

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

NOV 10 2016

APPEAL FROM GREENVILLE COUNTY
COMMON PLEAS COURT

Perry H. Gravely, Circuit Court Judge

S.C. SUPREME COURT

Circuit Court Case No.: 2014-CP-23-5711

Appellate Case No.: 2016-000260

Alejandro Licon Jimenez, Respondent,

v.

State of South Carolina, Petitioner.

APPENDIX

Alan McCrory Wilson, Esq.
John Benjamin Aplin, Esq.
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
(803) 734-3970

J. Falkner Wilkes, Esq.
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292

Counsel for Petitioner

William Walter Wilkins, III
Greenville County Courthouse
305 E North St #325
Greenville, SC 29601
(864) 467-8647

Attorneys for the Respondent

INDEX

Order Denying Post Conviction Relief 1

Application for Post Conviction Relief 9

Amendment to Petition for Post Conviction Relief 16

Return 18

Transcript from PCR Hearing 23

Transcript from Guilty Plea Proceedings 60

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 Alejandro Licona Jimenez,)
 S.C.D.C. No. 358746,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 C.A. No. 2014-CP-23-5711

ORDER OF DISMISSAL

FILED-CLERK OF COURT
 GREENVILLE CO. S.C.
 PAUL B. WICKENSIMMER
 2015 DEC 9 PM 11 37

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed October 15, 2014. The Respondent made its return on February 19, 2015. An evidentiary hearing was held on October 20, 2015 at the Greenville County Courthouse. The Applicant was present and represented by Scott D. Robinson, Esquire,¹ Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying was the Applicant's plea counsel, Lawrence W. Crane, Esquire. The Court had before it the guilty plea transcript, the Greenville County Clerk of Court records, the South Carolina Department of Corrections records, the PCR application, and the return.

PROCEDURAL HISTORY

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Applicant was indicted at the July 2013 term of the Greenville County Grand Jury for trafficking cocaine (2013-GS-23-0873). He was represented by Lawrence W. Crane, Esquire.

¹ A Spanish language interpreter was also present.

On February 6, 2014, the Applicant pled guilty – pursuant to a negotiated sentence – to trafficking cocaine (28-100 grams), second offense. The Honorable Steven H. John sentenced the Applicant to ten years imprisonment. The Applicant did not file an appeal.

ALLEGATIONS

In his application, the Applicant alleges he is being held in custody unlawfully for the following reasons:²

1. Ineffective assistance of counsel.
 - a. “I feel because I am Hispanic and my English is not good, I was not giving a fair trial.”
 - b. “The solicitor told the judge and the court, that it was my 2nd offense, but it was my 1st offense, instead.”

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

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

² On the day of the PCR hearing, PCR counsel filed a pro se amendment prepared by the Applicant. This Court will not consider this amendment, however, as there is no right to hybrid representation. See Jones v. State, 348 S.C. 13, 14, 558 S.E.2d 517, 517 (2002) (counsel cannot serve as a mere conduit for pro se documents in an effort to avoid the prohibition against hybrid representation and the displeasure of his client).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59, 106 S. Ct. 366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted).

The Applicant stated he had three meetings with plea counsel. The Applicant stated they discussed the case and plea counsel's negotiations with the State. The Applicant stated he did not see the discovery materials. The Applicant stated plea counsel should have investigated his 2008 conviction in Texas. The Applicant stated this 2008 conviction was a misdemeanor and should not have been used to enhance his current charge to a second offense. The Applicant stated he was prejudiced because the charge being treated as a second offense prevented him from getting bond. The Applicant stated plea counsel pressured him to plead guilty. The Applicant stated he went to court that day expecting to plead guilty to a first offense but acknowledged that, during the plea itself, it was noted this was a second offense. The Applicant acknowledged the plea judge advised him of the right to appeal but admitted he did not ask plea counsel to file an appeal.

Plea counsel testified he was retained to represent the Applicant on this charge and filed discovery motions. Plea counsel testified he believed that he received full discovery from the

State. Plea counsel testified the Applicant had an ICE hold, so he would not have been able to make bond. Plea counsel testified he had invoices for an interpreter for five meetings. Plea counsel testified he and the Applicant discussed the discovery materials and the sentencing ranges (and that he even drew a diagram to explain the different sentence ranges for different weights of drugs). Plea counsel confirmed the Applicant insisted he did not have a prior offense. Plea counsel testified, however, that the assistant solicitor had demonstrated this would be a second offense. Plea counsel also testified he had received the Applicant's NCIC report. Plea counsel testified, however, that a first or second offense in this case would not have mattered because of the weight of the drugs involved. Plea counsel testified he negotiated a fifteen-year offer for 28-100 grams and the Applicant said "you can do better." Plea counsel testified he negotiated a twelve-year sentence and the Applicant said "you can do better." Plea counsel testified he negotiated a ten-year sentence and the Applicant said "you can do better." Plea counsel testified he explained to the Applicant that he could not and that the only two options were to accept this offer or go to trial. Plea counsel testified he did not put any undue pressure on the Applicant to make a decision. Plea counsel testified they did not discuss an appeal and that, regardless, there were no appellate issues.

Initially, this Court notes the plea judge conducted a thorough plea colloquy with the Applicant. The Applicant admitted to the plea judge both that he was guilty and that the facts recited by the solicitor were true. (Plea transcript, p.6; p.10). The Applicant also told the plea judge that he understood the trial rights he was waiving in pleading guilty, was satisfied with counsel, and had not been coerced in any way. (Plea transcript, pp.5-7). The Applicant acknowledged he understood the judge's questions and had given truthful answers. (Plea transcript, p.10).

This Court finds the Applicant has failed to meet his burden of proving plea counsel should have investigated his case and ensured he pled guilty to a first offense. Plea counsel testified he was satisfied the Applicant had a prior offense that justified the enhancement of the current charge to a second offense. This Court finds plea counsel's testimony is credible. This Court notes the Applicant has failed to present any evidence to support his contention that his 2008 conviction should not have been used for enhancement purposes. Without such evidence, this Court cannot speculate as to whether further investigation by plea counsel would have resulted in a different outcome in this case. See Jackson v. State, 329 S.C. 345, 495 S.E.2d 768 (1998) (finding the failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result); Skeen v. State, 325 S.C. 210, 481 S.E.2d 129 (1997) (holding applicant not entitled to relief where no evidence presented at PCR hearing to show how additional preparation would have had any possible effect on the result at trial). This Court also finds the Applicant was well aware that he was pleading guilty to a second offense that day, as it was mentioned at the start of the plea hearing. (Plea transcript, p.4).

This Court finds the Applicant has failed to meet his burden of proving plea counsel should have filed a notice of appeal. This Court initially notes plea counsel was not obligated to inform the Applicant of the right to appeal a guilty plea. Plea counsel has a constitutionally imposed duty to consult with the defendant about an appeal only when there is reason to think either: (1) that a rational defendant would want to appeal or (2) that this defendant reasonably demonstrated to counsel that he was interested in appealing. Roe v. Flores-Ortega, 528 U.S. 470, 480, 120 S. Ct. 1029, 1036 (2000). Regardless, the plea judge advised the Applicant of the right to an appeal and he admitted he did not ask plea counsel to file such. (Plea transcript, p.11).

This Court finds the Applicant was aware of the right to appeal but chose not to pursue such. See Sheppard v. State, 357 S.C. 646, 651, 594 S.E.2d 462, 465 (2004) ("To waive a direct appeal, a defendant must make a knowing and intelligent decision not to pursue the appeal.")

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that plea counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by plea counsel's performance.

This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

All Other Allegations

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

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner and the Applicant was not prejudiced by counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

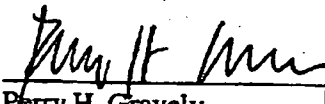
This Court advises the Applicant that he must file a notice of intent to appeal within thirty

(30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 23rd day of March, 2015.



Perry H. Gravely
Presiding Judge
Thirteenth Judicial Circuit


_____, South Carolina.

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NO. ~~2014 EB 205411~~

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
DEC 9 PM 1:37

Alejandro Jimenez vs. South Carolina State Of

CHECK ONE:

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**
 - Rule 12(b), SCRPC;
 - Rule 41(a), SCRPC (Vol. Nonsuit);
 - Rule 43(k), SCRPC (Settled);
 - Other: _____
- ACTION STRICKEN (CHECK REASON):**
 - Rule 40(j) SCRPC;
 - Bankruptcy;
 - Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 - Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 - Affirmed;
 - Reversed;
 - Remanded;
 - Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court;

Dated at Greenville, South Carolina, this .

