort in making sure that it is properly processed or filed. HAVE A NICE DAY!

Respectfully  
Christopher Dawville  
09 July, 2015

POSTED  
RECEIVED  
11/2

STATE OF SOUTH CAROLINA  
County of Jasper  
Duville Christopher, 352112,

Applicant,

In the Court of Common  
PLEAS

V.

26 JUL 13 11:10:51

Case number: 2013-Cp-27-333

The State of South Carolina,

respondent

Amendment to  
Post-Conviction Relief Application

At the instruction of the Applicant in the above-captioned matter, his undersigned counsel, asks that his Application for Post-Conviction Relief be amended to include the following Additional Allegations:

Argument I.

The Applicant further states, that the Solicitor's duty is to see that no conviction, takes place except in strict conformity with the Law; that the Accused is not deprived of any Constitutional right and that nothing is done to prevent the Accused from obtaining a fair trial under the Law. State v. King, 71 S.E. 2d 293 (S.C. 1952). Generally, States failure to disclose information warrants reversal only if omission deprives defendant of a fair trial. State v. Gathers, 369 S.E. 2d 140 (S.C. 1988); when Solicitors know something is wrong with the judicial process is used merely as a legal subterfuge for wrongfully depriving a defendant of his liberty. Mooney v. Holohan, 294 U.S. 103, 55 S.Ct. 340 (1934), conduct of Solicitor calculated... to prevent a defendant from having a fair trial will not be tolerated. State v. Craig, 277 S.E. 2d 306 (S.C. 1976). In State v. Quattlebaum, 527 S.E. 2d 105 (S.C. 2000) the S.C. Supreme Court, held that a prosecutor has special responsibilities, to do justice and is held to the highest standard of professional ethics...

And that deliberate prosecutorial misconduct which threatens RIGHTS... Fundamental to Liberty And Justice will not be tolerated. Prosecutors Actions Are of such Nature to Render the trial Fundamentally unfair, Donnelly v. Christofaro, 614 U.S. 637, 94 S.Ct. 1868 (1974). Solicitor's Are At Liberty to Strike Hard blows, but He is not At Liberty to strike foul ones, Berger v. U.S., 295 U.S. 79.

## Argument II.

The Applicant submits that indictment was returned in His case containing a police officer as the sole witness before the Grand jury. In Capps v. State, 275 S.E. 2d 872 (1981), Our Supreme Court noted that the practice of using a Solicitor or other State officer as the sole witness before the Grand jury to provide a Summary of evidence should be Abandoned unless no Alternatives Available. In State v. Dawkins, 377 S.E. 2d 298 (S.C. 1989), the Court once again discouraged the Practice of using a Solicitor or other State officer as sole witness. Never the less, in State v. Anderson, 439 S.E. 2d 835 (S.C. 1993), the S.C. Supreme Court reversed because of the uncertainty and confusion that was taking place at all levels of the judiciary regarding this issue. The Court explicitly prohibited the practice of a sole State officer appearing before the Grand jury.

The Applicant accordingly submits that in view of the Anderson decision Counsel's Failure to move to quash His indictment constituted ineffective Assistance of Counsel in as much, as a challenge of a defective indictment is capable or sufficiently capable of determining the General issue without a trial. See; Sikes, Supra; Mitchell, Supra.

The Applicant further states that here in His case His indictment has one police officer name on the indictment when there should have been two police officers name on the indictment, showing that two police officers went before the

Grand jury of Jasper County on February 22, 2012 along with the Solicitor on this Day. Which this did not take place. The Applicant further states that this was misconduct by the Solicitor's office of Jasper County for not obeying, or following the law of the State of South Carolina. The Applicant further states for this reason the Court must reverse His Conviction and Sentence. Which South Carolina Supreme Court Had pointed these out in these rulings see; Capps v. State, State v. Dawkins, and State v. Anderson.

### Argument III.

The Applicant further states that His indictment was in violation of South Carolina Rules of Criminal procedures (see; Rule 3c), which states that Action on warrant. Within ninety (90) days after receipt of an arrest warrant from the clerk of Court, the solicitor shall take action on the warrant by (1) preparing an indictment for presentment to the Grand jury, which indictment shall be filed with the clerk of Court, assigned a criminal case number, and presented to the Grand jury.

The Applicant further states that His indictment should had been filed with the clerk of Court office of Jasper County Ms. Margaret Bostick before the Solicitor had presented the Applicant's indictment to the Grand jurors of Jasper County on February 22, 2012. Here in this case the Applicant's indictment was not filed with the clerk of Court office of Jasper County by Ms. Margaret Bostick before the Solicitor had presented the indictment to the Grand jury on February 22, 2012. Which this was misconduct by the Solicitor's office and see; South Carolina Code of Law Section 14-17-530(z); on bills of indictment, the date, and character of filing by Grand jury, number on docket, arraignment,

Verdict or other disposition, date, amount of tax costs, execution date of issuing and kind.

