

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

L. Casey Manning, Circuit Court Judge

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S.C. Supreme Court

STUART STANTON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001945

APPENDIX

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INDEX

INDEX.....	i
GUILTY PLEA HEARING TRANSCRIPT (JUNE 10, 2013).....	1
APPLICATION FOR POST-CONVICTION RELIEF.....	27
RETURN.....	32
POST-CONVICTION RELIEF HEARING TRANSCRIPT (JULY 14, 2014).....	37
ORDER OF DISMISSAL.....	74
INDICTMENTS.....	84

STATE OF SOUTH CAROLINA	)	GENERAL SESSIONS
	)	
County of Richland	)	2012-GS-40-1757
	)	2012-GS-40-0243
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
STUART MICHAEL STANTON,	)	
	)	
DEFENDANT,	)	

June 10, 2013
Columbia, South Carolina

BEFORE:

THE HONORABLE DOYET A. EARLY, III, JUDGE.

APPEARANCES:

RICHARD CATHCART, ASSISTANT SOLICITOR
Attorney for the State

JACK DUNCAN, ESQ.
Attorney for the Defendant

KAREN AMBROZIAK
Official Court Reporter

C O N T E N T S

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CERTIFICATE OF REPORTER 27

STATE'S EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	Photo (poster board)	4	
2	Photo (poster board)	4	
3	Photo (poster board)	4	
4	Photo (poster board)	4	
5	Photo (poster board)	4	
6	Photo (poster board)	4	
7	Photo (poster board)	4	
8	Photo (poster board)	4	
9	Photo (poster board)	4	

COURT'S EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	Notice (priors - 10 years+)	4	
2	Notice (LWOP)	4	

1 (WHEREUPON, State's Exhibits Nos. 1 - 9 were marked
2 for identification only.)

3 (WHEREUPON, Court's Exhibits Nos. 1, 2 were marked
4 for identification only.)

5 THE COURT: All right. Mr. Solicitor, you may call
6 your case.

7 MR. CATHCART: May it please the Court, Your Honor.
8 At this time the State calls Stuart Stanton.

9 THE CLERK: Please raise your right hand.

10 STUART STANTON, after being duly
11 sworn, testified as follows:

12 THE COURT: All right. This is the State of South
13 Carolina vs. Stuart Michael Stanton, two indictments,
14 12-GS-40-243, an indictment for -- that's an enhanced
15 shoplifting case which had been presented to the Richland
16 County grand jury.

17 The second matter is 12-GS-40-1757, an indictment for
18 burglary in the first degree which had been true billed
19 and as I understand, the State is allowing Mr. Stanton to
20 plead to the lesser-included offense of burglary second
21 violent; is that correct?

22 MR. CATHCART: That's correct, Your Honor.

23 THE COURT: Mr. Duncan, is that your understanding?

24 MR. DUNCAN: Yes, Your Honor.

25 THE COURT: Mr. Duncan, do you represent Mr. Stanton

1 in both of these matters?

2 MR. DUNCAN: Yes, sir.

3 THE COURT: As to the shoplifting, have you advised
4 Mr. Stanton that this is what we call an enhanced
5 shoplifting which means he is facing a maximum of ten
6 years?

7 MR. DUNCAN: Yes, sir.

8 THE COURT: And as to the indictment for burglary in
9 the first degree, in exchange for the plea, the State is
10 allowing him to plead to a lesser-included offense of
11 burglary second degree violent. Have you advised him of
12 those charges?

13 MR. DUNCAN: Yes, sir, I have.

14 THE COURT: Have you advised him that that carries a
15 -- up to 15 years in the State Department of Corrections?

16 MR. DUNCAN: Yes, sir.

17 THE COURT: Have you advised him that it is
18 classified as a violent and may have some -- or will have
19 some effect on where and how he is housed and as to his
20 eligibility for good time and parole and other certain
21 types?

22 MR. DUNCAN: Yes, sir. And I have advised him that
23 it does leave him eligible for parole.

24 THE COURT: Right. It's also classified as serious,
25 and this will once again, constitute a strike. My

1 understanding he has already got two strikes; is that
2 correct?

3 MR. CATHCART: That is correct, Your Honor.

4 THE COURT: This will be a third strike. When he is
5 released from incarceration, if he becomes involved in
6 criminal activity, classified as serious and most serious,
7 that will subject him to the possibility of life in prison
8 without parole.

9 MR. DUNCAN: Yes, sir, Your Honor.

10 THE COURT: In your opinion, does he understand the
11 charges, the potential sentences, the classification of
12 violent and serious?

13 MR. DUNCAN: Yes, sir, Your Honor. He does.

14 THE COURT: Have you advised him of his right to a
15 trial by jury?

16 MR. DUNCAN: We -- we have discussed that many times,
17 Your Honor.

18 THE COURT: And how does he indicate he wishes to
19 plead to the shoplifting third enhanced?

20 MR. DUNCAN: Guilty, Your Honor.

21 THE COURT: How does he indicate to you he wishes to
22 plead to the burglary second violent?

23 MR. DUNCAN: Guilty, Your Honor.

24 THE COURT: Do you agree with his decision?

25 MR. DUNCAN: Under the circumstances I do, Your

1 Honor.

2 THE COURT: Well, you've had an opportunity to review
3 all of the material provided to you by the solicitor's
4 office. Do you believe this type of plea is in his best
5 interest?

6 MR. DUNCAN: Yes, sir, Your Honor. It is.

7 THE COURT: As I understand it, there's no
8 recommendation, no negotiation, as to the sentence?

9 MR. DUNCAN: That's correct, Your Honor.

10 THE COURT: Mr. Stanton, good afternoon. How are
11 you?

12 THE DEFENDANT: Good, sir. How are you doing?

13 THE COURT: I'm doing well. Thank you for asking.

14 Let's talk about the shoplifting first. That is what
15 we call an enhanced shoplifting which means this is third
16 or more. I can incarcerate you up to ten years on that.
17 Do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: The other case, you were indicted for
20 burglary in the first degree which is classified as a
21 serious or most serious?

22 MR. CATHCART: Serious. Oh most serious.

23 THE COURT: Most serious.

24 MR. CATHCART: For first degree, yes, Your Honor.

25 THE COURT: And as I understand, you've had two prior

1 convictions that are classified as either serious or most
2 serious, and the State has indicated that if you were
3 convicted of burglary in the first degree, that would be
4 your third strike, and they would be seeking life in
5 prison without the possibility of parole.

6 The State has, in exchange for a plea of guilty, they
7 are allowing you to plea to the lesser-included offense of
8 burglary second degree violent and removed or withdrawn
9 their request for the life without parole.

10 MR. CATHCART: Pursuant to that plea being completed.

11 THE COURT: Pursuant to the plea.

12 MR. CATHCART: Yes.

13 THE COURT: Now, do you understand that?

14 THE DEFENDANT: Yes, sir, I do.

15 THE COURT: So you're looking at ten years on the
16 shoplifting, 15 years on the burglary second.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Possibility?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you understand that I can run them
23 even consecutively, which means one after the other or
24 currently together. Do you understand what that means?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you understand that the burglary
2 second degree is classified as violent, and it will have
3 some effect on how and where and other restrictions
4 concerning the Department of Corrections?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you understand that it is --
7 Mr. Bailiff, please close that door. When I'm doing
8 business, I don't allow people in or out.

9 UNIDENTIFIED WOMAN: I apologize.

10 THE COURT: Please remain silent, ma'am.

11 Do you understand that this is classified as serious.
12 Now, you have three strikes. The State is withdrawing
13 their notice of seeking life in prison without parole, but
14 once you are released from incarceration, you still have
15 three strikes.

16 Once you become involved in criminal activity such as
17 this that's classified as serious or most serious, you
18 would be, once again, subjecting yourself to the
19 possibility of life in prison without parole. Do you
20 understand that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Understanding what you're charged with,
23 IE shoplifting and burglary second violent, understanding
24 the potential sentences, understanding that one of the
25 offenses, IE burglary second, is classified as violent and

1 serious, how do you wish to plead, sir, either guilty or
2 not guilty?

3 THE DEFENDANT: Guilty, sir.

4 THE COURT: Mr. Stanton, when you plead guilty,
5 you'll give up your constitutional right to remain silent.
6 You will have to admit to me your involvement in the
7 shoplifting and in the burglary. Do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: You will further give up your right to
10 remain silent. Strike that.

11 You will give up your right a trial by jury.
12 Obviously, we have a jury downstairs waiting to be
13 selected.

14 If you plead guilty, you give up your jury trial. If
15 you requested a jury trial, you would have the right to
16 confront and cross-examine everyone who testified against
17 you.

18 You would have the right to present your own defense,
19 present your own case by calling witnesses to testify, by
20 introducing relevant exhibits and by testifying in your
21 own defense.

22 If you chose to exercise your constitutional right to
23 remain silent, then I will tell the jury they cannot hold
24 the fact that you did not testify against you in any
25 manner whatsoever.

1 I will instruct them that they could not even
2 consider that when they deliberated your guilt or
3 innocence.

4 You would be presumed innocent throughout the trial.
5 The State of South Carolina would have the burden of
6 proving you guilty beyond a reasonable doubt to a jury of
7 12 people.

8 In order for that jury to convict you, all 12 people
9 would have to unanimously agree that you were, in fact,
10 guilty. Even if you were found guilty, you would still
11 have the right to an appeal. Now, do you understand your
12 rights to a trial by jury?

13 THE DEFENDANT: Yes, sir, I do.

14 THE COURT: Understanding those rights, do you still
15 wish to plead guilty, or do you want me to call downstairs
16 and bring the jury up and select a jury?

17 THE DEFENDANT: Plead guilty, sir.

18 THE COURT: Other than withdrawing the request for
19 life imprisonment without parole and reducing your charges
20 from burglary first to burglary second violent, has anyone
21 promised you anything, held out any hope of reward or
22 threatened you in any manner in order to make you plead
23 guilty?

24 THE DEFENDANT: No, sir.

25 THE COURT: You're represented by Mr. Duncan. He is

1 appointed to represent you. Are you satisfied with his
2 representation?

3 THE DEFENDANT: Very much so, Your Honor.

4 THE COURT: In your opinion, has Mr. Duncan had
5 enough time to spend with you, enough time to research the
6 law and enough time to investigate the facts so that he
7 can properly defend you here today?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Mr. Stanton, is there anything else you
10 wish for Mr. Duncan to do for you today before we move
11 forward other than speak up on your behalf?

12 THE DEFENDANT: No, sir.

13 THE COURT: I ask you again, sir, are you totally and
14 completely satisfied with his representation?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Mr. Stanton, are you today under the
17 influence of alcoholic beverages?

