

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Appeal from Dorchester County

Honorable Frank R. Addy, Circuit Court Judge

MICHAEL T. SANDERS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-000435

APPENDIX

TAYLOR D GILLIAM
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

RUSTON NEELY
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF DORCHESTER) FIRST JUDICIAL CIRCUIT

2011-CP-18-686-688

State of South Carolina)
)
 Plaintiffs,)
)
 v.) Transcript of Record
)
 Michael Sanders,)
)
 Defendant.)

January 9, 2012
St. George, South Carolina

B E F O R E:

The Honorable Diane S. Goodstein, Judge

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

Russell Hilton, Esquire
Attorney for the Plaintiff

Christopher J. Murphy, Esquire
Attorney for the Defendant

Hilda M. Jordan, CVR-M
Circuit Court Reporter

I N D E XWITNESS/DESCRIPTIONPAGE NO.

Plea

EXHIBITS:

Court's Exhibit No. 1 14

Certificate of Court Reporter 54

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1 MR. HILTON: Michael Sanders.

2 THE CLERK: Please raise your right hand. State your
3 full name for the record.

4 MR. SANDERS: Michael Todd Sanders.

5 (WHEREUPON, Michael Todd Sanders
6 was sworn to tell the truth.)

7 THE COURT: All right. You are Michael Todd Sanders?

8 MR. SANDERS: Yes, ma'am.

9 THE COURT: All right. And you're represented by Mr.
10 Murphy?

11 MR. SANDERS: Yes, ma'am.

12 THE COURT: All right. Counsel, have you advised your
13 client regarding the nature of the offense or offenses with
14 which he is charged, the maximum possible penalty, and your
15 client's constitutional right including, Mr. Sanders right
16 to have his matter heard in Orangeburg County, grand
17 larceny, and his right to have that same grand larceny
18 indictment presented to the grand jury in Orangeburg County,
19 and, of course, his right to a jury trial?

20 MR. MURPHY: Yes, ma'am, I have.

21 THE COURT: All right. And in your opinion, does your
22 client understand the nature of the offense or offenses with
23 which he is charged, the maximum possible penalty and his
24 rights?

25 MR. MURPHY: Yes, ma'am, he does.

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1 THE COURT: All right. And tell me how your client
2 wishes to proceed regarding the grand jury on the Orangeburg
3 venue?

4 MR. MURPHY: Waives presentment and the venue, Your
5 Honor.

6 THE COURT: And how does your client wish to plead?

7 MR. MURPHY: Guilty, Your Honor.

8 THE COURT: Do you concur with your client's decision?

9 MR. MURPHY: Yes, ma'am.

10 THE COURT: All right. And from your investigation of
11 the facts and circumstances of your client's case, do you
12 believe that the state could produce sufficient evidence to
13 convict and establish your client's guilt beyond a
14 reasonable doubt and if he were to stand trial that his
15 conviction would be probable?

16 MR. MURPHY: Yes, ma'am, I do.

17 THE COURT: All right. I now have many questions to ask
18 of you. If you do not understand my question, please do not
19 answer it. Let me know you don't understand my question and
20 if you need to take a break and speak with your attorney,
21 they are going nowhere. They will be right here.

22 The way that I'd like to proceed is that I'd like to
23 ask the question and in a clear voice, strong voice, if
24 you'd answer for me, please Mr. Sanders.

25 Tell me how old you are?

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1 MR. SANDERS: 48.

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

3 MR. SANDERS: Eleventh.

4 THE COURT: Do you have your GED?

5 MR. SANDERS: No, ma'am.

6 THE COURT: Okay. Tell me how long have you been locked
7 up, Mr. Sanders?

8 MR. SANDERS: Eleven months.

9 THE COURT: And before you were locked up, where did you
10 work?

11 MR. SANDERS: For myself.

12 THE COURT: And what did you do?

13 MR. SANDERS: I had a car lot and a junk business.

14 THE COURT: Have you ever been treated for alcohol, drug
15 abuse or mental health issues?

16 MR. SANDERS: No, ma'am.

17 THE COURT: All right. Within the last 72 hours have
18 you had any alcohol, drugs, or any sort of medication?

19 MR. SANDERS: No, ma'am.

20 THE COURT: All right. Very well. Now, are you aware of
21 any problem that you have that you can think of; a physical
22 problem, a mental problem, a nervous problem, a drug or
23 alcohol problem, any problem that might or could interfere
24 with your ability to know what you're doing here today?

25 MR. SANDERS: No, ma'am.

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1 THE COURT: Now, Mr. Sanders, your indictment for grand
2 larceny, more than two and less than \$10,000 is an
3 indictment from Orangeburg County; do you understand that?

4 MR. SANDERS: Yes, ma'am.

5 THE COURT: Do you understand that you are entitled to
6 have this charge, the grand larceny charge, resolved in
7 Orangeburg County?

8 MR. SANDERS: Yes, ma'am.

9 THE COURT: All right. What that is is that's called,
10 venue. Venue. What I ask is do you wish to wait and
11 resolve the grand larceny matter in Orangeburg County or do
12 you wish to waive venue and proceed here today?

13 MR. SANDERS: Waive venue.

14 THE COURT: All right. And also, Mr. Sanders, this
15 indictment, grand larceny, more than two, but less than
16 \$10,000, this indictment has not been submitted to the Grand
17 Jury of Orangeburg County, which is one of your
18 constitutional rights; do you understand that?

19 MR. SANDERS: Yes, ma'am.

20 THE COURT: Have you chatted, have you talked to Mr.
21 Murphy regarding your rights in the grand jury?

22 MR. SANDERS: Yes, ma'am.

23 THE COURT: Do you want me to send your indictment for
24 grand larceny to the grand jury in Orangeburg County and
25 have them review and pass upon it or do you wish to waive

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1 presentment and proceed here today?

2 MR. SANDERS: We'll just do it today, Your Honor.

3 THE COURT: All right. And you told me by initialing
4 the plea sheet, haven't you?

5 MR. SANDERS: Yes, ma'am.

6 THE COURT: And, also, you've even signed the indictment
7 indicating that, as well?

8 MR. SANDERS: Yes, ma'am.

9 THE COURT: Very well. And I would find that Mr.
10 Sanders, who is 48 years old, went through the eleventh
11 grade, and been locked up for quite some time, but prior to
12 being locked up had his own business, car lot business. I
13 would find that he is represented by counsel, Mr. Murphy,
14 who has explained his rights regarding the grand jury. I
15 would find that he is freely and voluntarily, knowingly and
16 intelligently waiving his right of presentment and will also
17 be proceeding on the grand larceny charge, as well.

18 Now, Mr. Sanders, you are charged by an indictment, the
19 number of which is 2011-GS-18-688, with the offense of
20 burglary in the first degree. Do you understand that?

21 MR. SANDERS: Yes, ma'am.

22 THE COURT: All right. And do you understand burglary
23 in the first degree carries a minimum sentence of 15 years
24 in prison?

25 MR. SANDERS: Yes, ma'am.

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1 THE COURT: And a maximum of life in prison?

2 MR. SANDERS: Yes, ma'am.

3 THE COURT: All right. Do you understand that
4 Indictment 2011-GS-18-686, that this indictment also charges
5 you with the offense of burglary in the first degree?

6 MR. SANDERS: Yes, ma'am.

7 THE COURT: Minimum of 15 years and a maximum of life in
8 prison; do you understand that?

9 MR. SANDERS: Yes, ma'am.

10 THE COURT: Do you understand, Mr. Sanders, that you are
11 also charged with grand larceny, value of more than two, but
12 less than \$10,000, which carries a maximum of five years in
13 prison and up to a \$5,000 fine; do you understand that?

14 MR. SANDERS: Yes, ma'am.

15 THE COURT: Do you understand that I can give you life
16 in prison here today?

17 MR. SANDERS: Yes, ma'am.

18 THE COURT: All right, sir. Now, there are
19 consequences, sir, to pleading to the burglary in the first
20 degree, and there are -- one, two, three of those that I'm
21 going to talk about, and one of those is that burglary in
22 the first degree is a violent offense; do you understand?

23 MR. SANDERS: Yes, ma'am.

24 THE COURT: And that really pervades everything. To
25 begin with it dictates the kind of facility, the type of

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1 facility in which you will be housed within the Department
2 of Corrections and a number of other consequences; do you
3 understand that?

4 MR. SANDERS: Yes, ma'am.

5 THE COURT: All right. And do you understand that
6 burglary in the first degree has another classification,
7 pursuant to statute. The statute, just for your information
8 is 17-25-45, and under the classification in that statute,
9 it is classified, it, being burglary in the first degree is
10 classified as a most serious offense.

11 MR. SANDERS: Yes, ma'am.

12 THE COURT: What that means is, Mr. Sanders, is if, over
13 the course of your life, you are convicted of another most
14 serious offense or two serious offenses, if the state sends
15 notice it intends to seek live without the possibility of
16 parole and you are then convicted you will spend the rest of
17 your life in prison without the possibility of parole; do
18 you understand that?

19 MR. SANDERS: Yes, ma'am.

20 THE COURT: Because there'd be more than one most
21 serious offense on your record after today, if you were
22 charged in the future with a serious offense or a most
23 serious offense, then the state would send you notice, I
24 think, you would spend the rest of your life in prison
25 without the possibility of parole in the event that you are

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1 convicted; do you understand?

2 MR. SANDERS: Yes, ma'am.

3 THE COURT: All right. Now, Mr. Sanders do you have any
4 other convictions for matters which are classified as most
5 serious?

6 MR. SANDERS: No, ma'am.

7 THE COURT: All right. And do you have any other
8 convictions for matters which are classified as serious, to
9 your knowledge?

10 I'll ask the solicitor. That's not quite fair. Let's
11 start with the solicitor.

12 MR. HILTON: To the most serious, he does not.

13 THE COURT: All right.

14 MR. HILTON: To the serious he may. There are two
15 charges on his record from 1998, burglary second. It
16 doesn't say whether it was violent or non-violent.

17 MR. SANDERS: It was non-violent.

18 MR. HILTON: He's indicating it was non-violent. If
19 that's true, he would have no serious convictions in his
20 record.

21 THE COURT: If you are correct, that is right. It would
22 not be classified as serious offenses if they are burglary
23 in the second degree, violent, they would be classified as
24
25

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1 serious offenses; you understand?

2 MR. SANDERS: Yes, ma'am.

3 THE COURT: Okay. Very well. Now, are you on probation
4 or parole at this time?

5 MR. SANDERS: No, ma'am.

6 THE COURT: Okay. All right. You have told me you
7 understand the offense with which you are charged, the
8 maximum possible penalty and consequences. Keeping these
9 matters in your mind, Mr. Sanders, how do you plead to the
10 burglary in the first -- burglary first degree, which is
11 2011-GS-18-688?

12 MR. SANDERS: Guilty. Yes, ma'am.

13 THE COURT: All right. How do you plead to burglary
14 first, which is 2011-GS-18-686, and, of course, burglary in
15 the first degree?

16 MR. SANDERS: The same.

17 THE COURT: Which is?

18 MR. SANDERS: Guilty.

19 THE COURT: Guilty. All right, with regard to 2011-GS-
20 18-687, which is an indictment for burglary in the first
21 degree, how do you plead to this offense?

22 MR. SANDERS: Guilty.

23 THE COURT: And with regards to 2011-GS-38-609, which is
24 an indictment for grand larceny, more than two, but less
25 than \$10,000, how do you plead?

1 MR. MURPHY: Your Honor, he -- on that one, he's going
2 to plead pursuant -- guilty pursuant to North Carolina
3 verses Alford, based on this is part of a negotiation of a
4 lot of different charges that we're resolving at one time
5 involving different counties.

6 THE COURT: Okay.

7 MR. MURPHY: So he --

8 THE COURT: All right.

9 MR. MURPHY: -- will be pleading guilty to that pursuant
10 to North Carolina verses Alford.

11 MR. SANDERS: Pursuant to North Carolina verses Alford.

12 THE COURT: All right. And what that means, Mr.
13 Sanders, just so we're clear, is that you either do not know
14 whether or not you've committed the offense, or you would
15 tell me that you did not commit the offense, however, you
16 have been over the evidence and you are apprised of the
17 situation and you believe that it is in your best interest
18 to accept, if you will, the deal offered by the state.

19 Does that sound like where you are?

20 MR. SANDERS: Yes, ma'am.

21 THE COURT: All right, sir. Very well. Now, you
22 understand that we may talk about a plea pursuant to North
23 Carolina verses Alford, a guilty plea, according to North
24 Carolina verses Alford, do you understand that beyond today
25 there will be no designation that this was a plea under

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1 North Carolina verses Alford, but would simply show up on
2 your record as a conviction?

3 MR. SANDERS: Yes, ma'am.

4 THE COURT: Do you understand that?

5 MR. SANDERS: Yes, ma'am.

6 THE COURT: If you have any questions about it we can
7 stop and ask Mr. Murphy?

8 MR. SANDERS: I'll just go along with it.

9 THE COURT: Say what?

10 MR. SANDERS: I'll just go along with it.

11 THE COURT: What does that mean?

12 MR. SANDERS: Yes, ma'am.

13 THE COURT: All right. Very well. Now, Mr. Sanders,
14 here's what I want to be clear, just going forward from
15 today. I want to go ahead and put on the record the other
16 counties and charges that are involved, because I want that
17 to be real clear, because I don't want you to leave
18 Dorchester County and all of a sudden if you're relying on
19 certain other situations I want to be sure those occur; are
20 you with me?

21 MR. SANDERS: Yes, ma'am.

22 THE COURT: Okay. And Mr. Hilton or Mr. Murphy, what
23 other counties and what other charges are we talking about.
24 Please let's give that to Mr. Sanders.

25 MR. MURPHY: Judge, I have the court -- the court

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1 reporter mark this as a Court's Exhibit.

2 (Court's Exhibit No. 1, plea
3 documents, was marked.)

4 THE COURT: Great.

5 MR. MURPHY: There are two other charges, there are two
6 charges pending in Colleton County.

7 THE COURT: Yes.

8 MR. MURPHY: A burglary first and a burglary second.

9 THE COURT: Yes.

10 MR. MURPHY: Pursuant to this plea the state has agreed,
11 over there, that the charges, they will not enhance the
12 burglary one, they will not enhance the burglary second to a
13 burglary first, based on his prior record. That he will
14 pled guilty for a 20 year concurrent sentence of the same
15 date so that everything is basically happening on January 9,
16 2012, for -- a result of his prior record or his record,
17 that it would be concurrent. There is pending in
18 Orangeburg, armed robbery, and a possession of a firearm
19 during the commission of a violent crime. Orangeburg is not
20 pressing those charges pursuant to the plea today. So the
21 three counties are all being resolved as far as one
22 conviction date, one strike, so to speak, for a 20 year
23 negotiated sentence between the state of a 20 year
24 concurrent sentence.

25 THE COURT: Very well. And, Mr. Sanders, is that your

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1 understanding that at some point in the future there will be
2 a plea in Colleton County to burg second, and --

3 MR. MURPHY: And burg first.

4 THE COURT: -- and burg first, and that that sentence
5 there will be negotiated, will be a 20 year concurrent
6 sentence; is that your understanding?

7 MR. SANDERS: Yes, ma'am.

8 THE COURT: And that the other two charges that are
9 pending in Orangeburg, armed robbery and --

10 MR. MURPHY: Possession of a firearm during the
11 commission of a violent crime.

12 THE COURT: -- possession of a firearm during the
13 commission of a violent crime, that pursuant to this plea
14 that those two charges will be nol prossed?

15 MR. SANDERS: That means dropped, right?

16 MR. MURPHY: That means dropped.

17 THE COURT: Dropped. Dismissed. Done away with.

18 MR. SANDERS: All right.

19 THE COURT: Disappeared. All right, sir.

20 MR. SANDERS: Yes, ma'am.

21 MR. MURPHY: Your Honor, the Court's Exhibit is
22 basically the letter confirming the plea negotiations with
23 the solicitor in Colleton. The -- an email confirming --
24 reconfirming the negotiation with the new solicitor that
25 took over the case in Colleton, and then an email

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1 confirmation from Solicitor Hilton, where the Orangeburg
2 charges would be dismissed per this plea.

3 THE COURT: Very well.

4 MR. MURPHY: So that's all in the court's exhibit.

5 THE COURT: In the exhibit. All right.

6 Mr. Sanders -- go ahead, Mr. Sanders.

7 MR. MURPHY: Well, he's -- we're talking about something
8 else, Your Honor. They had a hold placed on him on March
9 20, 2011, when he was in another jurisdiction, so pursuant
10 to the statute 24-13-40 and Blackney (sp) verses State of
11 South Carolina, we were just asking that he be given credit
12 since the time the hold was placed, and that's what he
13 wanted to make sure.

14 THE COURT: I understand. I understand.

15 MR. MURPHY: Okay.

16 THE COURT: Now, Mr. Sanders, as you recall, we were
17 here before, and as I recall you were very adamant that
18 there were charges that were outstanding and you did want to
19 resolve everything, and pursuant to your just remaining firm
20 in all of that finally the armed robbery was located. And
21 then we had to stop going forward at that point to include
22 that in the negotiations, although Mr. Hilton and Mr. Murphy
23 did everything they could do to try to round it up, if you
24 will. And so I'm going to ask them, but you kind of on top
25 of that, so I'm going to ask you, Mr. Sanders, do you think

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1 now all of your pending charges have been corralled so to
2 speak?

3 MR. SANDERS: Yes, ma'am.

4 THE COURT: Okay. I know -- Mr. Hilton, as far as you
5 can tell they've all been accounted for, right?

6 MR. HILTON: That was certainly the intent of Mr. Murphy
7 and I when we put this plea together.

8 THE COURT: Yep.

9 MR. HILTON: So as far as I know all these charges have
10 been combined into this plea.

11 THE COURT: And you agree with that, Mr. Murphy, as far
12 as you can tell?

13 MR. MURPHY: Yes, ma'am, as far as I can tell.

14 THE COURT: All right. And Mr. Sanders was pretty
15 accurate. He really was instrumental in y'all finally being
16 able to locate that last one.

17 MR. MURPHY: Yes, ma'am.

18 THE COURT: All right. And that is the intent of the
19 parties; isn't that correct?

20 MR. MURPHY: Yes, ma'am, it is.

21 THE COURT: All right. Do you understand that when you
22 plead guilty you give up certain constitutional right?

23 MR. SANDERS: Yes, ma'am.

24 THE COURT: All right. And we're going to talk about
25 some of your constitutional rights. We will not talk about

1 them all, but you give up the right to remain silent, you
2 give up the right against self-incrimination. You give up
3 your right to require the state prove you guilty beyond a
4 reasonable doubt, if they can. You give up your right to
5 confront and have your lawyer cross-examine witnesses who
6 would testify against you. You give up your right to
7 subpoena witnesses, have your lawyer subpoena who would
8 testify in your defense. You give up the right to present
9 defenses and to challenge any incriminating statements you
10 may have made, to challenge any stops or searches or
11 seizures you think were not appropriate, and, of course, you
12 give up your right to a jury trial.

13 If you wanted a jury trial there would certainly be a
14 jury trial, and it would be up to you to decide if you
15 wanted to testify or not testify at your jury trial. And
16 if you went and wanted a jury trial and you chose not to
17 testify, the judge would tell the jury that your decision
18 not to testify was of no moment, it had nothing to do with
19 whether you were guilty or not guilty, and would tell the
20 jury, that, in fact, the jury could not discuss your
21 decision not to testify while the jury was deliberating
22 whether you were guilty or not guilty because that was the
23 exercise of your Fifth Amendment right and that the burden
24 was and would remain on the state to prove guilt beyond a
25 reasonable doubt and you didn't have to prove anything.

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1 So I ask if you understand these constitutional rights
2 that we've been over, understanding that there are many
3 important ones that we've not been over.

4 Do you understand your rights?

5 MR. SANDERS: Yes, ma'am.

6 THE COURT: Do you understand that these rights are
7 preserved for you at trial and you waive them when you plead
8 guilty?

9 MR. SANDERS: Yes, ma'am.

10 THE COURT: And is that what you wish to do?

11 MR. SANDERS: Yes, ma'am.

12 THE COURT: Do you clearly understand that when you
13 plead guilty you give up your right to have a jury determine
14 if you are guilty or not guilty and if I accept your plea, I
15 will sentence you?