Court Reporter:

PRESIDING JUDGE - Perry H Gravely

This judgment was entered on the , and a copy mailed first class this , to attorneys of record or to parties (when appearing pro se) as follows:

Scott David Robinson PO Box 10042 Greenville, SC 29603

Karen Christine Ratigan PO Box 11549 Columbia, SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of Court
- Clerk of Court

STATE OF SOUTH CAROLINA)

In the Court of Common Pleas

County of Greenville)

County)

Full name and prison number, if any, of applicant)

Alejandro Jimenez # 358746)

Alejandro Jimenez Licona)

Name of Respondent)

2014-CP-23-057

APPLICATION FOR
POST-CONVICTION RELIEF

2014 OCT 15 PM 4 27

FILED-CLERK OF COURT
GREENVILLE CO, S.C.
PAUL R. WITTEKENSIMER

scdc

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 it clear to which question any such continued answer refers.

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

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

1. Place of detention Greenville County Detention Center

2. Name and location of Court which imposed sentence Greenville General Sessions, 305 E. North St. Greenville, SC 29601-2120

3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:

(a) Indictment # 2013652300873

(b) Arrest Warrant # 2012A2330204960

(c) _____

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

(a) Feb/6/2014, 2-6-2014

(b) Sentence was 10 Yrs, with credit

(c) from 12-19-2012

5. Check whether a finding of guilty was made

- (a) after a plea of guilty _____
- (b) after a plea of not guilty N/A
- (c) after a plea of nolo contendere N/A

6. Did you appeal from the judgment of conviction or the imposition of sentence? No, I
wanted to but MY Lawyer lied to me, and took MY Money

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

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

- (a) I told MY lawyer to file one, but he
- (b) didn't he lied to me and stole MY Money.
- (c) _____

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

- (a) Ineffective Assistant of Council, I feel
- (b) because I am Hispanic and my English is not good, I
- (c) was not giving a fair Trial.

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

(a) The Solicitor Told The Judge and The Court, That it was MY 2nd offense, but it was MY 1ST offense, INSTEAD,

(b) _____
(c) _____

11. Prior to this application have you filed with respect to this conviction

(a) any petition in a State Court under South Carolina Law?

No

(b) any petitions in State or Federal Courts for habeas corpus or post-conviction relief?

No

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)

No

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

No

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

(a) the specific nature thereof:

i. _____
ii. _____
iii. _____
iv. _____

MA

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

i. _____
ii. _____
iii. _____
iv. _____

MA

(c) the disposition thereof:

i. _____
ii. _____
iii. _____
iv. _____

MA

(d) the date of each such disposition:

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

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

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

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed? No

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

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

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

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

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

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

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

- (a) your arraignment and plea? Yes
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence?

Yes
(e) preparation, presentation or consideration of any petitions, motions, or application with respect to this conviction, which you filed? IV/A

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

- (a) the name and address of each attorney who represented you
 - i. Lawrence W. Crane, from
 - ii. Greenville SC,
 - iii. His. # (864) 235-2900
- (b) the proceedings at which each such attorney represented you:
 - i. Through my case and court date.
 - ii. _____
 - iii. _____

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

The relief I seek is a fair sentencing. I was given too much time for my charge.

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

No, I am not

STATE OF SOUTH CAROLINA)
COUNTY OF Greenville)

VERIFICATION

I, Alejandro Jimenez, 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.

Alejandro Jimenez
Alejandro Jimenez

Sworn to and subscribed before me
This 22 day of September, 2014

Virginia Robinson L.S.

Notary Public for South Carolina

My Commission Expires May 20, 2021

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

I, Alejandro Jimenez, 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 or 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 proceeding or give security therefor.

Alejandro Jimenez
Applicant
Alejandro Jimenez

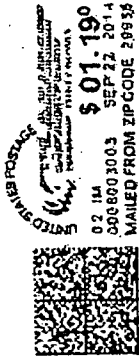
Sworn to and subscribed before me
This 22 day of September, 2014

Virginia Robinson L.S.

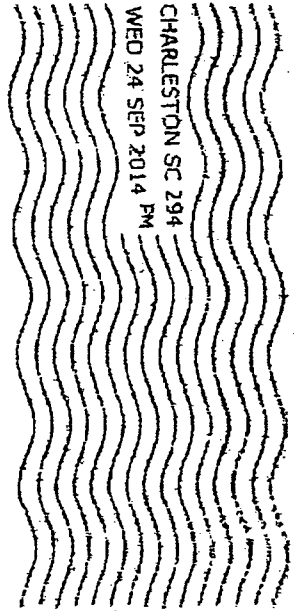
Notary Public for South Carolina

My Commission Expires: May 20, 2021

Alejandro Jimenez #358746
Ridgeland Correctional Institution
Dorm CA-59
P.O. Box 2039
Ridgeland, SC 29936



Paul B. Wickensimer
Greenville County Clerk of Court
305 East North Street
Greenville, South Carolina 29601

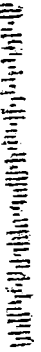


RIDGELAND CORRECTIONAL
INSTITUTION

SEP 23 2014

MAILROOM

2014-CP-23-05711



STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

ALEJANDRO JIMENEZ, 358746
RCI, CA-59, P.O.B. 2039

Applicant

-Versus-

STATE OF SOUTH CAROLINA,
Respondent,

IN THE COURT OF COMMON PLEAS
2014-CP-23-05711

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMMER
2015 OCT 20 AM 11 42

Applicant Alejandro, Jimenez, amends and/or supplements the original application for post-conviction relief (APCR) under Rule 15 (a) of South Carolina Rules of Civil Procedure (SCRC), see also Rule 71.1 (d) and Title 11-27-10 thru 120 of S.G. code Ann.(2014); he set forth herein where criminal trial counsel rendered the actual ineffective assistance of counsel prjer to, therein and there after the 2-6-14 court proceeding (s).

Pre-Trial

The record shows the 1-30-14 Notice of Motion & Metion to Suppress; it was brought up by trial counsel during guilty plea (tr.P.11 11.22-24; counsel failed to press Court for ruling;

Sentence

Tr.p.6 1.25-p.71.1 is where Court inquired about inducement or promise a specific sentence; the record does not show where trial counsel objected or made a Rule 29 (a) metion for sentence reconsideration (Rules of Criminal Procedure) for he was sentenced in cocaine weight 28 to a hundred grams second offense".(tr.p.15 1.1).

Section 44-53-470 of Code Ann (2012) set forth the element(s) of what constitutes a 2d illicit drug offense, there is simply nothing in the statutory language which indicates an attempt to possess or conspiracy (relevant to illicit drugs) can or may trigger 2d offense(s) enhancement. Moreover section 44-53-370(2)(b)1 & 2 show 7 years nor more than 25 years compared to 7 years no more than 30 years; it is small thing but Jaminez had be falsely notified the actual minimum vs. maximum sentence if government referenced the "attempt to commit poss" of 12-3-2008 in Austin,Tx.

Direct Appeal

Trial counsel did file the criminal direct appeal nor did he prepare the record for pursuing the direct appeal. Roe V.Flores Ortega, 120 s.ct.1029 (2000)(prejudice show) but for counsel's deficient conduct, he would have appealed."

Community Supervision Program (CSP)
State V.Blankney, 763 S.E.2d 622 (S.C.App.2014)

Cert. denied 2-20-15

CSP is not part of the sentence issued by trial court.
Earley V.Murray, 451 F.3d 71 (CA2 2006) cert. denied 127 s.c.t. 3014 (2007) It violates federal due process clause. Sentence (CSP) represents State agency's judgment, violates separation of power(s).

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
Alejandro Licona Jimenez,)
S.C.D.C. No. 358746,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
C.A. No. 2014-CP-23-5711

RETURN

In response to the post-conviction relief application filed October 15, 2014, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the July 2013 term of General Sessions for trafficking cocaine (2013-GS-23-0873). Lawrence W. Crane, Esquire represented the Applicant.

On February 6, 2014, the Applicant pled guilty to trafficking cocaine (28-100 grams), second offense. The Honorable Steven H. John sentenced the Applicant to ten years imprisonment. The Applicant did not file an appeal.

Attached herewith and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding the subject conviction and the Applicant's records from the South Carolina Department of Corrections. The plea transcript will be forwarded upon receipt.

II.

In his application for post-conviction relief, the Applicant alleges he is being held in

custody unlawfully for the following reason:

1. Ineffective assistance of counsel.
 - a. "I feel because I am Hispanic and my English is not good, I was not giving a fair trial."
 - b. "The solicitor told the judge and the court, that it was my 2nd offense, but it was my 1st offense, instead."

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney

performance is measured by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). 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. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Respondent denies each allegation not expressly admitted, qualified or explained.