### Argument IV.

The Applicant further states that his trial counsel was ineffective for not pointing out to the court on August 14, 2012 that his indictment was not filed with the clerk of court office of Jasper County before the applicant indictment was presented to the Grand jury of Jasper County on February 22, 2012 by the solicitor. Trial counsel should have pointed these errors out to the court on August 14, 2012 that the applicant's indictment was not filed with the clerk of court office which means that the applicant indictment was in violation of South Carolina rules of Criminal Procedures see, Rule 3(c), and also see; South Carolina Code of Law Section 14-17-530(z). Which these case laws states that the solicitor had to file the applicant indictment with the clerk of court of Jasper County before the solicitor could present the indictment to the Grand jury of Jasper County on February 22, 2012. Here in this case this did not take place, because when you look at the indictment you'll see that the solicitor presented the applicant's indictment to the Grand jury of Jasper County on February 22, 2012. which means the solicitor had committed misconduct for not filing the applicant's indictment with the clerk of court office of Jasper County. On February 22, 2012 the applicant's indictment was presented to the Grand jury of Jasper County. The Applicant further states that the trial counsel should have pointed this error out to the court August 14, 2012. By counsel not doing so made him (Robert Hughes) ineffective. And, trial counsel had prejudice the applicant's case, because had the applicant knew about the constitution violations he would have not pled guilty

And would Have Gone to trial Because the outcome of the Applicant's Case would have been different. See; Hill v. Lockhart, 474, U.S. 52, 58 106 S.Ct. 366, 370, 88 L.Ed. 2d 203 (1985). The Applicant further Argues that this was a violation of His Constitutional Rights. See; Article I §, 3 of the S.C. Constitution, And the Applicant further States that this was also A Violation of His 14<sup>th</sup> Amendment to the United States Constitution of Due Process Rights.

Certificate of Service

I, Mr. Christopher Douville, do Hereby Certify that True and Correct Copies of the enclosed motion to Amendment to post-Conviction relief Application which the Applicant is Asking the Clerk of Court office of Jasper County to file this Document and to forward Him a clock Stamp Copy Back for His records. And, Also, the Applicant is asking the clerk of Court office to please forward a file copy to the Attorney General office on His behalf for their record, and a certificate of Service Has been forwarded via the United States Postal Service, postal Pre-paid and addressed as follows:

This 9th day of July, 2015

To:

Margaret Bostick and Attorney General  
Jasper County Clerk of Court P.O. Box 11549  
P.O. Box 248 Columbia, SC 29211  
Rideland, SC 29936

131. Christopher Douville  
Mr. Christopher Douville <sup>Sec#</sup> #352112  
Evans Correctional Institution  
Waxhaw - B room 220  
610 Hwy 9 west  
Bennettsville, SC 29512

Sworn to and subscribed before me  
This 9th day of July, 2015.  
S. Gullett L.S.

Notary public for South Carolina

My Commission expires: 2/2

POSTED  
BY DATE 7/15

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IN THE COURT OF COMMON PLEAS IN AND FOR  
BEAUFORT COUNTY SOUTH CAROLINA

CHRISTOPHER DOVILLE,  
Applicant,

vs.

CASE NO. 2013CP0270333

STATE OF SOUTH CAROLINA,  
Respondent.

\_\_\_\_\_ /

\* \* \*

PCR HEARING

DATE: October 19, 2015

PLACE: Beaufort County Courthouse  
Beaufort, South Carolina 29901

REPORTED BY: Mona Manley, Court Reporter

BEFORE: Honorable Roger L. Couch

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**APPEARANCES**

REPRESENTING THE APPLICANT:

Tristan M. Shaffer, Esquire  
PO Box 1161  
Irmo, SC 29063

REPRESENTING THE STATE:

J. Rutledge Johnson, Esquire  
PO Box 11549  
Columbia, SC 29211

\* \* \*

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1 PROCEEDINGS

2 MR. JOHNSON: May it please the Court. Your  
3 Honor, this is Christopher Doville versus State of  
4 South Carolina. Case number 2013CP270333. Mr.  
5 Doville was indicted February 2012 term of the  
6 Jasper County grand jury for grand larceny. I  
7 believe that there were three other charges that  
8 were dismissed in lieu of his guilty plea that  
9 occurred on August 14th, 2012. He plead guilty as  
10 indicted before the Honorable J. Michael Baxley.  
11 He was sentenced to six years. There was no  
12 appeal filed. However, there was a timely PCR  
13 application filed June the 8th, 2013. The State  
14 filed its return May 8th, 2015. And he is  
15 represented here today by Mr. Tristan Shaffer.

16 THE COURT: Mr. Shaffer, happy to hear from  
17 you.

18 MR. SHAFFER: Thank you, Your Honor. Before  
19 we begin, do you mind if I approach for a minute?

20 THE COURT: Yes, sir. Counsel.

21 (Off-the-record discussion held.)

22 THE COURT: All right. Counselor, I think  
23 that you said that you have a motion that you  
24 would like to make; is that right?

25 MR. SHAFFER: Yes, Your Honor.

## COLLOQUY

1 THE COURT: If you will stand, Mr. Doville,  
2 while we go through the motions.

3 MR. SHAFFER: I was also going to inform the  
4 Court that Mr. Doville is currently scheduled to  
5 get out next year, in August.