16 MR. SANDERS: Yes, ma'am.

17 THE COURT: All right. We're going to pause and just
18 review for a moment. You've told me that you understand the
19 nature of the offense or offenses with which you are
20 charged, the maximum possible penalty and consequences and
21 now your constitutional rights. Keeping all of the matters
22 in my mind, in the forefront of your mind, do you still wish
23 to continue with your plea of guilty, Mr. Sanders, except as
24 to the grand larceny and that is guilty under North Carolina
25 verses Alford?

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1 MR. SANDERS: Yes, ma'am.

2 THE COURT: Listen very carefully to the solicitor who
3 is handling your case because they are going to go over the
4 facts with me and when they are finished I'm going to ask
5 you is that what happened, except, Mr. Sanders, with regards
6 to the grand larceny, I'm going to ask you are those the
7 facts you think the state could prove beyond a reasonable
8 doubt, and are those the facts that you're concerned you
9 would be found guilty, and it's important for you, Mr.
10 Sanders, to listen very, very carefully.

11 Very well.

12 MR. HILTON: Thank you, Your Honor.

13 As to Mr. Sanders, first charge, the grand larceny,
14 I'll cover first.

15 THE COURT: Okay.

16 MR. HILTON: That occurred on December 1, 2010. The
17 facts the state would be able to prove at trial is that on
18 December 1, 2010, he went to the home of Mr. Ernest Watkins,
19 who is a blind man confined to a wheelchair. Mr. Watkins
20 had given several things to Mr. Sanders in the way of scrap
21 metal and so forth. Mr. Sanders, then, according to an eye-
22 witness, took some other stuff that he wasn't supposed to
23 take. And that would be the basis of the grand larceny
24 charge, that value being over \$2,000 but less than \$10,000.

25 THE COURT: All right. Now, are those the facts for

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1 which you believe the state could produce sufficient
2 evidence to convict and establish your guilt beyond a
3 reasonable doubt?

4 MR. SANDERS: They could, possibly.

5 THE COURT: All right. And are those the facts which you
6 are concerned that you would be found guilty?

7 MR. SANDERS: Yes, ma'am.

8 THE COURT: All right. Now, this has got to be your
9 answers; are these your answers?

10 MR. SANDERS: Yes, ma'am.

11 THE COURT: Very well. All right, please tell me the
12 remaining facts.

13 MR. HILTON: Thank Your Honor. As to the burglaries --
14 I know the Court likes to break them up, but these all kind
15 of go together, but I think I'll do it in a fashion where
16 you can ask him individually.

17 THE COURT: Okay.

18 MR. HILTON: The first of these burglaries occurred on
19 March 17, 2010, at [REDACTED] Wire Road, which is the home of
20 Ulysses Hayes. It was at that home where they went into Mr.
21 Ulysses Hayes -- I'm sorry, his last names is Mays. Ulysses
22 Mays home by kicking in the victim's back door. Inside they
23 held the victim at gun point and demanded money. At that
24 point, they got away, Mr. Sanders, along with his two co-
25 defendants, got away with about \$1200 in cash and a bolt-

1 action shotgun. It was in that case that Mr. Mays knew Mr.
2 Sanders from some prior dealings that he had had with him.

3 On the second burglary occurred on March 18, 2011, at
4 [REDACTED] Powder Horn Road. All of these occurred in Dorchester
5 County, but at the [REDACTED] Powder Horn Road address, that was
6 the home of Mr. Michael Rossi. It was there that the
7 victim's mother, Irene Hatch, who is actually seated on the
8 front row of the court, had some well problems, some pump
9 problems, I believe, it was at the home of Mr. Rossi.
10 Because she was the caretaker of the house, she was looking
11 for a plumber and happened to run into Mr. Sanders, who had
12 stopped beside the road. It was there that Mr. Sanders
13 represented that he was a plumber and that he could do the
14 work. He went and did some work on the pump, and then it
15 was there that he learned that Mr. Rossi wasn't at home,
16 that this house was -- I don't want to say vacant, but Mr.
17 Rossi was deployed at the time in the military. Later that
18 night on the 18th, he came back, went through the window in
19 the garage where he took a laptop computer and a cordless
20 drill, among other things.

21 THE COURT: All right. On those first two burglaries, is
22 that what happened?

23 MR. SANDERS: Yes, ma'am.

24 THE COURT: Okay.

25 MR. HILTON: Then on March -- also on March 18, 2011, he

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1 went to the dwelling located at 1753 Highway 15 South. That
2 was the home of Darla Smoak. That was where he and the co-
3 defendants went in and stole, among other things, a laptop
4 computer and a video cam-corder. It was based on that
5 information that Irene Hatch and Ulysses Mays that they were
6 able to get some warrants, secure some warrants, at that
7 time for Mr. Sanders and his co-defendants. Subsequent to
8 getting those warrants, and those warrants being put into
9 NCIC, Mr. Sanders and his co-defendants were picked up down
10 in Georgia, I think it was Camden County, Georgia, where
11 they were attempting to break into a home there. Search
12 incident to arrest of his car, incident to that burglary,
13 they found several of the items, one of which being the
14 Dewalt drill and the laptop computer that belonged to Mr.
15 Rossi. It was there that they began to interview the co-
16 defendants, where the co-defendants, one of the co-
17 defendants gave a statement implicating Mr. Sanders in all
18 of the other involvement that they had with these three
19 cases.

20 THE COURT: Very well. Is that what happened with the
21 last burglary; is that what happened?

22 MR. SANDERS: Yes, ma'am.

23 THE COURT: Okay. Very well.

24 Has anyone promised you anything or held out any hope
25 of any kind of a reward to get you to plead guilty?

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24

1 MR. SANDERS: Other than the plea negotiations.

2 THE COURT: Right. I'm with you, but they can't promise
3 you --

4 MR. SANDERS: Yes, ma'am.

5 THE COURT: -- what I'll do.

6 MR. SANDERS: Yes, ma'am.

7 THE COURT: They've entered in their negotiations but
8 other than that, that is not what I'm asking, has anyone
9 promised you anything --

10 MR. SANDERS: No, ma'am.

11 THE COURT: -- or held out any hope of a reward?

12 MR. SANDERS: No, ma'am.

13 THE COURT: Has anyone tried to force you or threaten
14 you or pressure you to make you plead guilty?

15 MR. SANDERS: No, ma'am.

16 THE COURT: Have you had enough time to make up your
17 mind that this is what you want to do?

18 MR. SANDERS: Yes, ma'am.

19 THE COURT: And are you pleading guilty freely and
20 voluntarily?

21 MR. SANDERS: Yes, ma'am.

22 THE COURT: All right. Are you satisfied with the
23 services of your lawyer?

24 MR. SANDERS: Yes, ma'am.

25 THE COURT: All right. And have you and your attorney

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25

1 fully discussed the charges against you?

2 MR. SANDERS: Yes, ma'am.

3 THE COURT: Have you spoken with your lawyers for as
4 many times and for as long a period on each of those
5 occasions as you believe are appropriate for him to properly
6 represent you?

7 MR. SANDERS: Yes, ma'am.

8 THE COURT: Do you need any more time to talk to your
9 lawyer?

10 MR. SANDERS: No, ma'am.

11 THE COURT: Have you understood your talks with your
12 attorney?

13 MR. SANDERS: Yes, ma'am.

14 THE COURT: Has your lawyer done everything for you, in
15 your case, that you believe he could have done or should
16 have done to properly represent you?

17 MR. SANDERS: Yes, ma'am.

18 THE COURT: Has your lawyer done anything in his
19 representation of you that you believe he should not have
20 done?

21 MR. SANDERS: No, ma'am.

22 THE COURT: Now, Mr. Sanders, I don't know whether or
23 not you asked for, but if you asked for your discovery,
24 meaning the evidence the state has available to present at
25 trial, if you asked for that evidence, did Mr. Murphy share

1 that with you?

2 MR. SANDERS: Yes, ma'am.

3 THE COURT: All right. Now, Mr. Sanders, with regards
4 to the grand larceny, have you been over the evidence the
5 state has available to present at trial?

6 MR. SANDERS: Uh --

7 THE COURT: In other words, do you know the evidence
8 that the state has against you in the grand larceny case
9 from Orangeburg County?

10 MR. SANDERS: I've never seen it, but that's fine.

11 THE COURT: You've never seen it?

12 MR. SANDERS: No, ma'am. I've never seen it.

13 MR. MURPHY: Judge, he has another attorney up there.
14 We're just trying to roll everything.

15 MR. SANDERS: Yeah.

16 MR. MURPHY: I personally do not have access to it. I
17 have not see it or I would have --

18 THE COURT: Have you had a discussion with your lawyer
19 in Orangeburg about the Orangeburg charge?

20 MR. SANDERS: Uh --

21 THE COURT: Who is your lawyer up there?

22 MR. SANDERS: I don't know. I never --

23 MR. MURPHY: He doesn't know, Your Honor.

24 THE COURT: Okay.

25 MR. SANDERS: I'm fine with it, Your Honor.

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1 THE COURT: I understand. Okay.

2 Here's what we're going to have to do. You're going to
3 have to stand down. Who -- is Tommy not --

4 MR. MURPHY: Stand down on that charge?

5 THE COURT: Just on the grand larceny charge.

6 MR. HILTON: Yeah, if we could do that. That would be
7 --

8 THE COURT: Here's what -- Mr. Sanders, I want you to
9 listen to me for just a second. Here's what we're going to
10 do. We're going to go forward on everything else, and then
11 they're going to call Mr. Scott with regards to the grand
12 larceny, okay.

13 MR. SANDERS: I want to take the grand larceny charge
14 with this, though. I mean, it don't matter to me. I just
15 want it solved.

16 THE COURT: I know you do. I know you do. And I think
17 I've got a resolution from Mr. Scott, but we will talk to
18 Mr. Scott, first, okay. All right?

19 MR. SANDERS: If that will make me have to go to
20 Orangeburg, right?

21 MR. MURPHY: No.

22 THE COURT: No. No. Hang tight for me. Just hang
23 tight.

24 MR. SANDERS: All right.

25 THE COURT: Okay. But I am going to go forward on the

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1 burglary. Let me just tell you that if Mr. Scott doesn't
2 want to do the resolution I think he needs to do, then I'm
3 not going to hurt you in any regard. We'll handle the grand
4 larceny however we need to handle it, okay.

5 MR. SANDERS: Yes, ma'am.

6 THE COURT: I don't want you worried about that, okay.

7 MR. SANDERS: Yes, ma'am.

8 THE COURT: My problem is, my problem is, Mr. Sanders,
9 is not having a lawyer in Orangeburg and trying to get that
10 matter resolved, and I really do appreciate what you're
11 doing and why. In all candor, grand larceny is terrible and
12 it's terrible for people to lose their personal property,
13 but in comparison, it doesn't compare so much to the other
14 ones, if you will. Okay?

15 MR. SANDERS: Yes, ma'am.

16 THE COURT: Although, I hate for folk to lose their
17 property and that's a terrible thing, in the scheme of
18 things let's see if we can't work with that, okay. So just
19 bear with me. I'm not going to let -- I'm not going to let
20 you get hurt, but I do want to go forward on the burgs,
21 okay?

22 MR. SANDERS: Yes, ma'am.

23 THE COURT: In other words, I'm going to put on the
24 record what I'm going to ask Mr. Scott to do is in
25 consideration in the rest of your plea if he'll willing to

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1 nol pross that grand larceny. And if there's some
2 restitution, we'll have to talk about that. I'm going to
3 ask him to nol pross that grand larceny, and they need to
4 talk to him about that, okay?

5 MR. SANDERS: All right.

6 THE COURT: Are you with me?

7 MR. SANDERS: Yes, ma'am.

8 THE COURT: Okay. Very well. Otherwise, we are going
9 to have to let you look at the evidence, and it will come
10 back to me and I'm going to wrap it into this one, too.
11 Okay?

12 MR. SANDERS: Okay.

13 THE COURT: You understand. I'm not going to let you
14 get hurt, is what I want you to know.

15 MR. SANDERS: Right.

16 THE COURT: Okay, but I do want to go forward with
17 these, and we'll get as much done as we can do.

18 MR. SANDERS: Yes, ma'am.

19 THE COURT: And I'm going to retain jurisdiction over
20 that grand larceny, okay?

21 MR. SANDERS: Yes, ma'am.

22 THE COURT: Okay. Very well. Now, so -- but with
23 regard to the other burglaries, we're straight about that,
24 you did those, that's not an Alford plea and we're finished
25 with those, right?

State v. Sanders 1/9/12

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1 MR. SANDERS: Yes, ma'am.

2 THE COURT: Okay. Very well. Now, has anyone
3 associated with your case mistreated you in any way?

4 MR. SANDERS: No, ma'am.

5 THE COURT: Have you understood my questions?

6 MR. SANDERS: Yes, ma'am.

7 THE COURT: Do you understand that you have a right to
8 appeal your guilty plea and any sentence that I impose,
9 however, if you wish to appeal you or an attorney on your
10 behalf must appeal within 10 days?

11 MR. SANDERS: Yes, ma'am.

12 THE COURT: With respect to each and every answer that
13 you have given me here today, have you been absolutely
14 candid and truthful with me?

15 MR. SANDERS: Yes, ma'am.

16 THE COURT: And have your answers been your own?

17 MR. SANDERS: Yes, ma'am.

18 THE COURT: Has anyone told you how to answer my
19 questions?

20 MR. SANDERS: No, ma'am.

21 THE COURT: All right. Whose answers have you given me
22 here today?

23 MR. SANDERS: Mine.

24 THE COURT: I find that there is a substantial factual
25 basis for each of these pleas. I find that the decision to

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1 plead guilty is freely, knowingly and intelligently made.
2 That each of these folks have had advice of counsel with
3 whom they tell me they are satisfied and I will accept the
4 plea to 2011-GS-18-688, 686, 687 from Mr. Sanders.

5 All right. Talk to me about the record of Mr. Sanders.

6 MR. HILTON: Your Honor, he does have some record. He
7 has -- back in 1988, he had a grand larceny charge, he got
8 10 years suspended to five years probation. In December of
9 1985, a little bit out of order, but he had five forgeries
10 and a PWID cocaine. In 1998, he had a petty larceny, two
11 burglaries second, actually three burglaries second and two
12 grand larcenies that he got 10 years suspended to five years
13 and five years probation. In 2003, he had a misprision of a
14 felony, he got 10 years suspended to three years probation.
15 In 2005, he had a burglary in the third degree and a grand
16 larceny. He got five years suspended to five years
17 probation in Colleton County. Then in 2007, he had a grand
18 larceny and a strong arm robbery of which he received an
19 eight year and a five year sentence.

20 THE COURT: All right. Very well.

21 Yes, sir, Mr. Murphy.

22 MR. MURPHY: Your Honor, I've known Michael for a while.
23 We -- when I was appointed, and I've been appointed on this
24 case, when I found out, knowing his prior record, found out
25 the facts of some of the Colleton County charges and

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1 everything that we've worked on, ran down some information
2 that he wanted me to in Georgia that didn't pan out. Worked
3 on the case, was able to negotiate this sentence with the
4 solicitor's office for a 20 year sentence. I think it's in
5 his best interest. I've explained all this to him, his
6 prior record and the hurdle that we were having to overcome
7 with that prior record and what Colleton County was wanting
8 to do with enhancing the burglary second and trying him on
9 that, based on his prior conviction for two or more
10 burglaries, I think he understood that. He's remorseful.
11 It's a 20 years sentence, Your Honor. We discussed in the
12 back the names of a couple of individuals, if we could place
13 that on the sentence sheet. If I could hand that up.

14 THE COURT: Sure. Sure.

15 MR. MURPHY: That we'd ask that he not be housed in the
16 Department of Corrections.

17 THE COURT: I got it.

18 MR. MURPHY: The hold, the hold that was placed on him
19 while he was in Georgia, the hold was placed on him on both
20 the Colleton County charges and the Orangeburg -- the
21 Dorchester charges. So I'd ask that he be given credit back
22 since that date, Your Honor.

23 THE COURT: What was that date?

24 MR. MURPHY: March 20, 2011.

25 THE COURT: All right.

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1 MR. HILTON: Your Honor, before you impose sentence, let
2 me just state, just so the record is clear, the enhancement
3 for these burglaries, if they didn't occur in the nighttime
4 was that he had two prior convictions for burglary.

5 THE COURT: Very well. Thank you.

6 Oh, victims. Tell me about the victims, please.

7 MR. HILTON: Darla Smoak and Irene Hatch are seated in
8 the front row of the courtroom, to the Court's left. I've
9 spoken with them, they do not wish to address the Court, but
10 did care enough to be here for the plea.

11 THE COURT: So appreciative of them being here.

12 And finally, Mr. Sanders, just to be absolutely clear
13 with you, you do understand that this is a real live 20
14 years, right?

15 MR. SANDERS: Yes, ma'am.

16 THE COURT: You get credit for the time, and I'll also
17 allow you to get credit for the time since March 20, 1011,
18 because once the arrests warrants are signed and you have
19 holds on you, you are entitled to credit for that time, too.
20 Do you understand that?

21 MR. SANDERS: Yes, ma'am.

22 THE COURT: But you need to count on serving every day;
23 you understand?

24 MR. SANDERS: All right.

25 THE COURT: And if you don't I want to clear that up

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1 now. Do you understand?

2 MR. SANDERS: Yes, ma'am.

3 THE COURT: Okay.

4 Mr. Sanders, I'll ask you one more thing, I don't know
5 what your circumstance is. Obviously, you've been in jail
6 for 14 months, you're not addicted to anything, because you
7 can't get anything, hopefully, in the jail. You're not even
8 addicted to sugar, probably.

9 So my question to you is this, I don't know if there's
10 any substance abuse issues that generated these difficulties
11 for you, you're not addicted. I don't mind, however,
12 putting on your sentencing sheet that at some point I do
13 want you to receive treatment through the ATU unit only so
14 that when you get out you will have tools that will be
15 helpful for you.

16 MR. SANDERS: Okay.

17 THE COURT: You think you're okay?

18 MR. SANDERS: I'm okay.

19 THE COURT: Okay. Well, today you're not addicted to
20 anything, not even sugar.

21 MR. SANDERS: I am addicted to sugar.

22 THE COURT: I bet you haven't been getting much sugar at
23 the jail.

24 MR. SANDERS: Yeah. Candy.

25 THE COURT: All right. Mr. Sanders, with regards to

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1 2011-GS-18-688, I will follow the recommendation. I'm going
2 to commit you to the State Department of Corrections for a
3 period of 20 years.

4 With regards to 2011-GS-18-686, likewise, burglary in
5 the first degree, I'm going to commit you to the State
6 Department of Corrections for a period of 20 years.

7 Finally, with regards to 2011-GS-18-687, I'm going to
8 commit you to the State Department of Corrections for a
9 period of 20 years. These sentences will run concurrent,
10 and you are to be given credit for the time that you have
11 served since March 11, 2011. I have put on here because of
12 your assistance in these matters that you not be housed at
13 the Department of Corrections with Mr. Dennis Knight or Mr.
14 Donnie Eastman.

15 Now, with regards to indictment number 2011-GS-38-609,
16 in the event that this is an Orangeburg matter and Mr. Scott
17 must be consulted regarding that matter. One of two things
18 will happen, either he will be comfortable not pressing the
19 matter because of these other pleas and if not, I retained
20 jurisdiction and we will handle that plea, hopefully, as
21 soon as we can, but we got to look at the stuff. We got to
22 look at the information, so you're comfortable pleading
23 under North Carolina verses Alford, and it would be my
24 intention, y'all remind me, to run the sentence concurrent.

25 MR. MURPHY: Thank Your Honor.

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1 THE COURT: Thank you all.

2 MR. MURPHY: Judge, instead of Eastman. That was my bad,
3 it's actually Easterlin, E-a-s-t-e-r-l-I-n.

4 THE COURT: E-a-s-t-e-r-l-I-n?

5 MR. MURPHY: Yes, ma'am. I apologize.

6 THE COURT: No problem.

7 (This proceeding was concluded.)

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C-E-R-T-I-F-I-C-A-T-E

I, THE UNDERSIGNED HILDA M. JORDAN, CVR-M, OFFICIAL COURT
REPORTER FOR THE FIRST 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 PLEA
IN THE CAPTIONED CAUSE, IN THE COURT OF GENERAL SESSIONS FOR
DORCHESTER COUNTY, SOUTH CAROLINA, ON THE 9TH DAY OF
JANUARY, 2012.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL,
NOR INTEREST IN ANY PARTY HERETO.

Hilda M. Jordan, CVR-M

April 10, 2012

FORM 5

STATE OF SOUTH CAROLINA

County of RichlandMichael Todd Sanders #292046

Full name and prison number (if any) of Applicant

v.