V.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.

Respectfully submitted,

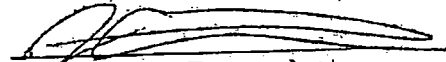
ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By:


Attorneys for Respondent

February 4, 2015

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

2014-CP-23-5711

ALEJANDRO LICONA JIMENEZ, 358746

Applicant,

vs

STATE OF SOUTH CAROLINA,

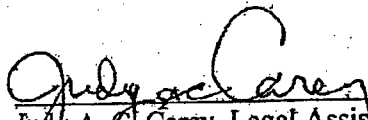
Respondent.

AFFIDAVIT OF SERVICE BY MAIL

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

Alejandro Licona Jimenez, 358746
Ridgeland Correctional Institution
Post Office Box 2039
Ridgeland SC 29936-2039

DATED this 19th day of February, 2015.


Judy A. Carey, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA)
) COURT OF COMMON PLEAS
COUNTY OF GREENVILLE)

Alejandro L. Jimenez,)
)
) Plaintiff,)
)
) v.)
)
) State of South Carolina,)
)
) Defendant.)

Case No. 14-CP-23-5711

TRANSCRIPT OF HEARING

The within HEARING in the above-captioned matter was held October 20, 2015, before The Honorable Perry H. Gravely in Courtroom 6 of the Greenville County Courthouse, East North Street, Greenville, South Carolina; attended by counsel as follows:

APPEARANCES:

Scott D. Robinson, Esq.
....Appearing for Applicant

Karen Ratigan, Esq.
OFFICE OF ATTORNEY GENERAL
...Appearing for State of South Carolina

Deborah Garrison
Circuit Court Reporter – 13th Judicial Circuit
P O Box 27145
Greenville, South Carolina 29616
dgarrison@sccourts.org

INDEX

Testimony of Alejandro Jimenez

Direct Examination by Mr. Robinson	5
Cross Examination by State	18

Testimony of Lawrence W. Crane

Direct Examination by State	24
Cross Exam by Mr. Robinson	31

Ruling of the Court 35

Certificate of Court Reporter 37

INDEX OF EXHIBITS

- None Entered -

(APPLICANT PRESENT)

1
2 MR. ROBINSON: Good morning, Your
3 Honor.

4 THE COURT: Good morning.

5 MR. ROBINSON: We have an
6 interpreter that needs to be sworn.

7 THE CLERK: And your name?

8 INTERPRETER: Alexandra Gonzales.

9 THE CLERK: Gonzales?

10 INTERPRETER: Yes, ma'am.

11 THE CLERK: You do solemnly
12 promise and swear that you shall interpret
13 the questions by the attorneys and
14 instructions by the Judge fully and
15 accurately, so help you God?

16 INTERPRETER: I do.

17 THE CLERK: Thank you.

18 INTERPRETER: Thank you.

19 THE COURT: And I mean, I'm not
20 going to -- I think I've had you in front of
21 me before.

22 INTERPRETER: Yes, sir.

23 THE COURT: Can you tell me your
24 qualifications?

25 INTERPRETER: Yes, sir. I

1 actually have a local interpreting agency
2 that offers medical and legal interpreting
3 services. And I interpret for other law
4 firms in the Upstate. I also do medical
5 interpreting.

6 THE COURT: Okay. Have you
7 interpreted a trial before?

8 INTERPRETER: Yes, sir.

9 THE COURT: And what is your name
10 again?

11 INTERPRETER: Alexandra Gonzales.

12 THE COURT: All right. I find you
13 are properly certified and qualified. So
14 what are we doing?

15 MS. RATIGAN: May it please the
16 Court, Your Honor. This is the case of
17 Alejandro Jimenez versus the State. The
18 docket number is 2014-CP-23-5711.

19 Mr. Jimenez was indicted for
20 trafficking cocaine. He was represented on
21 that charge by Mr. Crane. On February 6th of
22 2014 he pled guilty pursuant to a negotiated
23 sentence for trafficking cocaine twenty-eight
24 to one hundred grams, second offense. Judge
25 John accepted the negotiation and sentenced

1 him to ten years. He did file an appeal.

2 The State is ready to proceed today.
3 However, I've been advised Mr. Robinson has
4 some matters to put on the record.

5 THE COURT: All right. I'll be
6 glad to hear from you, Mr. Robinson.

7 MR. ROBINSON: May it please the
8 Court. We are ready to proceed, your Honor,
9 at this time.

10 I would like to call my first
11 witness, Judge.

12 THE CLERK: Mr. Jimenez?

13 MR. ROBINSON: Yes.

14 (WITNESS TAKES STAND)

15 MR. ROBINSON: May it please the
16 Court?

17 THE COURT: Yes. You may proceed.

18 ALEJANDRO JIMENEZ, having been duly sworn
19 to tell the truth, and nothing but the truth,
20 testified as follows (via interpreter):

21 DIRECT EXAMINATION

22 BY MR. ROBINSON:

23 Q. Mr. Jimenez, before we begin I'm
24 going to ask you some questions about what
25 we're doing today. Now, you do understand

1 that in this hearing the sole relief that you
2 have is the Judge can order a new trial; you
3 understand that?

4 A. Yes.

5 Q. And while you were originally
6 sentenced to ten years in this case that if
7 you were granted a new trial, you could be
8 facing, based on the amount of drugs in that
9 case, a mandatory twenty-five years?

10 A. Yes.

11 Q. So you understand that you are
12 taking a risk here of going from ten years to
13 twenty-five years?

14 A. Yes.

15 Q. And you're willing to take that risk
16 and go forward today?

17 A. Yes.

18 Q. All right. Now, Mr. Jimenez, you
19 also have, besides your original application,
20 you have filed or sent me an amended
21 application; is that correct?

22 A. Yes.

23 MR. ROBINSON: May I approach the
24 witness, Your Honor? Can I approach the
25 witness?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Yes.

DIRECT EXAMINATION CONTINUED

BY MR. ROBINSON:

Q. Is this a copy of an amendment that you sent to me?

A. Yes.

Q. And this amendment consists of two pages; is that right?

A. Yes.

Q. Okay, sir.

MR. ROBINSON: Your Honor, at this time I'll have this marked, I'd like to have this marked as Petitioner's Exhibit Number 1.

THE COURT: Is that an amendment to the petition?

MR. ROBINSON: Yes, sir.

THE COURT: Won't it just be filed?

MR. ROBINSON: It isn't filed.

THE COURT: I mean, I don't have it in here. So you haven't filed it or anything?

MR. ROBINSON: No.

THE COURT: I mean, you can, I

1 guess mark it, Deb (court reporter). But I
2 believe it's more appropriate that this be
3 filed.

4 MR. ROBINSON: Whatever the Court
5 sees fit.

6 THE COURT: All right. You need
7 it for review?

8 MR. ROBINSON: Yes, Your Honor.
9 I'm going to question him about it.

10 THE COURT: All right. That's
11 okay.

12 DIRECT EXAMINATION CONTINUED

13 BY MR. ROBINSON:

14 Q. Mr. Jimenez, let's go through your
15 allegations. Now, you understand this is
16 your one shot at the PCR?

17 A. (No verbal response)

18 Q. And you need to make sure that any
19 allegation that you have, you need to make,
20 that that allegation is stated today?

21 A. Yes.

22 Q. Why don't you tell the Court what
23 Mr. Crane did not do in this case? And
24 secondly, how it prejudiced you?

25 A. Sir, what I want to say today is

1 that I feel that, is that the charge that I
2 have in Texas was not investigated correctly.
3 I actually was not caught with any drugs on
4 hand. I actually was given a charge of
5 intent of possession. So that's why it was
6 considered a misdemeanor Class A, because I
7 didn't have drugs in my hands.

8 Q. When was this charge in Texas that
9 you had?

10 A. In 2008.

11 Q. Okay. And was it a plea or was it a
12 trial?

13 A. My attorney told me to plead guilty
14 because I was getting deported.

15 Q. Okay. So you had, at the time, a
16 conviction from Texas; is that right?

17 A. Yes. I did have a charge but it was
18 a misdemeanor, so ---

19 Q. Okay. So because you believe it was
20 a misdemeanor, you believe that that should
21 not have been counted as a first conviction?

22 A. Yes. I feel like it shouldn't have
23 been taken into consideration, since it was
24 considered a misdemeanor. No investigation
25 was done, I actually was given time served

1 because there wasn't any other evidence that
2 was found and then I was deported.

3 Q. Well, so you're -- let me make sure
4 I get this right. What did Mr. Crane do, in
5 your view, that prejudiced you in this case?
6 What should he have done?

