

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Dorchester County
Honorable Maite Murphy, Circuit Court Judge

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S.C. SUPREME COURT
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RONALD LANCE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-001418

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
P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
) FIRST JUDICIAL CIRCUIT
 COUNTY OF DORCHESTER) CASE NO.: 2013-GS-18-1811
 2013-GS-18-1251

STATE OF SOUTH CAROLINA)
)
)
 VS.)
)
)
 RONALD LANCE,)
)
)
 DEFENDANT.)
)

GUILTY PLEA

held before the Honorable Kristi L. Harrington
 Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
 in the Dorchester County Courthouse
 St. George, South Carolina
 on Wednesday, November 5, 2014, Commencing at 2:29 p.m.

SUSAN "MIA" PERRON, CVR-CM-M
Circuit Court Reporter - 9th Judicial Circuit
 Post Office Box 31865
 Charleston, South Carolina 29417-1865
 1-706-231-6028

APPEARANCES OF COUNSEL

FOR THE STATE:

Donald H. Sorenson, Esquire
First Circuit Solicitor's Office
140 North Main Street, Suite 102
Summerville, South Carolina 29483

FOR THE DEFENDANT:

Pierce L. Wehman, Esquire
First Circuit Public Defender's Office
107 West 6th North Street, Suite 106
Summerville, South Carolina 29483

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THE COURT: Are you Ronald Lance?

MR. LANCE: Yes, ma'am.

THE COURT: Please swear the defendant.

THE CLERK OF COURT: Please raise your right hand. State your full name for the record.

MR. LANCE: Ronald Lamont Lance.

[Whereupon, Mr. Lance is duly sworn by the clerk of court as follows: do you solemnly swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God]

MR. LANCE: Yes, ma'am.

THE CLERK OF COURT: Thank you.

THE COURT: Mr. Lance, you are here to plead guilty on 2013-GS-18-1251 and 2013-GS-18-1811. I can sentence you to entering a bank with the intent to steal up to thirty years in the department of corrections. It is classified as a serious offense.

Do you understand that?

MR. LANCE: Yes, ma'am.

THE COURT: You are also here to plead guilty on 2013-GS-18-1811, which is armed robbery. I must sentence you at least ten years up to thirty years in the department of corrections. It is classified as a violent and a most serious offense.

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1 Do you understand what those classifications
2 mean?

3 MR. LANCE: Yes, ma'am.

4 THE COURT: Mr. Wehman, did you explain to your
5 client what violent and most serious means?

6 MR. WEHMAN: Your Honor, I went over with him
7 it's a violent offense, serious, and a most serious.

8 THE COURT: And did your client understand?

9 MR. WEHMAN: He did, Your Honor.

10 THE COURT: I have also been given a report from
11 MUSC pursuant to the order I issued for a competency
12 evaluation. Do we need to address any matters
13 contained in that report?

14 MR. WEHMAN: No, Your Honor. We're prepared to
15 proceed with the finding of the evaluation.

16 THE COURT: Okay. Is there any restitution,
17 Mr. Sorenson?

18 MR. SORENSON: We're not asking for any
19 restitution, no, Your Honor.

20 THE COURT: And this is without recommendation
21 or negotiations?

22 MR. SORENSON: That would be correct.

23 THE COURT: Mr. Lance, you understand that if I
24 impose the maximum sentence upon you and run the
25 sentences consecutive, I can sentence you up to sixty

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1 years in the department of corrections?

2 MR. LANCE: Yes, ma'am.

3 THE COURT: Knowing that, do you still wish to
4 go forward here today?

5 MR. LANCE: Yes, ma'am.

6 THE COURT: How old are you?

7 MR. LANCE: Twenty-eight years old.

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

9 MR. LANCE: Ninth grade.

10 THE COURT: Do you have your GED?

11 MR. LANCE: No, ma'am.

12 THE COURT: What type of work do you do?

13 MR. LANCE: Custodian.

14 THE COURT: How long have you been in custody?

15 MR. LANCE: For sixteen months, ma'am.

16 MR. WEHMAN: Your Honor, the count I have is 477
17 days.

18 THE COURT: Thank you.

19 Have you ever been treated for the abuse of
20 drugs or alcohol?

21 MR. LANCE: Once.

22 THE COURT: Tell me about that.

23 MR. LANCE: I went to the Charleston Center for
24 crack cocaine.

25 THE COURT: Have you ever been treated for

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1 mental illness?

2 MR. LANCE: Yes, ma'am.

3 THE COURT: Tell me about that.

4 MR. LANCE: When I was younger, I was at Charter
5 and MUSC.

6 THE COURT: And were you given a diagnosis at
7 that time?

8 MR. LANCE: Yes, ma'am.

9 THE COURT: What was your diagnosis?

10 MR. LANCE: I believe bipolar, ODD, and ADHD,
11 ma'am.

12 THE COURT: Are you on any medication for any of
13 those diagnoses?

14 MR. LANCE: Yes, ma'am.

15 THE COURT: Tell me what medication you are on.

16 MR. LANCE: Clonidine, resperdal, depakote. And
17 that's all I can remember.

18 THE COURT: Is the jail giving those to you?

19 MR. LANCE: The medicine that the jail was
20 giving me was giving me headaches and nausea and I
21 asked to get off of it because it was a generic brand
22 of the medicine that I was on.

23 THE COURT: Well, who is giving you your
24 medicine?

25 MR. LANCE: They took me off the medicine.

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1 THE COURT: So you are not currently on any
2 medication?

3 MR. LANCE: No, ma'am.

4 THE COURT: Mr. Wehman, is there any concern
5 that he is not on medication at this time?

6 MR. WEHMAN: No, Your Honor.

7 I've gone over everything that he faces with
8 this plea. I've had him repeat it to me. I'm
9 confident that he understands the maximum possible
10 penalty and all the things that you've already been
11 over with him.