State of South Carolina

CERTIFIED COPY
IN THE COURT OF COMMON PLEAS
2012 JUN 19 PM 3:25Cheryl Williams 2012-CP-18-1511
CLERK OF COURT
DORCHESTER COUNTY

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Kirkland Correctional, 4344 Broad River Rd,
Bd-56 Columbia S.C. 29210
2. Name and location of Court which imposed sentence Dorchester County
Court of General Sessions
3. Name(s) of co-defendant(s) (if any) Sonny Lynn Rourke, and
Travis David Braddock
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) GS-18-0687 (2011)
 - (b) _____

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) 9, Jan. 2012 } 20 years on 1st degree
- (b) 9, Jan. 2012 } Burglary
- (c) 9, Jan. 2012
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ✓
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No, my lawyer did not and would not file.
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. N/A
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. N/A
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. N/A
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. N/A
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) My lawyer refused to do so; to me + my wife
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective assistance of counsel.
- (b) Inadequate adversarial skills for heat deal by counsel.
- (c) I wish to withdraw my plea of guilty
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Inadequate investigation
- (b) Compare my sentence with co-defendants sentences
- (c) For sentence reconsideration or trial.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. N/A
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

No

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

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

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

- i. _____
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) Counsel refused to appeal or put in
 (b) for reconsideration.
 (c) _____

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

(a) your arraignment and plea? Yes, but by a stand in - not my attorney
 (b) your trial, if any? N/A
 (c) your sentencing? Yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? None
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
None

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

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

i. Chris Murphy (but I was given Mike Murphy)

 ii. _____

 iii. _____

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

i. Chris Murphy (at plea and sentencing)

 ii. _____

 iii. _____

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

To have my sentence and conviction vacated
and my case remanded for new trial and
to have all charges dismissed and/or to lesser included offense.

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

No

STATE OF SOUTH CAROLINA)

County of _____)

VERIFICATION

I, _____, 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.

Michael T. Graham

SWORN to and subscribed before me this 18th
 day of May, 2012.

[Signature] (L.S.)
 Notary Public

My Commission Expires:

My Commission Expires: October 8, 2014

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

I, _____, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Michael T. Sordani
Applicant

SWORN or affirmed to and subscribed before me this
18th day of May, 2012.

L. J. C. W.
Notary Public My Commission Expires
October 8, 2014
My Commission Expires: _____

FILED-RECORDED
 2012 JUN 15 PM 4:34
 CLERK OF COURT
 BORCHESTER COUNTY

CERTIFIED COPY

STATE OF SOUTH CAROLINA, 2012 JUN 19 PM 3:25
IN THE COURT OF COMMON PLEASCOUNTY OF Dorchester JUDICIAL CIRCUITState

Plaintiff

vs.

Michael SANDERS

Defendant.

MOTION AND AFFIDAVIT TO
PROCEED IN FORMA PAUPERIS2012-CP-18- 1511

FILE NO.

I, Michael T Sanders being duly sworn, state that I am the Plaintiff and that

I do not have the funds available to pay the costs of filing and service in the present matter. I

hereby request that the complaint be filed and service made without costs.

Sworn to and Subscribed before me

this 18th day of May, 2012L. E. Way
Notary Public for South Carolina

My Commission Expires

My Commission expires October 8, 2014Michael T Sanders
Signature of Plaintiff orPerson Filing Complaint on Behalf of
Plaintiff

ORDER

☒ Leave is granted to proceed in forma pauperis without payment of the filing fee.☒ Leave is granted to proceed in forma pauperis without payment of the service cost.☐ Leave is denied to proceed in forma pauperis.Dated: 5 19, 2012
Orangibury, South Carolina

JUDGE/CLERK OF COURT

NOTICE TO PLAINTIFF: The Court may assess costs against either party at hearing.

SCCA 405CP (10/10)

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

I, Michael T Sanders, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Michael T Sanders
Applicant

SWORN or affirmed to and subscribed before me this
18th day of May 2012.

[Signature]
Notary Public

My Commission Expires
My Commission Expires: October 8, 2014

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

) IN THE COURT OF COMMON PLEAS
) FOR THE FIRST JUDICIAL CIRCUIT
)
)
)

2012-CP-18-1511

Michael T. Sanders, #290266,

)
)
) Applicant,
)
)

v.

)
)
) **RETURN**
)
)

State of South Carolina,

)
)
) Respondent.
)
)

The Respondent, making its Return to the application for post-conviction relief, filed June 15, 2012, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Dorchester County Clerk of Court.¹ The Applicant was indicted during the September 2011 term of the Dorchester Grand Jury for two counts of Burglary – First Degree (2011-GS-18-0687, -0688). Additionally, the Applicant was indicted by the Orangeburg County Grand Jury for Grand Larceny, More than \$2,000.00 but less than \$10,000.00 (2011-GS-38-0609). Christopher J. Murphy, Esquire, represented the Applicant. On January 9, 2012, the Applicant entered a guilty plea to all Dorchester County charges as indicted. The Honorable Diane S. Goodstein sentenced Applicant to confinement for a period of twenty years imprisonment for each Burglary charge. All sentences to run concurrent. The remaining Orangeburg charge was *nolle prossed* pursuant to the plea. The Applicant did not appeal his conviction or sentence.

¹ Applicant is also serving a concurrent twenty year sentence from Colleton County (2011-GS-15-0567) for Burglary – First Degree.

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

II.

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

1. Ineffective assistance of counsel.
 - a. "Inadequate investigation."
2. "Inadequate adversarial skills for best deal by counsel."
 - a. "Compare my sentence with co-defendants sentences."
3. "I wish to withdraw my plea of guilty."
 - a. "For sentence reconsideration or trial."

Any claims not specifically enumerated in the post-conviction relief application or amendments will be opposed by the State at an evidentiary hearing, and the State 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.

The Respondent interprets Applicant's second allegation to also be one of 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).

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

IV.

The Respondent submits that Applicant's third allegation should be summarily dismissed for failure to state a claim cognizable under the Post-Conviction Procedure Act, S.C. Code Ann. § 17-27-10 to -160. An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy; may institute, without paying a filing fee, a proceeding under this chapter to secure relief. *Provided, however, that this section shall not be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction.*

[Emphasis supplied.] S.C. Code Ann. § 17-27-20 (1976).

Applicant states his ground for post-conviction relief as "I wish to withdraw my plea of guilty;" however, his Application is completely devoid of any factual basis to support this ground. As the Application is without any facts to support a claim for post-conviction relief, relief cannot be granted under any of the statutory grounds. Therefore, the Court should summarily dismiss this allegation for failure to state a claim upon which relief can be granted.

V.

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

VI.

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

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

MEGAN E. HARRIGAN
Assistant Attorney General

By: Megan E. Harrigan
ATTORNEYS FOR RESPONDENT

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

October 19, 2012

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF DORCHESTER	)	
	)	
	)	2012-CP-18-1511
	)	
MICHAEL T. SANDERS, 290266,	)	
	)	
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:

William B. Jung, Esquire
William B. Jung, Esq., LLC
1156 Bowman Road, Ste. 100D
Mount Pleasant, SC 29464

DATED this 19th day of October, 2012.

Lauren Meara
 Lauren Meara, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF DORCHESTER) FIRST JUDICIAL CIRCUIT

MICHAEL TODD SANDERS,) TRANSCRIPT OF RECORD
APPLICANT,) 2012-CP-18-1511.

V.)

STATE OF SOUTH CAROLINA,)

RESPONDENT.)

OCTOBER 26, 2015

ST. GEORGE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE FRANK R. ADDY, JR., PRESIDING JUDGE

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

TOMMY A. THOMAS, ESQUIRE

ATTORNEY FOR THE APPLICANT

J. CLAYTON MITCHELL, ASSISTANT ATTORNEY GENERAL

ATTORNEY FOR THE STATE

SHARON L. VIZER

CIRCUIT COURT REPORTER

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E X H I B I T S

NO.	DESCRIPTION	ID.	EV.
<u>FOR THE APPLICANT:</u>			
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1 Monday, October 26, 2015

2 MR. MITCHELL: Good morning, Judge.

3 THE COURT: Good morning.

4 MR. MITCHELL: May it please the Court. We'll
5 start with Michael Sanders vs. State of South Carolina.
6 We have the packet up there for you.

7 Mr. Sanders was indicted in September 2011 in
8 Dorchester County for two counts -- three counts of first
9 degree burglary. He was also indicted by the Orangeburg
10 County Grand Jury for grand larceny.

11 He was represented on these charges by
12 Mr. Christopher Murphy. He pled guilty January 9th, 2012
13 to all charges as indicted. He was sentenced to 20 years
14 on each burglary charge, those to run concurrently. I
15 believe the other Orangeburg charge was nolle prossed.
16 He also pled to a grand larceny charge as well.

17 There's no appeal taken in this case. Mr. Sanders
18 filed this application June 15th of 2012, where he's
19 alleged various aspects of ineffective assistance of
20 counsel. Mr. Sanders is present here today represented
21 by Mr. Tommy Thomas, and I'd ask him to articulate the
22 allegations that we're going forward on.

23 THE COURT: All right. Mr. Thomas?

24 MR. THOMAS: Your Honor, good morning. I was in
25 the same crowd coming from Columbia this morning and was

1 about an hour getting from Irmo to downtown.

2 THE COURT: Well, my law clerk got stuck in it and
3 she was coming from Chapin, and I got here about 10
4 minutes before she did so I think I made the right
5 decision to go ahead and get off the interstate.

6 MR. THOMAS: I think you did.

7 THE COURT: But, again, I apologize. I probably
8 should have driven down last night but my wife was
9 working until 11:00 and I didn't want to leave the kids
10 by themselves, so that's why I didn't come down.

11 MR. THOMAS: I didn't get here until 10:00, Your
12 Honor.

13 THE COURT: All right. Mr. Thomas, happy to hear
14 from you, sir.

15 MR. THOMAS: Yes, sir. Your Honor, if it pleases
16 the Court. This is Michael Sanders. I'll be glad to --
17 I spoke with the attorney general about this last week
18 and went over the issues that we would be presenting
19 today. Basically, in a nutshell, this is an ineffective
20 assistance of counsel case and involuntary guilty plea.

21 Mr. Sanders, we would show today that there were a
22 number of things that were not done which would
23 constitute ineffective assistance of counsel. One is
24 that he had alleged at all times that he was not guilty
25 of these charges.

1 There is a potential alibi which I am not sure that
2 was even pled and that was not used that he was out of
3 town. We intend to call his wife. She is here this
4 morning and has some documentation that he was in
5 Savannah at the time in which these instances allegedly
6 happened.

7 The second issue is that there is a letter from
8 one of the co-defendants. We do have the original of
9 that letter. There are two, actually. One is notarized
10 and one is not, from Mr. Travis Braddock, and
11 Mr. Braddock says Mr. Sanders was not with him, he did
12 not commit this crime. That that was shown to counsel,
13 was not used as well.

14 That he was basically coerced into taking the plea.
15 That the plea was not freely and voluntarily, knowingly
16 and intelligently entered into, and there are a couple of
17 issues that revolve around how he says that he was
18 convinced into accepting this plea when he was not guilty
19 of this crime.

20 The next one, Your Honor, is that he has seizures.
21 He was on medication at the time in which he was in the
22 county jail. They had changed his medication from what
23 he was taking and that he had some adverse effects from
24 that. It was only until shortly prior to him entering
25 into this plea that his medication was changed back to

1 the original medicine in which he said that he felt like
2 that he could kind of think properly, understand what he
3 was doing, and he believes that that influenced, had a
4 play in him entering into this plea.

5 The next issue is fairly interesting. In the
6 transcript -- and I'll go ahead and give you to the page
7 number, Your Honor. It's 7, lines 13 through 17, the
8 Court indicates that he waived presentment of these
9 burglary first charges and if you look at the sentencing
10 sheets and the indictments and everything, which should
11 be in the Court's packet, if not I have copies of those,
12 there is no signature on the waiver of presentment to the
13 grand jury nor is there any true bill indication of
14 signatures on those indictments. So that is not correct.

15 The next issue, Your Honor, is that one of the
16 ladies whose home was burglarized on -- allegedly
17 burglarized on Powder Horn Road, Eileen Hatchet, that on
18 page 22 of the transcript that is eluded to that
19 Mr. Sanders went to the home proposing to be a plumber
20 and that as a result of that visit of the home that he
21 later came back that evening and burglarized the house,
22 that he was there to case the joint, basically, and that
23 turns out not to be true.

24 His wife, who was record keeper for the business,
25 the plumbing business that he was in, has receipts

1 showing that that was actually about -- he was in the
2 home about six months prior -- five months prior to this
3 alleged burglary. There is also a statement that she
4 gives to the police and in that statement it makes the
5 allegations of the same thing, and that that is not true.

6 Just some other basic issues, he said he asked for
7 a preliminary hearing and didn't receive one.

8 Also, he wanted me to bring to the Court's
9 attention that Judge Goodstein on a number of different
10 occasions, on page 38 of the transcript, lines 19 through
11 20, and page 29 -- or 28 and 29, 29, lines 13 through 14
12 she indicates that she's not going to allow him to be --
13 I'm not going to let you get hurt. He doesn't really
14 understand what those comments from the Court were and
15 believes that that is further evidence of his involuntary
16 guilty plea, Your Honor.

17 THE COURT: All right. Very good. Mr. Thomas, if
18 you'd call your first witness then.

19 MR. THOMAS: Your Honor, if it please the Court.
20 We would call Ms. Patricia Sanders to the stand.

21 THE COURT: Ma'am, if you'll come on up, please.

22 PATRICIA SANDERS, after having been duly
23 sworn, testified as follows:

24 MR. THOMAS: Your Honor, please the Court.

25 THE COURT: Yes, sir.

1 DIRECT EXAMINATION

2 BY MR. THOMAS:

3 Q. Ms. Sanders, would you please state your name for
4 the record.

5 A. Patricia Shannon Sanders.

6 Q. And how are you related to Mr. Michael Sanders?

7 A. I'm his wife.

8 Q. Do you understand that you are under oath today?

9 A. Yes, sir.

10 Q. And that you are not here to reward anyone or
11 attempt to give any false testimony?

12 A. No, sir.

13 Q. Do you understand that you are here to tell the
14 truth?

15 A. Yes, the truth.

16 Q. And that's what you intend to do?

17 A. I sure do.

18 Q. Okay. Ms. Sanders, let me ask you, you were active
19 in Michael's case; is that correct?

20 A. Yes.

21 Q. And you followed it? You knew what was going on?

22 A. Yes.

23 Q. Did you speak with his attorney?

24 A. Yes.

25 Q. All right. And on how many occasions did you get

1 to speak with the attorney?

2 A. I don't remember how many. There was a few times
3 that I spoke to him.

4 Q. But you spoke with him in relation to Michael's
5 defense?

6 A. Yes.

7 Q. Well, let's start with the first one. Did you talk
8 with his counsel about potential alibi?

9 A. Yes.

10 Q. And you understand what we are talking about in an
11 alibi, that he was somewhere else rather than this
12 location that was burglarized?

13 A. Yes.

14 Q. Okay. And how do you know that he was somewhere
15 else?

16 A. I have the receipt from the motel room.

17 Q. And where was he staying?

18 A. In Georgia.

19 Q. And this was on what date; do you remember?

20 A. I believe it's the 18th.

21 Q. Okay.

22 A. Yes, sir, the 18th.

23 Q. And that's March the 18th?

24 A. Yes, sir.

25 Q. And is that when these burglaries in Dorchester

1 County were alleged to have happened?

2 A. Yes, sir.

3 Q. Okay.

4 MR. THOMAS: Your Honor, if it please the Court.

5 THE COURT: Yes, sir.

6 MR. THOMAS: Your Honor, may I approach?

7 THE COURT: Please.

8 BY MR. THOMAS:

9 Q. Do you have copies of the receipts from the
10 Marriott?

11 A. Yes, sir.

12 Q. Okay.

13 MR. THOMAS: Your Honor, could we mark this as
14 Applicant's 1 for identification?

15 THE COURT: Please.

16 (WHEREUPON, Applicant's Exhibit Number 1, a
17 Document, was marked for identification only.)

18 BY MR. THOMAS:

19 Q. I want to show you what's been marked Applicant's 1
20 for identification, and is that the receipt that you
21 obtained from the Marriott?

22 A. Yes.

23 Q. And that receipt is for whom?

24 A. For Michael.

25 Q. All right. And on what date is that?

- 1 A. 3-18-2011.
- 2 Q. Does it show a check-in date?
- 3 A. That is the date, and then the time was at 1:49.
- 4 Q. All right. And you were personally aware that he
- 5 was in Savannah at that time?
- 6 A. Yes.
- 7 Q. Was there an incident in regard to law enforcement
- 8 regarding his truck?
- 9 A. Yes, there was.
- 10 Q. And can you tell me what that incident was.
- 11 A. Officer King called me and told me that they had
- 12 Mike's truck in impound, and that was not true. He was
- 13 just trying to intimidate me, I felt, because I was
- 14 sitting there looking at the truck in the driveway.
- 15 Q. Okay. And this was because he was a suspect in
- 16 this burglary?
- 17 A. Correct..
- 18 Q. And they were indicating to you that they had his
- 19 truck?
- 20 A. Yes.
- 21 Q. And that was not true?
- 22 A. No, sir.
- 23 Q. Then did you bring this information to the
- 24 attention of counsel?
- 25 A. Yes, I did.

1 Q. And what did he say about that?

2 A. There was nothing that he could do. That it's
3 nothing. Nothing will help.

4 Q. And you felt like this was important?

5 A. Yes, I did.

6 Q. Now, let me ask you about the work that was done at
7 [REDACTED] Powder Horn Road.

8 A. That work was done back in October, October 4th and
9 5th. We have signed receipts from the lady when Mike did
10 the work at the house.

11 Q. Okay. And that was October of what year?

12 A. 2010.

13 Q. 2010?

14 A. Yes, sir.

15 MR. THOMAS: Your Honor, may I approach?

16 THE COURT: Please.

17 A. That's the first two receipts that she had signed
18 where she paid him. It has the address and everything on
19 them.

20 Q. Do you mind if I -- well, you're keeping the
21 records; is that correct?

22 A. Yeah. I've just been making sure nothing happened
23 to them but if you need them that's fine.

24 Q. All right. Now, what type of business did
25 Mr. Sanders have?

1 A. Well, he did a little bit of everything. You know,
2 jack of all trades, I guess you could say. We sold cars,
3 we did scrapping, he did plumbing work. He did a variety
4 of different things.

5 Q. And this is your receipt book?

6 A. Yes, sir.

7 Q. And what was your responsibility in regards to
8 these receipts?

9 A. Just to make sure that the money stayed straight.

10 Q. And you did the financial side?

11 A. Yes.

12 Q. So you kept track of all the financial records?

13 A. Yep.

14 MR. THOMAS: Your Honor, can I mark this for
15 identification, too?

16 THE COURT: Sure. If she needs to retain that
17 receipt book we could probably just go ahead and mark
18 it -- well.

19 MR. THOMAS: Then make copies.

20 THE COURT: Go ahead and make copies. Why don't we
21 make copies at a break or something like that.

22 MR. THOMAS: All right, sir.

23 THE COURT: And just otherwise refer to the receipt
24 book and that way we can return it to her.

25 MR. THOMAS: Okay. Do you want to mark this one

1 actually and make a copy or do you want to wait and mark
2 the copy?

3 THE COURT: We'll mark the copy. Just hold off but
4 go ahead and refer to it.

5 MR. THOMAS: Okay. All right.

6 BY MR. THOMAS:

7 Q. And is there one receipt or two receipts?

8 A. There's two.

9 Q. And those receipts are for what?

10 A. For work on Power Horn Road.

11 Q. And how much were the receipts for?

12 A. Goodness. I don't have my glasses on. I can't see
13 them. I'm sorry.

14 Q. You're exactly like me. \$324, and also \$227?

15 A. Yeah.

16 Q. Okay. And you are aware that the alleged incident,
17 the alleged burglary of Power Horn Road occurred in
18 September -- March?