6 THE COURT: That is his max-out date?

7 MR. SHAFFER: Yes, Your Honor.

8 THE COURT: All right.

9 MR. SHAFFER: He potentially, if this case  
10 goes forward, he would potentially be looking at  
11 additional four years I believe of possible time  
12 if he --

13 THE COURT: Let me ask Mr. Doville about that  
14 because that's certainly something that he should  
15 consider. Have you had an opportunity to consult  
16 with your lawyer about the effects of a successful  
17 PCR?

18 THE APPLICANT: As of right now, we done had  
19 a little communication due to that. Do you know  
20 what I am saying?

21 THE COURT: I want you to be aware, the  
22 extent to which I can grant relief in this matter.  
23 I haven't looked at your case. I'm not making any  
24 comments at this time as to the merits of your  
25 claim. But if I were to find your claim

## COLLOQUY

1 meritorious and one that should be granted, the  
2 relief that I can grant is to put you back in the  
3 position that you were at the time that you  
4 entered your guilty plea. And, of course, that  
5 would mean that you would either be tried or you  
6 would be pleading guilty again in court.

7 I understand Judge Baxley gave you a sentence  
8 of six years in this matter. Now, what is the  
9 potential maximum sentence on this, Counselor?

10 MR. SHAFFER: I think ten, if they just went  
11 with the original charge. And then he's charged,  
12 basically, with stealing a police car. I didn't  
13 know if there was -- the State alluded that there  
14 might have been other charges. I don't think that  
15 they are necessarily on the record, but . . .

16 THE COURT: Are you aware of charges foregone  
17 at the time of his plea?

18 MR. JOHNSON: Yes, sir, he broke into a hotel  
19 room and was there. I think, defrauding the owner  
20 of the hotel and trespassing. I think three total  
21 charges other than grand larceny.

22 THE COURT: All right. Mr. Doville, I  
23 certainly don't control who the prosecutor  
24 prosecutes or what they prosecute people for, but  
25 again, as part of that plea arrangement that you

## COLLOQUY

1 had when you pled in front of Judge Baxley, if  
2 part of that agreement was that certain charges  
3 would not be pursued. If I grant your PCR and you  
4 go back to that place you were earlier, those  
5 options would still be available to the Solicitor.

6 THE COURT: In other words, they would be in  
7 a position to bring additional charges that grow  
8 out of this incident if they choose to do that.  
9 And of course, you would be subject possibly of a  
10 sentence up to the maximum allowed of whatever the  
11 charge was before the court. I am informed that's  
12 ten years, you have got six and you have got a  
13 max-out date of next year. Now, again, I can't  
14 advise you because I don't give legal advice. I  
15 can make you aware of the practical considerations  
16 that might be involved in your pursuing a PCR.  
17 So, do you understand what I'm saying?

18 THE APPLICANT: Yes, sir.

19 THE COURT: All right. Now, have you had a  
20 chance to discuss those issues with your lawyer  
21 fully?

22 THE APPLICANT: Yes, sir.

23 THE COURT: All right. Well, based on those  
24 discussions and what I have informed you of today,  
25 do you still wish to pursue this PCR?

## COLLOQUY

1 THE APPLICANT: Yes, sir.

2 THE COURT: All right. Counselor, I'll be  
3 happy to hear from you.

4 MR. SHAFFER: Thank you. I also have a  
5 motion. We are moving to strike the return that  
6 was filed by the State as outside the time limit  
7 as stated in the statute, Your Honor.

8 THE COURT: All right. I will hear from the  
9 State concerning that motion.

10 MR. JOHNSON: Your Honor, under Rule 55E, no  
11 judgment against the State shall be entered unless  
12 he can establish his claim for relief by evidence  
13 satisfactory to the court. He's getting his day  
14 in court. There's no prejudice to Mr. Doville in  
15 this case of us not filing within the statutory  
16 time limits. And that's also left in the  
17 discretion of the Court and we would ask you to  
18 deny that motion.

19 THE COURT: All right. Counselor, can you  
20 point to any prejudice that your client may have  
21 suffered as a result of what he's complaining of?

22 MR. SHAFFER: No, Your Honor, not  
23 specifically related to that, other than the delay  
24 in coming to court for the PCR.

25 THE COURT: I see. I have considered the

## COLLOQUY

1 matter and I will deny the motion.

2 MR. SHAFFER: All right. Your Honor, I guess  
3 it'll be our case and we will call the applicant.  
4 The applicant will call the applicant.

5 THE COURT: Sir, if you will come forward and  
6 be sworn, please.

7 Thereupon,

8 CHRISTOPHER DOVILLE

9 was called as a witness, having been first duly sworn,  
10 was examined and testified as follows:

11 THE COURT: Have a seat in the witness stand,  
12 Mr. Doville.

13 THE COURT: Your witness, Counselor.

14 MR. SHAFFER: Thank you, Your Honor.

15 DIRECT EXAMINATION

16 BY MR. SHAFFER:

17 Q Mr. Doville, where are you currently housed  
18 at?

19 A Jasper County.

20 Q You said that you are currently in Jasper?

21 A Correct.

22 Q Is that temporary?

23 A Temporary for the PCR hearing.

24 Q But you are in SCDC though?

25 A Oh, Evans Correctional Institute.

## TESTIMONY OF CHRISTOPHER DOVILLE

1 Q Okay. Now, what are you charged with, what?

2 A I'm charged with grand larceny, 10,000 or  
3 more.

4 Q What did they say that you stole?

5 A They say that I stole the police car, but --  
6 that is what they say.

7 Q Okay. And what did they say you did once you  
8 stole the police car?

9 A I took off with it and then I wrecked it.

10 Q Okay. Tell us, and not actually what  
11 happened -- what are the allegations? How did you end  
12 up in the police car?