12 THE COURT: Sir, you do not have to plead
13 guilty. By pleading guilty, you are giving up certain
14 rights: your right to a jury trial; your right to
15 have a jury determine your guilt beyond a reasonable
16 doubt based upon the evidence the State presents, as
17 well as any evidence you may introduce; your right
18 against self-incrimination; your right to say nothing
19 at all; your right to confront and be confronted by
20 the witnesses against you, as well as the right to
21 call witnesses on your behalf.

22 By pleading guilty here today, you give up any
23 defense you have to either one of these charges.

24 Do you understand those rights?

25 MR. LANCE: Yes, ma'am.

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1 THE COURT: And do you waive those rights at
2 this time?

3 MR. LANCE: Yes, ma'am.

4 THE COURT: Understanding the charges that you
5 are facing, the possible punishment, as well as the
6 consequences of this plea, how do you plea to armed
7 robbery?

8 MR. LANCE: I plead guilty.

9 THE COURT: How do you plead to entering a bank
10 with the intent to steal?

11 MR. LANCE: I plead guilty.

12 THE COURT: Are you pleading guilty because you,
13 in fact, did commit those offenses?

14 MR. LANCE: Yes, ma'am.

15 THE COURT: Has anybody promised you anything,
16 threatened you, forced you to plead guilty here today?

17 MR. LANCE: No, ma'am.

18 THE COURT: Have you been satisfied with the
19 services of your attorney?

20 MR. LANCE: Yes, ma'am.

21 THE COURT: Any complaints about the way he has
22 handled your case?

23 MR. LANCE: No, ma'am.

24 THE COURT: Is there anything that he could have
25 done, or maybe should not have done, that would have

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1 helped you in your defense?

2 MR. LANCE: No, ma'am. I agree -- I agree with
3 my attorney and everything he done for me.

4 THE COURT: All right. I'm glad to hear that.

5 You have the right to appeal this plea and the
6 sentence that I do impose but you or your attorney
7 must do so within ten days.

8 Do you understand?

9 MR. LANCE: Yes, ma'am.

10 THE COURT: Please listen to the facts. Mr.
11 Sorenson?

12 MR. SORENSON: Thank you. May it please the
13 Court, Your Honor.

14 This offense occurred on the afternoon of July
15 1st of 2013 about 4:45 in the afternoon, so right
16 before the bank was getting ready to close. It was at
17 the Sun Trust Bank at _____, which is
18 located in North Charleston but within the Dorchester
19 County limits. At that point in time, two individuals
20 come into the bank, Your Honor, right at about, as I
21 said, 4:45 in the afternoon. They were both armed
22 with handguns.

23 If I could hand up Your Honor a handful of kind
24 of still photographs from the video.

25 THE COURT: Any objection, Mr. Wehman? Have you

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1 already seen all these?

2 MR. WEHMAN: I've seen them, Your Honor. No
3 objection.

4 THE COURT: All right. Thank you.

5 [Whereupon, Mr. Sorenson proffers documents to
6 the Court]

7 MR. SORENSON: Give you a chance just to kind of
8 flip through them before I continue.

9 [Whereupon, the Court reviews documents]

10 THE COURT: Who is the other individual?

11 MR. SORENSON: The other individual is alleged
12 to be a young man by the name of Tyrone Ellison. And
13 I will kind of address kind of where things are with
14 him kind of as I go through my --

15 THE COURT: Where is this? Is that -- which
16 defendant is --

17 MR. SORENSON: This defendant would be the
18 second individual through, with the hat, with the kind
19 of the -- kind of a floppy hat on, all in black, kind
20 of the skinner-looking of the two of them that's all
21 in black.

22 THE COURT: All right. You may continue.

23 MR. SORENSON: As Your Honor can see in the
24 still photographs, there's two individuals that come
25 in. They both have their -- you know, basically kind

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1 of their identities covered. As indicated, they're
2 both armed with handguns.

3 This defendant would be the second individual
4 through the door. And as Your Honor can see, he
5 ultimately is kind of waiving the gun around and goes
6 over as you come into the bank, off to the right, the
7 manager's office, John Baker. And Mr. Baker is
8 present in the courtroom here today, Your Honor, in
9 the first row. He gets Mr. Baker out of his office
10 and puts him, at gunpoint, on the floor.

11 At that point in time, the codefendant takes one
12 of the tellers over to the teller counter and kind of
13 holds her at gunpoint while forcing employees that are
14 on the other side of the -- there's a window that has
15 been put up, based on another robbery that had
16 happened a couple of months earlier -- but basically
17 forces, at that point in time, the employees on the
18 other side of that teller window to hand the money
19 over to that -- to the codefendant. And the two of
20 them take off at that point in time.

21 As indicated, the same bank had been robbed
22 exactly three months prior to this on April 1st. The
23 individual that was charged with that is a young man
24 by the name of Tyrone Ellison. He was convicted a
25 couple of weeks ago of that April 1st bank robbery.

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1 THE COURT: Was he by himself?

2 MR. SORENSON: He went in by himself. There was
3 a getaway driver, that has never been identified, in
4 that first bank robbery. I will say that this
5 defendant does not match the description of that
6 getaway driver. But he did -- that first bank robbery
7 involved one sole individual coming in the bank.

8 THE COURT: What was his sentence?

9 MR. SORENSON: He ended up getting a life
10 sentence based on a prior assault and battery with
11 intent to kill conviction that he had, so he got
12 sentenced under the two-strike provisions.

13 Based on that first bank robbery happening, by
14 the time the second one happens three months later
15 they have done some things different in the bank,
16 including putting up basically a window covering the
17 teller line now, because in that first bank robbery
18 Mr. Ellison actually hopped over the counter, behind
19 the counter with the tellers.