19 A. March.

20 THE APPLICANT: March.

21 Q. March 18; is that correct?

22 A. Yes.

23 Q. Okay. So this was not the day of the alleged
24 burglary?

25 A. No.

1 Q. Okay. And did you show those documents to
2 Michael's attorney?

3 A. Yes, I did.

4 Q. And did he make any comment about those documents?

5 A. They weren't going to help.

6 Q. They were not going to help?

7 A. No, sir.

8 Q. Okay. Now, you also have in your possession a
9 letter from Mr. James Braddock?

10 A. Yes.

11 Q. And -- Travis Braddock?

12 A. Yeah, Travis.

13 Q. Who is Travis Braddock?

14 A. He's the co-defendant. He was also our neighbor.

15 MR. THOMAS: Okay. All right. Your Honor, may I
16 approach again?

17 THE COURT: Please.

18 A. Here is the notarized copy and the statement.

19 MR. THOMAS: Your Honor, we'd like to mark these
20 for identification. They would be 3 and 4.

21 THE COURT: All right. Applicant's 3 and 4 without
22 objection.

23 (WHEREUPON, Applicant's Exhibit Numbers 3 and 4,
24 Letters, were marked for identification only.)

25 BY MR. THOMAS:

1 Q. Patricia, I'm going to show you what has been
2 marked as exhibit 3, Applicant's 3, and can you identify
3 that document?

4 A. Yes. This is the notarized statement that Michael
5 was not there during the burglaries.

6 Q. And which burglary --

7 MR. MITCHELL: Objection, Your Honor. This is all
8 hearsay. If he's going to try to admit it I'd rather not
9 get into the substance of letter unless it's admitted
10 before the Court.

11 THE COURT: All right. Do you claim --

12 MR. THOMAS: Your Honor, I thought about that. I
13 don't believe that it is hearsay. We're not actually
14 offering it for the truth of the matter asserted. What
15 we are offering it for is the fact that the letter exists
16 a potential defense which counsel could have gone into
17 further inquiry with and could have actually been able to
18 follow, I guess, through with that line of questioning as
19 far as taking the case to trial, Your Honor.

20 THE COURT: All right. Here is how we'll treat it.
21 Subject to some foundation being laid that counsel was
22 informed of this potential defense I'll let you go ahead
23 and question this witness about it and then at a later
24 point in time when counsel testifies if a substantial or
25 sufficient foundation is laid that that information was

1 conveyed to counsel we'll allow it admitted at that point
2 in time, but you can go ahead and get the testimony from
3 this witness concerning that statement.

4 MR. THOMAS: All right. Thank you, Your Honor.

5 BY MR. THOMAS:

6 Q. That is a notarized letter from Travis Braddock?

7 A. Yes.

8 Q. Okay. And it is in regards to what burglaries?

9 A. The Powder Horn and Highway 15.

10 Q. And basically Mr. Braddock is saying that Michael
11 was not there?

12 A. Correct. He did not enter into the residence.

13 Q. Was that letter shown to counsel?

14 A. Yes, it was.

15 Q. And what, if anything, did he say in regards to
16 that letter?

17 A. He told me that he could not make Travis go to
18 court regarding it because it would hurt him so he would
19 probably lie.

20 Q. Okay. So he wasn't willing to use the letter at
21 all?

22 A. No.

23 Q. And let me show you this one which has been marked
24 as Applicant's 4, and can you identify that letter?

25 A. Yes.

- 1 Q. And that letter basically says the same thing?
- 2 A. Correct.
- 3 Q. What's the difference between that letter and the
- 4 first letter that I showed you?
- 5 A. The first one is actually notarized.
- 6 Q. And that one is not?
- 7 A. Correct.
- 8 Q. Okay. All right. And do you know in that letter,
- 9 which is marked as exhibit 4 for identification, was that
- 10 shown to counsel?
- 11 A. Yes.
- 12 Q. Okay. And what if any comments did he have in
- 13 regards to that letter?
- 14 A. None.
- 15 Q. Ms. Sanders, let me ask you about the search of the
- 16 home. You and Michael were living together at the time?
- 17 A. Yes.
- 18 Q. And did the police come out and search the house?
- 19 A. Yes, they did.
- 20 Q. And were you there?
- 21 A. Yes, I was.
- 22 Q. Was anything found?
- 23 A. No, sir.
- 24 Q. Okay. Nothing was found that could have been used
- 25 in evidence against him?

1 A. No, sir.

2 Q. Now, you are aware of Michael's seizures?

3 A. Yes.

4 Q. And during the period of time that he was in the
5 county jail was he having problems with seizures?

6 A. Yes, he was.

7 Q. And are you aware of any medication changes?

8 A. There were changes in his medicine, all different
9 things, and I couldn't understand why. First they said
10 it was thyroid medicine, but he got real loopy and he
11 would cry. He would just sit there and cry and just tell
12 me he wants it over.

13 Q. All right. So you were going and visiting him?

14 A. Yes, sir, every week.

15 Q. So you had personal contact with him during the
16 period of time that he was in the county jail?

17 A. Correct.

18 Q. Okay. And were you concerned about his health
19 situation?

20 A. Yes, I was.

21 Q. Did you talk with anyone about it?

22 A. Yes. I called and nobody would do anything about
23 it.

24 Q. Okay. Eventually was his medication changed?

25 A. Yes.

1 Q. His situation improved?

2 A. Yeah.

3 Q. Okay. But at some point in time when he was in the
4 county you felt like that he was having difficulties
5 thinking?

6 A. Oh, yeah, most definitely.

7 MR. THOMAS: Your Honor, if I can beg the Court's
8 indulgence.

9 THE COURT: Please.

10 (PAUSE.)

11 MR. THOMAS: Your Honor, may I approach?

12 Your Honor, at this point in time we would like to
13 move into evidence the receipts which are Applicant's 2,
14 Your Honor, and also the receipt from the Marriott hotel
15 which is Applicant's 1.

16 THE COURT: All right. Those are in evidence
17 without objection.

18 MR. MITCHELL: Your Honor, I object to them under
19 hearsay. I think -- I don't think he's laid the proper
20 foundation, especially on the checkbook. That's not been
21 authenticated. And as to the receipt, I'd say that's
22 also not a proper foundation laid.

23 THE COURT: May I see the receipt?

24 MR. THOMAS: Yes, Your Honor.

25 THE COURT: And the objection is authentication?

1 MR. MITCHELL: Yes, Your Honor.

2 THE COURT: The objection is overruled.

3 MR. THOMAS: And there is the receipt book, Your
4 Honor.

5 THE COURT: All right. Very good. We'll make a
6 copy of this page then and substitute that later.
7 Thanks.

8 MR. THOMAS: Thank you, Your Honor.

9 (WHEREUPON, Applicant's Exhibit Numbers 1 and 2
10 were admitted into evidence.)

11 MR. THOMAS: Your Honor, we have no further
12 questions at this time. Your Honor, actually --

13 BY MR. THOMAS:

14 Q. Is there anything else that you would like to bring
15 to the Court's attention?

16 A. Yes, I would.

17 MR. MITCHELL: Objection, calls for narrative.

18 THE COURT: Overruled.

19 Go ahead, ma'am.

20 A. During the time that Mike was incarcerated I had
21 had a nervous breakdown and ended up in the hospital.
22 When I was released Mike could not call home and I could
23 not understand why, and then we found out that Detective
24 King had put a block on my phone at home so Mike could
25 not call. It was constantly, you know, a harassment.

1 Q. That was because they believed that he was involved
2 in the crime?

3 A. Correct. He kept saying that he was the ring
4 leader.

5 Q. And the same deal with the truck?

6 A. Right.

7 MR. THOMAS: Thank you, Your Honor.

8 THE COURT: Cross?

9 CROSS-EXAMINATION

10 BY MR. MITCHELL:

11 Q. Good morning, Ms. Sanders.

12 A. Hello.

13 Q. So you are Mr. Sanders' wife; is that right?

14 A. Correct.

15 Q. And you all were married at the time of these
16 incidents; is that right?

17 A. Yes.

18 Q. Okay. And you would like to see him get a new
19 trial; is that correct?

20 A. Correct.

21 Q. What are the dates on these receipts here? These
22 are October of 2010; is that right?

23 A. Yes. The 4th and the 5th, I believe.

24 Q. Okay. So that just shows that Ms. Hatchet had paid
25 him for those specific periods; is that right?

- 1 A. For the work that was done.
- 2 Q. So that would have been October. That would have
- 3 been months prior, right?
- 4 A. Correct.
- 5 Q. And it's your testimony that you brought these
- 6 receipts to the attention of Mr. Murphy; is that right?
- 7 A. Correct.
- 8 Q. So it was your receipt book and the receipt from
- 9 the Marriott; is that right?
- 10 A. Correct.
- 11 Q. And you brought those both to the attention of
- 12 Mr. Murphy and he advised you that he did not think that
- 13 would be helpful; is that right?
- 14 A. Correct.
- 15 Q. And the same with this letter from Mr. Braddock.
- 16 You had knowledge of that letter beforehand; is that
- 17 right?
- 18 A. Yes.
- 19 Q. And you brought that to Mr. Murphy's attention
- 20 trying to help your husband's case, right?
- 21 A. Correct.
- 22 Q. Okay. And then Mr. Murphy's response to the letter
- 23 was that he would not be able to use that because?
- 24 A. He could not make Travis testify.
- 25 Q. He couldn't make him testify that he committed the

1 crimes and not Mr. Sanders, right?

2 A. Because that would be hurting himself.

3 Q. Right. Okay. So he wouldn't admit to something
4 and that was the advice that Mr. Murphy gave you, right?

5 A. That's what he told me.

6 Q. Okay. As far as the seizures go, you said that
7 once he was given the medications he started getting
8 better; is that right?

9 A. For a long period of time he was really out there.

10 Q. Okay. That was all before he pled guilty; is that
11 right?

12 A. He was just starting to get better.

13 Q. All right. No further questions. Thank you.

14 THE COURT: Thank you, ma'am. You can step down.
15 Call your next witness, please, Mr. Thomas.

16 MR. THOMAS: Your Honor, please the Court. We'd
17 call Mr. Michael Sanders to the stand.

18 THE COURT: Sir, if you'd come up, please.

19 MICHAEL T. SANDERS, after having been duly
20 sworn, testified as follows:

21 MR. THOMAS: Please the Court, Your Honor.

22 THE COURT: Yes, sir.

23 DIRECT EXAMINATION

24 BY MR. THOMAS:

25 Q. Mr. Sanders, would you state your name for the

1 record.

2 A. Michael Todd Sanders.

3 Q. Michael, you are incarcerated in South Carolina
4 Department of Corrections?

5 A. Yes, sir.

6 Q. And what are you serving time for?

7 A. Burglary first.

8 Q. In Dorchester?

9 A. Dorchester County.

10 Q. And you've also had a charge in Colleton County?

11 A. Yes, sir.

12 Q. Out of the same incidents?

13 A. Yes, sir.

14 Q. Okay. So the police considered it kind of like a
15 burglary spree?

16 A. Yes, sir.

17 Q. Okay. Now, how much time are you serving?

18 A. Twenty years.

19 Q. And you've served how much?

20 A. Five.

21 Q. When do you max out?

22 A. 2028, May the 4th.

23 Q. And you understand that you are asking for a new
24 trial today?

25 A. Yes, sir.

- 1 Q. Post-conviction relief?
- 2 A. Yes, sir.
- 3 Q. You understand that burglary first carries life in
- 4 prison?
- 5 A. Yes, sir, 15 to life.
- 6 Q. And you have, what we talked about, exposure.
- 7 A. Yes, sir.
- 8 Q. If the Judge was to grant your post-conviction you
- 9 would get a new trial.
- 10 A. Yes, sir.
- 11 Q. Could potentially be taken back and tried.
- 12 A. Yes, sir.
- 13 Q. And be given more time.
- 14 A. Yes, sir.
- 15 Q. You understand that risk?
- 16 A. Yes, sir.
- 17 Q. You willing to accept it?
- 18 A. Yes, sir.
- 19 Q. And you want to go forward today?
- 20 A. Yes, sir.
- 21 Q. All right. Now, Michael, you were arrested. Do
- 22 you remember roughly when?
- 23 A. March the 20th.
- 24 Q. 2000 and --
- 25 A. 2011.

1 Q. 2011. These offenses allegedly occurred when?

2 A. March the 18th.

3 Q. Of 2011. So you were arrested very shortly after
4 these offenses allegedly occurred?

5 A. Yes, sir.

6 Q. Okay. And were you appointed counsel or did you
7 retain counsel?

8 A. I was appointed Michael Murphy.

9 Q. And but Michael Murphy is not who represented you,
10 is it?

11 A. No. Chris Murphy brought me the Rule 5 and dropped
12 it off, and then afterwards he ended up taking over the
13 case.

14 Q. Were you confused about that?

15 A. Very confused.

16 Q. And why were you confused?

17 A. Because I had a letter from Michael Murphy saying
18 he was going to be my attorney and then all of a sudden
19 three or four months down the road Chris come in and
20 started talking to me about what was going on.

21 Q. Okay. And this is important to you?

22 A. Yes, sir.

23 Q. The differences in counsel?

24 A. Well, yes, sir, because I had hired Mr. Chris one
25 time to do some work for me in Orangeburg and he had took

1 care of it but then turned around and I got locked up for
2 it on the side of the road.

3 I got stopped at a license check and they
4 handcuffed me on the side of the road and told me it
5 wasn't took care of. I had to go through a lot of stuff
6 to get him to call and get him to take -- get it
7 straightened out to let me go on the side of the road.

8 Q. So there was -- I don't want to say bad blood, but
9 there was some problems that you had --

10 A. Right. Yes, sir.

11 Q. -- between you and Chris?

12 MR. THOMAS: Your Honor, may I approach?

13 THE COURT: Please.

14 BY MR. THOMAS:

15 Q. Michael, I know that you gave me this document. I
16 ask you if you can identify that.

17 A. Yes, sir.

18 Q. And what is that document?

19 A. It's the Rule 5 for Michael H. Murphy.

20 Q. Okay. And that's the response from the solicitor
21 in regard to your Rule 5?

22 A. Yes, sir, Russel D. Hilton. Yes, sir.

23 Q. And it's showing who as counsel?

24 A. Michael Murphy.

25 Q. Okay.

1 MR. THOMAS: Your Honor, if it pleases the Court,
2 we'd like to introduce this as Applicant's 5.

3 THE COURT: Any objection?

4 MR. MITCHELL: No objection to that.

5 THE COURT: Without objection.

6 (WHEREUPON, Applicant's Exhibit Number 5, a
7 Document, was marked and admitted into evidence.)

8 MR. THOMAS: Thank you, Your Honor.

9 BY MR. THOMAS:

10 Q. All right. Michael, did you make bond?

11 A. I didn't get a bond.

12 Q. So you were in the county jail for how long?

13 A. Eleven months.

14 Q. And during that stay in the county jail how did you
15 prepare this case with your attorney for trial?

16 A. Well, he come to see me twice for a few minutes
17 telling me what was going on, telling me what they was
18 offering. Threatening -- well, they said they was going
19 to give me a life sentence if I didn't take this plea.
20 They were going to try me with the one case in St. George
21 and then send me to Walterboro and give me a life
22 sentence if I didn't take it.

23 Q. So they were taking about L-WOP?

24 A. The L-WOP. Yes, sir. It's in the paperwork.

25 Q. And is that what Mr. Murphy was concerned about?

- 1 A. That's what he said.
- 2 Q. Did you ever meet with Michael?
- 3 A. No, sir.
- 4 Q. So it was always with Chris?
- 5 A. Yes, sir.
- 6 Q. And did you receive your discovery in this case?
- 7 A. Yes, sir.
- 8 Q. And did you have an opportunity to sit down with
- 9 your attorney and go through the discovery?
- 10 A. No. We never did that.
- 11 Q. You just received copies --
- 12 A. I just got a copy of the Rule 5.
- 13 Q. Now, did you understand what your participation in
- 14 this crime was supposed to be?
- 15 A. Not really. Not really.
- 16 Q. Okay. Now, who were your co-defendants?
- 17 A. Travis Braddock and Sonny Lee Roark.
- 18 Q. All right. Now, you said Travis. Where did he
- 19 live?
- 20 A. He lived behind me and my wife.
- 21 Q. So he lived close to you?
- 22 A. Yes, sir.
- 23 Q. And you knew him?
- 24 A. Yes, sir. He actually helped me on doing the
- 25 plumbing work at the house of [REDACTED] Powder Horn Road.

1 Q. All right. So if anybody had had some exposure to
2 that home it would have been Travis Braddock?

3 A. Yes, sir.

4 Q. Now, who was the other co-defendant?

5 A. Sonny Lee Roark.

6 Q. And who was he?

7 A. A friend of Travis's.

8 Q. Did you know him?

9 A. I actually didn't know him. I knew his dad but I
10 didn't know him.

11 Q. Now, it was your contention all along that you did
12 not commit this crime?

13 A. Yes, sir.

14 Q. And that's what you told Mr. Murphy, Chris Murphy?

15 A. From day one when he came in there and gave me the
16 Rule 5.

17 Q. Okay. And were you given a plea offer?

18 A. Twenty years or life. They told me to take 20
19 years or they was going to give me a life. I got
20 documents on that that you should have.

21 MR. THOMAS: Your Honor, please the Court. May I
22 approach?

23 BY MR. THOMAS:

24 Q. Michael, let me show you this document and ask if
25 you can identify that.

1 A. Yes, sir. That's it.

2 Q. What is that?

3 A. It's a statement from Solicitor Russell Hilton and
4 from -- where they -- if I don't take the 20 years they
5 will do the burglary one, charge me -- try me for one and
6 then send me to Colleton County and give me the L-WOP.

7 Q. And that's when you rejected the plea offer?

8 A. Yes, sir.

9 MR. THOMAS: Your Honor, we would like to introduce
10 this as Applicant's 6, please.

11 A. Also, that's where I rejected the offer.

12 Q. Rejected the plea offer.

13 THE COURT: No objection?

14 MR. MITCHELL: Your Honor, I think it's more
15 properly admitted through Mr. Murphy rather than the
16 applicant.

17 THE COURT: All right. I'll allow it to come on
18 in.

19 Go ahead.

20 MR. THOMAS: Thank you, Your Honor.

21 (WHEREUPON, Applicant's Exhibit Number 6, a
22 Document, was marked and admitted into evidence.)

23 MR. THOMAS: Your Honor, at this point in time just
24 for housekeeping purposes I don't know if in your packet
25 you've got copies of the indictments.

1 THE COURT: I do.

2 MR. THOMAS: All right. So there's no reason for
3 us to have to introduce those then?

4 THE COURT: Right. I mean, the only one I do have
5 is a burglary -- correction. I've got the burglary first
6 degree but that seems to be what this is really centered
7 on more than anything else.

8 MR. THOMAS: Yes, sir. There should be three of
9 those.

10 THE COURT: I've only got indictment last three
11 digits 688. That's the only one I have.

12 MR. THOMAS: Let's see, Your Honor. I have 686,
13 there is 688, and 687, Your Honor.

14 THE COURT: All right. I don't have them.

15 MR. THOMAS: Should I just hand these to the Court,
16 Your Honor, and make them part of the record or do I need
17 to introduce them?

18 THE COURT: However you want to --

19 MR. MITCHELL: They are already part of the record.
20 He can just hand them up.

21 THE COURT: If you want to just show me a copy I
22 can look at it.

23 MR. MITCHELL: Yeah, they should be in the packet.
24 Sorry about that.

25 THE COURT: Yeah, apparently they didn't make it

1 quite to the packet.

2 MR. THOMAS: Your Honor, these are the indictments
3 for 687, 688, and 686.

4 THE COURT: Thank you.

5 MR. THOMAS: Thank you, Your Honor.

6 (Documents were handed to the Court.)

7 BY MR. THOMAS:

8 Q. Michael, let's go ahead and take care of the
9 indictment issue now. You and I have discussed that and
10 you are aware of the procedure in regards to waiver?

11 A. Yes, sir.

12 Q. Okay. And but actually I think those -- what was
13 your understanding of that? Did you understand what was
14 going on with the grand jury?

15 A. No, sir. I didn't understand that quite.

16 Q. Okay. And did you understand the difference
17 between whether or not they were true billed or whether
18 or not you needed to waive indictment?

19 A. No, sir. I didn't understand that.

20 Q. And it was your understanding for the longest time
21 that they were not true billed; is that correct?

22 A. Yes, sir.

23 Q. And to the best of your knowledge after we
24 investigated it they did come back to be true billed?
25 They did go to the grand jury?