7 A. I feel that he should have done a
8 better investigation in Texas and understood
9 that the case that I had in Texas was a
10 misdemeanor and that I shouldn't have been
11 counted for a second offense here.

12 Q. Okay. So let me ask you this. If
13 it was going to be a first offense here, how
14 did that prejudice you? Why did that
15 prejudice you in this case?

16 A. It was prejudice to my case because
17 I feel like I didn't get the right to a bond
18 just like everybody else had the right to a
19 bond. I feel like my rights were not given.

20 Q. Let me ask this. At the time of
21 this -- now, are you a legal citizen?

22 A. (No verbal response).

23 Q. At the time of this hearing and the
24 time Mr. Crane represented you, were you a
25 legal citizen in this country? Did you have

1 citizenship?

2 A. No.

3 Q. Did you have an ICE hold on you?

4 A. Yes, I had an ICE hold.

5 Q. Okay. So if you had gotten a bond,
6 could you have gotten out of jail?

7 A. I would have been able to get my
8 bond.

9 Q. But you just said you were on ICE
10 hold?

11 A. Well, a lot of people have had it
12 and they've always had a bond.

13 Q. Okay. So your allegation here is
14 that if he had investigated more the Texas
15 charge, your charge would have been a first
16 offense and you could have been potentially
17 eligible for a bond at that time; correct?

18 A. Correct, yes.

19 Q. Okay. Now, how did that affect your
20 plea though? How did that affect your plea?
21 Because you're alleging in here that your
22 plea was not voluntary, but for Mr. Crane's
23 actions or inactions you would not have pled.
24 What would have been -- would you have pled
25 again under those circumstances with what you

1 know now?

2 A. There's actually several arguments
3 that I had. I felt pressured when I went to
4 plead. And when I did not plead I was told
5 that there's a lot of racism, that I had the
6 potential to get the max, twenty-five years.
7 So I felt a lot of pressure to make that
8 decision.

9 Q. Well, you said you were told about
10 that. Are you talking about Mr. Crane told
11 you that?

12 A. Yes.

13 Q. Okay. So how many times did Mr.
14 Crane meet with you about your case?

15 A. There were a few meetings that we
16 had together and if I knew I had the right to
17 see my motion of discovery, I would not have
18 pled guilty. Once I read the motion for
19 discovery, I realized that I should not have
20 pled guilty and things would have been
21 different.

22 Q. When did you read your motion of
23 discovery or your Rule 5, your discovery
24 motion?

25 A. About -- when my attorney sent that

1 information to me.

2 Q. Your attorney gave it to you?

3 A. Yes.

4 Q. All right. Now, your other
5 allegations in your -- these are actually in
6 your amendment about an appeal. Did you ever
7 ask Mr. Crane to file for an appeal for you?

8 A. In the last meeting that we had we
9 discussed that. That he had only been
10 working for me for about five months. I felt
11 that there was more that could be done in the
12 case. I felt that I had already paid enough
13 money and legal fees. And I felt that there
14 was a lot more that could have been done for
15 me.

16 Q. But how about the appeal, did you
17 ever ask Mr. Crane after the plea to file for
18 an appeal?

19 A. No, because that was a long time
20 after that I had the next meeting with him
21 and I told him what options did I have? What
22 could we do now? And he said that there
23 wasn't anything that we could do.

24 Q. Did you ever file a -- send notice
25 to the clerk of court in Greenville County

1 asking for an appeal?

2 A. Yes.

3 Q. You did send something?

4 A. Yes. So I did send some
5 documentation to open a PCR.

6 Q. We're talking about the appeal. Did
7 you ever send something to the Greenville
8 County Clerk of Court's Office, a written
9 notice of appeal, that you were planning on
10 -- you wanted to appeal your case?

11 A. Yes. I did send something to the
12 clerk of court for the PCR appeal.

13 Q. Okay. In your amendment to your
14 PCR, let me let you look at this second page.
15 It talks about a direct appeal. Okay. Are
16 you asking the Court to provide you an
17 opportunity to file for an appeal on your
18 plea?

19 A. So, -- yes. I sent the documents to
20 the clerk of court for the appeal. And then
21 once -- what it says there, what it states
22 there is the reference to that case that was
23 in Texas.

24 Q. Let me rephrase my question to you,
25 okay? Are you asking the Court for the right

1 to file an appeal of your conviction?

2 A. Yes.

3 Q. All right. You've talked about the
4 allegations in your post-conviction relief
5 application.

6 You've talked about your amendment to
7 this application.

8 Is there anything else that you want to
9 add to this application at this time?

10 Is there anything else that you need to
11 tell this Court as to why you're here?

12 A. And so I want to ask the Judge at
13 this time to help me out and see if I can get
14 the opportunity to have some sort of relief.
15 I have four kids. I have a family. My mom
16 is sick in Honduras. And I want to know if
17 I'll be able to see them in the near future.

18 Q. Mr. Jimenez, this is your one time
19 to, in your application to tell the Court
20 besides the bond issue what you what?

21 You're basically -- in your application
22 you're saying that 'I would not have pled
23 guilty but for the performance of my
24 attorney.' And you've alleged that in your
25 application. You've spoken about that today.

1 You're going to have this amendment put in
2 for the Court.

3 A. Okay.

4 Q. Is there anything else that you want
5 to allege in this case about Mr. Crane?

6 A. The other issue that I feel that has
7 gone wrong is that I was charged as a second
8 offense. If I would have been charged as a
9 first offense, I know that I would have had
10 the right to a bond.

11 Q. Okay. Okay. Mr. Jimenez, so that's
12 all you wanted to say to this Court today?

13 A. I just want to ask for an
14 opportunity, please? I just need an
15 opportunity.

16 Q. But this all you want to say to
17 this, all you want to present to the Court
18 besides your application and the amendment,
19 this is everything?

20 A. Yes.

21 Q. And Mr. Jimenez, I've met with you
22 several times. And we spoke on the phone?
23 And we met back there a moment ago with an
24 interpreter to go over everything in this
25 case; didn't we?

1 A. Yes.

2 Q. And I actually gave you the
3 opportunity, if you wished, to ask to
4 continue this if you wanted more time;
5 didn't I?

6 A. Yes.

7 Q. And despite that, you wanted to go
8 forward today; correct?

9 A. Yes.

10 Q. Have I done everything that you've
11 asked me to do?

12 A. Yes.

13 Q. Are you satisfied with my
14 performance and my services?

15 A. Yes.

16 Q. Okay. Thank you very much.

17 THE COURT: Ms. Ratigan, have you
18 seen the amended petition?

19 MS. RATIGAN: Yes, Your Honor.

20 THE COURT: Okay.

21 MR. ROBINSON: May I hand this up
22 to the Court?

23 THE COURT: Yes.

24 MR. ROBINSON: That's all the
25 questions I have, Your Honor.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Do you have any objection to the amended petition.

MS. RATIGAN: No, Your Honor. Is that going to be filed or is it going to be an exhibit?

THE COURT: I think it just needs to be filed and then we will -- I will allow then the amendment.

MS. RATIGAN: May it please the Court, Your Honor?

THE COURT: Yes.

CROSS-EXAMINATION

BY MS. RATIGAN:

Q. Mr. Jimenez, you hired Mr. Crane and paid him to represent you?

A. Yes. Ten thousand dollars (\$10,000).

Q. And how many times did you meet with him before you went to Court?

A. About three times.

Q. And when you met with him, what did you talk about?

A. We talked about the case, that he was negotiating, trying to negotiate.

Q. Did you talk about the evidence that

- 1 the State had against you?
- 2 A. Yes. Are you asking -- ?
- 3 Q. Yes. Did you talk to Mr. Crane
- 4 about the evidence that the State had against
- 5 you?
- 6 A. Yes, but there was no evidence.
- 7 Q. Wasn't over two hundred grams of
- 8 cocaine found in your vehicle?
- 9 A. Yes, that's what was in the report.
- 10 Q. And did you discuss that report with
- 11 Mr. Crane?
- 12 A. Yes.
- 13 Q. Did you tell Mr. Crane -- did you
- 14 talk about why you had the drugs in your car?
- 15 A. No, because I didn't know that the
- 16 drugs were in the car.
- 17 Q. Did you tell Mr. Crane you didn't
- 18 realize there were drugs in your car?
- 19 A. Yes.
- 20 Q. And did you and Mr. Crane talk about
- 21 that prior conviction from Texas?
- 22 A. Yes, I explained it.
- 23 Q. And when you explained this prior
- 24 Texas charge to Mr. Crane, what did he say?
- 25 A. I think the only thing he said was

1 he was waiting on some documents to come from
2 Texas that explained the charges that he
3 (sic) had in Texas.