20 Additionally, in this second bank robbery, they
21 have since then gotten the GPS tracker tracking
22 devices. One of them is put in the money that they
23 take in this second bank robbery. As a result of
24 that, a short time later they -- law enforcement,
25 North Charleston police, arrived.

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1 And they get -- there's some company that they
2 use where they can patch into and basically follow
3 that GPS tracker. It ends up pinging back in the back
4 of Westcott Plantation, which is a neighborhood just
5 down from the bank. Mr. Ellison, the codefendant,
6 lives in the back of that neighborhood. North
7 Charleston police is responding.

8 I also forgot to note that when Mr. Lance --
9 Mr. Lance and his codefendant are fleeing the bank,
10 their getaway car is a white Hyundai Sonata. That
11 Sonata has actually pulled [phonetic] and is actually
12 sitting at a red light getting ready to leave them.
13 The two of them actually have to catch up to the
14 vehicle, as it is getting ready to turn onto
15 Dorchester Road, and they hop in the vehicle. So they
16 have a description of the getaway vehicle also.

17 The North Charleston Police Department responds
18 over to the area where the GPS tracker was going off
19 and ultimately pass a white Hyundai Sonata with three
20 young black males in it. They turn around on that
21 vehicle and it comes to a stop sign. At that point in
22 time, the driver of that vehicle basically flies out
23 of the driver's seat, kind of, and lands on his back
24 basically in the middle of the road where ultimately
25 he is detained at that point in time. His name is

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1 Christopher Coburn.

2 He gives a statement, implicates Ronald Lance
3 and Tyrone Ellison as being the two people that robbed
4 the bank and basically that I think they thought he
5 was getting ready to stop when the cop came behind
6 them and Mr. Ellison kicked him out of the vehicle.
7 Mr. Ellison slides over into the driver seat of that
8 vehicle. It's my understanding Mr. Lance is seated in
9 the back seat.

10 Law enforcement at that point in time gets into
11 what turns into a pretty highspeed chase down
12 Dorchester Road at, you know, basically five o'clock
13 in the afternoon, through a pretty heavily-trafficked
14 area, that reaches some pretty high speeds. They
15 ultimately end up going down Dorchester Road and
16 taking a left onto Highway 17-A, take a right onto
17 Highway 61, kind of getting out in the Givans area and
18 basically lost law enforcement. They had been unable
19 to keep up because of the traffic and the speeds that
20 the vehicle is reaching.

21 That vehicle ends up colliding with another
22 vehicle driven by an older couple, the Campbells.
23 There are some other witnesses out there but by the
24 time law enforcement gets there, nobody is in the
25 Sonata. They have fled.

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1 K-9s come out. I mean, there's probably forty
2 to fifty police officers that respond out to that area
3 with numerous jurisdictions. They get K-9s involved
4 looking around. They ultimately find a bunch of kind
5 of a trail of money that they recover with blood on
6 it. There's blood in the vehicle from this accident.
7 Unfortunately, that evening it starts to rain kind of
8 a heavy downpour, where they ultimately end up losing
9 any kind of track and as it gets dark, basically the
10 search for the individuals involved is called off.

11 It's the following morning, July 2nd, when out
12 -- and actually in very close proximity where the car
13 accident occurred, a lady gets up and kind of goes out
14 on her porch. I don't know if she was going to get
15 her mail, or what she was doing -- that morning and
16 discovers Ronald Lance and Tyrone Ellison basically
17 passed out on her porch. The two of them obviously
18 looked like they had been in a car accident. I mean,
19 they're beat up. I believe Mr. Lance suffered a
20 broken it was either arm or leg as a result of the car
21 accident. Well, they're taken into custody at that
22 point in time.

23 As I said, from Mr. Coburn's statement the night
24 before, they were the two that law enforcement were
25 looking for. Mr. Lance does give a statement to law

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1 enforcement admitting his involvement. He, at that
2 point in time, tells them that he is basically not
3 going to tell on anybody else, so he refuses to answer
4 any questions as to anybody else's involvement but his
5 own.

6 I think that's basically the facts, Your Honor.

7 THE COURT: Prior record?

8 MR. SORENSON: His prior record is -- bear with
9 me one second.

10 He has a grand larceny conviction from like a
11 2005 conviction for grand larceny --

12 THE COURT: What was the sentence?

13 MR. SORENSON: It looks like he received a
14 three-year sentence suspended to eighteen months
15 probation on that.

16 And then also in 2005, a few months later he
17 receives -- he was convicted of a possession of
18 cocaine base and received a YOA sentence. It looks
19 like he got ordered for shock incarceration on that.
20 It looks like he has potentially had that revoked a
21 couple of times in 2007 and 2009.

22 And then he has a -- it looks like a
23 trespassing, entry on the land of another after notice
24 conviction from 2011.

25 THE COURT: Does the victim wish to address the

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1 Court?

2 MR. SORENSON: I don't believe he --

3 Do you want to say anything or --

4 THE VICTIM: [Indicates negatively]

5 MR. SORENSON: He does not.

6 And we noticed the other -- there were I guess
7 three other women that were working in the bank.
8 They've all been notified. One of them still works at
9 the bank and actually was a victim in the prior bank
10 robbery, so she testified two weeks ago in that trial.
11 The other two are both working elsewhere, but I have
12 talked to both of them and let them know of this plea,
13 and I believe basically just they sent Mr. Baker up
14 here as just a representative for them and the bank.

15 THE COURT: Mr. Lance, is that what you did?

16 MR. LANCE: Ma'am, what? With the bank robbery?

17 THE COURT: Yes.

18 MR. LANCE: Yes, ma'am.

19 THE COURT: Did you go into that bank with a
20 gun?

21 MR. LANCE: Yes, ma'am.

22 THE COURT: Did you go in with the intent to
23 steal?

24 MR. LANCE: How you mean? Like to go --

25 THE COURT: What were you going into the bank

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1 with a gun?