- 1 A. No, they didn't.
- 2 Q. But you were confused during that period of time?
- 3 A. Yes, sir.
- 4 Q. Okay. Let me ask you about the alibi. Now, during
- 5 this period of time in which these alleged burglaries
- 6 occurred were you -- where were you?
- 7 A. I was in Savannah at the St. Patty's Day festival.
- 8 Q. And why were you in Savannah?
- 9 A. At the St. Patty's Day festival.
- 10 Q. Okay. And how long were you there?
- 11 A. Three days.
- 12 Q. And what days were those?
- 13 A. The 18th -- I went on the 17th. Got there the
- 14 18th, 19th, and 20th, I believe.
- 15 Q. Okay.
- 16 A. 18th, 19th, 20th.
- 17 Q. Okay. And you stayed at the Marriott?
- 18 A. Yes, sir.
- 19 MR. THOMAS: Your Honor, may I approach?
- 20 THE COURT: Sure.
- 21 BY MR. THOMAS:
- 22 Q. Let me show you what's been marked as Applicant's
- 23 1, and have you seen that document?
- 24 A. Yes, sir.
- 25 Q. What is that?

- 1 A. That's the receipt for where I paid cash money to
2 stay at the Marriott.
- 3 Q. And you were at the Marriott during that period of
4 time?
- 5 A. Yes, sir.
- 6 Q. Okay. And did you talk with your attorney about
7 that?
- 8 A. Yes, sir.
- 9 Q. And in regards to an alibi defense?
- 10 A. Yes, sir.
- 11 Q. What did he say about using alibi?
- 12 A. He said it wouldn't be no help.
- 13 Q. And why was that?
- 14 A. He didn't say. He just said it wouldn't be no
15 help. That's all. Wasn't really no reason.
- 16 Q. And did you -- I mean, did it go any further than
17 that?
- 18 A. No, sir. Well, I did. I told him he could check
19 my phone records, too, and he said that my co-defendant
20 was rolling on me so it wouldn't help me none.
- 21 Q. Okay. Now, you were arrested in Georgia?
- 22 A. Yes, sir.
- 23 Q. And you were arrested with who?
- 24 A. With Travis Braddock.
- 25 Q. And why were you arrested with Travis Braddock?

- 1 A. They got arrested for burglary.
- 2 Q. Okay. Now, why were you with Travis Braddock?
- 3 A. They had come down to pick me up because my truck
- 4 was at home.
- 5 Q. And when did that happen?
- 6 A. That was on the 20th.
- 7 Q. Okay. So that's your arrest date?
- 8 A. Yes, sir.
- 9 Q. And you and I -- I think you mentioned this to me,
- 10 so your guilt was by association?
- 11 A. Yes, sir.
- 12 Q. But you'd spoken with counsel and had told him that
- 13 you were not with those two gentlemen during the period
- 14 of the 18th?
- 15 A. Yes, sir. I told him he could check my phone
- 16 records or anything because I talked to my wife the whole
- 17 time.
- 18 Q. All right. Now, how about the cell phone records?
- 19 Did you discuss that with your attorney?
- 20 A. Well, I asked him could he check the cell phone
- 21 records for towers to make sure because I was there. I
- 22 said, you know, This is my phone. He knew my phone but
- 23 he said that -- he just didn't seem like he wanted to
- 24 help me. Being honest about it, he just didn't seem like
- 25 he was really interested. He was in the legislation or

1 something like that. He was going to the legislation or
2 something like that and he just didn't seem like he was
3 on board with me or something. I don't know.

4 Q. Okay. And what would the cell phone records have
5 shown?

6 A. They would have shown that I was in Savannah.

7 Q. Did you have a cell phone during the period of
8 time?

9 A. Yes, sir.

10 Q. And who was your service with?

11 A. I'd have to ask my wife that.

12 Q. Okay. She handled all the financial --

13 A. She handled all that.

14 Q. Now, you were aware of the allegations that the
15 police had said that they had your truck?

16 A. Yes, sir.

17 Q. And were those true?

18 A. No, sir.

19 Q. And why was that not true?

20 A. Because I was talking to my wife on the phone and
21 my truck was sitting in the yard and she told me that
22 they had called and said they had my truck, but my truck
23 is sitting in the yard because I was down there partying
24 so didn't want to be driving and drinking and all that,
25 so that was the whole reason why I didn't have my truck.

1 Q. All right. Now, how about the letter from Travis
2 Braddock? You are aware of that?

3 A. He wrote a letter and sent it my attorney on the
4 something of July. I can't remember exactly what date
5 now but it was -- the first one should have a date on it.

6 Q. Let me show you these and see if you recognize
7 these. It's been marked as Applicant's 4 and 3 for
8 identification.

9 A. Yes, sir.

10 Q. And what are those?

11 A. This is the statements from Mr. Braddock where I
12 didn't have anything to do with these burglaries to give
13 to -- he sent the first one to my attorney on July the
14 7th, 2011.

15 Q. Okay.

16 A. And my attorney said he never received it. That's
17 what he told me, he never received either one of these.

18 Q. But you discussed them with him?

19 A. I discussed them with him. He said he never
20 received them.

21 Q. Okay.

22 A. But I discussed them with him. That's how he told
23 me he never received them. He said, I've never received
24 them. I said, Well, he sent them and notarized them. He
25 said he never got them. That was his answer to me.

1 Q. But was it taken into consideration in regards to
2 preparing your defense?

3 A. I go back to say this, sir. Just for some reason I
4 just felt like he wasn't trying to help me because I
5 talked to him about my defense and it was always the same
6 thing, you know, They are not going to look at none of
7 this, is what he said. They are not going to look at
8 none of this.

9 Q. So you knew Braddock?

10 A. I knew him because he lived behind me.

11 Q. Because he lived behind you?

12 A. Yes.

13 Q. And was he just trying to help you out?

14 A. No. He was trying to tell the truth because he
15 knew I wasn't involved in it.

16 Q. Okay. So to you those were extreme -- his
17 statements were extremely important?

18 A. Very important, I felt.

19 Q. Okay. And you believed that he was willing to tell
20 the truth?

21 A. Yes, sir, I do.

22 Q. All right. Did you talk to your attorney about any
23 ways in which he could --

24 A. I asked my attorney to go see him.

25 Q. Mr. Braddock, discuss this issue with him?

- 1 A. Yes, sir. I asked him could he go see him.
- 2 Q. What did he tell you?
- 3 A. He said his lawyer is not going to let him see him.
- 4 Q. So you were aware that the proper procedure was for
- 5 him to go through Braddock's attorney?
- 6 A. Yes, sir.
- 7 Q. Did you feel like that was worth taking that
- 8 opportunity to do that?
- 9 A. Yes, sir.
- 10 Q. And why was that?
- 11 A. Because it would have proved my innocence.
- 12 Q. Okay. And what was your attorney's comment, if
- 13 anything, about that?
- 14 A. I don't even remember what his comment was, to be
- 15 honest with you, but it just was always the same thing,
- 16 that he had to go through his attorney, his attorney
- 17 wasn't going to allow him to come talk to him, and I
- 18 asked him, you know, a couple different times could he
- 19 talk to him. It was always his attorney wouldn't allow
- 20 him to talk to him.
- 21 Q. Okay. And do you know where your wife got those
- 22 letters?
- 23 A. Where she got them?
- 24 Q. Yeah. Did she get them from Braddock or did she
- 25 get them from your attorney?

1 A. Actually, I don't know. I think she got them from
2 the attorney. Yeah, she got them from the attorney. I
3 know she did.

4 Q. Now, Mr. Sanders, you rejected the plea offer?

5 A. Yes, sir.

6 Q. And that was the letter that we introduced into
7 evidence showing that you rejected the offer?

8 A. Yes, sir.

9 Q. And why did you reject the offer?

10 A. Because I'm not -- I was not guilty of these
11 charges.

12 Q. And you wanted to go to trial?

13 A. I wanted to go to trial.

14 Q. And did your attorney -- how did he prepare this
15 case for trial?

16 A. He never did. It was never prepared to go to
17 trial.

18 Q. So in a way it was always a plea?

19 A. It was always a plea.

20 Q. Even though you had rejected it?

21 A. The two times he come and talked to me and I
22 rejected it it was always a plea. Take this 20 years or
23 they're going to give you a life. They are going to try
24 you. They are going to try you -- he said they are not
25 going to be fair about it. They are going to try you and

1 try to convict you of one and send you to Walterboro and
2 get you an L-WOP, is what they were going to do, give me
3 a life sentence.

4 He called my wife numerous times harassing her
5 about, Get Mike to take this 20 years. Then the last
6 time -- the second time I talked to him he told me he was
7 going to the legislation, that he wouldn't be back until
8 -- I can't remember what dates.

9 I got it on a paper right here in file and I think
10 you do, too, and he wouldn't be able to do nothing until
11 after then and then still he didn't have to do nothing
12 for two weeks after that, too. I think he said he was
13 protected two weeks after that, too, and he wanted just
14 to get it through.

15 Q. Okay. So that kind of takes us up to the time of
16 the plea which actually occurred, was it January of '12?

17 A. January 9, 2012.

18 Q. Of 2012. And why did you enter into this plea?

19 A. Because he told me I was going to get a life
20 sentence if I didn't take it.

21 Q. But you had said that all along that you were
22 innocent of this crime?

23 A. Yes, sir.

24 Q. Now, we talked about what's necessary for you to
25 enter into the plea, that you had to do it freely and

1 voluntarily.

2 A. Yes, sir.

3 Q. Do you believe that your plea was freely and

4 voluntarily --

5 A. No, sir.

6 Q. -- given?

7 A. No, sir.

8 Q. Okay. Also the other components is that you knew

9 what you were doing. Did you know what you were doing?

10 A. Not really, no.

11 Q. And intelligently. Did you have all the

12 information that you needed to be able to make this

13 decision to enter into a plea?

14 A. No, sir.

15 Q. And I think your words to me were that you felt

16 like you were coerced into entering this plea?

17 A. I was definitely coerced into it. Also, I never --

18 I was never -- I didn't understand the true bill. I just

19 want to say this because I didn't understand the true

20 bill indictment and all that but I know that I never

21 signed no true bill or I never signed no indictment.

22 Q. Okay.

23 A. For some reason they seem to think I did but I

24 never did.

25 Q. And that's from Judge Goodstein's -- that's her

1 comments made on the record, that you were waiving
2 presentment to the grand jury?

3 A. Right, and I never did that. Only thing I waived
4 with her was that we would go ahead with the proceedings
5 and that's in the transcript, that we go ahead with the
6 proceedings of going ahead and being -- you know, what's
7 going on with the Orangeburg, the grand larceny in
8 Orangeburg.

9 Q. Right, and what happened to that grand larceny in
10 Orangeburg?

11 A. Actually, to be honest you, I don't know because
12 the transcript says nolle processed [sic] but that
13 actually wasn't what was going on in the courtroom
14 because she was saying that she wasn't going to do
15 nothing with it right then. Then all of a sudden when I
16 got to prison I got all that paperwork, the transcript
17 back, it said it was nolle processed.

18 Q. Okay. Well, maybe now is the right time to ask you
19 too about, you now, you brought to my attention that on a
20 couple of occasions she made the comments about, I'm not
21 going to let you get hurt.

22 A. Yes, sir.

23 Q. What did she mean by that?

24 A. I thought she was trying to help me because she was
25 -- I was telling here that I wasn't guilty, you know, and

1 I felt like she understood that, and then she knew I'd
2 been on medication and had a lot of problems in the
3 county. So I thought she -- that's what I thought. But
4 I don't really know if I was thinking right there, the
5 right way or not. I know she kept telling me I wasn't
6 going to get hurt then when I sat and looked at the
7 transcript I seen you give me 20 years and give the
8 co-defendants 10 years, not a lie, for the same charges.

9 Q. Yeah.

10 A. So I said, well, I can't see where you didn't hurt
11 me, but that seemed like you hurt me pretty bad.

12 Q. So that kind of added -- I mean, that adds to what
13 your confusion was in regards to when you entered into
14 this plea?

15 A. Yes, sir.

16 Q. Okay. Now, what about the medication? You have a
17 seizure disorder?

18 A. Yes, sir. I take Dilantin, but I was on -- they
19 had me on three or four. I ended up going to the
20 hospital quite a few times while I was in the county jail
21 and they changed my medicine quite a few different times.

22 They even -- they had me on Facebook. My wife had
23 let me know. They had me on Facebook that a girl lost
24 her job behind the medicine because they had given me the
25 wrong medicine and stuff. They had me pretty disoriented

1 for a while. I fell a few times because I was
2 disoriented and hurt myself. You know, so, yeah, I had
3 some pretty major problems while I was in there. Went to
4 the hospital quite a few times.

5 Q. How was that corrected?

6 A. Eventually, finally -- to be honest with you, they
7 sent me to Orangeburg County for like two weeks, maybe
8 three, and they put me back on the Dilantin, a little
9 stronger, and I kind of started coming back to where I
10 could maintain, you know.

11 Q. How, I guess in time wise in relation to your plea
12 in January of '12, when did they change your medication?

13 A. See, I can't tell you exactly what date.

14 Q. Okay.

15 A. To be honest with you, I'd have to look and see the
16 medical records and when they changed it.

17 Q. Did you bring that to the attention of your
18 attorney?

19 A. Oh, he knew that. He knew I was having problems.
20 St. George is a very little town and anything that
21 happens in the jail everybody knows about it.

22 Q. Yeah.

23 A. Yeah. Everybody knows about it. He knew I was
24 having problems with my medicine, and I told him. Plus,
25 he knew I was having problems with the jail.

1 Q. Did you tell him that you were having trouble
2 thinking straight?

3 A. Yes, sir. He knew.

4 Q. Clearly?

5 A. Yes, sir.

6 Q. Now. I'm sure that the Judge asked you about that,
7 whether or not you were thinking clearly or if you were
8 on any types of medication. Did you tell Judge Goodstein
9 that you had had problems?

10 A. I can't remember if I did or not, to be honest you.
11 I'd have to go back.

12 Q. But you believe that the change in medication had
13 some hindrance in your ability to understand the plea?

14 A. Well, yes, sir. I know it did because I just --
15 you know, I couldn't think proper.

16 Q. Right.

17 A. I'm a pretty good thinker, I think, and what kind
18 of work I do I might have to think to be able to do it
19 and, you know, I wasn't thinking very well.

20 Q. You know what an Alford plea is?

21 A. A what?

22 Q. Alford. North Carolina vs. Alford?

23 A. No, sir.

24 Q. Okay. Did your attorney ever discuss with you that
25 there is a way to plead to a certain crime without

1 admitting guilt?

2 A. Yes, sir. I seen that in my transcript.

3 Q. Okay. Were you offered the Alford plea?

4 A. No. I think that I couldn't get it. That was -- I
5 think Chris said that they couldn't give that to me. I
6 can't remember exactly --

7 Q. So you did discuss it?

8 A. Something was brought up about it, yes, sir.

9 Q. Okay. All right. Now --

10 MR. THOMAS: Your Honor, if I please the Court.

11 May I approach?

12 THE COURT: Please.

13 MR. THOMAS: Your Honor, I'm going to show him the
14 transcript, and this is page 22. The lines that I have
15 concern about are 12 through 20, Your Honor.

16 BY MR. THOMAS:

17 Q. Mr. Sanders, have you seen this transcript before?

18 A. Yes, sir.

19 Q. Is that the transcript of your plea?

20 A. Yes, sir.

21 Q. And what information is given to the Judge in
22 regards to -- is that Wire Road?

23 A. No, this is [REDACTED] Power Horn Road.

24 Q. Powder Horn. Okay.

25 A. Just saying that the robbery was on the 18th and it

1 was saying that I done plumbing work there that day, come
2 back that night and robbed them.

3 Q. Is that true?

4 A. No, sir. I done plumbing work that day -- not that
5 day but before.

6 Q. But you had done plumbing work there before?

7 A. Yes, sir, but not that day.

8 Q. And that's what the receipts show?

9 A. Yes, sir.

10 Q. Okay. But not the day of the incident?

11 A. No, because this was March 18th. I did plumbing in
12 October, I think, of 2010.

13 Q. Did you bring that to your attorney's attention?

14 A. Yes, sir.

15 Q. And what, if anything, did he say in regards to
16 that?

17 A. He didn't say anything in regards to that.

18 MR. THOMAS: Your Honor, may I approach?

19 BY MR. THOMAS:

20 Q. Michael, let me show you this, ask you if you can
21 identify that document.

22 A. Yes. That's Ms. Hatchet's statement.

23 Q. And who is Ms. Hatchet?

24 A. That was the lady I done the plumbing for.

25 Q. From where?

- 1 A. Well, she's from Summerville.
- 2 Q. Okay.
- 3 A. That's [REDACTED] Powder Horn Road.
- 4 Q. Powder Horn Road.
- 5 A. Yes, sir.
- 6 Q. And that's what we were just talking about?
- 7 A. Yes, sir.
- 8 Q. That was presented in Court that you had basically
- 9 done the work that day and --
- 10 A. Came back that night and robbed it.
- 11 Q. Okay. All right. And in the statement it talks --
- 12 well, tell us, what is it?
- 13 A. I mean, it's basically saying that she said that I
- 14 come and done some work for her and then I come back that
- 15 night and robbed them, robbed the house because I knew
- 16 her son was out of the country. But that's not true
- 17 because when I done the work was 2010 and this place got
- 18 robbed in 2011.
- 19 Q. All right.
- 20 A. So there's no way I could do something like that.
- 21 MR. THOMAS: Your Honor, we'd like to introduce
- 22 this is as Applicant's 7, I believe it is.
- 23 MR. MITCHELL: Your Honor, I object on the hearsay.
- 24 It's a statement. It's not made by him. He doesn't have
- 25 any personal knowledge of it. I mean, it's just a

1 statement made by a witness in the case.

2 THE COURT: All right. May I see it?

3 (Document handed to the Court.)

4 THE COURT: This is part of law enforcement's file?

5 MR. THOMAS: Yes, sir.

6 THE COURT: Overruled.

7 MR. THOMAS: Thank you, Your Honor.

8 (WHEREUPON, Applicant's Exhibit Number 7, a

9 Document, was marked and admitted into evidence.)

10 BY MR. THOMAS:

11 Q. Mr. Sander's, I'm sorry.

12 A. That's fine.

13 Q. Mr. Sanders, you indicated to me that you wanted to
14 go to the preliminary hearing.

15 A. I actually -- I'll tell you what happened. They
16 took me to the preliminary hearing in Summerville, in
17 Demmingway. I was sitting in there, then the two
18 co-defendants come in there and they were sitting there
19 and they cancelled my preliminary hearing while I was
20 sitting there and took the other two up for their
21 preliminary hearing while I was sitting there. So I was
22 sitting in their preliminary hearing. We was all in the
23 same hearing. So I was sitting in their preliminary
24 hearing. And I still asked my attorney when were we
25 going to do my preliminary hearing again and I never got

1 word.

2 Q. Why did you want a preliminary hearing?

3 A. Because I was going to prove to them that I didn't
4 have nothing to do with this. I was going to bring all
5 the paperwork that me and my wife had then to the table
6 because that's when they make the decision whether they
7 are going to send it on up or not, and I figure I got all
8 this evidence to show then I could have won it right then
9 and never went any further.

10 Q. Because you understand that it's a probable cause
11 hearing?

12 A. Yes, sir.

13 Q. Okay. And that's why you wanted to have a hearing?

14 A. Yes, sir.

15 Q. Okay. Now, Michael, I think we have covered
16 everything. You and I talked about this question. Is
17 there anything that you believe that I've left out or
18 that you feel that needs to be brought to the attention
19 of the Court that I may have inadvertently missed?

20 A. The only thing -- the only thing that I was going
21 say a while ago is even the house on Powder Horn Road,
22 the lady had given me the key. I knew where the key was
23 at and everything so why would I rob the -- why would I
24 break in a house when I knew where the key was at, if I
25 were to rob it? You know, just trying to show that, too,

1 that she just is so wrong. It was wrong.

2 Q. You don't believe that you were effectively
3 represented?

4 A. No, sir, I don't.

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

7 THE COURT: Cross?

8 CROSS-EXAMINATION

9 BY MR. MITCHELL:

10 Q. All right, Mr. Sanders. Let's start off now, you
11 pled guilty to these charges; is that right?

12 A. Yes, sir.

13 Q. There's three burg firsts; is that correct?

14 A. Yes, sir.

15 Q. Okay. Now, I know you went through this a little
16 bit with Mr. Thomas but I'm going to start off with the
17 medication. So you were asked a bunch of questions by
18 Judge Goodstein, right?

19 A. Yes, sir.

20 Q. And a lot of that testimony doesn't match up with
21 what you are testifying to today. Do you agree with
22 that?

23 A. Yes, sir.

24 Q. Okay. So the testimony today is that you had a
25 bunch -- you were on medication and that you were

1 suffering from seizures, right?

2 A. Yes, sir.

3 Q. Okay. Now, at the plea you told Judge Goodstein
4 that you were not on any medications at that point,
5 right?

6 A. I'd have to look and see.

7 Q. And you also told her that you didn't have any
8 physical or mental problems that would keep you from
9 understanding what's going on, right?