18 THE DEFENDANT: No, sir.

19 THE COURT: Drugs?

20 THE DEFENDANT: No, sir.

21 THE COURT: Prescription medications?

22 THE DEFENDANT: No, sir.

23 THE COURT: Sir, are you pleading guilty of your own
24 free will as to the shoplifting third?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Sir, did you here in Richland County on
2 or about August 19, 2011 shoplift from the Piggly Wiggly
3 certain goods and that this was your third or subsequent
4 offense for shoplifting?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Are you pleading guilty because you are
7 guilty?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Sir, as to indictment number
10 12-GS-40-1757, did you, sir, here in Richland County on or
11 about January 14th of the year 2012 enter the dwelling of
12 one Crystal Johnson located on [REDACTED], [REDACTED] without
13 consent and with the intent to commit a crime and while in
14 the house or immediately fleeing, cause physical injury to
15 a nonparticipant and/or you've had a prior record of two
16 or more convictions for burglary?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Are you pleading guilty because you are,
19 in fact, guilty?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. Mr. Stanton, I find your
22 decision to plead guilty to the shoplifting and to the
23 burglary second violent to be freely, voluntarily and
24 intelligently made.

25 You've had the representation of an excellent lawyer

1 in Mr. Duncan with whom you say you are satisfied. I'll
2 accept your plea. If you disagree with my sentence or
3 these proceedings, you have ten days from today's date to
4 file a Notice of Intent to Appeal. Do you understand
5 that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Thank you.

8 Mr. Solicitor.

9 MR. CATHCART: May it please the Court, Your Honor.
10 The first incident would be the shoplifting that occurred
11 on August 19th, 2011 on Garners Ferry Road which is at the
12 Piggly Wiggly.

13 The defendant was wearing a green shirt, khaki
14 shorts, did go back to the back to the meat department,
15 grabbed a large number of steaks and other meats and then
16 left the store without paying.

17 He jumped into a white car with a tag number [REDACTED].
18 They were able to get that tag. The police were able to
19 trace that car to an address out on [REDACTED].

20 When they arrived at the address at [REDACTED],
21 they found the defendant matching that description along
22 with other people. Inside this vehicle in plain sight was
23 the steak that he had stolen. He has two or more prior
24 convictions from -- going all the way back from 1988.

25 THE COURT: Give me his shoplifting or property

1 enhancement convictions, please, sir.

2 MR. CATHCART: 19--- excuse me. In 2004, he had a
3 property offense third or more conviction. In 2008,
4 another property offense third or more conviction.

5 THE COURT: So he had some before that to get it up
6 to the third?

7 MR. CATHCART: Yes, sir.

8 THE COURT: What were those? How many were those?

9 MR. CATHCART: 2003, property offense third or more.
10 It's actually two counts, convictions; 2002, shoplifting
11 two counts, and that appears to be the extent of it.
12 The 2006 were also two counts of shoplifting, as well.

13 THE COURT: So if my count is correct, he has got
14 two, four, six, seven, eight, this is number nine. Two
15 and six, two and two, two and three, that's six of them;
16 one in '08, and one in '04?

17 MR. CATHCART: I believe he has nine priors, that's
18 correct, Your Honor.

19 THE COURT: All right. So now, the last sentence in
20 '08, what was that sentence, please?

21 MR. CATHCART: Beg the court's indulgence. If I'm
22 not mistaken, it's six years, but let me check to be sure.

23 THE COURT: Is that correct, Mr. Stanton, six years?

24 THE DEFENDANT: Yes, sir, it is.

25 THE COURT: Do you recall when you were released from

1 incarceration on that?

2 MR. DUNCAN: 2010, Your Honor.

3 THE COURT: First of 2010, the later part of --

4 MR. DUNCAN: Later part, yes.

5 THE COURT: Well, he picked up the shoplifting on --

6 this one on January -- strike that, August 19th, 2011.

7 Was he still on parole?

8 MR. DUNCAN: No, sir.

9 THE COURT: Finished everything?

10 MR. CATHCART: His probation was revoked in 2008
11 because of another -- I believe it was a forgery less than
12 \$5,000 in August -- October 18th, 2008.

13 THE COURT: All right, sir.

14 MR. CATHCART: His property offense which was the six
15 years got revoked along with the forgery less than \$5,000.

16 THE COURT: I tell you what. We will make it easy.
17 Just give me his full prior record. You've already given
18 me the shoplifting. What else does he have?

19 MR. CATHCART: I'm sorry, Your Honor. I'm trying to
20 get through it without saying shoplifting again, but I'm
21 just going to go down the list.

22 THE COURT: If you say it, that's fine.

23 MR. CATHCART: 1988, possession of beer underage.

24 THE COURT: That's right. Do it again.

25 MR. CATHCART: Okay. 1988, possession of beer

1 underage; 1989, burglary second; petit larceny; two more
2 counts of burglary second; two counts of grand larceny.

3 THE COURT: Slow down a little bit. '89, burg
4 second?

5 MR. CATHCART: Yes, sir.

6 THE COURT: Petit larceny?

7 MR. CATHCART: Two more counts of burglary second;
8 two counts of grand larceny; 1991, shoplifting, disorderly
9 conduct; possession of beer under 21; grand larceny; 1994,
10 assault and battery; burglary second degree; resisting
11 arrest; petit larceny; grand larceny; another burglary
12 second degree, and a petit larceny.

13 1998, possession of cocaine; grand larceny; 1999,
14 assault; 1999, burglary second; grand larceny; 2001,
15 resisting arrest; disorderly conduct; 2002, shoplifting,
16 two counts; resisting arrest, two counts; 2003, property
17 offense third, two counts; use of motor vehicle without
18 owner's consent, disorderly conduct.

19 2004, property offense third; 2006, public
20 disorderly -- excuse me. Public disorderly conduct, two
21 counts; strong armed robbery; 2007, driving under
22 suspension, hit and run; 2008, property offense third and
23 forgery.

24 THE COURT: All right. Tell me about the offenses
25 outlined in indictment 1757, 2012-GS-40, that's the

1 burglary first which is being pled down to burglary second
2 violent.

3 MR. CATHCART: May it please the Court, Your Honor.
4 On this incident, this occurred on January 14th, 2012 at
5 [REDACTED] here in Richland County.

6 THE COURT: So he must have been out on bond on the
7 shoplifting; is that correct?

8 MR. CATHCART: That's correct, Your Honor. I made a
9 motion to revoke his bond at that time when he was -- got
10 the subsequent arrest, and he's been in jail since this
11 subsequent arrest.

12 THE COURT: All right. Go ahead.

13 MR. CATHCART: The person living at the dwelling is a
14 Crystal Johnson who lives with Patrick Clyvinski
15 (phonetic). Mr. Clyvinski is here today. He took her in
16 and she -- had her a room that she could stay in.

17 At some point, she and Stuart became friends and then
18 more, but regrettably sometimes -- I mean, he would stay
19 over sometimes, but he would always leave. They would get
20 in fights.

21 Eventually this became an issue such that he was put
22 on trespass notice on December 20th, 2011 at which time he
23 indicated to Officer Haddock that he did not live at this
24 dwelling, did not have anything at this dwelling.

25 His address was [REDACTED] which he has

1 listed and signed as the place where he was living at that
2 time.

3 On January 14th, 2012, Patricia Longwood was awoken
4 but heard something going on outside of her apartment.
5 She lives on the second floor of these same apartments.

6 She looked out the window and saw the defendant
7 talking on the phone yelling that if he doesn't -- if she
8 doesn't let him in, he is going to be going to jail
9 tonight.

10 She then sees him break the window and crawl inside.
11 As she is on with 9-1-1, you hear her crying as she hears
12 the victim in the house screaming for help. This awakens
13 Mr. Clyvinski.

14 Mr. Clyvinski helps get Mr. Stanton out of the house
15 and police are coming. You have to run, get out of here.
16 Mr. Stanton tries, does at that time, starts to leave.
17 The police arrive. They see blood on his hands.

18 They try to get him to stop. He, at that time, runs.
19 As they chase after him, he comes back in an aggressive
20 stance. He is tased at that time. As he is told to stay
21 down, he continues to resist. He has to be tased two more
22 times until he is finally subdued.

23 He complains of chest pain, so he is taken by EMS to
24 Richland Memorial Hospital at which time EMS has to
25 contain him, as well as he is continuing to fight all the

1 way through until he gets to the hospital.

2 The window in question that he broke through is
3 pictured in what would have been State's Exhibit number 6
4 broken into and jammed -- shoved into the house.

5 The victim, according to EMS and to the officers, had
6 heavy bruises all about her face from punches from -- if I
7 may approach, Your Honor, from the punches and according
8 to Mr. Clyvinski, punches and kicks about the face.

9 Ms. Johnson refused EMS requests to transport her.
10 She has subsequently come to, I believe, the Public
11 Defender's Office and signed a drop charge form, as she
12 did not wish to pursue this case. However, obviously,
13 this is the State's case against Mr. Stanton, and we're
14 not prepared -- we're definitely not prepared to go drop
15 that case.

16 His prior record, as I stated, has two prior violent
17 burglaries. That would have been both on -- one from 1989
18 and the other one from 1994. That would have been
19 indictment numbers 89-GS-40-4191 and 94-GS-40-19780.

20 Those are both in two burglary second violent that
21 would have been the reason for the enhancement of two for
22 the life without parole, and also the enhancement as a
23 burglary first.

24 Anything else?

25 THE COURT: What about the charges for resisting

1 arrest?

2 MR. CATHCART: Your Honor, pursuant to his plea, the
3 State is nolle-prosing the criminal domestic violence of a
4 high and aggravated nature and go forward as a simple
5 assault because they never lived together and get rid of
6 the resisting arrest, as well.

7 THE COURT: So that would be the alleged assault and
8 battery or the young lady -- of the lady and the resisting
9 arrest for the tasers for the officers?

10 MR. CATHCART: That's correct, Your Honor.

11 THE COURT: Are any of the officers hurt?

12 MR. CATHCART: No, sir.

13 THE COURT: Thank you.

14 Mr. Duncan?

15 MR. DUNCAN: Your Honor, Mr. Stanton is 41. His
16 parents are here. They are lifelong residents, as he is,
17 of Richland County. Mr. Stanton has had a problem with
18 alcohol. He's been an alcoholic since he was 17.

19 The first burglary was -- he broke into a convenience
20 store to steal beer. The -- as is often the case,
21 alcoholics seek out each other's company.

22 Ms. Johnson was an alcoholic, and their relationship,
23 to say the least, was tumultuous. As far as the assault
24 goes, Your Honor, we found four other incident reports
25 where Ms. Johnson reported assaults at that address not

1 involving Mr. Stanton in which she also refused EMS.

2 So this is a pattern of hers to call the police and
3 then scream that she was injured but then not seek
4 treatment.

5 THE COURT: Well, she looks like to me she was
6 injured.

7 MR. DUNCAN: Well, Your Honor, the -- our
8 testimony -- the park manager would have said her eyes
9 were swollen. I'm sorry. Not her, but we had another
10 witness that said her eyes were swollen from crying.

11 THE COURT: Well, we all know --

12 MR. DUNCAN: Yes, sir. Be that as it may, in
13 addition, the property damage was paid for at the
14 apartment.

15 Ms. Johnson had signed the form saying that we had an
16 argument. The incident was blown out of proportion. That
17 was going to be part of the defense of this matter, but
18 Mr. Stanton always intended to plead guilty to everything
19 except for the burglary first.

20 He understands that he's got to pay for his
21 transgressions. He would ask Your Honor to consider
22 recommendation of ATU when he is in the Department of
23 Corrections. He is definitely in need of that. I find
24 him to be articulate.