2 MR. LANCE: I was -- I been -- really, I was
3 under the influence and like I went under the -- I go
4 and just -- I was out of it. I just -- I just went in
5 there.

6 THE COURT: Did you know you were going into a
7 bank?

8 MR. LANCE: Yeah. At that point in time, yes,
9 ma'am.

10 THE COURT: And did you know you had a gun in
11 your hand?

12 MR. LANCE: Yes, ma'am.

13 THE COURT: I find a substantial factual basis
14 for your plea. Your decision to plead guilty has been
15 freely, voluntarily, knowingly and intelligently made.
16 You've indicated to the Court you've had the advice
17 and counsel of a competent attorney with whom you've
18 told the Court you were satisfied. I hereby accept
19 your plea of guilt.

20 Mr. Wehman?

21 MR. WEHMAN: Thank you, Your Honor. May it
22 please the Court.

23 As Mr. Lance told you, he's twenty-eight years
24 old, went to the ninth grade.

25 I have -- as part of the evaluation process,

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1 we were able to -- with the help of his mother,
2 Ms. Washington, who is seated on the Court's right,
3 we were able to dig up a lot of his educational
4 records. I would like to kind of paraphrase how his
5 education went to you. Essentially, in a public
6 school environment, Mr. Lance couldn't function. He
7 would get in trouble. All of these reports talk about
8 having poor impulse control, having a poor
9 understanding of consequences before he does
10 something. Not until after does he realize what he's
11 doing. A poor social -- has poor social skills and an
12 increased desire to be able to fit in with his peers,
13 which he was unable to do. He got in numerous fights.
14 He had a lot of problems in school.

15 He was put in group homes. And based on the
16 records, once you see him in group homes his grades
17 get better. There are still disciplinary problems,
18 but his grades get better. With that focused
19 attention and the help of the services that they
20 provide, he was doing well within his school setting.

21 I would like to go into the sentencing of his
22 codefendant, Mr. Coburn, who I believe received an
23 eight-year sentence. Obviously, he was not alleged to
24 have gone in the bank --

25 THE COURT: He was the driver?

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1 MR. WEHMAN: Correct, Your Honor, he was the
2 driver. I believe there's obviously a different
3 charge, because he couldn't have been charged with
4 armed robbery and with an eight-year sentence. And he
5 is -- he was given a lot of credit for his ability to
6 tie up loose ends. He told pretty much everything
7 that happened. And Mr. Lance also gave a complete
8 confession. His statement to police, it was recorded.
9 I was able to listen to it numerous times, and I don't
10 believe there was any concern with law enforcement
11 about being able to prove anything that Mr. Lance is
12 pleading to today at trial. He admitted to
13 everything. He even took them -- the money was
14 disposed of in a corn field. He tried to take them
15 out to the corn field to show them where the money
16 might be. He was taken in a car and tried to locate
17 the gun for them that was thrown out of the gun [sic]
18 at some point.

19 Your Honor, his codefendant had a lengthy
20 history with stealing. Mr. Lance does have a grand
21 larceny on his record. The codefendant had numerous
22 -- had a burglary, assault with intent to kill,
23 breaking into vehicles a couple of times.

24 Mr. Lance is here before you today with no
25 recommendation. He knows -- I've talked to him. He's

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1 facing up to sixty years in prison. With the way the
2 two-strike, three-strike law, I told him to be
3 prepared, that if he gets another strike, that could
4 be it -- determining how a solicitor or a judge
5 interprets two of these incidents happening on the
6 same day, whether they group them together as one or
7 they can count them as a serious and a most serious,
8 and an any other serious or most serious could lead to
9 an LWOP possibility. He's aware of that. And he was
10 constant from the beginning that he did this. He
11 wanted to stand up and admit what he did.

12 His mother, at the appropriate time, would like
13 to address you.

14 He has written an I think six-page letter for
15 the Court, if you would be willing to hear from him.
16 If not, he could pass it up to you if you had rather
17 read it.

18 Another thing that I did want to go into, Your
19 Honor, is his evaluation. As part of is evaluation,
20 we received numerous other evaluations from his past.
21 He identified to you that he did have mental health
22 issues growing up. I have a previous evaluation that
23 does contain the diagnosis of bipolar. This
24 evaluation that he did for this charge did not
25 indicate a bipolar diagnosis but it did indicate that

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1 he has a substantial substance abuse problem. He has
2 -- I think it was opposite -- was it oppositional
3 defiance disorder? I'm sorry, Your Honor. And his IQ
4 was found on the borderline scale. And this is
5 consistent with his other evaluations. I have those,
6 if you would like them, that he is borderline
7 intellectual functioning.

8 Having talked to him, having read his letter,
9 and the consistency with the reports that we were
10 provided, I'm confident that if he were evaluated
11 again, he would also be found competent to stand trial
12 and that's why we didn't ask for a second evaluation.
13 I've gone over that with him and he fully understands
14 that we could have tried to get a second evaluation.

15 Finally, Your Honor, I would just ask for you to
16 consider, you know, the nature of his disability, not
17 to functioning but to his ability to understand the
18 consequences of his actions.

19 He is homeless. Or he was, at the time,
20 homeless. He did not have a vehicle. He was picked
21 up by these individuals, one of which who had robbed a
22 bank before, another one of which who had committed
23 burglaries and other property crimes, and was taken to
24 this bank. He walked in on his own, he picked up a
25 gun on his on, and he went in. And he's here to

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1 account to you for that today.

2 But I would just ask that you consider their
3 involvement, his extensive experience with mental
4 health, his problems growing up in school.