10 A. I'd have to look.

11 Q. Okay. So the record can speak for itself, so it's
12 all in there. I can assure you that. So moving on to
13 the venue, you also had discussions with Judge Goodstein
14 about waiving venue and having those charges heard in
15 Orangeburg, right?

16 A. The grand larceny charge?

17 Q. Right.

18 A. She was going to hear them right there.

19 Q. So you waived presentment to the grand jury on
20 those charges, right?

21 A. There was only one charge, yes, sir.

22 Q. Right. Excuse me. One charge.

23 A. Yes, sir.

24 Q. Okay. And that went through you with -- Judge
25 Goodstein went through that with you -- excuse me, right?

1 A. She just said would I sign a waiver for that grand
2 larceny. Yes, sir. I said yeah.

3 Q. Okay. So your issue today is just that you didn't
4 sign that, initial that part of the sentencing sheet?

5 A. No. My -- what did you say now?

6 Q. Now, your issue today is just that you didn't sign
7 the -- initial the sentencing sheet, correct?

8 A. No. The issue today, sir, is that I wasn't guilty
9 to start with.

10 Q. Well, there's a lot of issues but that's one of
11 your issues, right?

12 A. Yes, sir.

13 Q. Okay. So you were facing at least three counts of
14 first degree burglary that all carried a life sentence,
15 correct?

16 A. Yes, sir.

17 Q. Now, you were offered this deal of 20 years and it
18 was a negotiated sentence?

19 A. It never was negotiated with me.

20 Q. Okay. So you didn't have any of these discussions
21 with Mr. Murphy?

22 A. Not until I got in the courtroom that day.

23 Q. Okay. So but you had a lot of charges hanging out
24 there, right, a lot of serious charges?

25 A. Yeah.

1 Q. So in order to get rid of all those charges you
2 pled guilty in one day to all the charges against you,
3 correct?

4 A. I pled guilty because I was threatened with a life
5 sentence.

6 Q. Okay. And which is very possible. I mean, you
7 could have gone to trial on one of these and gotten life,
8 right?

9 A. No, because my record wouldn't give me a life
10 sentence.

11 Q. Burg first carries life.

12 A. Well, yeah, 15 to life, if the judge wanted to,
13 yes, sir.

14 Q. Exactly. Okay. So you got these all taken care of
15 in one fell swoop, correct?

16 A. Yes, sir.

17 Q. And is that what Mr. Murphy advised you of, that he
18 thought it was in your best interest to plead guilty to
19 everything, clean the slate, right?

20 A. No. He just told me that they was going to give me
21 a life sentence if I didn't.

22 Q. Okay. So moving to this alibi. The State kind of
23 had a theory this was like a spree of burglaries, right?

24 A. Yes, sir.

25 Q. So it wasn't just, you know, you did one one day.

1 It was just kind of like it all happened ongoing, right?

2 A. Well, I don't know exactly how they did.

3 Q. So the one you take issue with most is this Powder

4 Horn Road one and you say that you could not have done

5 that crime because you are in Savannah, right?

6 A. Well, actually, I couldn't have did none of them

7 because I was in Savannah but that's the one they keep

8 bringing up.

9 Q. Now, your receipts showed that was March 18th of
10 2011, right?

11 A. Yes, sir.

12 Q. Then you were alleged to have done this in the
13 morning hours of March 18th, 2011 --

14 A. Yes.

15 Q. -- correct? Okay.

16 So the State was going to argue that even if you
17 had these receipts showing you were in Savannah you can
18 just say that you weren't in Savannah until later that
19 day?

20 A. Right. But they said -- yeah. Okay.

21 Q. I mean, that's what they were going to say. You
22 might not agree with that, right? Okay.

23 A. Right.

24 Q. The phone records -- so you had a conversation with
25 Mr. Murphy about phone records and he advised you he

- 1 didn't think that would help your case?
- 2 A. Yes, sir.
- 3 Q. Is that fair to say?
- 4 A. Yes, sir.
- 5 Q. Okay. And that was just to show that you were in
- 6 Savannah at some point during the 18th, right?
- 7 A. The 18th, and 19th, and 20th.
- 8 Q. And you got arrested when, the 21st?
- 9 A. 20th.
- 10 Q. 20th in Savannah?
- 11 A. In Savannah.
- 12 Q. Right.
- 13 A. In Georgia.
- 14 Q. Okay. Now, Mr. Braddock, you talked about him a
- 15 little bit, but was he the co-defendant in these
- 16 burglaries with you?
- 17 A. He wasn't with me. He was a co-defendant, yeah.
- 18 Q. But the State would say that you were both
- 19 together, right? Okay. Now, the letter that we talked
- 20 about earlier says one thing but at the time he was
- 21 planning to testify against you, wasn't he?
- 22 A. No. Sonny was.
- 23 Q. Sonny was?
- 24 A. Yeah, Sonny was.
- 25 Q. Okay. So you had at least one co-defendant ready

1 to testify against you to implicate you in all of these
2 crimes, correct?

3 A. Yes, sir.

4 Q. Now, you also take issue with this Powder Horn Road
5 burglary but you were also found to be in possession of a
6 drill that was stolen from there, right?

7 A. I wasn't found to be in possession of anything,
8 sir.

9 Q. Okay.

10 A. They searched my house, my car, everything. They
11 never found nothing on me.

12 Q. That's what the investigators planned to show?

13 A. Okay. But they found it in his car.

14 Q. Okay. Your co-defendant's car, right?

15 A. Yeah. No. Sonny's car. Yes, sir.

16 Q. Right, the co-defendant, and he was going to
17 testify that you both did this burglary and you stole
18 this drill, right?

19 A. Well, I don't know whether he was or not. We never
20 had a statement from him.

21 Q. But you understood that he was going testify --

22 A. To get a lesser time.

23 Q. -- adversely to you?

24 A. To get lesser time, yes.

25 Q. You had a lot of talk that Mr. Murphy didn't

1 prepare for trial, didn't do a lot preparation but he did
2 do some plea negotiations though; isn't that right?

3 A. Everything that was done was done right there in
4 the courtroom that day.

5 Q. Okay. So it's your testimony that he had not made
6 any attempts to get a deal for you?

7 A. No, sir.

8 Q. So he made no attempts --

9 A. What he told me, he come to the jailhouse and he
10 told me, he said, You either take this 20 years or they
11 going to give you a life sentence and they are going to
12 send you to Walterboro and give you the life sentence.

13 Q. Okay.

14 A. Then right after that we go to court and I take the
15 20 years because I was scared of a life sentence.

16 Q. So you took advantage of the deal to avoid more
17 time down the road, right?

18 A. No. I wanted to go home.

19 Q. And you talked a little bit about pleading guilty
20 pursuant to North Carolina V. Alford. I mean, Judge
21 Goodstein advised you of what that was, right?

22 A. She said something about it. I can't remember
23 exactly what it was but, yes, she did.

24 Q. It allowed you to plead guilty without fully
25 admitting that you did every single act, right?

1 A. Right, but that was only on the grand larceny.

2 Q. Okay. So it wasn't on any other charges?

3 A. Uh-uh.

4 Q. So the Alford was only under the grand larceny
5 charge?

6 A. That's what I understand. If you look at the
7 transcript it's just on the grand larceny.

8 THE COURT: That is correct.

9 BY MR. MITCHELL:

10 Q. You also had some more discussions with Judge
11 Goodstein about whether Mr. Murphy had done everything
12 that you asked him to do and whether you were fully
13 satisfied, and you said yes. But that's much different
14 than your testimony today; is that right?

15 A. I'll say -- I could say this. The only reason that
16 I said what I said is because I was threatened with a
17 life sentence. I mean, I can't argue what was in the
18 transcript because then you have me sitting here lying to
19 you. I'm not going to lie to you. I said what I said
20 because I was told if I didn't take the 20 I was going to
21 get a life. I didn't want to go to prison for life,
22 especially for something I knew I didn't do.

23 Q. But you --

24 A. So I can't argue --

25 Q. You said you didn't do it but you admitted your

1 guilt with Judge Goodstein, right?

2 A. I had no choice.

3 Q. No further questions.

4 MR. THOMAS: Your Honor, if it please the Court,
5 just one or two.

6 REDIRECT EXAMINATION

7 BY MR. THOMAS:

8 Q. Michael, talking about taking this case to trial
9 versus entering the plea. You understand that they would
10 have had to prove here in St. George that you were guilty
11 of these beyond a reasonable doubt?

12 A. Yes, sir.

13 Q. Do you believe that with the evidence that you had,
14 that the defense's that you had that you could have
15 created a reasonable doubt that you were not guilty of
16 these crimes?

17 A. Yes, sir.

18 Q. And you believe that if you had actually gone to
19 trial in St. George that you could have potentially won
20 these cases not guilty?

21 A. Yes, sir.

22 Q. Did you discuss that with your attorney?

23 A. Yes, sir.

24 Q. And what did he say?

25 A. His story was still the same, either take the 20 or

1 they will give you a life sentence. If you lose one
2 case, he said, just one case, he said, they're going to
3 give you a life sentence.

4 Q. Okay. So --

5 A. And he said they will try you one at a time.

6 Q. So that potentially was not true, was it?

7 A. No, sir.

8 Q. That you were facing a life sentence?

9 A. No, sir.

10 Q. Well, you could have gotten life on burglary first?

11 A. I could have gotten life on burglary first but I
12 wasn't actually facing a life sentence come to find out.

13 Q. From the L-WOP?

14 A. On the L-WOP, yes, sir.

15 Q. And that if you had believed that you could have
16 created reasonable doubt then they would not have been
17 able to L-WOP you --

18 A. Exactly.

19 Q. -- if you could have won that case?

20 A. Exactly. Yes, sir. They couldn't L-WOP me.

21 Q. Right. And did you ever talk with counsel about
22 how if you would have taken this case to trial, and you
23 were talking about being L-WOP'd or getting a conviction
24 here or in Colleton County or whatever, did you ever talk
25 with your attorney about how they were going to actually

1 do that?

2 A. No, sir.

3 Q. Other than if you don't take the plea you're going
4 to get life in prison?

5 A. Right. He said if I don't take the plea they would
6 give me life in prison. They were going to convict me
7 one count, then they could send me over to Colleton and
8 convict me again and they can give me the L-WOP because
9 I'd have two.

10 Q. But what I'm curious about is that you are saying
11 that you didn't enter into this plea intelligently.

12 A. Right.

13 Q. That you knew what you were doing. All you knew
14 was the words that if you don't take the plea you are
15 going to get life?

16 A. Exactly.

17 Q. Did you understand the mechanics of what they had
18 to show for that to happen?

19 A. No, sir. I didn't understand the mechanics.

20 Q. So you testified today that you accepted this plea
21 because you didn't want a life sentence.

22 A. Didn't want to do a life sentence.

23 Q. But you didn't really completely understand that at
24 the time?

25 A. No, sir.

1 Q. Today, looking at the evidence, the defense's that
2 you had do you believe they could have done that to you?

3 A. No, sir.

4 MR. THOMAS: Thank you, Your Honor.

5 EXAMINATION

6 BY THE COURT:

7 Q. You had referenced your trip to Savannah. Who was
8 with you down in Savannah? Was it your two
9 co-defendants? Is that correct?

10 A. No, sir. I was there by myself until the 20th.

11 Q. Until the 20th?

12 A. Then Travis came and got me, come picked me up.

13 Q. All right. So you were alone in Savannah at the
14 Marriott?

15 A. Yes, sir.

16 THE COURT: Okay. Thank you, sir.

17 Any follow up based on my questions? I just wanted
18 clarification.

19 A. Can I ask one question?

20 MR. THOMAS: No, Your Honor.

21 MR. MITCHELL: No further questions.

22 THE COURT: You want to say something?

23 A. I wanted to understand what -- I misunderstood what
24 Mr. Thomas was trying to say last but okay.

25 THE COURT: Okay. No. He has no other questions

1 for you. You can step down. Thank you, sir.

2 MR. THOMAS: Thank you, Your Honor.

3 THE COURT: I need to take a very brief break.

4 Attorney General, I know we've got a number of
5 attorneys out there and obviously we're wanting to finish
6 up with this one. I usually break for lunch about 1:00
7 and resume, you know, about 2:00, 2:15, or something like
8 that. So if there's anybody that you can cut lose maybe
9 they can get a little bit of work done or do some
10 shopping or something, okay?

11 MR. MITCHELL: Okay.

12 THE COURT: So we'll be at east for about five
13 minutes. Obviously, if you've got any that are going to
14 withdraw we can take those before lunch since these guys
15 have been sitting out here for so long.

16 Five minutes, guys.

17 (WHEREUPON, a brief recess was taken.)

18 THE COURT: All right. We'll go back on the record
19 on Sanders V. State at this point.

20 Mr. Thomas, call your next witness.

21 MR. THOMAS: Your Honor, if it pleases the Court,
22 that's the applicant's case.

23 THE COURT: Attorney General?

24 MR. MITCHELL: Your Honor, the State calls
25 Mr. Christopher Murphy.

1 CHRISTOPHER J. MURPHY, after having been
2 duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. MITCHELL:

5 Q. Good morning, Mr. Murphy.

6 A. Good morning.

7 Q. Thank you for being here with us today. Were you
8 present during Mr. Sanders's testimony?

9 A. Yes, I was.

10 Q. Okay. And have you had a chance to review your
11 file in preparation for the hearing?

12 A. Yes, I have.

13 Q. How did you become involved in Mr. Sanders's case?

14 A. At the time that -- when he was arrested the public
15 defender had a conflict, and they originally appointed my
16 brother but at that time I was under a contract with the
17 public defender's office to handle their conflict cases,
18 so they moved the case to me.

19 Q. Okay. So your brother was appointed and you ended
20 up representing Mr. Sanders. Now, did you have
21 discussions with him about why that was so or at least
22 explain how you came to represent him?

23 A. Discussions with who?

24 Q. Mr. Sanders.

25 A. No. I just met Michael at the jail and let him

1 know that I was his attorney. I had previously
2 represented him so he was happy that I was on the case.

3 Q. So you all had a prior relationship going into all
4 this?

5 A. Right. I represented him on a prior burglary.

6 Q. And what was the disposition of that case?

7 A. He pled guilty.

8 Q. I guess we'll jump right into it. There's some
9 testimony as to an alibi in the case. Were you presented
10 with any documents by his wife at the time?

11 A. No. I was the one that actually subpoenaed the
12 documents from the Marriott. I had also subpoenaed
13 documents from the Comfort Suites. Michael didn't know
14 exactly which hotel he was at. I received the documents
15 from -- not from his wife but from the hotel directly.

16 Q. So you've had these -- you obviously had these
17 receipts. Did you discuss them, of how they may help or
18 hurt Mr. Sanders's case?

19 A. He tried to explain to me that this was an alibi.
20 I tried to explain to him that it wasn't an alibi. That
21 the alleged incidents occurred on the evening of March
22 17th or the early morning hours of March 18th. He did
23 not check into the hotel until the -- I guess about 1:30,
24 1:50 on the 18th. So I tried to explain to him that it
25 did not show him out of town at the time of the incident.

1 Q. So he could have easily have committed the crime
2 and then driven to Savannah and checked into a hotel?

3 A. Yeah. We discussed that.

4 Q. Moving to the letter from Mr. Braddock.

5 MR. MITCHELL: Your Honor, may I approach?

6 THE COURT: Please.

7 BY MR. MITCHELL:

8 Q. I'm showing you what been marked as Applicant's 4.

9 This is a letter alledgedly written by Mr. Braddock.

10 Have you seen that letter before?

11 A. I'm pretty sure that this is the same letter that I
12 have. Just give me one second.

13 Q. Sure.

14 (PAUSE.)

15 A. That's the same letter.

16 Q. Now, who was Mr. Braddock? He was a co-defendant?

17 A. He was co-defendant, along with Sonny Lee Roark.

18 Q. So it was alleged that the three of them had
19 committed a series of burglaries throughout Colleton,
20 Dorchester, various counties?

21 A. And they also committed -- it was alleged they
22 committed a burglary in Georgia. That's where the three
23 of them were arrested on the 20th of March.

24 Q. Okay. So is it fair to say your concern with your
25 representation of Mr. Sanders is that you wanted to kind

1 of wrap up all of these charges and get them dealt with
2 all at once?

3 A. Well, when I was appointed to represent him on
4 these three burglaries knowing his prior record I then
5 found out that he had a public defender in Colleton
6 County. He also had some pending Orangeburg County
7 charges, so I talked to the solicitor.

8 I talked to his public defender in Colleton County,
9 and at that point after my investigation and knowing the
10 evidence that he had against him I felt it would be in
11 his best interest for me to try to see if I could work a
12 deal on all of these charges knowing his prior record and
13 the discussions with both solicitors's office about their
14 intent to, if they could, seek a life without sentence --
15 life without parole sentence against him.

16 Q. So after speaking with the assistant solicitors in
17 Colleton, Orangeburg, and Dorchester it was -- you
18 thought that they were going -- well, they conveyed to
19 you they were going to seek life without parole if he was
20 convicted in the Colleton County case, and then the
21 Dorchester charges would be tried as an L-WOP case --

22 A. Correct.

23 Q. Is that how you recall it?

24 A. The solicitor in Colleton at this time was Amanda
25 Hazleton. She conveyed to me that she was going to amend

1 the indictment based on his prior record and enhance the
2 burglary second. He had a burglary first and a burglary
3 second. They were going to enhance the burglary second
4 to burglary first based on his being convicted for two or
5 more prior burglaries and they were going to then
6 transfer him from Dorchester to Colleton, try him in the
7 spring of 2012 and then bring him back for the Dorchester
8 County charges for August, September.

9 Q. And you advised Mr. Sanders of all of this as it
10 was going on?

11 A. Yes. I advised him and his wife.

12 MR. MITCHELL: Your Honor, may I approach one more
13 time?

14 BY MR. MITCHELL:

15 Q. I'm showing you what's been marked as Applicant's
16 6. I think it's a letter detailing your discussions with
17 the solicitors and their intentions to seek life without
18 parole.

19 A. Correct.

20 Q. Okay. And that matches with your testimony just
21 now; talked to Colleton, they said they would upgrade,
22 then Dorchester would seek L-WOP, right?

23 A. Right. And that occurred in November of 2011, and
24 then I wrote the -- on November 10th. I wrote the letter
25 to Michael Sanders on November 11th confirming our

1 conversation.

2 Q. Well, let's go back to the plea negotiations. How
3 did the plea negotiations go? Was the solicitor
4 reluctant to allow him to plead to all these charges at
5 once or were they open to doing that?

6 A. No. I mean, I approached them about it. I mean,
7 they were open to it. I mean, I had to do a lot of work,
8 leg work to get everybody on board.

9 Q. So the first offer he had was a 20-year sentence,
10 also, and he rejected that offer; is that right? Or do
11 you recall that?

12 A. Are you talking about the reference to this letter?

13 Q. No.

14 MR. MITCHELL: May I approach, Your Honor?

15 THE COURT: Yes.

16 BY MR. MITCHELL:

17 Q. Well, moving on from that, this is what we are
18 talking about. Mr. Sanders testified that he was offered
19 this deal initially and that he rejected it because he
20 believed he had some defenses. What are your thoughts on
21 whether he had any defenses to these charges?

22 A. I mean, in my opinion he didn't. I mean, how these
23 charges originally came up is that there was a known
24 crack house in Grover in which it was alleged that
25 Mr. Sanders and two white males, young white males had

1 robbed the owner of the house.

2 He gave a statement identifying Michael as the
3 person that he knew. That led them, the detectives, to
4 his wife. His wife stated that at that time that she did
5 not know where he was, that he was high on crack.

6 At about the same time I think it was Chatham
7 County, Georgia called Dorchester. Well, Dorchester
8 County then got a warrant and entered it into NCIC for
9 that incident. They then received a call from Chatham
10 County, Georgia in which Michael Sanders was arrested
11 along with Braddock and Roark, and they were committing a
12 burglary. At that time when they were arrested there
13 were items found in the car that were items that were
14 stolen from some of the burglaries in Dorchester County.

15 He then stated he had an alibi. I ran that down.
16 That didn't pan out. At that point, I started to work on
17 a deal knowing that we had all these other charges.

18 Q. So it was your advice to him to plead guilty
19 because it was likely he would be convicted and he would
20 be facing a life sentence at that point?

21 A. Correct.

22 Q. He talked about his cell phone records. Do you
23 have any recollection of any discussions about that? I
24 guess that kind of goes towards his alibi being in
25 Savannah.