4 Q. Did you and Mr. Crane ever discuss
5 pleading to this as a first offense or a
6 second offense or did he always tell you it
7 was going to be a second offense?

8 A. We tried to explain and I argued
9 back and forth to let him know that it was a
10 first offense. And then as time got,
11 dwindled down I didn't have any other option
12 instead of taking the second offense.

13 Q. But did Mr. Crane ever tell you it
14 was possible that this would be treated as a
15 first offense or did he always say it was
16 going to be a second offense?

17 A. No, we never talked about that. The
18 only time we discuss it was when I would
19 bring it up. And I would argue with him and
20 ask him to go ahead and do further
21 investigation and find out that it, in fact,
22 was my first offense. And that's why I
23 didn't have the opportunity to a bond.

24 Q. And Mr. Crane, he negotiated plea
25 offers with the State; is that correct?

1 A. Yes.

2 Q. And he told you if you accepted this
3 negotiated plea, that it would be for a
4 second offense?

5 A. No.

6 Q. So when you went to court that day
7 you thought it was pleading guilty to a first
8 offense?

9 A. Yes, exactly. I thought that I was
10 pleading guilty to first offense. And during
11 that time I felt that there was going to be
12 an opportunity for some sort of bond to be
13 paid before I pled guilty.

14 Q. But at the plea hearing that day,
15 wasn't the discussion all about the facts you
16 were pleading guilty to a second offense?

17 A. No, because I never saw a motion of
18 discovery.

19 Q. Okay. That's not what I'm asking
20 you. During the plea hearing, didn't the
21 State and your lawyer mention that this was a
22 second offense?

23 A. Yes.

24 Q. And, also at the plea hearing,
25 didn't the Judge advise you that you could

1 file an appeal if you wanted to do so?

2 A. Yes, that's why I did it.

3 Q. Do you know that there is a
4 difference between an appeal and a PCR or do
5 you think it's the same thing?

6 A. What I did was I'm submitting
7 application for PCR.

8 Q. So you didn't want an appeal. You
9 just wanted a PCR?

10 A. Yes.

11 Q. And when you went to court that day
12 you testified you felt that Mr. Crane had
13 been pressuring you; is that correct?

14 A. Yes.

15 Q. So were you unhappy with Mr. Crane
16 that day?

17 A. I wasn't upset. I was just
18 disappointed.

19 Q. Why didn't you tell the Judge that
20 you felt your attorney was pressuring you?

21 A. Because I had already given him ten
22 thousand dollars (\$10,000) and I felt that
23 that was the only thing that I could do. I
24 had already paid him.

25 Q. So you felt you had no choice?

1 A. That's right. Exactly.

2 Q. You've been to court before;
3 correct?

4 A. Yeah, when I was sentenced.

5 Q. But you've been in court on other
6 charges; right?

7 A. No, that was the first time.

8 Q. But you've been to court. You've
9 had -- you've been arrested by the federal
10 government for illegal re-entry at least
11 twice?

12 A. For that, yes.

13 Q. Okay. And you also went to court
14 down in Texas; right?

15 A. Yes. That was the time that I got
16 transferred and I was deported.

17 Q. And you still didn't think you could
18 tell the judge? Even though you've been to
19 court before and you know how court works,
20 you didn't think you could tell the judge you
21 felt pressured?

22 A. I just felt really pressured. He
23 explained to me that the solicitor had told
24 him that there wasn't anything else we could
25 do.

1 Q. Okay.

2 MS. RATIGAN: That's all I have,
3 Your Honor.

4 THE COURT: Any redirect?

5 MR. ROBINSON: I've got no
6 redirect, Your Honor.

7 THE COURT: All right. Thank you.

8 (WITNESS STEPS DOWN)

9 THE COURT: Any other witnesses,
10 Mr. Robinson?

11 MR. ROBINSON: No, sir, Judge.
12 The petitioner rests.

13 THE COURT: All right.

14 MR. ROBINSON: We'd call Mr.
15 Crane, Your Honor.

16 THE COURT: All right. Mr. Crane,
17 if you'll come forward.

18 (WITNESS TAKES STAND)

19 LAWRENCE CRANE, having been duly sworn to
20 tell the truth, and nothing but the truth,
21 testified as follows:

22 DIRECT EXAMINATION

23 BY MS. RATIGAN:

24 Q. I'm going to try to speak slow, Mr.
25 Crane, simply because we have an interpreter.

1 Were you retained or were you appointed in
2 this case?

3 A. I was retained.

4 Q. And were there any other charges or
5 just this trafficking charge?

6 A. Just this charge.

7 Q. Did you file the usual Brady, Rule 5
8 motions?

9 A. I did.

10 Q. To the best of your knowledge, did
11 you receive full discovery from the State?

12 A. Yes, ma'am. I did.

13 Q. Did you ever file a Motion for bond?

14 A. I'm not sure if I did or not. I
15 don't see one right away but he had an ICE
16 hold on him so he wouldn't have made bond
17 anyway. I don't find the Motion in my file.

18 Q. Okay. How many meetings would you
19 say you would have had with Mr. Hernandez
20 prior to the plea?

21 A. I have -- I can tell you that I have
22 invoices from an interpreter who was present
23 for five meetings. So I know we had at least
24 five.

25 Q. Did you discuss the discovery

1 materials with Mr. Jimenez?

2 A. Yes.

3 Q. Did you review the possible sentence
4 ranges on the charge for two hundred or more
5 grams?

6 A. Yes, I did. I painted/drew him a
7 picture, which I have in my file.

8 Q. And what was the purpose of that
9 picture or diagram?

10 A. To explain to him the differences
11 between the amount of narcotics that he was
12 found in the car with, which was two hundred
13 and eighty something grams. And I broke it
14 down to show him what two hundred or more
15 grams, how much jail time that carried.

16 How much jail time one hundred or more
17 grams carried.

18 How much jail time twenty-eight to one
19 hundred grams carried.

20 And how much jail time ten to twenty-
21 eight grams carried.

22 Q. Did you engage with plea
23 negotiations with the State?

24 A. I did.

25 Q. Can you sum up those negotiations

1 for the Court?

2 A. Yes, ma'am. When we started
3 negotiations eventually the solicitor offered
4 a plea to twenty-eight to one hundred grams
5 for a fifteen year sentence.

6 Q. And did Mr. Jimenez accept that
7 fifteen years or did you further negotiate?

8 A. No, Mr. Jimenez did not accept that.
9 He said to me you can do better. So I went
10 back and tried to do better.

11 Q. Was the case ever placed on the
12 trial docket?

13 A. Yes. It was actually placed on the
14 trial docket for the December, I think, 12th
15 term of court of 2013. And then it was
16 placed on the trial docket the week that we
17 pled. He was actually supposed to go to
18 trial on February 4th, which is the day we
19 pled guilty.

20 Q. But the State eventually made this
21 ten-year negotiated offer?

22 A. Well, you forgot one.

23 Q. Okay?

24 A. When I went back and negotiated
25 more, the solicitor came down to twelve

1 years.

2 Q. Okay.

3 A. And I went to Mr. Jimenez and I told
4 him they were down to twelve years. And he
5 said you can do better.

6 So I went back to the solicitor -- maybe
7 not right away but eventually got her to come
8 down to a ten-year negotiated sentence, which
9 sort of surprised me knowing the solicitor as
10 I do.

11 Q. And when you made that ten-year
12 negotiated offer to Mr. Jimenez, what did he
13 say?

14 A. Well, of course, he said I could do
15 better and I just told him I couldn't. And
16 we're at the point where it was on the trial
17 docket. So it was either go to trial or take
18 the negotiated sentence.

19 Q. And did you explain to him at this
20 point those were his two options?

21 A. That's correct.

22 Q. Would you have been prepared to try
23 the case if it had gone to trial?

24 A. I would have.

25 Q. In having these discussions with Mr.

1 Jimenez, do you feel like you were putting
2 any undue pressure or influence on him?

3 A. No, I don't think so. He, of
4 course, did not want to plead because he
5 wanted to get back to his family.

6 But the only pressure was it came down
7 to either going to trial or taking the plea.

8 And, of course, we're weighing the
9 possibility of being convicted of two hundred
10 and eighty-seven grams for twenty-five years
11 or pleading guilty to ten.

12 Q. Did you ever discuss an appeal with
13 Mr. Jimenez?

14 A. No, I did not.

15 Q. Did you believe there were any
16 errors or omissions from the plea itself that
17 would have been the basis for an appeal?

18 A. No, I don't.

19 Q. Circling back around to the main
20 point of contention, were you aware that Mr.
21 Jimenez had a prior conviction?