25 He still has the opportunity to make something of

1 himself. His parents are wonderful people, and we would
2 just ask Your Honor to be as lenient as you could under
3 the circumstances.

4 THE COURT: Mr. Stanton, anything you want to tell
5 me?

6 THE DEFENDANT: Yes, sir. I would just like to say
7 that I -- I apologize for my behavior, Your Honor. I do
8 feel that I'm an alcoholic, and it's kind of hard to
9 speak. There's a lot I'd like to say, but when I got out
10 of prison last time, Your Honor, I --

11 THE COURT: You got right back in trouble.

12 THE DEFENDANT: I try -- huh?

13 THE COURT: I said you got right back in trouble.

14 THE DEFENDANT: Yes, sir, I did, but for awhile
15 there, I did real well, I believe. I was going to two AA
16 meetings a day, and I had over four years without a drink
17 or a cigarette. I was exercising, laying out in the sun.
18 I felt great. I was able to help my parents out back at
19 that house.

20 I relapsed, Your Honor. I believe I met the wrong
21 woman, wrong lifestyle. I'm sorry for what I did. I'd
22 like to apologize to the sheriff's department because it's
23 been giving them a hard time, Your Honor.

24 I have a history of drinking and being arrested, and
25 these guys have a tough job. I'd just like to apologize

1 and ask that they forgive me for giving them a hard time.

2 MR. DUNCAN: Your Honor, also, he has been locked up
3 continuously since January 14th of 2012.

4 THE COURT: Well, Mr. Stanton, I obviously had a
5 pretrial conference or just chat with your lawyer and with
6 the State's prosecutor and quite frankly, in allowing
7 them -- allowing you to plead to burglary second violent
8 is a huge, huge concession and a huge benefit that you
9 derived.

10 From the facts that are presented, it sounded like to
11 me that they had a very strong case against you, and you
12 would have been in jail for the rest of your life.

13 So you need to thank the prosecutor, as well as those
14 officers sitting right there who put their lives on the
15 line every day. A lot of officers, after the first tase,
16 they may have gotten a little more involved. So you may
17 need to thank them that they only tased you while you
18 resisted.

19 Your record is just absolutely steady, and the last
20 shoplifting, you got a six-year sentence. You were
21 released after you did your statutory amount of time you
22 were required to. Then just right on the heels of that,
23 you got back in trouble with the shoplifting, and while
24 out on bond for the shoplifting, you get all these
25 charges. So Mr. Duncan has done you one heck of a job in

1 allowing this plea.

2 The sentence of this Court is as to the burglary
3 second violent, that you be committed to the State
4 Department of Corrections for a period of 15 years. You
5 are to be given credit for the time that you served today.

6 As to the shoplifting enhanced, indictment
7 12-GS-40-243, the sentence of the Court that you be
8 committed to the State Department of Corrections for a
9 period of ten years. That sentence, 243, will run
10 consecutive to 1757. Good luck to you.

11 MR. CATHCART: Thank you, Your Honor.

12 THE DEFENDANT: Your Honor, I was told it would run
13 concurrent, Your Honor. I apologize, Your Honor.

14 THE COURT: You thought it was?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: I'm sorry you thought that.

17 THE DEFENDANT: I just want to ask --

18 THE COURT: I told you that.

19 THE DEFENDANT: Can we withdraw my plea, Your Honor?

20 THE COURT: No, sir. Thank you.

21 MR. CATHCART: Your Honor, just for the record, also
22 Ms. Stanton is under subpoena, Joel Stanton here. I would
23 ask that be released from that subpoena at this time.

24 THE COURT: Very well.

25 MR. CATHCART: Thank you.

1 THE COURT: We'll stand at ease.

2 Mr. Duncan, can I see you back here?

3 THE DEFENDANT: There's no way I can withdraw my
4 plea, Your Honor?

5 THE COURT: No.

6 Question, Mr. Duncan, I assume you told him, as I
7 did, while taking the plea that it would be consecutive on
8 the --

9 MR. DUNCAN: That's right.

10 THE DEFENDANT: He told me 15 years consecutive to
11 burglary, Your Honor.

12 THE COURT: It is 15 years.

13 THE DEFENDANT: But that's 25 years.

14 MR. DUNCAN: I -- I made no representations, Your
15 Honor, as to consecutive.

16 THE COURT: You -- you've been around a long time,
17 Mr. Stanton. You know as well as I know that that's no --

18 THE DEFENDANT: Twenty-five years, Your Honor. I --
19 I would request a jury trial, Your Honor.

20 THE COURT: Thank you.

21 THE DEFENDANT: He told me 15 years, Your Honor.

22 THE COURT: Get him out of here, please, sir.

23 (Whereupon, the proceedings were concluded.)

24

25

CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Karen Ambroziak, Official Court Reporter for the
5th Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of General Sessions for
Richland County, South Carolina, on the 10th day of June,
2013.

March 31, 2014

Karen Ambroziak

Karen Ambroziak, RPR
Circuit Court Reporter

STATE OF SOUTH CAROLINA

County of Richland

Stuart Stanton #304298

Full name and prison number (if any) of Applicant,

vs.

Name of Respondent.

In the Court of Common Pleas

APPLICATION FOR
POST-CONVICTION RELIEF2013 OCT -4 PM 4:57
JANET L. RICHMOND
C.C.P. & G.S.RICHLAND COUNTY
FILEDINSTRUCTIONS — 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 it clear to which question any such continued answer refers.

Since every application must be sworn to 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 applicant was convicted.

- Place of detention South Carolina Dept. of Corrections —
Lee Correctional Institution, 990 Wiscaskey Hwy, Bishopville, SC 29010.
- Name and location of Court which imposed sentence Richland County General
Sessions Court, 1701 Main St, Columbia, SC 29201
- The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:

(a)	<u>2012 GS 40 1757</u>	<u>Burglary 2 (violent)</u>
(b)	<u>2012 GS 40 243</u>	<u>shoplifting 3rd or above</u>
(c)		
- The date upon which sentence was imposed and the terms of the sentence:

(a)	<u>June 10, 2013 - burg. 2nd (violent) - 15 years SCDC</u>	
(b)	<u>June 10, 2013 - shoplifting 3rd - 10 years to run</u>	
(c)	<u>consecutive</u>	

rec. ATU

5. 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 _____

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

I tried to through clerk of court but I dont think it worked

7. If you answered "yes" to (6), list

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

i. Richland County clerk of court

ii. _____

iii. _____

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

i. They forwarded my letter to Public Defenders

ii. office even though I stated in my letter my

iii. lawyer was John Duncan

(c) the date of each such result:

i. wrote clerk of court on June 11, 2013 requesting

ii. an appeal and motion to reconsider

iii. _____

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

i. My lawyer acts like I didnt file within 10 days

ii. _____

iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

(a) _____

(b) _____

(c) _____

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

(a) ineffective assistance of counsel - lied to me

(b) was told by lawyer a 15 year deal - no 85% - parole

(c) used 3 strike law to bully me / 3 different lawyers

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

(a) lawyer was mad at me - yelling at me to sign the plea

(b) I thought plea was negotiated because he was in chambers

(c) we were about to pick the jury. He told me I would serve about 5 or 6 more years and be eligible for parole and ATTU. It was my understanding the COV and shoplifting would be dropped if I pled to burglary. Plus, I dont think the 3 strike law applied to me as my prior burglaries were non-violent. Mr. Duncan didnt get my phone records to show I was invited to residence that night and Key witness / victim was not present at both trials. State subpoenaed her first time and my lawyer subpoenaed her second trial. My Dad hired Neal Laaric but Mr. Duncan stayed on case.

11. 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 petitions in State or Federal Courts for habeas corpus or post-convictions relief? no

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? no

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

no, other than motion to reconsider I tried at clerk of court

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. On June 11, 2013 I wrote a letter from Kinkland - SCOC
- ii. to Richland County Clerk of court trying to appeal
- iii. the sentence and file a motion to reconsider. I sent
- iv. it to clerk of court to document I did it within 10 day

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

- i. Richland County Clerk of Court
- ii. 1701 Main St.
- iii. Columbia, S.C.
- iv. 29201

(c) the disposition thereof:

- i. They forwarded my letter to Public Defender's Office
- ii. who sent the letter back to me on July 1, 2013 and I
- iii. then sent it to my lawyer John Duncan who is
- iv. telling me Judge Early no longer has jurisdiction

(d) the date of each such disposition:

- i. mailed my letter to clerk of court on 6/11/13
- ii. received it back from P.D. office on 7/1/13
- iii. mailed it to John Duncan on 7/19/13
- iv.

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

- i. none - Mr. Duncan has written me back
- ii. basically saying I didn't file it in time.
- iii.
- iv.

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No - I have written to the clerk of court complaining about my first attorney - Public Defender - Jeremy MacNealy because he did a poor job preparing my case for trial and then recused himself.

- i. I wanted a speedy trial and I wanted to testify
- ii. He recused himself on Oct. 2, 2012
- iii. _____

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

- i. a speedy trial on Oct. 1, 2012
- ii. _____
- iii. _____

15. If any ground set forth in (9) 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) I wanted to go to trial on burglary charge - my
- (b) lawyer told me to plea to 15 years no 85%.
- (c) I trusted him - received 25 years

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

- (a) your arraignment and plea? yes
- (b) your trial, if any? yes
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? no
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? no

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

- i. Jeremy MacNealy - Richland County Public Defenders
Office, 1701 Main St. Col. S.C. 29201
- ii. John Earl Duncan 137 East Butler Street, Suite 3
Lexington, S.C. 29072
- iii. Neal Lourie, Lourie Law Firm LLC P.O. Box 12089
Columbia, S.C. 29201

(b) the proceedings at which each such attorney represented you:

- i. Jeremy MacNealy - trial - Oct. 1, 2012
- ii. Neal Lourie - in a plea the month of May 2013
- iii. John Duncan - trial then plea June 10, 2013

18. State clearly the relief you seek in filing this application.

a new trial or sentences to be run concurrent

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

no

STATE OF SOUTH CAROLINA

VERIFICATION

County of Richland

I, Stuart M. Stanton, 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.

Stuart Stanton

SWORN to and subscribed before me this 3

day of Oct, 2013

Debra Sipes (L.S.)
Notary Public

My Commission Expires: 11-4-2015

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

I, Stuart M. Stanton, 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 therefor.

Stuart Stanton
Applicant

SWORN or affirmed to and subscribed before me this

3 day of Oct, 2013

Debra Sipes
Notary Public

My Commission Expires 11-4-2015

RECEIVED
CLERK OF COURT
2013 OCT -4 PM 4:57
RICHLAND COUNTY
FILED

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Stuart Stanton, #304298,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

2013-CP-40-6051

RETURN

Respondent, making its Return to the Application for post-conviction relief filed October 4, 2013, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was indicted during the January 2012 term of the Richland County Grand Jury for Shoplifting – 3rd of Subsequent Offense (2012-GS-40-243) and during the July 2012 term of the Richland County Grand Jury for Burglary in the First Degree (2012-GS-40-1575). Applicant was represented by John Duncan, Esquire. On June 10, 2013, Applicant appeared before the Honorable Doyet A. Early, III, where he pled guilty as indicted to shoplifting and to the lesser included offense of Burglary in the Second Degree. Judge Early sentenced Applicant to fifteen years for Burglary in the Second Degree and to ten years for shoplifting, with the sentences to be served consecutively. Applicant did not appeal his guilty plea or sentences.