13 A Well, I was placed in handcuffs and put in  
14 the back of the car. And I put the handcuffs in front  
15 of me and I just jumped through the window and put the  
16 car in reverse and I put it in drive and took off.

17 Q And how far did you get before the car  
18 wrecked?

19 A I got -- I got pretty far. To the next exit  
20 anyways.

21 Q Okay. And when the vehicle wrecked, what  
22 condition was the vehicle in?

23 A I mean, I don't know. It was dark. It was  
24 1:16 in the morning and I was out of it. Do you know  
25 what I'm saying?

## TESTIMONY OF CHRISTOPHER DOVILLE

1 Q Okay. Who represented you in these charges?

2 A Mr. Hughes.

3 Q And how many times did you meet with

4 Mr. Hughes related to these charges?

5 A Twice.

6 Q Did he go over the discovery with you?

7 A Yes, he had to get it the second time that I  
8 met him.

9 Q Okay. After he got it, did you learn that  
10 there was a potential issue?

11 A Correct.

12 Q What was that issue?

13 A Potential issue was that it could have been a  
14 lesser included offense. And the second one I came to  
15 understand that the vehicle value wasn't 10,000 or  
16 more.

17 Q Okay. So, you are saying that one issue was  
18 that the -- it could have been a lesser charge than  
19 grand larceny over 10,000?

20 A Correct.

21 Q That is based off of the vehicle expense,  
22 vehicle price?

23 A That is based off of what happened, do you  
24 know what I'm saying, they are saying how I stole the  
25 car and deprived the owner of its, basically,

## TESTIMONY OF CHRISTOPHER DOVILLE

1 ownership. But the owner was nowhere around. And I  
2 was in handcuffs when I was detained and placed in that  
3 back seat. Do you see what I'm saying? So, their  
4 charging me is very suspect.

5 Q Okay. But there was some dispute in  
6 discovery over the value of the vehicle, right?

7 A True to be.

8 Q And if your case would have gone to trial --  
9 well, did you and Mr. Hughes talk about what your  
10 defense would be if the case went to trial?

11 A I'm pretty sure we probably did.

12 Q What -- do you recall what he thought the  
13 defense should be?

14 A The value of the car.

15 Q Okay. And did he have anyone look at the  
16 value of the car?

17 A Well, the Court appointed someone then to  
18 estimate the value of the car.

19 Q Okay. What did they estimate the value of  
20 the car?

21 A Well, when I did the open plea the value of  
22 the car fell a few hundred short of \$10,000.

23 Q Okay. And there was an equipment value as  
24 well, right?

25 A I'm not sure as to that.

## TESTIMONY OF CHRISTOPHER DOVILLE

1 Q Why did you end up pleading guilty?

2 A Because Mr. Robert Hughes wasn't basically  
3 taking advice from me or even hearing me. We only met  
4 like two, three times. Do you know what I'm saying?  
5 But at the end of the day, he never did what I asked  
6 him to do. Do you know what I'm saying? He only did  
7 what he wanted to do.

8 Q What did you ask him to do?

9 A To see if he could get the charge to a lesser  
10 included offense. I had wanted him to bring the  
11 discovery, the Rule 5, that was another thing, another  
12 issue. Do you know what I'm saying? But he got it to  
13 me. But it's numerous things that I can't recall at  
14 this moment.

15 Q Okay. What are you looking for today?

16 A I'm looking for reversal and remand it for a  
17 new trial.

18 Q Okay. If Mr. Hughes would have done some of  
19 the things that you wanted him to do, would you have  
20 taken the case to trial?

21 A Yes, I would have took it to trial.

22 Q What things if he would have done would you  
23 have taken it to trial?

24 A Things I would have done?

25 Q What should he have done in order for you to

## TESTIMONY OF CHRISTOPHER DOVILLE

1 take the case to trial?

2 A If he took some of my advice. Do you know  
3 what I'm saying?

4 Q Okay.

5 A We probably could have pushed forward and got  
6 some things crossed, probably not all of it, but even  
7 25 percent or even 12 percent. Do you know what I'm  
8 saying? But I'm pretty sure that we would have  
9 probably got a better sentence.