22 A. Yes, I was.

23 Q. And was it this 2008 possession of
24 cocaine?

25 A. It was. And when we first started

1 talking about the case, he pretty much
2 insisted he didn't have a prior conviction.
3 The solicitor convinced him that he did and
4 it would count towards being a second
5 offense.

6 But, quite honestly, with the weight it
7 didn't matter if it was first or second. The
8 sentence was going to be the minimum sentence
9 anyway.

10 Q. Mr. Jimenez testified that he
11 brought this up to you and you told him you
12 were waiting on some documents from Texas.
13 Do you ever recall getting any kind of
14 documentation from Texas or telling him that
15 you were?

16 A. I didn't. I may have told him that
17 we were waiting on documentation to prove the
18 Texas incident, but that came through the
19 solicitor. I can't tell you that I got any
20 documentation from the solicitor. She showed
21 it -- it's in the NCIC rap sheet that he was
22 convicted, which I do have a copy of.

23 Q. And again, I think you testified to
24 this as to the diagram, that you explained to
25 him the difference between the weights and

1 the first offense versus second offense?

2 A. Yes.

3 MS. RATIGAN: That's all I have.

4 THE COURT: Mr. Robinson?

5 MR. ROBINSON: May it please the
6 Court.

7 CROSS-EXAMINATION

8 BY MR. ROBINSON:

9 Q. Mr. Crane, in your opinion if you
10 had actually gone to trial with Mr. Jimenez,
11 do you believe he would have been found
12 guilty?

13 A. More likely than not, he would have
14 been found guilty.

15 Q. And you would have been found guilty
16 and sentenced to how much?

17 A. A minimum of twenty-five years.

18 Q. That would have been eighty-five
19 percent; is that correct?

20 A. That's correct, sir.

21 Q. If he were convicted, he would have
22 served at least twenty years; is that
23 correct?

24 A. I think it's more like twenty-two.

25 Q. Twenty-two years?

1 A. It would have been a lot more jail
2 time.

3 Q. You actually got him a sentence of
4 ten years, where he's able to possibly get
5 out in eight years?

6 A. That's correct, sir.

7 Q. Now, I wanted to go back to the
8 actual, the actual stop of the vehicle.
9 Were there any issues with the search warrant
10 or anything like that, that you saw?

11 A. Well, there was not a search warrant
12 but there was a search. And, of course, if
13 we had gone to trial, I would have challenged
14 the stop.

15 Q. Right?

16 A. And the search. We would have
17 challenged the stop primarily to determine
18 whether it was a valid stop.

19 Q. Right.

20 A. And why the trooper actually stopped
21 him.

22 Q. And you could only -- I'm sorry.
23 Excuse me.

24 INTERPRETER: That's okay. Go
25 ahead. I'll raise my hand if I don't follow

1 you. Go ahead.

2 MR. ROBINSON: All right.

3 CROSS-EXAMINATION CONTINUED

4 BY MR. ROBINSON:

5 Q. And you could have only brought that
6 kind of motion or something like that, you
7 could have only brought that at trial, not
8 before trial; is that correct?

9 A. That's correct. And I do have in my
10 file a Motion to suppress and it was filed.

11 Q. Okay. So you actually did file a
12 Motion to suppress based on the search;
13 correct?

14 A. That's correct.

15 Q. Okay. But you could only hear that
16 at the trial of the case; right?

17 A. That's correct.

18 Q. And at that point there would be no
19 more offers on the table, would there?

20 A. That's correct.

21 Q. He would be looking at a mandatory
22 twenty-five years; correct?

23 A. If we didn't win the Motion and he
24 was convicted, he'd be looking at a mandatory
25 twenty-five year minimum.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. RATIGAN: That's all the questions I have.

A. Thank you, sir.

MS. RATIGAN: I have no redirect, Judge. The State would rest and ask that Mr. Crane be released.

THE COURT: You may leave.

THE WITNESS: Judge, thank you.

(WITNESS STEPS DOWN)

THE COURT: All right. Anything further?

MR. ROBINSON: Not from the Defense, Your Honor.

THE COURT: Mr. Robinson, we have accepted the Amended Petition in there, but there's also a letter attached. I figured you probably want that. It doesn't say anything. That looks like more of a letter for your file.

MR. ROBINSON: Thank you.

THE COURT: All right. Anything further from the State or from Petitioner?

MS. RATIGAN: Nothing from the State, Your Honor.

MR. ROBINSON: No, sir.

1 THE COURT: All right. In looking
2 at this, it kind of sounds like there's kind
3 of two bond issues, one bond in the beginning
4 and one bond now. I'm not sure any of those
5 are appropriate at a PCR. I'm not aware of
6 any rights that he has for a bond at this
7 point while serving his sentence. So as far
8 as that goes his petition is denied.

9 As indicated, there was clear in the
10 record that the second offense was discussed
11 at the plea hearing. And it appears that he
12 understood that he would plead to a second
13 offense. But also as Mr. Crane indicated
14 whether it was first or second, it being a
15 negotiated plea. I'm not sure that would
16 have made a difference anyway. So I do not
17 find that there is a basis for granting the
18 PCR.

19 And as far as the appeal, he was
20 notified by the Judge that he had a right to
21 appeal. And it doesn't appear there was any
22 basis for an appeal nor as he indicated he
23 took any action on his own part. So I deny
24 that ground as well.

25 I think those are all of the grounds

1 that have been raised. So, therefore, based
2 on the testimony, the application for post-
3 conviction relief is denied.

4 MR. ROBINSON: Thank you, Judge.

5 MS. RATIGAN: Thank you, Your Honor.

6 (COURT IN RECESS)
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

COURT OF GENERAL SESSIONS
2013-GS-23-00873

STATE OF SOUTH CAROLINA,)

vs.)

TRANSCRIPT OF RECORD

ALEJANDRO JIMENEZ,)
DEFENDANT.)

ORIGINAL

February 6, 2014
Greenville, South Carolina

B E F O R E:

THE HONORABLE STEVEN H. JOHN, JUDGE.

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

JOYCE K. MONTS, ESQ.
Assistant Solicitor

LAWRENCE W. CRANE, ESQ.
Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits introduced.)

PROCEEDINGS

1
2 THE COURT: Please swear the interpreter.

3 THE CLERK: Yes, sir.

4 Do you solemnly swear or affirm that you will
5 accurately interpret the language requested in this
6 courtroom of the Defendant without additions thereto or
7 distractions therefrom, or any other amendments of your
8 own interpretations, so help you God?

9 MS. EMILY ALFONSO: I do.

10 (WHEREUPON, the Interpreter, Ms. Emily Alfonso, was
11 sworn.)

12 THE CLERK: Will you, please, raise your right hand?

13 WHEREUPON,

14 ALEJANDRO LICONA JIMENEZ,

15 after first having been duly sworn, testified as follows:

16 THE CLERK: Thank you.

17 THE COURT: Ma'am, if you will ask him to answer out
18 loud. And then, of course, you must repeat the answer
19 whatever it is that he gives.

20 THE INTERPRETER: Okay.

21 THE COURT: Thank you.

22 Can you ask the Defendant, ma'am, his last name? It
23 appears that there -- he's going under two different names
24 here.

25 THE INTERPRETER: Jimenez.

1 THE COURT: Jimenez. Very good.

2 Mr. Jimenez, give me your attention, sir. You are
3 coming before the Court to plead guilty to the crime of
4 trafficking in cocaine. The weight of that is between 28
5 and a hundred grams second offense; is that correct?

6 THE INTERPRETER: Yes.

7 THE COURT: Do you understand that the potential
8 sentence here is from a minimum of seven up to 30 years?

9 Do you understand that?

10 THE INTERPRETER: Yes.

11 THE COURT: And, Solicitor, this is a -- coming
12 before the Court as a negotiated sentence?

13 MS. MONTS: Yes, Your Honor.

14 THE COURT: And what are the terms of that?

15 MS. MONTS: Your Honor, that is for a 10-year active
16 sentence.

17 THE COURT: All right. Mr. Jimenez, you understand
18 the matter is a negotiated sentence. That means it was
19 discussed between yourself, your attorney, and the State
20 for an active sentence of 10 years.

21 Do you understand this?

22 THE INTERPRETER: Yes.

23 THE COURT: You understand that I am not obligated to
24 accept this sentence. I would allow you to withdraw it,
25 but I don't have to give you that sentence.

1 Do you understand this?

2 THE INTERPRETER: Yes.

3 THE COURT: Understanding all of these things, do you
4 want to go forward now with your guilty plea?

5 THE INTERPRETER: Yes.

6 THE COURT: Are you currently under the influence of
7 any drugs or intoxicants of any kind, or have them in your
8 system?