Attached herewith and incorporated herein are the records of the Richland County Clerk of Court regarding the subject convictions and Applicant's records from the South Carolina Department of Corrections. The transcript from Applicant's guilty plea proceeding has been

ordered and will be forwarded upon receipt. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. Ineffective Assistance of Counsel

- a. "Lied to me."
- b. "Was told by lawyer a 15year deal - no 85% - parole"
- c. "Lawyer was mad at me - yelling at me to sign the plea."
- d. "I thought plea was negotiated because he was in chambers. We were about to pick the jury. He told me I would serve about 5 or 6 more years and be eligible for parole and ATU. It was my understanding that the CDV, shoplifting would be dropped if I pled to burglary, plus I don't think the 3 strike law applied to me as my prior burglaries were non-violent. Mr. Duncan didn't get my phone records to show I was invited to residence that night and key witness/victim was not present at both trials. State subpoenaed her first time, and my lawyer subpoenaed her second trial. My dad hired Neal Lourie but Mr. Duncan stayed on case."

Any claims not specifically enumerated in the application or amendments filed by counsel of record will be opposed by Respondent at an evidentiary hearing, and Respondent will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRPC.

III.

Applicant alleges ineffective assistance of counsel. In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 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 (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 trial 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 (1985).

Respondent submits that Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel raises questions of fact that the record does not conclusively refute. Accordingly, 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.

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, Respondent 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

MEGAN E. HARRIGAN
Assistant Attorney General

By: Megan E. Harrigan
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

February 26, 2014.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

2013-CP-40-6051

STUART STANTON, #304298

Applicant,

vs

AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA,
Respondent.

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:

Anna R. Good, Esquire
Law Office of Anna Good, LLC
1720 Main Street, Suite 303
Columbia, South Carolina 29201

DATED this 26th day of February, 2014.


Kelly Oppenheimer, Legal Assistant
For Respondent

1 STATE OF SOUTH CAROLINA) IN COMMON PLEAS
2 COUNTY OF RICHLAND) COURT
3)
4 STUART STANTON,)
5) TRANSCRIPT
6 -V-) OF
7) RECORD
8 STATE OF SOUTH CAROLINA,) 2013-CP-40-6051
9 DEFENDANT.)

10

11 JULY 14, 2014

12 RICHLAND, SOUTH CAROLINA

13

14 B-E-F-O-R-E:

15 HONORABLE CASEY L. MANNING, JUDGE;

16

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

18 FOR THE PLAINTIFF:

19 MR. HUNTER, ESQ.

20

21 FOR THE DEFENDANT:

22 MS. GOOD, ESQ.

23

24

25

1	I-N-D-E-X		
2		PG.	
3	MOTION:	3	
4	EXAMINATION OF STUART STANTON:		
5	DIRECT BY MS. GOOD	4	
6	CROSS BY MR. HUNTER	16	
7	REDIRECT BY MS. GOOD	24	
8	RECROSS BY MR. HUNTER	25	
9	EXAMINATION OF JACK DUNCAN:		
10	DIRECT BY MR. HUNTER	27	
11	CROSS BY MS. GOOD	30	
12	REDIRECT BY MR. HUNTER	35	
13	CERTIFICATE OF REPORTER:	37	
14			
15			
16	I-N-D-E-X		
17	PLAINTIFF		
18	NO.	ID	EVD
19	1. LETTER.	13	14
20			
21			
22			
23			
24			
25			

STUART STANTON DIRECT BY MS. GOOD

1 (The following proceedings were held on
2 July 14, 2014.)

3 THE COURT: Yes, sir.

4 MR. HUNTER: Okay. Your Honor, this is Stuart
5 Stanton v. State of South Carolina, 2013-CP-40-6051.
6 Mr. Stanton is -- was indicted during the January 2012 term
7 of the Richland County Grand Jury for shoplifting third or
8 subsequent offense. The indictment number was
9 2012-GS-40-245. He was also indicted during July 2012 term
10 of the Richland County Grand Jury for burglary in the first
11 degree. That indictment number is 2012-GS-40-1575. He was
12 represented by John Duncan at his plea.

13 And on June 10th, 2013, he appeared before the
14 Honorable Doyet Early, III, where he pled as indicted to
15 shoplifting and to the lesser included offense of burglary
16 in the second degree. Judge Early sentenced the applicant
17 to 15 years for burglary and 10 years for shoplifting with
18 sentences to be served consecutively. He did not appeal his
19 guilty plea or his sentences. And Mr. Stanton is
20 represented today by Ms. Good.

21 THE COURT: Ready to proceed?

22 MS. GOOD: Yes, sir.

23 THE COURT: Go ahead.

24 MS. GOOD: Okay. Applicant calls Stuart Stanton.

25 THE COURT: Come around, Mr. Stanton, place your

STUART STANTON DIRECT BY MS. GOOD

1 left hand on the Bible and raise your right hand, sir.

2 THEREUPON,

3 STUART STANTON,

4 after having been duly sworn, testified as follows:

5 THE COURT: All right, sir, please be kind enough
6 to state your full name and spell your last name for the
7 record once you take a seat.

8 THE DEFENDANT: Stuart Stanton, S-T-A-N-T-O-N.

9 THE COURT: And Mr. Lourie is no way involved in
10 this case?

11 MS. GOOD: No, sir, Your Honor. I will touch on
12 that briefly.

13 THE COURT: Okay.

14 DIRECT EXAMINATION

15 BY MS. GOOD::

16 Q. Mr. Stanton, you just heard Mr. Hunter state that you
17 pled guilty on June 10th, 2013, to burglary second
18 degree, for which you got 15 years, and shoplifting
19 third, for which you got 10 years to run consecutive,
20 correct?

21 A. Correct.

22 Q. And during that time, who was your attorney?

23 A. I went through, actually, three of them, but I ended up
24 with Jack Duncan.

25 Q. Okay. And to clarify, you said you had a couple, but

STUART STANTON DIRECT BY MS. GOOD

1 at the end, Jack Duncan was your attorney and that's
2 who you decided to go forward with?

3 A. Yes, ma'am.

4 Q. Okay. How many meetings did you have with Mr. Duncan?

5 A. About three or four.

6 Q. Okay. And do you remember when your first meeting with
7 him was?

8 A. Not really to be exact. I want to say around the first
9 part of the year, 2012 -- I mean, 2013.

10 Q. Okay.

11 A. Sorry.

12 Q. And during your meetings with him, at some point, did
13 y'all begin discussing plea agreements?

14 A. We did.

15 Q. Okay. And the first time that you met with Mr. Duncan
16 regarding a plea offer, what was that plea offer?

17 A. It was 15 years, 85 percent.

18 Q. For what charges?

19 A. First degree burglary.

20 Q. Okay.

21 A. I believe they were going to dismiss the shoplifting
22 and CDV.

23 Q. Okay. And at that time, did you decide to take that
24 plea deal?

25 A. No. He -- he and I both felt like, you know, I was

STUART STANTON DIRECT BY MS. GOOD

1 living at the residence, all my belongings were there.

2 The victim had dropped --

3 THE COURT: Speak up just a little.

4 THE WITNESS: Yes, sir. At that time, we both

5 agreed that we didn't feel like it was a first degree

6 burglary because I was living at the residence, all my

7 belongings were there and the victim had signed the drop the

8 charge forms.

9 BY MS. GOOD::

10 Q. Okay. So you turned down that plea offer?

11 A. Right. And then he told me, well, you know, we might

12 can beat the burglary --

13 THE COURT: When you say he, you mean Mr. Duncan,

14 is that correct?

15 THE WITNESS: Yes, sir, Mr. Duncan said we might

16 can meet the burglary, but they're going to give you the max

17 on the shoplifting and CDV because Mr. Cathcart, apparently,

18 had it out for me.

19 BY MS. GOOD::

20 Q. So at that time, were you noticed for trial?

21 A. Yes, and he served the life without parole papers on

22 me.

23 Q. Okay. At some time when trial started to get near --

24 THE COURT: Let me interrupt you. So LWOP at one

25 time was on the table and it was taken off?

STUART STANTON DIRECT BY MS. GOOD

1 MS. GOOD: Correct.

2 THE COURT: Okay.

3 BY MS. GOOD::

4 Q. You were noticed for trial, then at some point, did
5 another plea offer come about?

6 A. Um.

7 Q. For which you got up and begin to plea?

8 A. Well, it was -- it was confusing. My dad hired Neil
9 Lourie, who -- who then filed a motion to get off my
10 case and then I was rushed to a jury trial. And I had
11 the hearing for Neil Lourie to be taken off my case,
12 which at that time, him and Jack Duncan both tried to
13 get me to plead guilty.

14 Q. And was that on June 5th, 2013?

15 A. I believe so.

16 Q. Okay.

17 A. A few days before my trial date.

18 Q. All right. So at that time, did you begin to plead
19 guilty on that date?

20 A. I -- I was -- they were both -- you know, he was
21 yelling at me to sign it and plead guilty.

22 THE COURT: All right. I need to stop you again.
23 When you say he, do you mean Mr. Lourie or Mr. Duncan?

24 THE WITNESS: Mr. Duncan, sir.

25 THE COURT: All right.

STUART STANTON DIRECT BY MS. GOOD

1 THE WITNESS: So I did begin to plead guilty at
2 that time.

3 BY MS. GOOD::

4 Q. At that time, what was the plea offer and what was the
5 situation surrounding the plea?

6 A. Mr. Cathcart said that was a negotiated plea of 15
7 years. They were dropping the shoplifting and CDV.

8 Q. Okay. So you were pleading to 15 years on the burglary
9 second?

10 A. Right.

11 Q. Okay. And your understanding during that plea is it
12 was negotiated?

13 A. Right, he stated that in court, yeah.

14 Q. And during that plea, did you, ultimately, back out?

15 A. I did.

16 Q. Okay. And so that was June 5th, 2013. Were you then
17 set for trial?

18 A. The following Monday, June the 10th.

19 Q. Okay. And taking you to the day of the plea, LWOP had
20 been served and you were ready for trial. Had the
21 victim been subpoenaed for trial?

22 A. Yes.

23 Q. And who had subpoenaed the victim?

24 A. Mr. Duncan.

25 Q. Okay. And did she show up at that time?

STUART STANTON DIRECT BY MS. GOOD

1 A. No, she did not.

2 Q. At that time, once you found out she did not show up,
3 did you then again speak to Mr. Duncan about a plea
4 offer?

5 A. I did.

6 Q. Okay. What was that plea offer to your understanding?

7 A. Right before we were to pick the jury, he said he went
8 in judge's chambers and got the charge dropped to
9 second degree burglary, which was 15 years, no 85
10 percent, which I agreed to at that time.

11 Q. Okay. And is that what you thought you would be
12 pleading to, only that charge?

13 A. It sure was.

14 Q. Okay. And did you believe it was an open plea, a
15 negotiated plea or a recommendation?

16 A. I firmly believed it was negotiated because the prior
17 plea a few days earlier was negotiated and he had been
18 in judge's chambers. I, specifically, asked him, I
19 will do about five or six more years, he said, Yes. I
20 said I would be eligible for parole, he said, Yes. So
21 I even thanked him. I said, Thank you, Jack, because I
22 was nervous about going to a trial, too.