10 Q Okay.

11 MR. JOHNSON: Objection. Speculation on  
12 that, Your Honor.

13 THE COURT: Sustained.

14 BY MR. SHAFFER:

15 Q Did you ask him to do anything specifically  
16 related to the value of the vehicle?

17 A Basically he was telling me what he wanted to  
18 do basically on the value of the vehicle.

19 Q Okay.

20 MR. SHAFFER: No further questions, Your  
21 Honor.

22 THE COURT: You may cross-examine.

23 MR. JOHNSON: Thank you, Your Honor. May it  
24 please the Court.

25 THE COURT: Yes, sir.

## TESTIMONY OF CHRISTOPHER DOVILLE

## CROSS EXAMINATION

1

2 BY MR. JOHNSON:

3 Q Mr. Doville, do you remember your guilty plea  
4 in this case?

5 A Guilty plea?

6 Q Yes.

7 A Uh-huh. (Indicating affirmatively.)

8 Q And that you pled guilty because you were  
9 guilty in this case?

10 A I pled open guilty because I was guilty.

11 Q You knew that the sentence was zero to ten  
12 years that you were facing?

13 A I knew that it was ten years. I didn't know  
14 that it was zero to ten. Becuase it said, grand  
15 larceny was 10,000 or more. And in the law books it  
16 said, mandatory ten years. It didn't say zero to ten.

17 Q But they said that it's up to ten years,  
18 correct?

19 A Up to ten years. I didn't know about  
20 mandatory, if I get found guilty for a grand larceny of  
21 10 thousand or more.

22 Q Your Honor, may I approach?

23 THE COURT: You may.

24 Q I am referring to page seven. If you can,  
25 Mr. Doville, read five through seven out loud for me?

## TESTIMONY OF CHRISTOPHER DOVILLE

1 A Five to seven?

2 Q Yes, sir.

3 A "THE COURT: That you are pleading guilty to  
4 a charge that carries up to ten years in prison? Yes,  
5 sir."

6 Q Okay. Thank you. So, the Court did say up  
7 to ten years?

8 A I probably didn't hear him.

9 THE COURT: What was that answer?

10 A I probably didn't hear him.

11 THE COURT: Okay.

12 A As I was saying about the law book, it said  
13 ten years or more.

14 Q You also admitted that you didn't have a  
15 defense to this charge; is that correct?

16 A Say what?

17 Q You admitted that you didn't have a defense  
18 to this charge?

19 A Didn't have a defense to this charge?

20 Q Yes, that's what you told the Court at your  
21 pleading?

22 A That I didn't have a defense to this charge?

23 Q That's what you said in open court, correct?

24 A Probably did.

25 Q And that the decision to plead guilty was

## TESTIMONY OF CHRISTOPHER DOVILLE

1 your decision?

2 A Yes, that was my decision. But see, at the  
3 time I was incompetent to the matter of what was taking  
4 place. And I was just saying, going with the flow, do  
5 you see what I'm saying? As I sat down in time and did  
6 my own research and came up to a certain conclusion, I  
7 understand things now better to where I'm not going to  
8 let y'all screwball me.

9 THE COURT: Not going to let you what? Tell  
10 me that answer again.

11 A Screwball.

12 THE COURT: Screwball, okay. Excuse me. Go  
13 ahead.

14 BY MR. JOHNSON:

15 Q And nobody forced you to plead guilty, did  
16 they?

17 A No.

18 Q And you admitted to stealing a cop car,  
19 correct?

20 A I didn't steal it, but that is what basically  
21 what -- do you know what I am saying?

22 Q So you are saying that you didn't steal the  
23 cop car, but under oath in your plea you said that you  
24 did steal it?

25 A No, I didn't say that either.

## TESTIMONY OF CHRISTOPHER DOVILLE

1 MR. JOHNSON: May I approach, Your Honor?

2 THE COURT: You may.

3 BY MR. JOHNSON:

4 Q Will you read out loud Page 12, lines 3  
5 through 10 for me?

6 A Three to ten?

7 Q Yes, sir.

8 A "This indictment says that you stole the  
9 police car and that you wrecked the police car and that  
10 you did that at the time that you were under arrest for  
11 another charge; is that correct Mr. Doville? Yes, sir.  
12 All right. Based on that I find that -- and did you do  
13 that? Yes, sir. Okay."

14 BY MR. JOHNSON:

15 Q That is good, thank you.

16 A I also want to say something about this too.  
17 You see where he said that, all right. This indictment  
18 says that you stole, that is what it says, that you  
19 stole the police car. Do you see what I am saying? I  
20 didn't say that, they said that.

21 Q But then you agree with that?

22 A Like I said, at the end of the day I was  
23 incompetent to the matter, so I was, therefore, going  
24 with the flow.

25 THE COURT: I'm not sure what "incompetent to

## TESTIMONY OF CHRISTOPHER DOVILLE

1 the matter" means. Can you explain that to me?

2 THE APPLICANT: Basically understanding what  
3 was going on. Do you see what I am saying?

4 THE COURT: Are you saying that you didn't  
5 understand that question that he just asked?

6 THE WITNESS: I didn't understand what was  
7 going on at the time.

8 THE COURT: Go on, Counselor.

9 BY MR. JOHNSON:

10 Q But you never stopped the Court and said, I  
11 don't understand what is going on, Judge, please  
12 explain things to me?

13 A Like I was saying, I was going with the flow.  
14 Do you see what I am saying? I did an open plea  
15 because I was frustrated because Robert Hughes wouldn't  
16 listen to what I was saying and he was still basically  
17 going on doing what he was determined to do. And I  
18 felt frustrated. And I asked the State, I pulled her  
19 to the side, I said, Can we get the offer back? And  
20 she said, No, we have got to go to the Judge, we have  
21 to do an open plea. I said, Okay, I will do an open  
22 plea.