9 THE INTERPRETER: No.

10 THE COURT: Are you suffering from any kind of
11 physical, mental, or emotional problem that would keep you
12 from understanding what you're doing here today?

13 THE INTERPRETER: No.

14 THE COURT: When you plead guilty, you give up
15 Constitutional rights. One of those is the right to
16 remain silent. When you speak to me, you give up that
17 right.

18 Do you understand?

19 THE INTERPRETER: Yes.

20 THE COURT: Other rights are the presumption of
21 innocence, the right against self-incrimination at a
22 trial. And the State has to prove you guilty beyond a
23 reasonable doubt.

24 Do you understand?

25 THE INTERPRETER: Yes.

1 THE COURT: You're entitled to a jury trial. 12 men
2 and women would look at the facts to see if the State can
3 prove you guilty beyond a reasonable doubt. When you
4 plead guilty, you give up that jury trial.

5 Do you understand that?

6 THE INTERPRETER: Yes.

7 THE COURT: With your attorney, Mr. Crane, you could
8 question the witnesses and the evidence presented by the
9 State. You could, also, present a defense, testify, and
10 call witnesses on your behalf. When you plead guilty, you
11 give up all of those rights.

12 Do you understand?

13 THE INTERPRETER: Yes.

14 THE COURT: Now, as we talked about, you are pleading
15 guilty to the crime of trafficking in cocaine weight 28 to
16 a hundred grams.

17 Are you pleading guilty to that crime freely and
18 voluntarily?

19 THE INTERPRETER: Yes.

20 THE COURT: Is it your choice to plead guilty?

21 THE INTERPRETER: Yes.

22 THE COURT: Are you pleading guilty because you are
23 guilty of this crime?

24 THE INTERPRETER: Yes.

25 THE COURT: I understand this is a negotiated

1 sentence. But did anybody promise you anything, or
2 threaten you, or force you to get you to plead guilty here
3 today?

4 THE INTERPRETER: No.

5 THE COURT: You are here today with your attorney,
6 Mr. Crane; is that correct?

7 THE INTERPRETER: Yes.

8 THE COURT: Did you tell him everything you wanted to
9 tell him about this case?

10 THE INTERPRETER: Yes.

11 THE COURT: Have you had enough time to talk to him?

12 THE INTERPRETER: Yes.

13 THE COURT: Do you need any more time to talk to him?

14 THE INTERPRETER: No.

15 THE COURT: Are you satisfied with his help and
16 representation?

17 THE INTERPRETER: Yes.

18 THE COURT: Any complaints about his help or
19 representation?

20 THE INTERPRETER: No.

21 THE COURT: All right. Mr. Crane, you are here today
22 representing the interest of your client, Mr. Jimenez, in
23 this matter; is that correct?

24 MR. CRANE: Yes, sir.

25 THE COURT: All right. And he comes before the Court

1 tendering his plea of guilty to the offense named. Do you
2 concur?

3 MR. CRANE: Yes, sir.

4 THE COURT: And do you believe he's coming before the
5 Court of his own free will and accord?

6 MR. CRANE: Yes, sir.

7 THE COURT: And have you explained to him his
8 Constitutional rights, any defenses he might have, as well
9 as the information and the evidence in possession of the
10 State?

11 MR. CRANE: Yes, sir.

12 THE COURT: Thank you very much.

13 Ma'am, explain to Mr. Jimenez that I'm going to be
14 asking the State to give a factual basis. I want him to
15 listen to it. And then I'll be asking if he agrees that
16 those facts are true and correct.

17 THE INTERPRETER: Okay.

18 THE COURT: Solicitor, the facts, please.

19 MS. MONTS: May it please the Court, Your Honor.

20 This incident occurred on December 19th of 2012.

21 Trooper Harrison, standing to my left, stopped the vehicle
22 the Defendant was the driver of for a traffic violation on
23 I-85 in Greenville County.

24 At that time, he approached the passenger side window
25 and asked the driver, Mr. Jimenez, for his driver's

1 license. The Defendant handed him a Honduras ID card,
2 which appeared to be fake. He did not have a driver's
3 license.

4 The trooper noticed an overwhelming odor of air
5 fresheners and observed multiple pine tree air fresheners
6 hanging from the rearview mirror. The trooper spoke to
7 him in English and in Spanish at different times.

8 The Defendant said that he was in Greenville to visit
9 his family for eight days. This was over Christmastime.
10 And he had left his wife in Mississippi. The vehicle had
11 a Mississippi tag. And the Defendant said it belonged to
12 a cousin of his. The trooper noted the Defendant's
13 nervousness.

14 The trooper did call for backup to assist, who did
15 have a K9. The trooper asked in Spanish if he could
16 search the car. Backup arrived with the K9, which was
17 utilized around the vehicle and did alert. Trooper
18 Harrison then searched the car, and found in the left rear
19 interior door panel, which was loose -- he shined his
20 flashlight into it and saw a bubble manila mailing
21 envelope.

22 When he pulled this out, it was -- contained a brown
23 sack, which had 12 plastic individual baggies of a white
24 powder substance. This was, subsequently, analyzed as
25 287.03 grams of cocaine.

1 THE COURT: All right. Mr. Jimenez, did you hear the
2 facts of the case stated by the Solicitor?

3 THE INTERPRETER: Yes.

4 THE COURT: And a brief summary of those same facts
5 are in your indictment.

6 My question to you is, are those facts true and
7 correct?

8 THE INTERPRETER: Well, I know when he asked about
9 the registration of the car, I didn't have any problem
10 with that.

11 THE COURT: All right. The -- I'm asking more
12 particularly about the facts of the crime to which he is
13 pleading guilty.

14 Are those facts true and correct?

15 THE INTERPRETER: Yes.

16 THE COURT: And you understood by doing that, you
17 were committing a crime?

18 THE INTERPRETER: Yes.

19 THE COURT: Have you understood my questions here
20 today?

21 THE INTERPRETER: Yes.

22 THE COURT: Have all your answers to me been the
23 truth?

24 THE INTERPRETER: Yes.

25 THE COURT: Did anybody tell you what to say to me?

1 THE INTERPRETER: No.

2 THE COURT: Do you, also, understand you have the
3 right to appeal your guilty plea within 10 days?

4 THE INTERPRETER: Yes.

5 THE COURT: I find there has been a substantial
6 factual basis for the plea. I find the Defendants --
7 Defendant has accepted responsibility for his actions. He
8 has had the advice of competent counsel with whom he is
9 satisfied. And, therefore, the plea is accepted.

10 Mr. Crane.

11 MR. CRANE: Thank you, Judge.

12 Mr. Jimenez is 30 years old. He indicated to me he
13 went through the sixth grade. He works as a mechanic. He
14 is married and has a family, which he wanted me to pass up
15 to you so you could see.

16 THE COURT: All right.

17 MR. CRANE: They are in Mississippi.

18 Myself and the Solicitor have worked very diligently
19 to get to this point. Mr. Jimenez was hesitant to plead
20 guilty only because he didn't want to be away from his
21 family as long as he will now have to be.

22 It was a case that he and I talked about trying. I
23 explained to him that one of the first things we would ask
24 you to do is determine whether the search was legal. And
25 I explained to him that if you determined that it was that

1 the State would still have to prove that he knew the drugs
2 were there, and that he had right to dominion and control.

3 He, of course, wanted me to ask you for less time.
4 But I explained to him what a negotiated sentence was.
5 And he, actually, decided last night to accept the plea
6 offer by the Solicitor.

7 I would ask you to go along with the sentence. I
8 would ask that you note on the sentence -- that the
9 sentence is to begin --

10 December 19th?

11 TROOPER HARRISON: Yes, sir.

12 THE COURT: December 19th, 2012.

13 And, Judge, I don't know that it's necessary to do
14 so, but I would appreciate it if you would note on the
15 sentence that it is to run concurrent with a federal
16 sentence that he received.

17 MS. MONTS: Your Honor, if I may, that was not part
18 of the negotiation.

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

20 What is he in jail in the federal court for?

21 MR. CRANE: Well, he -- immigration violation.

22 MS. MONTS: Your Honor, if I may, he has a 2008
23 possession of cocaine. So that's why this is a second.

24 But he has an illegal reentry from 2010. And he just
25 pled in 2013 to a second illegal reentry.

1 MR. CRANE: And she's right, Judge, we didn't talk
2 about that. I apologize if I've overstepped my bounds.

3 But he's been to federal court. I did not represent
4 him. And he has received an 18-month sentence for illegal
5 reentry.