23 Q. Okay. So going into the plea, you believed you were
24 getting 15 years and would only have to do about five
25 or six more?

STUART STANTON DIRECT BY MS. GOOD

1 A. Yes, ma'am.

2 Q. During the plea, did you notice anything different?

3 A. I did.

4 Q. What did you notice?

5 A. Well, as soon as I got in the courtroom, you know, I
6 was kind of relieved. And I asked him if he had told
7 my parents, both my parents were sitting there. And he
8 kind of ignored me and I knew something was funny then.
9 So I signed the papers. At that time, I heard him
10 mention the shoplifting.

11 Q. Okay.

12 A. So, you know, they had been telling me that they were
13 not worried about the shoplifting, we were on trial for
14 burglary. So, apparently, they were bringing back up
15 the shoplifting. But, you know, I just trusted him.

16 Q. Okay. When you heard that the shoplifting was going to
17 end up being a part of it, did you ask him about that?

18 A. I sure did. I asked him right then and he said, Calm
19 down, we will get a chance to speak. And I said, Okay.
20 And I even asked him a second time during the plea, you
21 know, about the shoplifting. And I said, They -- they
22 may run that consecutive. And he said, I don't think
23 so.

24 Q. Okay.

25 A. So I was very uncomfortable the entire plea because I

STUART STANTON DIRECT BY MS. GOOD

1 just knew something didn't really did seem right once
2 they brought back up the shoplifting.

3 Q. And did the idea of consecutive come up when you heard
4 the judge mention that term or was that something you
5 had thought of on your own?

6 A. It had -- it was something I thought of on my own. The
7 truth is I didn't remember much of what the judge said
8 because he -- I had heard through the investigator who
9 was helping him that he was one of the stiffest
10 sentencing judges, but I wasn't too worried about it
11 because I thought it was all negotiated, you know. And
12 he told me the judge was going to try to scare the hell
13 out of me.

14 Q. Okay.

15 A. And he did stand up and point his finger at me and was
16 yelling at me, but I'll be honest, I didn't hear a
17 whole lot of what he said because I just felt for sure
18 all of this was negotiated. He had been in judge's
19 chambers and it was just -- it was a bad situation.

20 Q. Once you were sentenced to the consecutive time, did
21 you speak up about what you believed?

22 A. Absolutely.

23 Q. Was that on the record?

24 A. Yes.

25 Q. Okay. And do you remember what you had said?

STUART STANTON DIRECT BY MS. GOOD

1 A. I asked him could I withdraw my plea and go to a jury
2 trial because my lawyer told me 15 years and he gave me
3 25.

4 Q. Okay. And after the plea, did you ever speak with
5 Mr. Duncan again?

6 A. Never.

7 Q. And it was your understanding you had 10 days to file
8 an appeal or motion for reconsideration?

9 A. Right.

10 Q. Did you do anything to try to do that?

11 A. Right. The very next day, I was put on suicide watch
12 at the jail, shipped to Kirkland the next morning,
13 couldn't even call my lawyer to request a motion to
14 reconsider or appeal. So they did give me two
15 envelopes at Kirkland. So the mental health counselor
16 there allowed me to write two letters.

17 Q. Okay.

18 A. One I wrote to my mother and the other one was to the
19 clerk of court requesting an appeal and a motion to
20 reconsider.

21 Q. Okay.

22 A. And I stated in the letter that Jack Duncan was my
23 attorney, but for some reason, the clerk of court
24 forwarded it to the public defender's office, who then
25 forwarded it back to me.

STUART STANTON DIRECT BY MS. GOOD

1 Q. Okay.

2 MR. HUNTER: Your Honor, I would object to this --

3 THE COURT: Object to what?

4 MR. HUNTER: To the line of questioning about the
5 request to file an appeal because that was not pled in the
6 application of allegations.

7 THE COURT: All right. Overruled.

8 Go ahead.

9 (Plaintiff's Exhibit No. 1 was marked
10 for identification.)

11 BY MS. GOOD::

12 Q. I'm going to show you what's been marked as Plaintiff's
13 Exhibit No. 1. Do you recognize this?

14 A. Yes.

15 Q. And what is it?

16 A. That's the letter I wrote the very next day from
17 Kirkland Corrections.

18 Q. And is it clocked in with the Richland County Clerk of
19 Court?

20 A. Yes.

21 Q. And is that for, looks like, June 16th, maybe?

22 A. Yes, it looks like it.

23 Q. Okay.

24 MS. GOOD: At this time, Your Honor, we would move
25 to enter --

STUART STANTON DIRECT BY MS. GOOD

1 THE COURT: Over your objection, is that correct?

2 MR. HUNTER: Yes, yes, Your Honor.

3 (Plaintiff's Exhibit No. 1 was admitted
4 into evidence.)

5 BY MS. GOOD::

6 Q. You stated in this letter you requested a motion for
7 reconsideration or appeal to be filed and to then send
8 that to your attorney, Jack Duncan?

9 A. Right. I stated in the letter Jack Duncan was my
10 attorney, but they forwarded it to the public
11 defender's office for some reason.

12 Q. And did you originally have a public defender on this
13 case?

14 A. I did.

15 Q. Okay.

16 A. Probably a year or so before this.

17 Q. And do you know the process for appeal and motion for
18 reconsideration and how to file one?

19 A. Just a little bit of what I've heard, you know.

20 Q. But at the time you wrote that letter, did you know
21 what the process was?

22 A. I just knew I had 10 days is all I knew. I wasn't sure
23 who to send the letter to. I thought the clerk of
24 court was the best bet because they would document it.

25 Q. Okay. And in conclusion, if you had been aware of the

STUART STANTON CROSS BY MR. HUNTER

1 facts surrounding this case and that the shoplifting
2 was going to run consecutive, would you have taken that
3 plea offer that was given to you that day?

4 A. Absolutely not. I mean, I just want to state, you
5 know, for Your Honor that I was totally uncomfortable
6 from the very beginning during this plea deal. And I'm
7 just very -- I don't know the right words to describe
8 it. Mr. Duncan was, I thought, a very good attorney to
9 me for the most part, but right there at the end, I
10 felt like he let me down tremendously and misled me
11 into a situation. You know, I was very uncomfortable
12 and was almost going to back out the plea then, but he
13 calmed me down. I just trusted him and, you know, I
14 would -- I would have rather picked a jury and went to
15 jury trial rather than plead guilty for 25 years.

16 Q. And it was your understanding based on your prior plea
17 attempt on June 5th that this was going to be a
18 negotiated 15?

19 A. Right. And especially since he was judge's chambers
20 and all that. You know, I didn't pay much attention to
21 what the judge said because I thought was a done deal,
22 you know.

23 Q. Was there anything else you would like to tell the
24 Court that we may have missed or skipped over?

25 A. Just that, you know, there's a big difference between

STUART STANTON CROSS BY MR. HUNTER

1 15 years and 25 years and I just -- I just hope someone
2 would look into it because I would have -- I would have
3 just as soon went to trial than plead guilty to that.

4 MS. GOOD: No further questions. Please answer
5 any questions Mr. Hunter may have.

6 THE COURT: Yes, sir. I do apologize, would you
7 state your full name for the record?

8 MR. HUNTER: My name is Croom Hunter, C-R-O-O-M.

9 THE COURT: All right. Okay. Sorry. I don't
10 think it had been entered into the record of this case so
11 far. Where are you from?

12 MR. HUNTER: Columbia.

13 THE COURT: Where did you go to high school?

14 MR. HUNTER: Heathwood.

15 THE COURT: I guess that's okay.

16 CROSS-EXAMINATION

17 BY MR. HUNTER::

18 Q. Mr. Stanton, you said earlier that you did not think
19 that your sentences were going to be consecutive,
20 correct?

21 A. Correct.

22 Q. Okay. Do you remember Judge Early telling you that he
23 can run the -- those sentences consecutively when you
24 pled?

25 A. I do not.

STUART STANTON CROSS BY MR. HUNTER

1 Q. Okay. Would you agree that if it's in the plea
2 transcript, then that's what he said?

3 A. Yes.

4 Q. Okay.

5 MR. HUNTER: Your Honor, that's on page seven.

6 THE COURT: All right.

7 BY MR. HUNTER::

8 Q. And do you recall Judge Early going over the fact that
9 the State withdrew the life without parole notice in
10 exchange for you to -- your plea to burglary second?

11 A. Vaguely.

12 Q. Okay. And then again, Judge Early went over your
13 charges and he -- do you remember him saying that you
14 were looking at possibly 10 years on the shoplifting
15 and 15 years on the burglary second?

16 A. Vaguely.

17 Q. Okay. And so after he asked all of that, you did still
18 plead guilty, correct?

19 A. I did trust in my attorney.

20 Q. But you understand what the judge told you and what
21 your attorney told you, what the judge says is, you
22 know, what's --

23 A. Obviously.

24 Q. Yeah.

25 A. I'm in prison for 25 years.

STUART STANTON CROSS BY MR. HUNTER

1 Q. And do you remember Judge Early going over your -- the
2 fact that you were giving up your right to remain
3 silent, your right to trial by a jury and your right to
4 present a defense?

5 A. Vaguely.

6 Q. And then he asked you after that if you still wished to
7 plead guilty?

8 A. Right.

9 Q. Okay. And then Judge Early asked you if anyone had
10 promised you anything in exchange for your plea?

11 A. Right.

12 Q. And you said, No. Then do you remember when Judge
13 Early asked you if you were satisfied with Mr. Duncan
14 and you said, Yes, very much so?

15 THE COURT: Let me help you out just a little bit.
16 When you refer to what Judge Early said, it would be helpful
17 if you would note the page and line.

18 MR. HUNTER: Okay, Your Honor. I apologize.

19 THE COURT: That's all right. Just take your
20 time.

21 BY MR. HUNTER::

22 Q. Okay. Do you recall on page 11 of the transcript where
23 Judge Early --

24 THE COURT: And this would be helpful, do you have
25 a copy of the transcript?

STUART STANTON CROSS BY MR. HUNTER

1 THE WITNESS: I don't with me.

2 THE COURT: Let's give him a copy of the
3 transcript in his hand while he's being cross-examined.

4 MR. HUNTER: I apologize, Your Honor.

5 THE COURT: Just take your time.

6 BY MR. HUNTER::

7 Q. Okay. Mr. Stanton, if you could turn to page 11 of
8 your transcript?

9 A. Okay.

10 Q. Do you recall, starting on line nine where the Court
11 asked you if there was anything else you wished for
12 Mr. Duncan to do before you moved forward and you said,
13 No, sir?

14 A. Yes, sir.

15 Q. Okay. Then do you recall on page 11, starting on line
16 13 where he said, I ask you again, sir, are you totally
17 and completely satisfied with his representation, and
18 you said, Yes, sir?

19 A. Yes, sir.

20 Q. Okay. And then finally, on line 23, Judge Early asked
21 you, Sir, are you pleading guilty of your own free will
22 to the shoplifting third, and you said, Yes, sir?