23 Q Okay. But you admitted to the facts in this  
24 case as the Solicitor read them, correct? You were the  
25 one that stole the cop car, that is under oath during

## TESTIMONY OF CHRISTOPHER DOVILLE

1 your guilty plea, right? Yes?

2 A That is what it said in the paperwork.

3 Q But today you are saying that you didn't  
4 steal the cop car, right?

5 A I didn't steal it felt from the beginning.

6 Q Just answer my question. You are saying that  
7 you didn't steal the cop car, correct?

8 A No, I didn't steal the cop car.

9 Q So you lied at the guilty plea is what you  
10 are telling the Court today?

11 A I didn't lie. That is what they were saying,  
12 do you see what I am saying? Like I said, I was  
13 incompetent to the matter what was taking place.

14 MR. JOHNSON: No further questions, Your  
15 Honor.

16 THE COURT: Counselor, redirect.

17 REDIRECT EXAMINATION

18 BY MR. SHAFFER:

19 Q So on Page 7 you were saying that you agreed  
20 with the Judge that that's what they said. Is that  
21 what you are trying to tell us?

22 A Right.

23 MR. SHAFFER: No further questions.

24 THE COURT: Recross?

25 MR. JOHNSON: No, Your Honor. Thank you.

## TESTIMONY OF CHRISTOPHER DOVILLE

1 THE COURT: You may step down, sir.

2 MR. SHAFFER: I call Mr. Hughes. Applicant  
3 calls Mr. Hughes.

4 Thereupon,

5 ROBERT MILTON HUGHES

6 was called as a witness, having been first duly sworn,  
7 was examined and testified as follows.

8 THE CLERK: State your full name.

9 THE WITNESS: Robert Milton Hughes.

10 THE COURT: Have a seat, sir. Your witness,  
11 Counselor.

12 DIRECT EXAMINATION

13 BY MR. SHAFFER:

14 Q Mr. Hughes, you represented Christopher  
15 Doville in the charges that he's currently incarcerated  
16 on, correct?

17 A Correct.

18 Q You are court appointed?

19 A I'm with the public defenders office, yes,  
20 sir.

21 Q And tell us a little bit -- how many times  
22 did you meet with Mr. Doville?

23 A I don't have an exact count, but I would have  
24 met with him monthly before trial. And right before  
25 trial I would have met with him at least, you know,

## TESTIMONY OF ROBERT MILTON HUGHES

1 three or four times the week before trial.

2 Q Okay. And do you recall discussing his case  
3 with him?

4 A Oh, yes.

5 Q Do you recall discussing the facts of his  
6 case with him?

7 A Oh, yes, sir.

8 Q Tell us what your strategy would have been if  
9 the case would have gone to trial?

10 A The only strategy that I had -- because,  
11 basically, he was seen by law enforcement stealing the  
12 police car, he was found at the wreck of the police car  
13 would be the question of the value of the police car,  
14 but the State managed to show me the evidence that they  
15 were going to produce, which placed the value of the  
16 police car with the equipment inside well over \$10,000.  
17 My strategy at that time would have been basically to  
18 get the best deal that I could for my client.

19 Q Okay. Do you know if any of the equipment  
20 was salvaged, or the police car was salvaged?

21 A I do not know.

22 Q Okay. And the best deal that you could get  
23 is what he ended up pleaing to?

24 A I believe that the Solicitor's office offered  
25 six years on a non-serious non-violent.

## TESTIMONY OF ROBERT MILTON HUGHES

1 Q Do you recall discussing this with  
2 Mr. Doville?

3 A Oh yes, sir.

4 Q And what did he -- what was your advice to  
5 him related to the plea?

6 A I -- my problem was, he had not only the  
7 charge that he pled to, he had other charges that would  
8 have potentially added a lot more time. So, I was  
9 trying to get him to agree that -- he was going to have  
10 to go to prison, but to get the best deal possible.

11 Q Okay. Do you recall how much time he was  
12 facing total?

13 A It would have been for the grand larceny of  
14 the vehicle, the malicious injury to personal property,  
15 the defrauding an inn keeper and the escape which would  
16 carry at least 14, all total, if you added it and did  
17 it consecutive.

18 MR. SHAFFER: Okay. No further questions.

19 THE COURT: You may cross-examine, Counselor.

20 MR. JOHNSON: Just briefly, Your Honor. May  
21 it please the Court.

22 THE COURT: Yes, sir.

23 CROSS EXAMINATION

24 BY MR. JOHNSON:

25 Q Mr. Hughes, did you relay the offer to

## TESTIMONY OF ROBERT MILTON HUGHES

1 Mr. Doville in this case?

2 A Oh yes.

3 Q Is it your opinion that he clearly understood  
4 the offer?

5 A Oh yes. As a matter of fact, I think that he  
6 went during the -- we had already pulled the jury and  
7 he went back to the Solicitor and wanted the offer  
8 re-instated.