1 A. Right. I don't recall any conversations about a
2 cell phone.

3 Q. Okay. It was his testimony earlier that he asked
4 you to subpoena his -- or to get copies of his cell phone
5 records that would have shown he was in Savannah but that
6 would, you know, go to the same thing as the hotel
7 records.

8 A. I don't recall. I heard his testimony. I don't
9 recall our conversation but, again, as I explained to
10 Mr. Sanders, you were in Savannah after these alleged
11 incidents occurred. I explained to him it's less than a
12 two-hour drive.

13 Q. It just wasn't a viable alibi?

14 A. No.

15 Q. And he also testified earlier today about that he
16 was taking various medications for seizures. Were you
17 aware of that and did you have any problems communicating
18 with him?

19 A. No. I didn't have any problems communicating with
20 him.

21 Q. So it was your opinion through your conversations
22 that he was able to participate in his defense and have
23 meaningful discussions about the charges?

24 A. Yeah. The only issue that Michael had with the
25 charges is that he wanted 18 years instead of 20, and I

1 explained to him that the deal was 20. I then had to
2 arrange with the jail after this letter, it would have
3 been sometime in December prior to us going to court in
4 January, I arranged for him to have a face-to-face
5 meeting with his wife, and then at that time he then --
6 they then communicated to me that they would go -- that
7 he would accept the offer.

8 Q. Did you advise him of the effects of an Alford plea
9 as opposed to an open plea? Or as a straight guilty
10 plea? Excuse me.

11 A. I can't recall that.

12 MR. MITCHELL: One second, Your Honor.

13 THE COURT: Yes, sir.

14 (PAUSE.)

15 BY MR. MITCHELL:

16 Q. Did you discuss with him what it meant to waive
17 presentment to the grand jury on that charge?

18 A. On the grand larceny charge?

19 Q. On the -- yes. On the Orangeburg grand larceny
20 charge.

21 A. Right. I mean, and that was explained. That's
22 clear in the transcript as well.

23 Q. Okay. No further questions. Please answer any
24 questions Mr. Thomas has for you.

25 A. Thank you.

1 Q. Thank you.

2 THE COURT: Mr. Thomas?

3 MR. THOMAS: Your Honor, please the Court.

4 THE COURT: Yes, sir.

5 CROSS-EXAMINATION

6 BY MR. THOMAS:

7 Q. Mr. Murphy, thank you.

8 A. Yes, sir.

9 Q. How did you get involved in -- in Michael's case
10 you said that you were appointed?

11 A. Sanders?

12 Q. Yeah. Yeah. In Michael Sanders's case you were
13 appointed?

14 A. Right.

15 Q. Okay. And that was because, what, the public
16 defender was representing one of the co-defendants or...

17 A. I think the public defender represented two of the
18 co-defendants, Sonny Roark and Braddock, and they had a
19 policy at that time that they could not represent three
20 co-defendants.

21 Q. Three co-defendants. Okay. And what did you --
22 when you first started the case, got involved in the case
23 you started preparing it for a trial or for a plea?

24 A. For a trial.

25 Q. For trial. And what kind of steps did you take in

1 regards to prep for trial?

2 A. Well, I met with Michael. I got the discovery. I
3 ran down the so-called alibi witnesses that he had, had
4 discussions. I can't remember the names of the attorneys
5 that were representing the co-defendants, but they
6 indicated to me their willingness that they were going
7 the testify against Mr. Sanders.

8 Q. Right.

9 A. At that point, I mean, by the time we got the
10 records and everything we're looking at August. They
11 weren't going to be going to trial until, you know,
12 January. They knew that I couldn't go to trial in
13 January, and then at that point the solicitor made an
14 offer. And then at that point, if I'm not mistaken, I
15 started to try to track down the other charges,
16 particularly the Colleton County charges because that was
17 a different jurisdiction. But, I mean, I would have been
18 fully prepared to try the case. I knew that I couldn't
19 try the case until August of 2012, at the earliest.

20 Q. How did the -- do you remember when the
21 co-defendant -- the co-defendants pled, the two
22 co-defendants?

23 A. I'm pretty sure they pled, yeah.

24 Q. And do you remember when they pled in relation to
25 when Michael pled?

1 A. No.

2 Q. Do you remember was it before or after or...

3 A. I don't remember.

4 Q. Don't remember. Okay. I'm just trying to assess,

5 you know, what the threat was in regards to their

6 testimony. Had they called or were they going call

7 Michael's case for trial and have them ready to testify

8 or how was that going to happen?

9 A. If I'm not mistaken, the two co-defendants were

10 younger, younger individuals, didn't have the extensive

11 criminal record of Mr. Sanders. So they were going to --

12 you know, they were looking at Mr. Sanders as far as

13 prosecuting him and they cut a deal, from my

14 understanding, or were going to with the two

15 co-defendants.

16 Q. They got less time? Do you know?

17 A. I'm sure they did.

18 Q. Okay. All right. But you are not aware of what

19 they received?

20 A. No.

21 Q. Did you hire a private investigator in this case?

22 A. No.

23 Q. Did you -- we talked about the phone records. Did

24 you think about or make any effort to obtain the cell

25 phone records?

1 A. Michael was not in Savannah at the time that he --
2 when he told me that he got to Savannah the first thing
3 he did was check into a hotel. I received the hotel
4 records showing that he didn't check in until afternoon.
5 So, I mean, I don't recall us having a conversation about
6 cell phone records.

7 Q. Right.

8 A. But in my opinion it would not have established an
9 alibi at that time.

10 Q. Okay. How about as far as the co-defendant? He
11 was actually arrested with the two other co-defendants in
12 Georgia?

13 A. Sanders was arrested with Braddock at the scene and
14 then they arrested the younger kid, Sonny Roark, about
15 five or six hours later.

16 Q. Was he arrested in South Carolina? Don't know?

17 A. No. He was arrested in Georgia. They were all
18 apprehended in Georgia because they had to waive
19 extradition to come back to South Carolina. And Georgia,
20 once South Carolina took over the prosecution dismissed
21 their case.

22 Q. Okay. And it was Michael's contention that he knew
23 Braddock because he lived behind him?

24 A. Correct.

25 Q. So they had traveled to meet him in Georgia in

1 Savannah?

2 A. Correct. Uh-huh.

3 Q. Okay.

4 A. Yes, sir.

5 Q. But your concern was that the alibi, the alleged
6 incidents had occurred earlier that morning?

7 A. Right. They occurred late that evening, the 17th
8 into the morning hours of like 1:30 in the morning on the
9 18th.

10 Q. Okay. How about the letters from Braddock? I
11 think your testimony was that you had seen those?

12 A. Yes, sir. I mean, I have a copy of this one. Now,
13 I don't know about this -- I have exhibit 4.

14 Q. Right.

15 A. Exhibit 3, I don't recall getting a copy of that.

16 Q. Okay. But you've seen that document?

17 A. I've seen exhibit 4, yes, sir.

18 Q. Okay. Have you seen 3?

19 A. No, sir. I just saw it today.

20 Q. Oh, just saw it today.

21 MR. THOMAS: Your Honor, may I approach?

22 Q. Do you remember whether or not Mr. Sanders's wife
23 had brought this to you or came to discuss this issue
24 with you, about Braddock?

25 A. I don't recall getting a copy of that letter. I

1 have a copy of this letter, exhibit 4.

2 Q. All right.

3 MR. THOMAS: Your Honor, at this point in time we'd
4 like to introduce 3 and 4, which have been marked,
5 previously marked for identification.

6 THE COURT: Subject to the earlier objection 3 and
7 4 are in evidence.

8 MR. THOMAS: Thank you, Your Honor.

9 (WHEREUPON, Applicant's Exhibit Numbers 3 and 4
10 were admitted into evidence.)

11 BY MR. THOMAS:

12 Q. How did the potential testimony or statement made
13 by Braddock in regards to Mr. Sanders's culpability, how
14 did that factor into your decisions in regards to either
15 plea or trial?

16 A. I informed Michael that I had a discussion with his
17 attorney and his attorney told me that he would not be
18 testifying for Michael.

19 Q. Okay. That Braddock would not be testifying for
20 him?

21 A. Correct.

22 Q. Okay. Were you able to discuss with Mr. Braddock's
23 counsel the letter -- or the letter -- I guess the one
24 letter that you've seen?

25 A. Honestly, I don't remember when I received the

1 letters. I mean, the one letter.

2 Q. Right.

3 A. But I remember I had a conversation when I found
4 out that the co-defendants were going to testify against
5 him that -- and I said, Is that true? And they said they
6 are going to testify. I asked them what, if anything,
7 they've been promised by the State, and they said they
8 haven't been promised anything but they were going to
9 testify against Michael Sanders.

10 Q. Now, the physical evidence that they had, do you
11 remember if there were fingerprints or DNA? What other
12 evidence did they have?

13 A. No. They didn't have any -- as far as at the
14 scene?

15 Q. Yes.

16 A. No, sir. They did not have any.

17 Q. Okay. Was there any eyewitness, anybody see their
18 car or see them in that vicinity or...

19 A. The only eyewitness was the elderly gentleman,
20 Mr. Mays, I believe his name was, at the first incident
21 that happened.

22 Q. And was that a drug house?

23 A. Yeah. It was a crack house. That's why he was
24 there. He was getting high.

25 Q. Okay.

1 A. So that was the first witness that put Michael with
2 two younger males matching the description of both Sonny
3 Roark and Braddock, who he was arrested with two days
4 later.

5 Q. Now, that incident actually occurred on the 17th;
6 is that correct?

7 A. Sometime around. They were all one right after the
8 other.

9 Q. Okay. All right. But in regards to any other
10 physical evidence about Michael's involvement, there
11 wasn't any other than potential testimony from the
12 co-defendants?

13 A. Correct.

14 Q. Okay. In regards to the pleas, was there a number
15 of -- how did that go in regards to plea offers? Were
16 there a number of plea offers or just the one plea offer
17 or...

18 A. I mean, I want to -- if I recall correctly the
19 Solicitor, Russel Hilton, made the offer for 20 years
20 here, and then I think I conveyed that to Michael Sanders
21 and then at that point I went to Colleton County and
22 tried to start working something. I just didn't think it
23 was in his best interest to plead to a most serious here
24 and Colleton was still going to try him for his cases.
25 So at that point, I initiated discussions with the

1 Colleton County solicitor.

2 Q. Right.

3 A. About trying to work, I guess what you would call a
4 global settlement, of all the charges.

5 Q. Did you consider moving the venue from Colleton
6 County to here and do all the pleas, all the crimes or...

7 A. No. Colleton wanted the case to be heard in
8 Colleton County, and I believe that was probably because
9 of who the victim was.

10 Q. Okay. Did you look at Colleton to see how it could
11 have been enhanced, was a proper enhancement to a
12 burglary one?

13 A. Did I mean --

14 Q. Did you make that determination? You said that
15 what they were going to do in Colleton was enhance.

16 A. Right, based on his prior record. I was very
17 familiar with Michael's prior record.

18 Q. Right.

19 A. So he did have either two or three prior burglaries
20 on his record, and that's what they were going to enhance
21 with. And then if he was convicted -- or if he had used
22 the 20 years they were going to still try him in Colleton
23 County.

24 Q. Okay. And I apologize. I'm a little bit confused
25 about that. So what they were going to do is enhance to

1 a burglary first in Colleton seeking -- were they going
2 to seek a life imprisonment on that burglary one?

3 A. That was my understanding, that they were. They
4 broke into the house of a relative of a retired circuit
5 court judge so I don't think they were too happy.

6 Q. So then they were going to -- so then was it
7 Dorchester that was going to try to L-WOP him here in
8 Dorchester County or they were going to do that in
9 Colleton County?

10 A. After he rejected the offer the first time and then
11 I went to Colleton and was able to arrange the -- I guess
12 the global settlement.

13 Q. Yes, sir.

14 A. I then went to talk to Michael, and I said, Look,
15 this is what they are going to do. If you don't take
16 this offer they are going to ship you first to Colleton
17 and Colleton is going to take the lead.

18 Q. Right.

19 A. And then after that Russel Hilton, the solicitor,
20 has already told me that he's done negotiating with you
21 and that he is going to seek a life sentence if you are
22 convicted on any one of the burglaries first in
23 Colleton --

24 Q. In Colleton County.

25 A. -- what do you want to do?

1 Q. Yeah. And I guess as it worked out he actually
2 ended up pleading first in Dorchester County; is that
3 correct, and then went to Colleton?

4 A. Went to Colleton, pled guilty for concurrent
5 sentence.

6 Q. Now, when Sanders, Mr. Sanders was arrested in
7 Georgia his vehicle was not involved in that arrest? He
8 didn't have his vehicle there; is that correct?

9 A. I don't think it was his vehicle that was there. I
10 think it was one of the other co-defendants.

11 Q. So any physical evidence you were talking about,
12 was it a drill bit or something?

13 A. There were some items that were found in the trunk
14 of the car that were tied to the Dorchester County
15 burglaries.

16 Q. But those didn't belong to Mr. -- that vehicle
17 didn't belong to Mr. Sanders?

18 A. No, but he was arrested at the scene of the Georgia
19 burglary with Travis Braddock who owned the vehicle.
20 Mr. Roark was arrested later, was not at the scene.

21 Q. All right.

22 MR. THOMAS: Your Honor, can I beg the Court's
23 indulgence.

24 (PAUSE.)

25 BY MR. THOMAS:

1 Q. How about the medications? Were you aware that he
2 had a seizure disorder?

3 A. Possibly. I don't know.

4 Q. Okay. I was curious if you had gotten involved in
5 any of the medical problems that he had been having in
6 the county jail.

7 A. I mean, as my practice if he was having a problem I
8 would have probably contacted the nurse or the captain in
9 charge of the jail.

10 Q. Yes, sir.

11 A. I don't remember specifically that happening. I'm
12 not saying it didn't. I'm just telling you I can't
13 recall.

14 Q. Okay.

15 MR. THOMAS: Your Honor, if I could beg the Court's
16 indulgence for a second.

17 (PAUSE.)

18 BY MR. THOMAS:

19 Q. How about you said that in previous testimony that
20 you'd represented Mr. Sanders in a prior burglary charge.
21 Could that have been a -- something other? Could have
22 been a strong armed or a misprision of felony; do you
23 remember?

24 A. It may have been. I represented him prior.

25 Q. You have?

1 A. He's got a number of different --

2 Q. Yes.

3 A. -- offenses on his record.

4 MR. THOMAS: Your Honor, please the Court. I don't
5 have any further questions.

6 THE COURT: Attorney General?

7 MR. MITCHELL: Nothing further from the State.

8 THE COURT: One quick question.

9 THE WITNESS: Yes, sir?

10 THE COURT: On the date of his plea did he seem to
11 have any difficulty understanding what was taking place?
12 You said you didn't recall any issues, medical issues
13 when speaking with your client at the jail. Did he
14 indicate on the day of the plea any sort of problems
15 understanding, any sort of haziness, anything that you
16 recall?

17 THE WITNESS: No, sir.

18 THE COURT: Follow up based on my questions,
19 Attorney General?

20 MR. MITCHELL: Nothing further.

21 MR. THOMAS: No, Your Honor.

22 THE COURT: Thank you, sir. You can step down.
23 Thanks for coming.

24 THE WITNESS: Judge, may I be excused?

25 THE COURT: Please. Yes.

1 Attorney General, do you have another witness?

2 MR. MITCHELL: I do not. The State rests.

3 THE COURT: Anything in reply or any argument that
4 you want to present?

5 MR. THOMAS: Nothing further.

6 THE COURT: Any argument on behalf of the State?

7 MR. MITCHELL: I guess usually the applicant would
8 be going first but, sure, I think --

9 THE COURT: I think he said he didn't have any
10 so...

11 MR. MITCHELL: I'm sorry.

12 THE COURT: It's okay. You were talking to
13 Mr. Murphy.

14 MR. MITCHELL: No, I don't have any.

15 THE COURT: Very good.

16 The Court usually takes these matters under
17 advisement. I'll try and get an order out to you before
18 I leave Dorchester this week. A pleasure to see you all.

19 MR. THOMAS: Thank you, Your Honor.

20 MR. MITCHELL: Thank you, Judge.

21 (WHEREUPON, the hearing was concluded.)

22

23

24

25

1 C E R T I F I C A T E

2

3 I, Sharon L. Vizer, Official Court Reporter for the
4 First Judicial Circuit of the State of South Carolina, do
5 hereby certify that the foregoing is a true, accurate and
6 complete transcript of record of all the proceedings had
7 and the evidence introduced in the hearing of the
8 captioned case in Circuit Court on the 26th day of
9 October 2015.

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

12

13 May 22, 2016

14 s/Sharon L. Vizer

15 SHARON L. VIZER

16 CIRCUIT COURT REPORTER

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STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

Michael T. Sanders, #290266,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

2012-CP-18-1511

ORDER OF DISMISSAL

FILED & RECORDED
2016 JAN 15 PM 4:09
CLERK OF COURT
DORCHESTER COUNTY

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed June 15, 2012. Respondent made its Return on October 22, 2012, requesting an evidentiary hearing be convened. Tommy A. Thomas, Esquire, was retained by Applicant. An evidentiary hearing was held on October 26, 2015, at the Dorchester County Courthouse. Applicant was present and represented by Counsel Thomas. J. Clayton Mitchell, Esquire, of the South Carolina Attorney General's Office represented Respondent.

At the PCR hearing, Applicant testified on his own behalf. Also testifying was Applicant's plea counsel, Christopher J. Murphy, Esquire, and Applicant's wife, Trisha Sanders. This Court had before it the Dorchester County Clerk of Court records, Applicant's South Carolina Department of Corrections records, the PCR application, the Return, and the guilty plea transcript.

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Dorchester County Clerk of Court.¹ Applicant was indicted during the September 2011 term of the Dorchester Grand Jury for two counts of Burglary – First

¹ Applicant is also serving a concurrent twenty year sentence from Colleton County (2011-GS-15-0567) for Burglary – First Degree.

Degree (2011-GS-18-0687, -0688). Additionally, he waived presentment to the Orangeburg County Grand Jury for Grand Larceny, More than \$2,000.00 but less than \$10,000.00 (2011-GS-38-0609). Counsel Murphy represented the Applicant. On January 9, 2012, the Applicant entered a guilty plea to all Dorchester County charges as indicted. The Honorable Diane S. Goodstein sentenced Applicant to confinement for a period of twenty (20) years imprisonment for each Burglary charge. All sentences to run concurrent. The remaining Orangeburg charge was nolle prossed. Applicant did not appeal his conviction or sentence.

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

1. Involuntary and unintelligent guilty plea
2. Ineffective assistance of counsel in:
 - a. Failing to investigate an alibi defense,
 - b. Failing to interview Applicant's codefendant,
 - c. Failing to challenge the waiver of presentment,
 - d. Failure to request a preliminary hearing, and
 - e. Failure to object to Judge Goodstein's comments.

III. APPLICABLE LAW

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

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable

professional judgment. Strickland, 466 U.S. 668. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

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

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

As a matter of general impression, this Court finds Applicant's testimony and assertions to be not credible. In contrast, this Court finds counsel's testimony to be credible and persuasive.

on all matters. These credibility findings have been applied to the Court's findings and conclusions set forth below.

Involuntary and Unintelligent Guilty Plea

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

Applicant claims he did not plead guilty voluntarily because he was coerced to plead by Counsel and because he was under the influence of medications. This Court finds this contention meritless. This Court finds the record reflects Applicant was fully advised that he was pleading

guilty and waived all challenges to the evidence against him. The plea court's very thorough colloquy with Applicant demonstrates that he understood the consequences of pleading guilty. This Court finds Applicant's testimony not credible. Applicant presented no credible evidence as to why he should be able to depart from his statements at the plea hearing. This Court finds very credible Counsel's testimony regarding his preparation and advice concerning the case. Counsel's testimony that he did not have any difficulty communicating with Applicant at his plea is also persuasive. The record further reflects Applicant fully admitted his guilt to the plea court. Applicant also told Judge Goodstein that he was not taking any medications and was not under the influence of any medications during the plea. (Plea Tr. p. 5, lines 17-19). Therefore, this Court finds the plea judge correctly found Applicant's plea was freely, voluntary, and intelligently made.

Ineffective Assistance of Counsel

Applicant also makes a number of allegations of ineffective assistance of counsel. The Court will discuss each in turn.