23 A. Yes, sir.

24 Q. Okay. And then on the following page, do you recall
25 the Court asking you if you were pleading guilty

STUART STANTON CROSS BY MR. HUNTER

1 because you were guilty, and you said, Yes, sir?

2 A. Yes, sir.

3 Q. Okay. And then moving on down to line 18 of page 12,
4 do you remember the Court asking, Are you pleading
5 guilty because you are, in fact, guilty? And that's in
6 reference to the burglary charge?

7 A. Yes, sir.

8 Q. Okay.

9 MR. HUNTER: Your Honor, beg the Court's
10 indulgence for the moment.

11 THE COURT: Yes, sir.

12 BY MR. HUNTER::

13 Q. And you do recall the Court telling you on page 13 of
14 the transcript that you had 10 days to appeal you
15 sentence?

16 A. Yes, sir.

17 Q. Okay.

18 A. Vaguely remember that.

19 Q. So -- are you alleging that Mr. Duncan promised you
20 that you would not receive consecutive sentences?

21 A. Basically, yeah.

22 Q. Okay.

23 A. He told me 15 years, so whatever that means, yeah.

24 Q. Now, are you aware that you become parole eligible in
25 2018?

STUART STANTON CROSS BY MR. HUNTER

1 A. I'm not sure about that.

2 Q. Okay.

3 A. I know my max out day is 2025.

4 Q. But you said earlier that Mr. Duncan told you that you
5 might do five or six more years and then be paroled?

6 A. Yeah, I specifically asked him, I said, Five or six
7 more years I would serve, and he said, Yes. I said, I
8 would be eligible for parole? And he said, Yes.

9 Q. Okay.

10 A. Was the conversation we had. And there was also
11 another witness, who has since passed away, I was sorry
12 to hear, David McDougal, who, also, tried to help me.
13 He was an eyewitness to this entire conversation, who I
14 wish was here, also, because I felt like I lost a
15 witness to this. It was a bad situation, I was facing
16 life sentence, but for whatever reason, I was misled on
17 it and I just don't feel like it was right, you know.

18 Q. Okay. And you stated earlier that you would not have
19 taken the plea offer if you had known your sentences --

20 A. No. I told him that 10 times.

21 Q. Okay.

22 A. He knew that. He knew that.

23 Q. But you do acknowledge --

24 A. We were all ready for trial. He knew that.

25 Q. But you --

STUART STANTON CROSS BY MR. HUNTER

1 A. This is the day of trial.

2 THE COURT: Stop, slow down a little bit.

3 THE WITNESS: I'm sorry, Your Honor. I'm sorry.

4 THE COURT: Just relax, relax.

5 THE WITNESS: I'm sorry.

6 THE COURT: Let him ask the question, take your
7 time and answer it.

8 THE WITNESS: Okay.

9 THE COURT: Good.

10 BY MR. HUNTER::

11 Q. Just, finally, my last question is I believe that you
12 do acknowledge that Judge Early did go over the fact
13 that he could run the sentences consecutively with you
14 and you told him you understood that?

15 A. Sir, if I may elaborate on that, all I know is he told
16 me that he was going to try to scare the hell out of
17 me, which he did. He stood up, pointed his finger.
18 And one of my witnesses came into the courtroom and he
19 got onto them. And I didn't really hear anything he
20 said, I mean, to be honest with you. All I know is he
21 told me 15 years. I signed the paper. I'm looking at
22 my mom and dad. I'm relieved I'm not going to a jury
23 trial facing a life sentence. I didn't hear hardly
24 anything the man said. I know he was standing up
25 pointing his finger at me and I know he ran them

STUART STANTON REDIRECT BY MS. GOOD

1 consecutive at the end.

2 Q. Okay.

3 A. And that's when I tried to withdraw my plea, that's all
4 I know.

5 Q. Okay.

6 A. And I apologize if I seem a little hostile. I
7 apologize.

8 Q. No, it's perfectly understandable.

9 A. I'm not used to a courtroom, so.

10 MR. HUNTER: Just a moment, Your Honor.

11 BY MR. HUNTER::

12 Q. Okay. And then finally, on page 23 of the transcript,
13 I'll just ask you one more question. Do you recall
14 Judge Early going over your plea with you and saying
15 that the State allowing you to plead to burglary second
16 was a huge concession and a benefit you derived?

17 THE COURT: What line is that, sir?

18 MR. HUNTER: That is on page -- line --

19 THE COURT: Twenty-three, line one.

20 MR. HUNTER: I cannot find it. I did not
21 highlight this one.

22 THE COURT: Starts at line four.

23 MR. HUNTER: Yes, sir.

24 THE COURT: Four through nine, go ahead.

25 MR. HUNTER: Yes, sir, Your Honor, that's what it

STUART STANTON RECROSS BY MR. HUNTER

1 is, lines four through nine. That's all I have, Your Honor.

2 THE COURT: One thing I would clear up
3 logistically, when you were talking about the life without
4 parole or LWOP and that sentences could be run
5 consecutively, that starts on page seven of the transcript,
6 line six through line 25.

7 Anything further?

8 MR. HUNTER: No, Your Honor.

9 THE COURT: All right.

10 Anything on redirect?

11 MS. GOOD: Very briefly, Your Honor.

12 RECROSS-EXAMINATION

13 BY MS. GOOD::

14 Q. You heard Mr. Hunter ask you about all of the things
15 Judge Early was saying to you and you said you weren't
16 really listening, why weren't you really listening?
17 Why did you think he was saying all of these things?

18 A. I mean, I just -- I trusted my lawyer. I thought the
19 plea was negotiated because three days prior it was
20 negotiated. He was in judge's chambers. It just -- I
21 just -- it just totally -- you know, it just totally --
22 if you fooled me, he totally fooled me, I'll say that,
23 and I've been around. But I totally trusted him.

24 Q. Was it your impression that the judge was going to
25 scare you?

STUART STANTON RECROSS BY MR. HUNTER

1 A. Yes.

2 Q. And did you think that that's what that was?

3 A. Yes. Probably because I backed out of the plea three
4 or four days prior, I felt like all that was, you know,
5 part of it, I guess. I don't know.

6 MS. GOOD: No further questions, Your Honor.

7 THE COURT: Anything on recross?

8 MR. HUNTER: Just briefly, Your Honor. If I may
9 approach the witness?

10 THE COURT: Sure.

11 RECROSS-EXAMINATION

12 BY MR. HUNTER::

13 Q. Mr. Stanton, do you recognize your signature on this
14 sheet?

15 A. Yes, I do.

16 THE COURT: Is that the sentencing sheet?

17 MR. HUNTER: Yes, Your Honor, that's the
18 sentencing sheet.

19 BY MR. HUNTER::

20 Q. On here, can you read me what that says where it's
21 highlighted?

22 A. It says without negotiations or recommendations.

23 Q. Okay.

24 A. And I sure wish I would have looked at that closer
25 before I signed it.

JOHN DUNCAN DIRECT BY MR. HUNTER

1 MR. HUNTER: That's all I have, Your Honor.

2 Thank you, Mr. Stanton.

3 THE COURT: Nothing further.

4 MS. GOOD: No, sir.

5 THE COURT: All right. You may step down, Mr.

6 Stanton.

7 Next witness.

8 MS. GOOD: That all the witnesses for the

9 applicant, Your Honor.

10 MR. HUNTER: Your Honor, the State calls Jack

11 Duncan.

12 THE COURT: All right. Come around, Mr. Duncan.

13 Raise your right hand.

14 THEREUPON,

15 JACK DUNCAN,

16 after having been duly sworn, testified as follows:

17 THE COURT: Please take a seat, tell us your full

18 name and spell your last name for the record.

19 THE WITNESS: John, J-O-H-N, Barl, B-A-R-L,

20 Duncan, D-U-N-C-A-N.

21 THE COURT: All right.

22 You are may proceed.

23 DIRECT EXAMINATION

24 BY MR. HUNTER::

25 Q. Mr. Duncan, how long have you been practicing law?

JOHN DUNCAN DIRECT BY MR. HUNTER

1 A. Over 30 years.

2 Q. And were you appointed on this case or retained?

3 A. Appointed.

4 Q. Do you recall about how many times you met with Mr.
5 Stanton?

6 A. My time records say I met nine times.

7 Q. Okay. Did you file all the Rule 5 and Brady motions in
8 this case?

9 A. Yes.

10 Q. And you obtained all the discovery?

11 A. Yes.

12 Q. Did you go over the discovery with Mr. Stanton?

13 A. Yes.

14 Q. Okay. Did you discuss Mr. Stanton's version of the
15 facts and his possible defenses?

16 A. Oh, yes, many times.

17 Q. Okay. And did you discuss with Mr. Stanton the
18 elements of the charges he was being charged with?

19 A. Yes.

20 Q. Okay. If you would just briefly describe the evidence
21 the State had against Mr. Stanton, whether it was
22 overwhelming?

23 A. They had a loose cannon for an alleged victim. We had
24 no idea what she was going to say, but suspected it
25 would not be good. There was another alleged victim

JOHN DUNCAN DIRECT BY MR. HUNTER

- 1 that we knew was going to testify against us, the
2 leaseholder of the apartment. There were officers who
3 were going to testify as to the scene. The apartment
4 manager was going to testify. She had put Mr. Stanton
5 on trespass notice. Mr. Stanton's prior record was
6 sufficient legally for him to be charged and facing
7 life without parole. The most -- probably the worse
8 evidence or most incriminating was the hours and hours
9 and hours of jailhouse recordings that Mr. Stanton
10 made.
- 11 Q. Okay. Now, Mr. -- let's move along to the plea.
12 Mr. Stanton alleges that you, essentially, promised him
13 that he would only be in prison for five or six years.
14 If you can kind of go over what y'all discussed.
- 15 A. Well, I never made promises, but I -- we discussed
16 possible parole dates. We discussed possibilities.
- 17 Q. Okay. But you never promised him that he would receive
18 a certain sentence?
- 19 A. No.
- 20 Q. Did Mr. Stanton appear to understand what was going on
21 in your conversations with him?
- 22 A. Yes.
- 23 Q. Okay. And were you prepared to go to trial if
24 Mr. Stanton wanted to go to trial?
- 25 A. Yes.

JACK DUNCAN CROSS BY MS. GOOD

1 Q. Whose decision to plead guilty was it?

2 A. Mr. Stanton's.

3 Q. Okay. And I believe earlier it was stated that he was
4 originally offered a 15-year-negotiated sentence?

5 A. Well, originally, it was 20 years, then 20 years
6 negotiated burglary first at 85 percent, then it was
7 15. And then immediately before picking a jury, it was
8 reduced to burglary second.

9 Q. Okay. Did Mr. Stanton ever tell you that he wanted to
10 appeal or file a motion for reconsideration?

11 A. Only by letter that was misdirected and sat on, for
12 lack of a better word, by the clerk of court's office.

13 THE COURT: Would this be Plaintiff's Exhibit No.

14 1?

15 MS. GOOD: Yes, sir.

16 THE COURT: Okay.

17 BY MR. HUNTER::

18 Q. If you had known that Mr. Stanton wanted you to either
19 file a motion for reconsideration or notice of appeal,
20 would you have done that for him?