5 His mother spoke to me earlier today and she
6 said that growing up he needed a father figure. He
7 didn't have a steady father figure in his life. She
8 tried to provide things for him. She kicked him out
9 of the house numerous times because of the people he
10 was hanging out with. They could just not get Ronald
11 to understand the consequences of what he was doing
12 and, unfortunately, it led him into this situation
13 which sets him up for a very problematic future if he
14 finds himself in any legal trouble down the road.

15 Again, I would like to point out his mother
16 would like to speak to you, if you would hear from
17 her, and Mr. Lance.

18 THE COURT: I'll hear from the mom.

19 And I'll -- if you'll just -- we'll mark the
20 letter as Court's 1 and I'll just read it, Mr. Wehman.

21 MR. WEHMAN: Thank you.

22 [Whereupon, Court's Exhibit Number 1 is marked
23 by the court reporter]

24 THE COURT: Ma'am, I need you to state your full
25 name for the record and please spell your last name.

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1 MS. WASHINGTON: Karen Diane Washington.

2 W-A-S-H-I-N-G-T-O-N.

3 THE COURT: All right.

4 MS. WASHINGTON: First of all, I want to thank
5 you for allowing me to speak. I want everybody to
6 know I love my son so much. And I just want you to
7 understand that even though this is a bad situation,
8 Ronald wasn't a bad person, just made a bad choice,
9 and I'm just begging the Court to have mercy on him
10 and please think about his future and give him a
11 second chance to come out here and start to do
12 something different. And I hope you understand that I
13 know deep in my heart he is really, really remorseful
14 for what he did. And I really want everybody to
15 understand that I apologize for the harm and the
16 discomfort and all the people that are involved with
17 this and who have been hurt by this. I want to
18 apologize for that, too. But I want to really, really
19 beg the Court to have mercy on my son and make sure he
20 doesn't get life or sixty years, ma'am. Thank you.

21 THE COURT: Thank you, Ms. Walsh.

22 Let me see that letter.

23 [Whereupon, the court reporter proffers
24 documents to the Court]

25 [Whereupon, the Court reviews documents]

State vs. Ronald Lance
Guilty Plea
November 5, 2014

1 THE COURT: Did you write this, sir?

2 MR. LANCE: Yes, ma'am.

3 THE COURT: You have very nice handwriting.

4 MR. LANCE: Thank you.

5 THE COURT: Anything else you want to tell me?

6 I've read your letter. Anything else you want to tell
7 me?

8 MR. LANCE: No, ma'am. No, ma'am.

9 THE COURT: Anything further from the State?

10 MR. SORENSON: I guess the only thing, just
11 to kind of clarify as far as Mr. Coburn: he pled
12 guilty --

13 THE COURT: I'm not worried about Mr. Coburn.

14 MR. SORENSON: Okay. As far as --

15 THE COURT: This picture right here is really
16 all I need to know about this defendant.

17 MR. SORENSON: Yes, ma'am.

18 THE COURT: Anything else, Mr. Wehman?

19 MR. WEHMAN: Nothing, Your Honor.

20 Your Honor, as to sentencing, we would ask that
21 any sentence you may impose, the two charges be run
22 concurrent. And, also, we would ask you to consider
23 -- he knows he's going at least for ten years to the
24 department of corrections. We would ask for you to
25 consider everything we've been over today and maybe

State vs. Ronald Lance
Guilty Plea
November 5, 2014

1 consider a longer sentence suspended upon the service
2 of a certain number of years and giving him a chance
3 on probation.

4 THE COURT: He has already proven that he is not
5 going to do well on probation.

6 MR. WEHMAN: Yes, Your Honor.

7 THE COURT: Mr. Lance, I am about to impose
8 sentence on you. Is there anything else before I
9 impose sentence?

10 MR. LANCE: No, ma'am.

11 THE COURT: It's the order of the Court on 2013-
12 GS-18-1811 that you be committed to the State
13 Department of Corrections for a term of thirty years.
14 It's the order of this Court on 2013-GS-18-1251 that
15 you be committed to the State Department of
16 Corrections for a term of thirty years. I give you
17 credit for the 477 days that you have served. I will
18 allow you to run these concurrent.

19 Good luck to you, sir.

20 [Whereupon, Court's Exhibit Number 2 is marked
21 by the court reporter]

22 [Whereupon, Court's Exhibit Number 3 is marked
23 by the court reporter]

24 [PLEA CONCLUDES AT 3:07 P.M.]

25

State vs. Ronald Lance

C E R T I F I C A T E

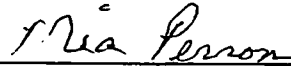
STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the plea held before the Honorable Kristi L. Harrington, on November 5, 2014.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 12th day of September, 2015.



Mia Perron, CVR-CM-M
Circuit Court Reporter
9th Judicial Circuit

FORM 5

STATE OF SOUTH CAROLINA)
)
 County of LEE)
)
Ronald Lince #310167)
 Full name and prison number (if any) of Applicant)
)
 v.)
)
 State of South Carolina)
)
)
)
)

IN THE COURT OF COMMON PLEAS

2015-CP-18- 1229

CERTIFIED COPY

6-23-15
Clayton Graham
 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 Lee Correctional Institution/990 Wisacky Highway/ Bishopville, S.C. 29010
2. Name and location of Court which imposed sentence Dorchester General Sessions Court
3. Name(s) of co-defendant(s) (if any) ~~Christopher Coburn~~
Christopher Coburn, Tyrone Ellison, Christopher Coburn
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2013-GS-18-1251
 - (b) 2013-GS-18-1811