6 THE COURT: Just so that I am clear about this, the
7 upshot of all of this is, again, Mr. Jimenez will be
8 deported? Is that --

9 MR. CRANE: Yes, sir.

10 THE COURT: Is that the correct understanding,
11 Solicitor?

12 MS. MONTS: Your Honor, I don't --

13 THE COURT: You don't know?

14 MS. MONTS: I don't understand the federal system.
15 Whenever I think someone will be deported, they aren't.
16 So --

17 THE COURT: Is there a hold on him or a detainer in
18 any way?

19 MS. MONTS: Yes, Your Honor.

20 THE COURT: Okay. So I do need to note that. And
21 it's by the INS -- or ICE now; correct?

22 MS. MONTS: Yes, Your Honor.

23 MR. CRANE: Judge, if she says there is, there must
24 be. But I have not run the jail screen yet. I would
25 think that since he's been to federal court already --

1 MS. MONTS: And we can run a check, Your Honor.

2 THE COURT: All right. Very good.

3 MR. CRANE: But they've sentenced him. And so there
4 may or may not be a hold. And, you know, that's -- and I
5 don't know that the feds would necessarily have to run
6 theirs concurrent with yours. But I think they probably
7 will.

8 THE COURT: Thank you.

9 MR. CRANE: The bottom line is he knows that -- he
10 anticipates you giving him 10 years, which would begin
11 when he went to jail.

12 THE COURT: Very good.

13 MR. CRANE: He has been working at the jail in the
14 kitchen. And he hopes that that will follow him to the
15 penitentiary so that he might get credit for that.

16 THE COURT: Thank you.

17 MR. CRANE: Thank you, Judge.

18 MS. MONTS: Your Honor, we have someone checking on
19 the computer right now about whether there's a hold.

20 THE COURT: All right. Very good.

21 MR. CRANE: I know there was a hold. I don't know if
22 it's still there.

23 THE COURT: Very good.

24 2013-GS-23-873, the State of South Carolina, County
25 of Greenville vs. Alejandro Jimenez, regarding trafficking

1 in cocaine weight 28 to a hundred grams second offense,
2 the sentence of the Court is the Defendant is committed to
3 the State Department of Corrections for a determinate term
4 of 10 years. The credit will begin from the date of
5 December 19th, 2012.

6 I have put on the face of the sentencing sheet to
7 note the federal sentence so that the state authorities
8 know that there is a federal sentence.

9 And then, Solicitor, do we know anything about the --
10 MS. MONTS: Your Honor, per the computer screen, it
11 says that INS or ICE does have a hold on him.

12 THE COURT: All right. So I'll note that on the
13 sentencing sheet that there is a hold or detainer by ICE.

14 MR. CRANE: Thank you.

15 THE COURT: Thank y'all very much.

16 *****END OF TRANSCRIPT OF RECORD*****
17
18
19
20
21
22
23
24
25

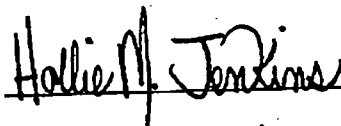
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 6th day of February, 2014.

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

February 16, 2015



Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

CMTI330D
OMCOMITA

SCDC OFFENDER MANAGEMENT SYSTEM
RELEASE DATE SCREEN

12/03/14
C056368

SCDC# > 00358746

LOC: RIDGELAND

LICONA JIMENEZ, ALEJANDRO -

SCDC CLASSIFICATION..: VIOLENT

OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE

SEXUAL REGISTRY...: N

SEXUAL PREDATOR...: NOT APP

DNA STATUS.....: COMPLETED

GPS REQUIREMENT...: N

PREA DECISION.....:

CURRENT SENTENCE: 010-00-000
010-00-000

CONSECUTIVE SENTENCE ...: N

CURRENT SENT START DATE: 12/19/2012

PROJECTED COMPLETION DATES

MAXOUT DATE: 06/17/2021

YOY SIX YEAR DATE: / /

INITIAL PAROLE DATE: 00/00/0000

CURRENT EWC ..: 3 F 5

CURRENT EEC ..: NOT CURRENTLY EARNING EEC

NEXT PAROLE HEARING DATE: 00/00/0000

TOTAL GT DAYS EARNED: 000000

TOTAL EARNED WORK CREDITS ..: 000167

TOTAL EDUCATION CREDITS: 000000

TOTAL EXTRA EARNED CREDITS ..: 000

TOTAL SERVICE TIME EARNED ...: 000704

LABOR CREW/WORK PROG DATE: 99/99/9999

LABOR CREW DISQ REASON:

CATEGORY 4 OR 5 OFFENSE

SUPERVISED REENTRY DATE...: 00/00/00

ISS.....:

PFKEYS: 5:HISTORY OF DATE CHANGES

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

RECORD SUMMARY REPORT DATED 12/03/14

C0239

LICONA JIMENEZ, ALEJANDRO - FBI # 334835AD1 SID# SC02083705 SCDC # 358746

OFFENDER TYPE.: ADULT-STRAIGHT SENTENCE

INSTITUTION ..: RIDGELAND CORR INST

SECURITY/CUST.: 2 MINIMUM IN

CURR INCARC SENT...: 10 YRS 0 MOS 0 DYS

CENTRAL MONITORING.: NO

SOCIAL SECURITY #....:

DORM.....: CA0059A

RACE....:O SEX...:M

PROJ MAXOUT DATE: 06/17/2021

PROJ PAROLE DATE: 00/00/0000

EWC JOB...: WARDKEEPER

EDUC PGM.: NO CURR EDUC PROGRAM

EWC LEVEL: 3F5 EEC LEVEL:

ASSIGNMENT...: WARD KEEPER WARD #4

CURRENT PROGRAM...: NO CURRENT PROGRAM

AGE...: 30 DATE OF BIRTH...: []/84

PREVIOUS NUMBERS:

** NO PREVIOUS NUMBERS **

CURRENT OFFENSES	SENTENCE YRS MOS DYS COUNTY	SENTENCE START V/NV CATEGORY
TRAFFICKING IN COCAINE	10 0 0 GREENVILLE	12/19/2012 V 4

PRIOR COMMITMENTS OVER 90 DAYS:

MISSING PRIORS DATA

DETAINERS (HOLD, WANTED, NOTIFY):

CODE NOT IN TABLE

WANTED

JARED TILLEY

CATEG: 4

NO DETAINERS

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

5/21/14 POSSESSION OF A WEAPON CONVICTED MAJOR

NON-ASSAULTIVE DISCIPLINARIES:

NO NON-ASSAULTIVE DISCIPLINARY HISTORY

HISTORY OF MOVEMENTS:

3/20/14 RIDGELAND

INCARCERATED

ADMINISTRATIVE

2/10/14 KIRKLAND

INCARCERATED

NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
WARDKEEPER	05/30/14	0/ 0/ 0		3F5
WARDKEEPER	03/28/14	5/29/14	ASLT/DRUG/MAJOR DISC	2F5
WARDKEEPER	03/25/14	3/27/14	MI ELIGIBLE FOR LEVEL 2	3F5

HISTORY OF EARNED EDUCATION CREDITS:

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
-----------------	------------	----------	--------------------

NO SCHOOL ASSIGNMENTS

***** END OF REPORT *****

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

102
5th

COUNTY OF Greenville
STATE VS.

INDICTMENT/CASE#: 2013GS2300873

Alejandro Licona Jimenez

A/W#: 2012A2330204960

AKA: Alejandro Castillo-Gonzalez

Date of Offense: 12/19/2012

Race: HISPANIC Sex: M Age: 29

S.C. Code § : 44-53-0370(E)(2X)

DOB: 1984 SS#: _____

CDR Code #: 0288

Address: _____

City, State, Zip: Greenville, SC 29601

DL#: _____ SID#: _____

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was

CONVICTED OR or PLEADS

TO: Trafficking in cocaine, more than 28 grams, less than 100 grams, 2nd offense

(7-30)

in violation of § 44-53-0370 of the S.C. Code of Laws, bearing CDR Code # 0388

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

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

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

ATTEST: Joyce Monte 65331 Jimenez Renee W. Law 001454

Monks, Joyce K. SC Bar# Defendant Attorney for Defendant SC Bar#

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

for a determinate term of 10 ~~years~~ years or under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of

probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied

by the State Department of Corrections. credit from December 19, 2012

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

Pursuant to 18 U.S.C Section 922, It is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal

Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition. Detained by ICE.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____ days/hours Public Service Employment

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

Set by SCDPPPS _____

Recipient: _____

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

Obtain GED

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

Appointed PD or appointed other counsel,

§ 47.12 requires \$500 be paid to Clerk

during probation.

Clerk of Court/ Deputy Clerk Paul W. Williams

Court Reporter: Jones

SCCA/217 (03/2011)

Presiding Judge Robert Johnson

Judge Code: 2129

Sentence Date: 2/16/14