21 A. Certainly.

22 Q. Okay.

23 MR. HUNTER: I think that's all I have. Thank
24 you.

25 THE COURT: All right.

JACK DUNCAN CROSS BY MS. GOOD

1 Ready, Ms. Good?

2 MS. GOOD: Yes, sir.

3 THE COURT: All right.

4 CROSS-EXAMINATION

5 BY MS. GOOD::

6 Q. Mr. Duncan, the first plea, I guess, that occurred
7 June 5th, 2013, that was a negotiated plea, correct,
8 the one that Mr. Stanton backed out of?

9 A. I seem to remember it was, yes.

10 THE COURT: And this would be Mr. Lourie and
11 Mr. Duncan represented the applicant, is that correct?

12 MS. GOOD: Correct, yes, sir.

13 BY MS. GOOD::

14 Q. And after Mr. Stanton backed out of that plea deal and
15 y'all went to trial that Monday and this new plea deal
16 came about, was there ever discussion in chambers about
17 this new plea deal?

18 A. Yes.

19 Q. What did that discussion entail?

20 A. The judge telling the solicitor he needed to offer
21 something better than burglary first.

22 Q. I guess, ultimately, that offer came as a burglary
23 second?

24 A. That's correct.

25 Q. And when you related that offer to Mr. Stanton, was the

JACK DUNCAN CROSS BY MS. GOOD

1 shoplifting mentioned during that conversation?

2 A. I don't remember, but I'm sure it was.

3 Q. Okay. And when you discussed the plea offer, did you
4 ever talk about negotiated versus recommendation or no
5 recommendation negotiation?

6 A. I told him that it was not a negotiated plea.

7 Q. Did you explain what that meant to him?

8 A. Mr. Stanton knew more about that than I did. I mean,
9 he's been in more courtrooms than I have.

10 Q. And when y'all discussed that, did you talk about
11 consecutive time versus concurrent time? Did you make
12 any representation to him about it?

13 A. I told him that -- I went through the whole plea
14 colloquy with the judge.

15 Q. Uh-huh.

16 A. I have a form I use in my office where I go through all
17 of the questions that will be asked during a plea and
18 that's one of the questions is you understand that I
19 can sentence you to consecutive time.

20 Q. Okay. When y'all discussed that during -- prior to the
21 plea, what did you tell him was your belief as to what
22 he was going to get? Did you tell him anything in
23 particular?

24 A. I think I told him I thought he had a chance at
25 concurrent time. I did not know what Mr. --

JACK DUNCAN CROSS BY MS. GOOD

1 THE COURT: Judge Early.

2 THE WITNESS: Well, the solicitor --

3 THE COURT: Mr. Cathcart.

4 THE WITNESS: Cathcart, what he was going to say.

5 I said it's not going to be good, but I don't know how much

6 he's going to pile on.

7 BY MS. GOOD::

8 Q. Okay. And do you remember, I guess, at the end of the
9 plea after Mr. Stanton had been sentenced he tried to
10 withdraw his plea?

11 A. I do.

12 Q. And made a comment that he thought it was going to be
13 concurrent?

14 A. Yes.

15 Q. Okay. And do you recall -- have you seen a copy of the
16 transcript?

17 A. Yes.

18 Q. Okay. Do you recall on --

19 MS. GOOD: This is page 25, Your Honor.

20 BY MS. GOOD::

21 Q. Page 14 that --

22 THE COURT: Page 25, line 14?

23 MS. GOOD: Line 14, yes, sir.

24 THE COURT: That's all right.

25

JACK DUNCAN REDIRECT BY MR. HUNTER

1 BY MS. GOOD::

2 Q. You stated I made no representations, Your Honor, as to
3 consecutive?

4 A. I made no representations, yes, I said that.

5 Q. And could that be taken to mean as you made no
6 representations to him about it being a potential
7 consecutive sentence?

8 A. That's one interpretation. It was certainly meant that
9 I never said it's going to be consecutive.

10 Q. And you stated afterwards that you -- did you ever
11 speak with Mr. Stanton after the plea?

12 A. Only as he was walking out of the courtroom.

13 Q. Okay. And did he say anything to you as he was walking
14 out of the courtroom?

15 A. I don't recall if he said anything specifically.

16 Q. And did you say anything to him as he was walking out
17 of the courtroom?

18 A. I probably said good luck.

19 Q. Okay. Did you ever ask him at that time if he wanted
20 to appeal?

21 A. I did not.

22 Q. And you stated that you, ultimately, got the letter
23 that's Plaintiff's Exhibit No. 1 after it had been
24 misdirected?

25 A. Right.

JACK DUNCAN REDIRECT BY MR. HUNTER

1 Q. What date did you get that letter?

2 A. I don't know. I wrote him in -- let me see, I might --
3 Okay. On July 29th, I wrote him at Kirkland and said,
4 Dear Stuart, I'm in receipt of your July 19th, 2013,
5 letter with an SCDC stamp of June 27th. That's the --
6 that's the closest to the plea date that I have
7 anywhere correspondence with him.

8 Q. Upon receipt of that letter, did you try to file a
9 notice of appeal for him and request an extension of
10 time to file the appeal?

11 A. No, I did not.

12 Q. And why not?

13 A. I just didn't.

14 Q. Okay.

15 MS. GOOD: No further question, Your Honor.

16 THE COURT: All right.

17 Anything on redirect?

18 MR. HUNTER: Very briefly, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. HUNTER::

21 Q. Mr. Duncan, you said you made no representations to Mr.
22 Stanton as to whether his sentences would be
23 consecutive or concurrent?

24 A. That's correct.

25 Q. Okay. And you mentioned that the most incriminating

JACK DUNCAN REDIRECT BY MR. HUNTER

1 evidence was the phone records?

2 A. Correct.

3 Q. Briefly kind of describe what's -- what those entailed.

4 MS. GOOD: Your Honor, I'm going to object. I
5 don't see how that's relevant to the --

6 THE COURT: I think he was asked the question.
7 It's in the record that Mr. Duncan specifically mentioned
8 phone records. Over your objection, I'm going to allow it.

9 MS. GOOD: Thank you, Your Honor.

10 THE COURT: Go ahead.

11 MR. HUNTER:

12 A. Stuart was quite open in discussing with his -- his
13 mother, his father, various other people of his
14 participation in criminal acts.

15 Q. Okay. And just to be clear, the letter you received
16 from Mr. Stanton dated -- I believe you said you
17 received it on July 29th, where he was requesting you
18 to file notice of appeal, that was well past the 10
19 day -- expiration of the 10 day?

20 A. Right. I mean, I don't remember when I got it, but
21 that's what my letter says that I received it.

22 Q. Okay.

23 MR. HUNTER: No further questions.

24 THE COURT: Anything further?

25 MS. GOOD: No, sir.

JACK DUNCAN REDIRECT BY MR. HUNTER

1 THE COURT: You may step down, Mr. Duncan.

2 Anything further?

3 MR. HUNTER: No, Your Honor.

4 THE COURT: Would you like to make a brief
5 argument or? You don't have to, just asking.

6 MS. GOOD: No, sir, Your Honor, just rely on the
7 facts in the record.

8 THE COURT: All right. Very well.

9 Thank y'all for the presentation.

10 Mr. Stanton, I'll take this matter under
11 advisement and let you know my decision in due course.

12 THE DEFENDANT: Thank you, sir.

13 THE COURT: Good luck to you, Mr. Stanton.

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1 COUNTY OF RICHLAND)

2 CERTIFICATE OF REPORTER

3 I, Crystal Holmes, hereby certify that I reported
4 the preceding case entitled Stuart Stanton Vs. State of
5 South Carolina Case No. 2013-CP-40-6051, at the Richland
6 County Courthouse, July 14, 2014.

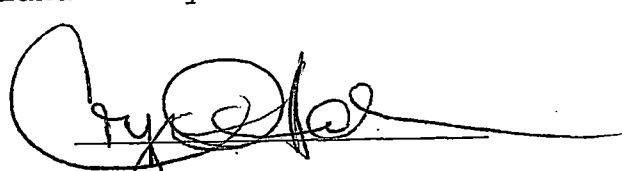
7 I FURTHER CERTIFY that the foregoing pages 1
8 through 37 constitute a true, accurate and full transcript
9 of said hearing.

10 I FURTHER CERTIFY that I am not employed by any of
11 the parties hereto and I have no financial interest in the
12 outcome of said case.

13 IN WITNESS WHEREOF, I have heretofore set my hand
14 and seal at Richland County on this 17th day of November
15 June, 2014.

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Crystal Holmes, Official Court Reporter

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STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Stuart Stanton, #304298,

Case No. 2013-CP-40-6051

Applicant,

v.

State of South Carolina,

Respondent.

ORDER OF DISMISSAL

RICHLAND COUNTY
FILED
2014 AUG 29 AM 11:21
JEANETTE W. MCBRIDE
C.P. & C.S.

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on October 4, 2013. Respondent made its return on February 26, 2014. An evidentiary hearing into the matter was convened on July 14, 2014, at the Richland County Courthouse. Applicant was present at the hearing and was represented by Anna R. Good, Esquire. Respondent was represented by Assistant Attorney General J. Croom Hunter of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was indicted during the January 2012 term of the Richland County Grand Jury for Shoplifting – 3rd of Subsequent Offense (2012-GS-40-243) and during the July 2012 term of the Richland County Grand Jury for Burglary in the First Degree (2012-GS-40-1575). Applicant was represented by John Duncan, Esquire. On June 10, 2013, Applicant appeared before the Honorable Doyet A. Early, III, where he pled guilty as indicted to shoplifting and to the lesser included offense of Burglary in the Second Degree. Judge Early sentenced Applicant to fifteen years for Burglary in the Second

Degree and to ten years for shoplifting, with the sentences to be served consecutively. Applicant did not appeal his guilty plea or sentences.

ALLEGATIONS

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

- a. "Lied to me."
- b. "Was told by lawyer a 15year deal - no 85% - parole"
- c. "Lawyer was mad at me - yelling at me to sign the plea."
- d. "I thought plea was negotiated because he was in chambers. We were about to pick the jury. He told me I would serve about 5 or 6 more years and be eligible for parole and ATU. It was my understanding that the CDV, shoplifting would be dropped if I pled to burglary, plus I don't think the 3 strike law applied to me as my prior burglaries were non-violent. Mr. Duncan didn't get my phone records to show I was invited to residence that night and key witness/victim was not present at both trials. State subpoenaed her first time, and my lawyer subpoenaed her second trial. My dad hired Neal Lourie but Mr. Duncan stayed on case."

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf. The State presented testimony from plea counsel, John E. Duncan, Esquire (Counsel). This Court also had before it a copy of the plea transcript, the Richland County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, and the return.