(c) _____

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

(a) November 5th 2014

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ✓

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

Yes

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

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

i. South Carolina Court Of Appeals

ii. _____

iii. _____

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

i. Denied

ii. _____

iii. _____

(c) the date of each such result:

i. November 12th, 2014 / Remittitur issued January 9th, 2015

ii. _____

iii. _____

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

i. N/A

ii. _____

iii. _____

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

(a) N/A

(b) N/A

- (c) N/A
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) Involuntary Guilty Plea
- (c) Statement Obtained unconstitutionally
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Counsel was ineffective when he failed to inform me of Parole
- (b) Counsel misadvice renders Plea involuntary
- (c) Counsel failed to challenge voluntariness of Statement
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. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____

Not Applicable

Not Applicable

(c) the disposition thereof:

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

NOT Applicable

(d) the date of each such disposition:

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

NOT Applicable

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

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

NOT Applicable

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. _____

NOT Applicable

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

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

not Applicable

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

Not Applicable

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

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

No

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. Pierce L. Wehman; 107 West 6th North Street; Summerville, S.C. 29483 #2nd Attorney
 - ii. Mary Lematty; 107 West 6th North Street; Summerville, S.C. 29483 #1st Attorney
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. Plea/Sentencing #2nd Attorney
 - ii. Preliminary Hearings - 1st Attorney
Consolidation 2013 - GS-18-1244 -> 2013-GS-18-1251
 - iii. _____

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

Vacate Guilt Plea
Applicant seeks to have this issue preserved in the event
that Applicant requires additional appellate review.

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

No

STATE OF SOUTH CAROLINA)
County of LEE)

VERIFICATION

I, Ronald Lance, 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.

Ronald L Lane

SWORN to and subscribed before me this 29
day of May, 2015.

Debra Sikes (L.S.)
Notary Public

My Commission Expires: 11-4-2015

2015-CP-18- 1229

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

I, Ronald Lance, 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.

CERTIFIED COPY

6-23-15
[Signature]
Clerk of Court
Dorchester County

Ronald L. Lance
Applicant

SWORN or affirmed to and subscribed before me this

29 day of May, 2015.

[Signature]
Notary Public

My Commission Expires: 11-4-2015

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

Ronald Lance, #310167,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Case No. 2015-CP-18-1229

RETURN

Respondent, making its Return to the Application for Post-Conviction Relief filed June 23, 2015, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Dorchester County Clerk of Court. In December 2013, the Dorchester County Grand Jury indicted Applicant for armed robbery (2013-GS-18-1811) and entering bank, depository or bldg. and loan association with intent to steal (2013-GS-18-1251). Pierce L. Wehman, Esquire, represented Applicant. On November 5, 2014, Applicant pleaded guilty as indicted to both counts. The Honorable Kristi L. Harrington sentenced Applicant to thirty (30) years' imprisonment for armed robbery and thirty (30) years' imprisonment for entering bank, depository or bldg. and loan association with intent to steal, to be served concurrently.

Applicant filed a timely notice of appeal. The South Carolina Court of Appeals dismissed Applicant's appeal on December 22, 2014. The remittitur was returned to the circuit court on January 09, 2015.

II.

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

1. "Ineffective Assistance Counsel"
 - a. "[Counsel] failed to inform me of parole"
 - b. "Statement obtained unconstitutionally" when "counsel failed to challenge voluntariness of statement"
2. "Involuntary Guilty Plea"
 - a. "Counsel misadvice renders Plea involuntary [sic]"

Respondent denies Applicant is entitled to relief on any of these claims, and demands strict proof thereof. Any claims not specifically enumerated in the application or amendments thereto will be opposed by Respondent at the evidentiary hearing. All amendments should be made well in advance of hearing and should be filed in compliance with Rule 11, SCRPC.

Attached to this return and incorporated herein are the records of the Dorchester County Clerk of Court regarding the subject conviction(s), Applicant's records from the South Carolina Department of Corrections, and the guilty plea transcript. Any records not attached will be forwarded upon receipt. Respondent reserves the right to amend this return upon receipt of any relevant materials.

III.

Respondent submits Applicant's allegation of ineffective assistance of plea counsel is without merit. In a post-conviction relief action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of plea counsel as a ground for relief, the applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process" that the plea

proceedings "cannot be relied upon as having produced a just result." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The court strongly presumes plea counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. Id. at 117, 386 S.E.2d at 625. First, the Applicant must prove plea counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, plea counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. 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).

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

IV.

Respondent submits Applicant's allegation in claim 2 that his guilty plea was involuntary is without merit. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (2000) (citing Drayton v. Evatt, 312 S.C. 4, 430 S.E.2d 517 (1993); Hyman v. State, 278 S.C. 501, 299 S.E.2d 330 (1983); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993)). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citing Hill v. Lockhart, 474 U.S. 52; Jackson v. State, 342 S.C. 95, 535 S.E.2d 926 (2000); Thompson v. State, 340 S.C. 112, 531 S.E.2d 294 (2000); Rayford v. State, 314 S.C. 46, 443 S.E.2d 805 (1994)). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the competence demanded of attorneys in criminal cases. Hill v. Lockhart, 474 U.S. at 56. Furthermore, "[a] guilty plea is a solemn, judicial admission of the truth of the charges" against the applicant. Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Admissions "made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements." Id. at 137-38, 654 S.E.2d at 874 (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)).

Respondent submits the record fully supports the knowing and voluntary nature of Applicant's plea. However, allegations regarding the voluntariness of the plea may raise

questions of fact the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper, 279 S.C. 264, 305 S.E.2d 247.

V.

Applicant must specify any claims he intends to raise at the PCR hearing. Any claims not *specifically* laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code § 17-27-10 et seq; SCRCP 71.1. All claims should be made well in advance of the PCR hearing. If Applicant has an attorney appointed, the attorney, and not the inmate, is the only one authorized to file amendments. SCRCP Rule 11. Filings by inmates will not be considered at the PCR hearing.