9 Q Did you ever tell him what to say at the  
10 plea?

11 A No. Let me take that back, I always tell my  
12 client to say yes, sir and no, sir to the Judge. That  
13 would be the extent of my telling him to say something.

14 Q Did you ever force or threaten him to plead  
15 guilty?

16 A No.

17 Q Whose decision was it to plead guilty?

18 A His.

19 Q That is all of the questions that I have at  
20 this time, Your Honor.

21 THE COURT: Redirect?

22 MR. SHAFFER: None, Your Honor.

23 THE COURT: You may step down, sir.

24 MR. SHAFFER: The Applicant rests.

25 THE COURT: That is your case?

## TESTIMONY OF ROBERT MILTON HUGHES

1 MR. SHAFFER: Yes, Your Honor.

2 THE COURT: Does the State wish to call any  
3 witnesses?

4 MR. JOHNSON: No, Your Honor.

5 MR. JOHNSON: We ask that Mr. Hughes be  
6 excused.

7 THE COURT: Any objection to Mr. Hughes being  
8 excused?

9 MR. SHAFFER: No, Your Honor.

10 THE COURT: You may go. Thank you very much.

11 THE COURT: I will hear further arguments.

12 MR. SHAFFER: I would ask that you grant the  
13 post-conviction relief application. He's  
14 indicating basically that he wouldn't have plead  
15 guilty but for the fact that he -- his attorney  
16 wasn't doing the things that he wanted him to do  
17 and not communicating with him. Essentially that  
18 is what his testimony was.

19 THE COURT: All right. I'll hear from the  
20 State.

21 MR. JOHNSON: Your Honor, first of all, the  
22 State's position is that he's failed to prove any  
23 kind of deficiency in counsel's representation.  
24 Counsel testified that he got all of the  
25 discovery, met with the client. He discussed all

## COLLOQUY

1 of the plea offers with him. It was the  
2 applicant's decision to plead guilty, no force, no  
3 coercion, no threats were made in this case. And  
4 he's simply having buyer's remorse. And that's  
5 not enough to meet the Strickland standard.

6 Further, there's no resulting prejudice.  
7 Actually he got a very beneficial plea deal.  
8 Where he was facing at least 14 years, I think  
9 there was also a breaking and entering, but he can  
10 go back and face all of that time versus just  
11 serving out his remainder of the sentence. So,  
12 number one, there is no deficiency in this case.  
13 And number two, there is no prejudice. And we  
14 would ask that you find that the applicant has  
15 failed to meet his burden of proof.

16 THE COURT: Anything further from the  
17 applicant? I notice that he's discussing matters  
18 with you. I'll be glad to hear anything that you  
19 want to share with us.

20 MR. SHAFFER: Your Honor, he has informed me  
21 that the misdemeanor charges he had taken care of  
22 prior to this plea, that they were not a part of  
23 it.

24 THE APPLICANT: I would also like to say,  
25 they were saying if I was malicious damaging and

## COLLOQUY

1 other further talk, that was never brought to my  
2 attention. They were saying that they could bring  
3 up charges without you knowing, that is what that  
4 is.

5 THE COURT: I can't give you legal advice.  
6 You can talk to your lawyer about that, sir. I  
7 will tell you, however, that I'm not aware of a  
8 statute of limitations in the State of South  
9 Carolina for criminal events. The State has the  
10 right to bring what they find to be legitimate  
11 charges against individuals.

12 I don't know all of the facts in your case,  
13 and I'm certainly not trying to give you advice,  
14 but unless it was part of a plea arrangement that  
15 certain charges would either be dropped or not  
16 prosecuted and that arrangement was put on the  
17 record at your plea, then the State would have the  
18 option to bring whatever charges there is a  
19 reasonable basis for. I don't know what that  
20 might be, I have no clue.

21 MR. SHAFFER: See, like you said, right.

22 THE COURT: So, that is -- to answer your  
23 question. Now, you have a lawyer and you are  
24 required to speak to this Court through your  
25 lawyer. I didn't ask you to stand. If you want

## COLLOQUY

1 to talk to your lawyer, please do.

2 (Pause.)

3 THE COURT: Anything further, Counselor?

4 MR. SHAFFER: No, Your Honor.

5 THE COURT: Thank you very much. I agree  
6 with the argument of the State. I'll deny the  
7 relief and I will ask that you prepare an order  
8 consistent with your arguments in Court. Thank  
9 you very much. That concludes the hearing.

10 (Hearing concluded.)

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## COLLOQUY

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2 CERTIFICATE

3

4 STATE OF SOUTH CAROLINA:

5 COUNTY OF BEAUFORT:

6 I, MONA L. MANLEY, Court Reporter, certify that I was  
7 authorized to and did stenographically report the foregoing  
8 proceedings and that the transcript is a true and complete  
9 record of my stenographic notes.

8

DATED this 10th day of February, 2016.

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11

*/s/ Mona L. Manley*

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MONA L. MANLEY  
Official 14th Circuit Court Reporter  
(850) 893-6662  
mmanley@sccourts.org

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STATE OF SOUTH CAROLINA  
COUNTY OF JASPER

IN THE COURT OF COMMON PLEAS  
FOURTEENTH JUDICIAL CIRCUIT

Christopher Doville, #352112,

2013-CP-27-0333

Applicant,

ORDER OF DISMISSAL

v.