During the evidentiary hearing, Applicant testified that he was represented at his plea by John E. Duncan, Esquire. Applicant testified he was sentenced to fifteen (15) years imprisonment for burglary 2nd and ten (10) years imprisonment for shoplifting, to be served consecutively. Applicant testified that he had a couple of attorneys before Duncan took his case. He testified he met with Duncan three or four times and met with him for the first time in 2013. Applicant testified he discussed plea agreements with Duncan. Applicant testified there was an offer for

fifteen (15) years for burglary 1st, and the shoplifting charge and a CDV charge would be dismissed. Applicant testified he did not accept that offer because he lived at the house, so he was not guilty of first degree burglary. Applicant testified that counsel advised him he would likely get the max sentence for shoplifting and CDV because the solicitor "had it out for him." Applicant testified life without parole was originally on the table, but the solicitor decided not to pursue it. Applicant testified he decided to plead guilty after the case was set for trial. Applicant testified that counsel yelled at him to force him to plead guilty. Applicant testified the plea was supposed to be for a negotiated fifteen (15) years for burglary 2nd, and the other charges were supposed to be dropped. Applicant testified he decided not to plead at that time. Applicant testified he was then served with LWOP again. Applicant testified more plea offers were then discussed. Applicant testified he decided he wanted to accept the fifteen (15) year offer. Applicant testified when he went to plead the second time, he thought he was pleading to the fifteen (15) year offer. Applicant testified that during the plea, counsel ignored him. Applicant testified he signed the plea paperwork and then heard counsel and the solicitor discussing the shoplifting charge. Applicant testified he asked counsel about the shoplifting charge again, and counsel told him he did not think the shoplifting charge would be run consecutive. Applicant testified he was worried about receiving consecutive sentences. Applicant then testified he heard the plea judge was tough on sentencing, but he was not worried because he thought his plea was negotiated. Applicant testified that after he received consecutive sentences, he asked counsel to withdraw his plea and go to trial. Applicant testified he knew he only had ten days to appeal, but he did not know how to appeal. Applicant testified he would not have pled guilty if he knew he could get consecutive sentences. Applicant testified he trusted counsel, but he should not have.

On cross-examination, Applicant testified he did not know he could be sentenced

consecutively. Applicant testified he did not recall the plea judge telling him he could sentence him consecutively. Applicant testified the solicitor withdrew the LWOP notice in exchange for his plea. Applicant testified he pled guilty based on counsel's representations to him. Applicant testified the plea judge reviewed the rights he was giving up by pleading. Applicant testified that he told the plea judge no one had promised or threatened him in order to force him to plead. Applicant testified that he pled guilty because he was guilty. Applicant then testified that counsel promised him he would only get fifteen (15) years. Applicant testified that he told the judge at the plea that he was relieved he was not going to a jury trial and facing a life sentence.

Following Applicant's testimony, John E. Duncan, Esquire (Counsel) was called to testify. Counsel testified he has practiced law for over thirty (30) years and was appointed to Applicant's case. Counsel testified that a review of his records showed that he met with Applicant nine (9) times. Counsel testified he reviewed discovery with Applicant, discussed Applicant's version of events, and discussed Applicant's possible defenses. Counsel testified the evidence against Applicant was strong. Counsel testified the victim's testimony and the police officers' testimony would not have been good for Applicant's defense. Counsel testified Applicant's prior record was sufficient for LWOP. Counsel testified the most incriminating evidence was hours of jailhouse recordings. Counsel testified that he never makes promises to his clients, but he did discuss possible sentences and parole dates. Counsel testified it was Applicant's decision to plead guilty. Counsel testified there was originally an offer of a twenty (20) year negotiated sentence for burglary 1st, followed by another offer for fifteen (15) years. Counsel testified the final offer was for burglary 2nd. Counsel testified that he received a letter from Applicant after the time for appeal had passed. Counsel testified the letter was misdirected, and that he would have filed a Notice of Appeal if he had received it in time.

On cross-examination, counsel testified he told Applicant the plea was not negotiated. Counsel testified he told Applicant he could get consecutive sentences prior to the plea. Counsel testified he told Applicant there was a chance he could get concurrent sentences, and he would ask for it. Counsel testified that Applicant did want to withdraw his plea after he was sentenced. Counsel testified he never told Applicant he would definitely receive consecutive time. Counsel testified he did not ask Applicant if he wanted to appeal. Counsel testified that he wrote Applicant a letter on July 29, 2013 about the letter that he received from Applicant stamped June 27, 2013. Counsel testified he did not request an extension to file Applicant's appeal.

INEFFECTIVE ASSISTANCE OF COUNSEL

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 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).

This Court finds Applicant failed to demonstrate that Counsel's performance was deficient in any way. This Court further finds that Applicant presented no evidence to show any prejudice resulting from Counsel's representation. Additionally, this Court finds Counsel's testimony credible and Applicant's testimony not credible.

This Court finds that Counsel met with Applicant multiple times prior to the guilty plea. This Court further finds that Counsel obtained Applicant's discovery materials and thoroughly went over the evidence with Applicant. This Court finds Applicant was aware of the charges he was facing and the possible sentences he could receive. This Court finds that Counsel worked diligently to obtain better plea offers for Applicant. This Court finds that Counsel made a reasoned decision to advise Applicant to plead guilty based upon the overwhelming evidence against Applicant and the possible time he was facing. This Court finds Counsel did not promise Applicant he would receive a certain sentence. Additionally, this Court finds Counsel's testimony credible and Applicant's testimony not credible.

Accordingly, this Court finds Applicant did not demonstrate any deficiencies in Counsel's representation. This Court finds that because Counsel's representation was well within the range of competence required in criminal cases, Applicant has further failed to make any

showing that but for Counsel's alleged deficiencies, the result of Applicant's case would have been any different.

INVOLUNTARY GUILTY PLEA

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. See Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969). In Boykin, the United States Supreme Court held that before a court can accept a guilty plea, a criminal defendant must be advised of the constitutional rights he is waiving. Id. at 243, 89 S. Ct. at 1712. Specifically, the accused must be aware of the privilege against self-incrimination, the right to a jury trial, and the right to confront one's accusers. Id. Moreover, a criminal defendant entering a guilty plea "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999) (citation omitted). A criminal defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "must be established by a complete record, and may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)).

When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)).

This Court finds Applicant has failed to demonstrate that his guilty plea was entered involuntarily.

This Court finds Applicant was fully apprised of the constitutional rights he was waiving by entering his guilty plea. This Court finds Applicant's decision to plead guilty was freely and voluntarily made. This Court finds Applicant was not forced to plead guilty. This Court finds Applicant was aware his plea was not for a negotiated sentence. This Court further finds Applicant was aware he could receive consecutive sentences. This Court finds Applicant was aware the Notice of LWOP was being dropped in return for Applicant's plea. This Court finds Applicant pled guilty because he is guilty. This Court finds Counsel did not promise Applicant he would receive a certain sentence or that his sentences would run concurrently.

Accordingly, this Court finds Applicant's guilty plea was knowingly and voluntarily entered. This Court finds that the evidence presented at the evidentiary hearing as well as contained within the guilty plea transcript clearly supports a finding that the guilty plea was not coerced or involuntary; rather, it was freely, knowingly, and voluntarily entered. This Court finds Applicant was informed of the nature and elements of the offenses with which he was charged and to which he pled guilty. This Court further finds that Applicant was fully apprised of the rights he was forfeiting in order to plead guilty and that Applicant decided to go forward with his guilty plea.

RIGHT TO APPEAL

Finally, the Applicant alleges that he was not advised of his right to appeal. The South Carolina Supreme Court has held:

...absent extraordinary circumstances, there is no constitutional requirement that a defendant be informed of the right to appeal from a guilty plea... The bare assertion that a defendant was not advised of appellate rights is insufficient to grant relief. Instead, there must be proof that extraordinary circumstances exist such that the defendant should have been advised of the right to appeal.

Weathers v. State, 319 S.C. 59, 459 S.E.2 838 (S.C. 1995).

This Court finds Applicant has not shown that he requested an appeal within the ten (10) day filing period or that nonfrivolous grounds for appeal exist in this case, and Applicant has not provided any proof that extraordinary circumstances existed requiring Counsel to proactively advise Applicant of right to appeal. This Court finds that Applicant's letter to counsel requesting an appeal was time stamped by the South Carolina Department of Corrections on June 27, 2013. Applicant pled guilty on June 10, 2013. Furthermore, this Court finds that Applicant was aware that he must file a Notice of Appeal within ten (10) days of his plea. Accordingly, Applicant's request for an appeal was made out of time. Because Weathers remains good law in South Carolina in regards to guilty plea appeals, this Court finds that Counsel acted well within the range of competence widely expected by guilty plea attorneys in regards to notifying Applicant of right to appeal.

ALL OTHER ALLEGATIONS

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

CONCLUSION

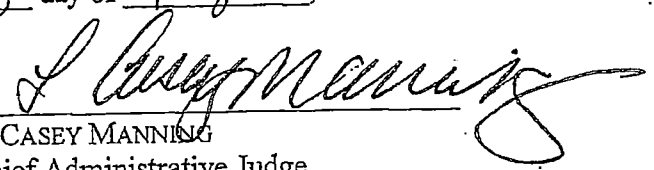
Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Plea counsel rendered effective assistance in regard to the claims raised by Applicant. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

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

IT IS THEREFORE ORDERED:

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 this 13 day of August, 2014.


 L. CASEY MANNING
 Chief Administrative Judge
 Fifth Judicial Circuit

Columbia, South Carolina

WITNESSES

(S) L.C. WALKER – Columbia Police
Department

ARREST WARRANT NUMBER

K689513

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

JAN 19 2012

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012GS4000243

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

JANUARY TERM 2012

21

THE STATE

vs.

STUART M STANTON

**Indictment for
PROPERTY CRIMES 3RD & SUBSEQ.**

SC Code: 16-01-0057

CDR Code: 2367

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
OF ORIGINAL FILED
JAN 19 2012
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

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

PROPERTY CRIMES THIRD OR SUBSEQUENT OFFENSE

That STUART M STANTON did in Richland County on or about August 19, 2011, take possession of, carry away, transfer to another, or cause to be carried away or transferred, property of PIGGLY WIGGLY, to wit: ~~GOODS~~, in violation of Section 16-13-0030, S. C. Code of Laws, 1976, as amended, such being the defendant's third or subsequent offense for which the penalty is contingent upon the value of the property involved, in violation of Section 16-01-0057, S. C. Code of Laws, 1976, as amended

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


DAN JOHNSON, SOLICITOR

WITNESSES

(S) W Carlson – Richland County Sheriff

CA DUKE - RCSD

ARREST WARRANT NUMBER

M985872

ACTION OF GRAND JURY

TRUE BILL

Jill Koenig
Foreperson of Grand Jury

Date: JUL 18 2012

VERDICT

Foreperson of Petit Jury

88 Date:

DOCKET NO. 2012GS4001757

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

JULY TERM 2012

67

THE STATE

vs.

Stuart Michael Stanton

**Indictment for
BURGLARY 1ST DEGREE**

SC Code: 16-11-0311

CDR Code: 0079

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
OF ORIGINAL FILED.
Heather W. W. W.
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

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

BURGLARY, 1ST DEGREE

That Stuart Michael Stanton did in Richland County on or about
January 14, 2012, enter the dwelling of Crystal Johnson located at
[REDACTED], without consent and with the intent to commit a
crime therein and when, in effecting entry or while in the dwelling or in
immediate flight, the defendant entered or the remaining occurred in
~~the nighttime and/or caused physical injury to a non-participant in the~~
crime and/or has a prior record of two or more conviction for burglary,
in violation of Section 16-11-0311(A), Code of Laws of South
Carolina, 1976, as amended.

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



DAN JOHNSON, SOLICITOR