VI.

Respondent denies each and every allegation not hereinbefore expressly admitted, qualified, or explained.

[SIGNATURE BLOCK ON NEXT PAGE]

VII.

WHEREFORE, having made its return, Respondent requests an evidentiary hearing be held on the claims of ineffective assistance of counsel and involuntary plea.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

J. CLAYTON MITCHELL
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-3737

10/2 2015

1	STATE OF SOUTH CAROLINA	COURT OF COMMON PLEAS
2	COUNTY OF DORCHESTER	FIRST JUDICIAL CIRCUIT
3		2015-CP-18-1229

7	RONALD LANCE,)	TRANSCRIPT OF
)	RECORD
8	APPLICANT,)	
)	
9	VS.)	
)	FEBRUARY 22, 2016
10)	ST. GEORGE, SC
11	THE STATE OF SOUTH)	
	CAROLINA,)	
)	
12	RESPONDENT.		

B E F O R E:

HONORABLE MAITE MURPHY

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

CLAY MITCHELL, ESQUIRE
Attorney for the Respondent

RODNEY DAVIS, ESQUIRE
Attorney for the Applicant

* * * * *

Ruth C. Weese, RDR
Official Court Reporter
Ninth Judicial Circuit

I N D E X

Page

POST-CONVICTION RELIEF HEARING 3

WITNESS DIRECT CROSS REDIRECT

Ronald Lance

Direct by Mr. Davis 5

Cross by Mr. Mitchell 24

Pierce Wehman

Direct by Mr. Davis 30

Cross by Mr. Mitchell 41

Redirect by Mr. Davis 47

Mary LeMatty

Direct by Mr Mitchell 49

Cross by Mr. Davis 54

Redirect by Mr. Mitchell 55

APPELLANT'S EXHIBIT MARKED

1-Letter 35

CERTIFICATE OF REPORTER Page 62

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1 (The following proceedings were held
2 February 22, 2016, Dorchester County, South
3 Carolina.)

4 MR. MITCHELL: Judge, may it please the
5 Court, this is Ronald Lance versus the State of
6 South Carolina, case number 2015-CP-18-1229. Mr.
7 Lance was indicted December of 2013 for armed
8 robbery and entering a bank with intent to steal.
9 He was represented on this case by Mr. Pierce
10 Wehman. He pled guilty to both counts as indicted
11 before Judge Harrington where he was sentenced to
12 30 years on both to be served concurrently. A
13 notice of appeal was filed. The Court of Appeals
14 dismissed that appeal. This application was filed
15 timely on June 23rd of 2015 where he has made
16 various allegations of ineffective assistance of
17 counsel.

18 I would note Mr. Lance is here and
19 present, represented by Mr. Rodney Davis, and I
20 will turn it over to him at this time.

21 THE COURT: Mr. Davis.

22 MR. DAVIS: Thank you, Your Honor. May
23 it please the Court, Your Honor, it's been a few
24 months since we have handled PCR's before you. I
25 don't recall if you do it as a matter of course,

1 but I would ask you to on the record review with my
2 client the risks and benefits. I have, but if we
3 can put that on the record.

4 THE COURT: Mr. Lance, would you please
5 stand.

6 THE CLERK: State your full name for
7 the record.

8 THE APPLICANT: Ronald Lamar Lance.

9 RONALD LAMAR LANCE

10 who, after being first duly sworn, testified as
11 follows:

12 THE COURT: Mr. Lance, have you
13 reviewed with Mr. Davis, have you talked to him
14 about the potential consequences if your PCR is
15 successful? That means that you would potentially,
16 if it's granted, you could start all over again
17 with your original charges and potentially be
18 sentenced up to the maximum sentence that you were
19 looking at. Do you understand that?

20 THE APPLICANT: Yes, ma'am.

21 THE COURT: And just looking through
22 the transcript here it looks like you could have
23 been potentially facing a 60-year sentence and you
24 received a 30-year sentence; is that correct?

25 THE APPLICANT: Yes, ma'am.

1 THE COURT: So do you have any
2 questions about that that you need to talk to your
3 attorney about?

4 THE APPLICANT: No, ma'am.

5 THE COURT: And knowing all those
6 consequences do you wish to proceed and go forward
7 here today?

8 THE APPLICANT: Yes, ma'am.

9 THE COURT: All right, sir.

10 MR. DAVIS: Thank you very much, Your
11 Honor. We would call Mr. Lance as the first
12 witness.

13 THE COURT: Mr. Lance, if you would
14 come around to the witness stand. Your witness.

15 MR. DAVIS: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MR. DAVIS:

18 Q. Mr. Lance, we are here about your
19 convictions for armed robbery and entering a bank
20 with intent to steal, correct?

21 A. Yes, sir.

22 Q. And make sure you speak so I can hear
23 and the court reporter can hear you, okay?

24 A. Yes, sir.

25 Q. Now, when you first got arrested you

1 were appointed an attorney from the public
2 defender's office; is that right?

3 A. Yes, sir.

4 Q. Who was the first attorney that was
5 appointed on your case?

6 A. Ash Chisholm.

7 Q. And do you recall how long Mr. Chisholm
8 would have been your attorney?

9 A. For at least one month, sir.

10 Q. And at some point was then a second
11 public defender put in to replace Mr. Chisholm?

12 A. Yes, sir.

13 Q. Who was that?

14 A. Mary LeMatty.

15 Q. And was she with you a short time? Or
16 was she representing you for quite some time?

17 A. She represented me the majority of the
18 time, sir, for like 13 or 14 months I recall.

19 Q. Okay. And this whole time that she is
20 representing you, including when Mr. Chisholm was
21 at the very beginning, were you in jail or out on
22 bond?