State of South Carolina,

Respondent.

This matter comes before the Court by way of an Application for Post-Conviction Relief filed June 8, 2013. Respondent made its Return on May 8, 2015. An evidentiary hearing into the matter was convened on October 19, 2015, at the Beaufort County Courthouse in Beaufort, SC. Tristan Shaffer, Esquire represented Applicant. J. Rutledge Johnson, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

At the hearing, Applicant testified on his own behalf. Robert Hughes, Esquire also testified. This Court had before it a copy of the records of the Jasper County Clerk of Court, records from the South Carolina Department of Corrections, the application, the State's Return and the guilty plea transcript.

**PROCEDURAL HISTORY**

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Jasper County Clerk of Court. The Applicant was indicted at February 2012 term of the Jasper County Grand Jury for Grand Larceny (2012-CP-27-0053). Robert Hughes, Esquire, represented him. On August 14, 2012, the Applicant pled guilty as indicted

**POSTED  
BY DATE 11/15/15**

before the Honorable J. Michael Baxley and was sentenced to imprisonment for six (6) years. Applicant did not appeal his conviction or sentence.

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

- a. "Violation of 6<sup>th</sup> Amendment right to effective assistance of counsel"
  - i. "Counsel failed to properly advise me"

At the hearing, the Applicant proceeded on his claims of ineffective assistance of plea counsel.

#### SUMMARY OF TESTIMONY

At the evidentiary hearing, Applicant testified he pled guilty to stealing a police car and wrecking it. Applicant also stated it was 1:16 AM and he drove pretty far away from the hotel. Applicant then stated Robert Hughes was his attorney. He met with Counsel twice and discussed discovery, including lesser included offenses due to the vehicle's value. Applicant then testified he spoke with Counsel concerning his defense, and the defense he and Counsel agreed upon was to challenge the value of the car to keep it under the \$10,000 threshold. Applicant claimed Counsel would not listen to him and that he wanted to plead to a lesser included offense. Applicant stated he wants a new trial and would have taken this case to trial if counsel had listened to him.

On cross-examination, Applicant admitted he pled guilty and was aware that this charge carried up to 10 years. Applicant also stated this was his decision to plead guilty, admitted his guilt, and agreed with the facts as stated by the solicitor.



Counsel testified he was appointed to Applicant's case and met with Applicant monthly, including 3 or 4 times before trial. Counsel stated they discussed the facts and that their strategy was to challenge the value of the police car. Counsel stated he attempted to gain the best possible plea offer for Applicant. Counsel then stated the solicitor offered 6 years on a non-serious, nonviolent charge. Counsel stated he discussed this offer with Applicant. Counsel further stated Applicant was charged with other crimes.

On cross-examination, counsel stated he relayed the offer to Applicant and that Applicant understood this offer. Counsel then stated he did not tell Applicant what to say at the plea hearing nor did he force or threaten applicant to plead guilty. Lastly, Counsel testified it was applicant's decision to plead guilty.

#### **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 at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2003).

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

Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). 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

*Bill  
P. J.*

cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

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

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 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 (1985).

This Court finds Counsel provided effective assistance of counsel in this case. Counsel advised Applicant of all of the charges and the sentences the charges carried. Counsel also negotiated with the State in Applicant's best interest. This Court finds Applicant made the decision on his own accord with the help of learned counsel. Additionally, this Court finds Applicant made this decision freely and voluntarily without any threats or promises from anyone else. Furthermore, this Court finds that it was ultimately the Applicant's decision to plead guilty.

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This Court further finds the Applicant's testimony regarding Counsel's ineffectiveness is not credible while also finding Counsel's testimony is credible. This Court finds the Applicant has failed to meet his burden of proving counsel's performance was deficient or that he was prejudiced thereby. Therefore, this allegation is denied.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – 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 in his representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by Counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. Therefore, these allegations are denied.

### CONCLUSION

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

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel


*Asst  
p. 5*

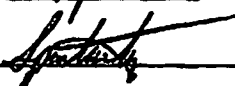
must serve and file a Notice of Appeal on the Applicant's behalf. Applicant's attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED:**

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

**AND IT IS SO ORDERED!**

  
\_\_\_\_\_  
Roger L. Couch  
Presiding Circuit Court Judge  
Fourteenth Judicial Circuit

11/9, 2015  
  
\_\_\_\_\_, South Carolina

DOCKET NO. 2012GS2700053

WITNESSES

Lowther - RPD

The State of South Carolina

County of Jasper

COURT OF GENERAL SESSIONS

February Term 2012

THE STATE

vs.

Christopher Doville

Indictment for

Grand Larceny, value \$10,000 or more

SC Code: 16-13-0030(B)(2)  
CDR Code:3421

ACTION OF GRAND JURY

TRUE BILL

NO BILL

FOREMAN *Melissa A. Hester*

DATE 02.22.12

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. and G.S. TRUE COPY  
MARGARET BOSTICK  
CLERK OF COURT  
JASPER COUNTY SC

BY: *Margaret Bostick*

DATE: 02-10-12