Failing to Investigate Alibi Defense

Applicant claims that Counsel was ineffective for failing to investigate an alleged alibi defense. Applicant testified he was in Savannah, Georgia when the crimes were committed and that he could not have been the perpetrator. Applicant's wife testified that she showed receipts from a hotel located in Savannah dated the day the robberies took place to Counsel. She testified that Counsel did not pursue this information any further. Applicant testified that he was in Savannah on March 18, 19, and 20th for a Saint Patrick's Day celebration and referenced the receipts for those days. He testified Murphy did not give him a reason for not using the hotel receipts to establish an alibi defense. Counsel testified that one of the first things he did was

check into Applicant's hotel stay. Counsel noted that he obtained the hotel receipts after he subpoenaed the records. He emphasized that the robberies took place the early morning hours of March 18th and that it was very possible for Applicant to have driven to Savannah later that day. He testified he advised Applicant that the receipts and hotel stay would not be enough to prove a legitimate alibi.

This Court finds Applicant failed to meet his burden. "Criminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Edwards v. State, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011) (internal citations omitted). This Court finds persuasive Counsel's testimony on the issue. Applicant's testimony that he had a valid alibi is not credible. Applicant's wife's testimony is also not credible. Counsel properly investigated this claim but verified that the receipts could only prove that he checked into the hotel in the afternoon on March 18th. Applicant would have had ample time to travel to Savannah after committing the robberies. Applicant also cannot prove that he would have gone to trial but for Counsel's alleged deficiency because Counsel did properly investigate Applicant's claims.

Failure to Interview Applicant's Codefendant

Next, Applicant alleges Counsel was ineffective for failing to interview and speak to Applicant's codefendant, Travis Braddock. Applicant's wife testified that she was able to obtain an affidavit and letter from Braddock stating that Applicant was not involved in the crimes. Counsel testified that Braddock was going to be testifying for the State if the case were to go to trial. Counsel testified that all codefendants were planning to testify against Applicant.

This Court finds Applicant has not proven Counsel was ineffective. Braddock was charged as Applicant's codefendant. Braddock was facing several charges in different jurisdictions and was represented by his own counsel. It was certainly reasonable for Counsel not to further investigate Applicant's codefendant because was going to testify for the State and was not going to be helpful to Applicant's case. Applicant has also failed to prove that he was prejudiced. Even if Counsel did call Braddock as a witness it is very likely that he would have been advised to assert his 5th Amendment rights. This allegation is denied and dismissed.

Failing to Challenge the Waiver of Presentment

Applicant alleges Counsel was ineffective for failing to challenge Applicant's waiver of presentment to the grand jury on the Orangeburg grand larceny charge. This allegation is without evidentiary support. This Court finds that the grand larceny indictment at issue was nolle prossed after Applicant pleaded to the charges at issue. Regardless, Counsel told Judge Goodstein that Applicant was aware of and agreed to waive presentment to the Orangeburg County Grand Jury. Applicant was then questioned by Judge Goodstein to ensure he understood he was waiving his right to have the charges brought before the Orangeburg Grand Jury. (Plea Tr. p. 4, lines 1-9; p. 6, line 23 – p. 7, line 17). The record fully supports Judge Goodstein's finding that Applicant "freely and voluntarily, knowingly and intelligently waiv[ed] his right of presentment . . ." (Plea Tr. p. 7, lines 14-17). Applicant, therefore, cannot show any resulting prejudice.

Failure to Request a Preliminary Hearing

Applicant further alleges Counsel was ineffective in failing to request that a preliminary hearing be held. Every criminal defendant is entitled to notice of his right to a preliminary hearing "to determine whether sufficient evidence exists to warrant [his] detention and trial." Rule 2(a), SCRCrimP. If a defendant makes a timely request for a hearing, one should be held

within ten days. Rule 2(a)-(b), SCRCrimP. However, the hearing "shall not be held. . . if the defendant is indicted by a grand jury . . . before the preliminary hearing is held." Rule 2(b), SCRCrimP; see also State v. Hawkins, 310 S.C. 50, 54-55, 425 S.E.2d 50, 53 (Ct. App. 1992) (holding trial court did not err in refusing to quash defendant's indictments because he did not receive a requested preliminary hearing because he was indicted before a preliminary hearing was held). Furthermore, a defendant has no constitutional right to a preliminary hearing. State v. Keenan, 278 S.C. 361, 365, 296 S.E.2d 676, 678 (1982). Thus, although Applicant could have timely requested a preliminary hearing, his right to have the hearing ended with the grand jury's indictment.

This Court finds that Counsel's performance was reasonable according to professional standards. It is clear there was probable cause to support the charges. Furthermore, this Court finds that Applicant cannot establish any resulting prejudice, as a preliminary hearing would not have resulted in dismissal of the charges, and therefore, there is no likelihood that the result of the proceeding would have been different. This Court finds that this allegation must be denied and dismissed with prejudice.

Failure to Object to Judge Goodstein's Comments

Finally, Applicant alleges Counsel was ineffective for failing to object to Judge Goodstein stating that she was not going to let Applicant get hurt. (Plea Tr. p. 27, line 25 – p. 28, line 7; p. 28, lines 16-21; p. 29, lines 13-17). Judge Goodstein was merely telling Applicant that he need not worry about getting a sentence in excess of the negotiated twenty (20) years' on the Orangeburg grand larceny charge. This Court finds these comments are not improper and were not objectionable. Judge Goodstein was ensuring Applicant that his rights would be protected. This allegation is denied and dismissed with prejudice.

All Other Allegations

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

V. CONCLUSION

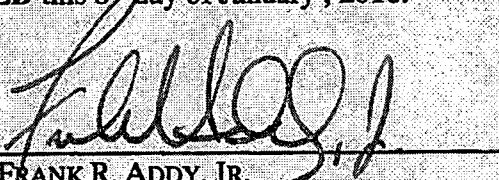
Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Applicant failed to demonstrate counsels' performance was unreasonable under prevailing professional norms. Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625; Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 594 (2009). Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

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

IT IS THEREFORE ORDERED THAT:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 8th day of January , 2016.


FRANK R. ADDY, JR.
Presiding Judge

Greenwood, South Carolina

703 SANDERS/MICHAEL/TOD 199.95 DUPLICATE 13:49 ACCT#

Room
ACCB
Type

Name

Rate

Depart

Time

03/18/11

Arrive

Time

**SANDRIDGE RD
DORCHESTER SC**

SC

Room
Clock

Address

Payment

DATE	REFERENCE	CHARGES	CREDITS	BALANCE DUE
03/18	CASH			
03/18	CCARD-VS VSXXXXXXXXXXXXO	.00		244.94
03/18	PARKING SELF	18.00		
03/18	LOCAL 0034 912	1.00		
03/18	ROOM 703, 1	199.95		
03/18	STATETX 703, 1	14.00		
03/18	CITY TAX 703, 1	12.00		
03/18	OCC FEE 703, 1	1.00		
03/21	OCC TAX PBH		1.00	
03/21	RM ADJUS PBH		.01	
03/21	CASH	.00		

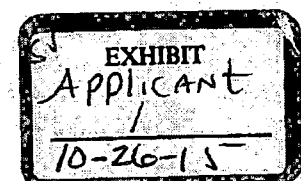
.00

This statement is your only receipt. You have agreed to pay in cash or by approved personal check or to authorize us to charge your credit card for all amounts charged to you. The amount shown in the credits column opposite any credit card entry in the reference column above will be charged to the credit card number set forth above. (The credit card company will bill in the usual manner.) If for any reason the credit card company does not make payment on this account, you will owe us such amount. If you are direct billed, in the event payment is not made within 15 days after the check-out, you will owe us interest from the check-out date on any unpaid amount at the rate of 1 1/2% per month (ANNUAL RATE 18%), or the maximum allowed by law, plus the reasonable cost of collection, including attorney fees.

Signature X

Contains 30% post consumer fibers

To secure your next stay, go to Marriott.com



RECEIPT

DATE 10-4-2010 No. 370637

FROM Michael Sanders \$ 287

Miller Ross DOLLARS

☐ FOR RENT ☐ FOR

ACCT. ☐ CASH FROM ☐ TO

PAID ☐ CHECK BY ☐

DUE ☐ MONEY ORDER

1152

RECEIPT

DATE 10-5-2010 No. 370638

FROM Michael Sanders \$ 329

Miller Ross DOLLARS

☐ FOR RENT ☐ FOR

ACCT. ☐ CASH FROM ☐ TO

PAID ☐ CHECK BY ☐

DUE ☐ MONEY ORDER

1152

RECEIPT

DATE 10-5-10 No. 370639

FROM Michael Sanders \$ 350.00

Two hundred forty DOLLARS

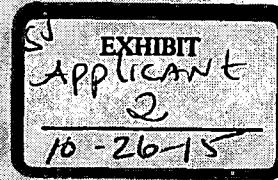
☐ FOR RENT ☐ FOR

ACCT. ☒ CASH FROM ☐ TO

PAID 350.00 ☐ CHECK BY ☐

DUE 0 ☐ MONEY ORDER

1152



On March 18, 2011, I Travis Braddock state that Michale Sanders did not enter into the residence of [REDACTED] Powder Horn Rd, and also the residence [REDACTED] Hwy 15-South, and that he was not with us, myself and Sunny Lynn Rourke did enter these residences.

: [Signature]

: Witness - [Signature]

This is a rewrite on 7-14-12:
from [Signature] 324728

Sworn to and subscribed before me
this 15th day of August 2012

[Signature]
Notary Public for South Carolina

My Commission Expires
October 8, 2014

EXHIBIT
Applicant
3
10-26-15

Statement Travis Braddock (April 22, 2011)
 Concerning Robbery at Ernest Watkins residence located on-
 Highway 15- Orangeburg County South Carolina.

In unknown date, approx- the 2nd week of march - 2011

I Travis Braddock and Sonny Rourke, arrived at the home of the above named victim for the purpose of obtaining some gasoline (according to (Sonny Rourke) Mr. Rourke stated that he was friends with Mr. Watkins. Mr. Rourke then sent me to the front door to ask if they had some gasoline we could borrow. And I did. When I knocked on the door A woman

opened the door and I asked if she had some gas I could borrow. Before she could answer Mr. Rourke approached from behind me with a firearm and proceeded to enter the home with the gun pointed at the woman.

I proceeded to return to the vehicle we had arrived in. Mr. Sonny Rourke then returned to the Vehicle also after a few minutes and we left the residence together.

No one else was present at the time of the robbery.

Myself and Mr. Rourke were the only persons in the vehicle

I Travis Braddock of sound mind, Swear this Statement to be true and correct to the best of my knowledge. I have not been pressured, threatened or persuaded in any way Travis Braddock



([redacted] Lakeview Dr. Witness - [redacted])
 Corroborator CTP 30117 [redacted]

OFFICE OF SOLICITOR
First Judicial Circuit



DAVID M. PASCOE
Solicitor

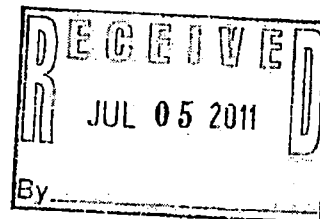
140 North Main Street
Suite 102
Summerville, SC 29483
(843) 871-2640
FAX (843) 871-2643
PTI (843) 873-7842

5200 East Jim Bilton Boulevard
Dorchester County Courthouse
St. George, SC 29477
(843) 832-0150
FAX (843) 832-0155

Courthouse, Amelia Street
Post Office Box 1525
Orangeburg, SC 29116
(803) 533-6252
FAX (803) 533-6004
PTI (803) 533-6137

102 Courthouse Drive
Suite 111
St. Matthews, SC 29135
(803) 874-1978
FAX (803) 874-1242

June 30, 2011



Michael H. Murphy, Esquire
136 West Richardson Avenue
Summerville, SC 29483

IN RE: STATE OF SOUTH CAROLINA vs. MICHAEL TODD SANDERS

Dear Michael:

In response to your Rule 5 Discovery Motion in the above referenced matter, I am enclosing herewith copy of our file. Our file is also open for your inspection.

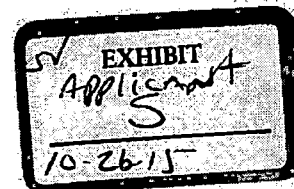
Also, please find enclosed herewith for service upon you our Request for Disclosure with a Certificate of Service.

Sincerely,

Russell D. Hilton

Enclosures

cc: Dorchester County Clerk of Court



Christopher J. Murphy
Maité Murphy
Michael H. Murphy, III



136 West Richardson Avenue
Summerville, South Carolina 29483
www.murphylawfirmllc.com

(843) 832-1120
(888) 833-1120 (Toll Free)
(843) 832-5969 (Fax)

November 11, 2011

Inmate Michael Sanders
c/o Dorchester County Detention Center
300 Sears Street
St. George, SC 29477

RE: STATE OF SOUTH CAROLINA VS. MICHAEL TODD SANDERS

Dear Michael:

This letter will serve as confirmation of our most recent meeting on November 10, 2011 at the Dorchester County Courthouse.

I have informed Assistant Solicitor Russell Hilton that you have rejected the State's offer for a twenty (20) year sentence to Burglary First degree. As I explained to you, this sentence would run concurrent with all of your pending General Sessions charges in Dorchester, Colleton and Orangeburg counties and would be a cap of twenty (20) years. Russell Hilton will now contact the Assistant Solicitor in Colleton County and inform her of the same.

As a result of your rejection of the offer, my understanding is that Colleton County will now seek to upgrade your pending Burglary Second charge to Burglary First Degree based on the fact that you have had two or more prior convictions for Burglary. I have enclosed another copy of your RAP sheet for your review which in my opinion confirms the same.

Colleton County will be in the process of transporting you to their jurisdiction for a trial to be held sometime in the Spring of 2012. I have enclosed another copy of Assistant Solicitor Amanda Haselden's letter dated November 3, 2011 confirming her offer and the potential trial date.

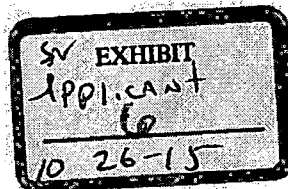
If you are convicted of Burglary First degree on any of the two (2) Colleton County charges, Assistant Solicitor Russell Hilton has indicated to me that he will then serve you with his intention to seek a life without parole (LWOP) sentence if you are convicted of any of the three (3) Burglary First Degree charges in Dorchester County.

A trial in Dorchester County will not take place before August or September 2012. Assistant Solicitor Hilton and I will set a trial date after he confers with Colleton County. I will be back in legislative session in January and I have protection until two weeks after the legislative session ends which is normally the end of June. However, I will continue to work on your case and monitor your situation in Colleton County.

Sincerely,

MURPHY LAW FIRM, LLC


Christopher J. Murphy
CJM/pf
Enclosures as stated.



308 f

DORCHESTER COUNTY SHERIFF'S OFFICE
STATEMENTSTATEMENT OF Ilene HatchHOME ADDRESS [REDACTED] Orchard Ct Summerville SC 29485 HOME PHONE [REDACTED]

EMPLOYER _____

BUSINESS ADDRESS _____

BUS. PHONE _____

OCCUPATION _____

DATE OF BIRTH _____

SOCIAL SECURITY NUMBER _____

THIS STATEMENT IS GIVEN 3/18/11(DATE) AT 1350[REDACTED] Powder Horse Rd Dorchester SC 29437 (LOCATION)

(TIME)

I, Ilene Hatch had hired Mike Sanders who claimed to be a plumber and I needed a plumber immediately to repair a ruptured pipe in the well at my sons house. My son was in Iraq + Afghanistan at the time. My son is currently in Kuwait. This guy Mike Sanders was in this house and when he repaired the well I complained because he did a shabby job and told me he replaced the valve & pipe however when I checked the well it was the same valve and he ripped me off. I never heard from him again but have been looking for his vehicle ever since. It is in the area. His phone #'s are

(A) 1- [REDACTED]

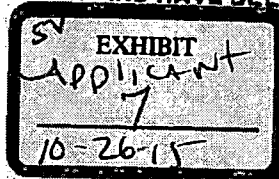
(C) 1- [REDACTED]

[REDACTED] and [REDACTED] wife [REDACTED] was partner.

HAVE READ THE FOREGOING STATEMENT OR HAVE HAD IT READ TO ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I HAVE GIVEN THIS STATEMENT FREELY AND VOLUNTARILY AND HAVE BEEN PROVIDED A COPY OF MY STATEMENT.

WITNESS: _____

WITNESS: S. Hayes 1812

SIGNATURE: [Signature]

WITNESSES

J King

Dorchester County Sheriff

ARREST WARRANT NUMBER

M111049

Arrested: May 25, 2011

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: September 8, 2011

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2011GS18-0686

The State of South Carolina

County of DORCHESTER

COURT OF GENERAL SESSIONS

September 12, 2011 TERM

THE STATE

vs.

Michael Todd Sanders

Indictment for

BURGLARY - FIRST DEGREE

SC Code: 16-11-311

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.

FILED - RECORD
2011 SEP - 8 AM 11:54
CLERK OF COURT
DORCHESTER COUNTY, SC

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)

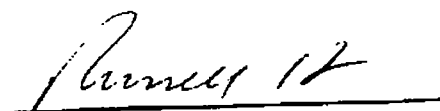
INDICTMENT
2011GS18-0686

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

BURGLARY - FIRST DEGREE

That in Dorchester County, South Carolina, on or about March 17, 2011, the
Defendant, Michael Todd Sanders, did willfully and unlawfully enter the dwelling
of Ulysses Mayes, without consent and with the intent to commit a crime therein
and that the defendant did enter the dwelling during the night time hours and/or
the defendant had two or more prior convictions for burglary or housebreaking.
This offense being a violation of Section 16-11-311 of the South Carolina Code of
Laws, as amended.

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



Russell D. Hilton, Solicitor

WITNESSES

J King

Dorchester County Sheriff

ARREST WARRANT NUMBER
M471651

Arrested: May 25, 2011

ACTION OF GRAND JURY

TRUE BILL

Debra Wells
Foreperson of Grand Jury
Date: September 8, 2011

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2011GS18-0687

The State of South Carolina
County of DORCHESTER

COURT OF GENERAL SESSIONS

September 12, 2011 TERM

THE STATE
vs.

Michael Todd Sanders

Indictment for
BURGLARY - FIRST DEGREE

SC Code: 16-11-311

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

164

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.

FILED - RECORD
2011 SEP -8 AM 11:54
CHERYL
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)

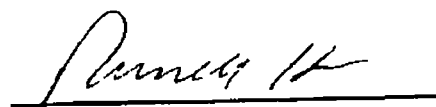
INDICTMENT
2011GS18-0687

At a Court of General Sessions, convened on September 12, 2011 the Grand Jurors of
Dorchester County present upon their oath:

BURGLARY - FIRST DEGREE

That in Dorchester County, South Carolina, on or about March 18, 2011, the
Defendant, Michael Todd Sanders, did willfully and unlawfully enter the dwelling
of Michael Rossi, without consent and with the intent to commit a crime therein
and that the defendant did enter the dwelling during the night time hours and/or
the defendant had two or more prior convictions for burglary or housebreaking.
This offense being a violation of Section 16-11-311 of the South Carolina Code of
Laws, as amended.

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



Russell D. Hilton, Solicitor

WITNESSES

J Kling

Dorchester County Sheriff

ARREST WARRANT NUMBER
M471652

Arrested: May 25, 2011

ACTION OF GRAND JURY

TRUE BILL

Debra Wells
Foreperson of Grand Jury
Date: September 8, 2011

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2011GS18-0688

The State of South Carolina
County of DORCHESTER

COURT OF GENERAL SESSIONS

September 12, 2011 TERM

THE STATE
vs.

Michael Todd Sanders

Indictment for
BURGLARY - FIRST DEGREE

SC Code: 16-11-311

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

166

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.

FILED - RECORDED
2011 SEP - 8 AM 11:54
CHERYL GRADY
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)

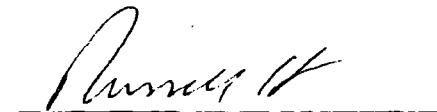
INDICTMENT
2011GS18-0688

At a Court of General Sessions, convened on September 12, 2011 the Grand Jurors of
Dorchester County present upon their oath:

BURGLARY - FIRST DEGREE

That in Dorchester County, South Carolina, on or about March 18, 2011, the
Defendant, Michael Todd Sanders, did willfully and unlawfully enter the dwelling
of Darla Smoak, without consent and with the intent to commit a crime therein
and that the defendant did enter the dwelling during the night time hours and/or
the defendant had two or more prior convictions for burglary or housebreaking.
This offense being a violation of Section 16-11-311 of the South Carolina Code of
Laws, as amended.

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



Russell D. Hilton, Solicitor