23 A. I was in jail.

24 Q. And at some point later on in your case
25 before it went to court was there a third public

1 defender assigned to your case?

2 A. Yes, sir.

3 Q. Who was that?

4 A. Pierce Wehman.

5 Q. And do you recall when he was appointed
6 on your case?

7 A. He was appointed on my case after my --
8 mental evaluation hearing was over.

9 Q. Okay.

10 A. I was about to get convicted for my
11 plea hearing.

12 Q. Okay. Now, you mentioned a mental
13 evaluation. You saw a doctor for evaluation on two
14 different dates; is that right?

15 A. Yes, sir.

16 Q. Okay. Do you remember when those dates
17 were? If you don't that's okay.

18 A. First mental evaluation was in March
19 and they waited I believe five months later and I
20 went back in August.

21 Q. Of 2014, right?

22 A. Yes, sir.

23 Q. Now, after Mr. Wehman was appointed on
24 your case how many times would you say you met with
25 him before you went to court and entered the plea?

1 A. If I recall, it was at least twice.

2 Q. Okay. At least twice. It could have
3 been how many times?

4 A. Twice.

5 Q. Okay. And during those discussions was
6 he focused more on resolving the case through a
7 guilty plea or taking your case to trial?

8 A. Honestly, honestly I could say that --
9 I can't say he was resolving it through a guilty
10 plea or taking it to trial. He didn't have a clue
11 hisself honestly.

12 Q. At one of these meetings he brought you
13 an offer from the solicitor's office; is that
14 right?

15 A. Yes, sir.

16 Q. Do you remember what that offer was?

17 A. He came to me, the offer was from the
18 solicitor's office that the State offered me
19 20 years.

20 Q. And what do you remember about the
21 discussions about that offer?

22 A. In that discussion he stated to me that
23 the State offered me 20 years, what would you like
24 to do, Mr. Lance? And I told him, I say do you
25 think it would be better for me to go to trial or

1 would it be better for me to take the guilty plea,
2 and he stated to me that honestly I believe that I
3 can get you in the range like your other
4 co-offender Christopher Coburn did, that he made a
5 confession, that you made a confession on yourself.
6 I can get you in the range of between that eight
7 years and 20 years. I can persuade a judge to give
8 you that amount of time. But you going to have to
9 follow my lead. And then I asked him, I asked him
10 about the trial and he stated to me that honestly
11 he don't know, but he ain't even sure really
12 honestly.

13 Q. Wasn't sure about an outcome at trial?

14 A. He wasn't sure about an outcome at
15 trial.

16 Q. Now, just a second here. You mentioned
17 just a moment ago a co-defendant Mr. Coburn. There
18 were two other people arrested on this with you; is
19 that right?

20 A. Yes, sir.

21 Q. Were they convicted as well?

22 A. One of them was convicted for a prior
23 bank robbery, but he wasn't convicted for the bank
24 robbery that I was convicted for. And the other
25 one, Ellison, Tyrone Ellison was convicted for a

1 prior bank robbery. He wasn't convicted for the
2 bank robbery that I was convicted for. He hadn't
3 went to trial for it yet and Chris Coburn was
4 convicted I believe for accessory of the bank
5 robbery.

6 Q. And so when you are talking about your
7 attorney discussing a range there, the eight to 20,
8 that was comparing it to which co-defendant's
9 sentence?

10 A. Chris Coburn.

11 Q. What did he get?

12 A. Eight years.

13 Q. So basically based on that discussion
14 with your attorney did you accept or reject the
15 offer for 20 years from the State?

16 A. I rejected the offer, the 20 years from
17 the State, because he stated that he can get me in
18 that range bracket by challenging the statement to
19 the judge.

20 Q. We will get to that in just a second.
21 In your two meetings with your attorney do you
22 remember any discussions about what trial strategy
23 you would use if you went to trial? Do you
24 remember any discussions about that?

25 A. He didn't explain to me about no

1 defense strategies at trial. Only person I -- only
2 person -- lawyer that I had that explained to me
3 about trial strategy was Mary LeMatty. Pierce
4 Wehman didn't explain to me about trial strategies
5 with defense.

6 Q. And by this -- LeMatty had already been
7 taken off of your case, correct?

8 A. Yes, sir. Ms. LeMatty had been taken
9 off my case. If Pierce would have explained more
10 about a trial strategy what a defense may be my
11 eyes would have been open more wide about taking
12 the plea or going to trial.

13 Q. After arrest did you talk to law
14 enforcement in this case?

15 A. Explain that question again.

16 Q. After your arrest did the police talk
17 to you?

18 A. When I was coming out of surgery in the
19 hospital.

20 Q. After arrest for this, the police
21 talked to you, right?

22 A. Yes, sir.

23 Q. It was at the hospital?

24 A. At the hospital.

25 Q. Okay. And they asked you if you wanted

1 to talk about the incident; is that right?

2 A. Yes, sir.

3 Q. And you talked to them for about an
4 hour, didn't you?

5 A. Yes, sir.

6 Q. Okay. During either one of your
7 meetings with Mr. Wehman did you -- did he discuss
8 with you how he might attempt to block that
9 statement at a trial?

10 A. No, sir, he didn't.

11 Q. Now, you're aware back then that Mr.
12 Coburn had given a few different statements, right?

13 A. Yes, sir.

14 Q. Some of them included you in the crime?

15 A. Yes, sir.

16 Q. Do you remember in either one of your
17 discussions with Mr. Wehman talking about how he
18 might attempt to deal with those statements by your
19 co-defendant?

20 A. Can you explain that clearly again,
21 sir?

22 Q. Do you remember during either one of
23 your meetings with Mr. Wehman discussing how you
24 might deal with Mr. Coburn's statements?

25 A. He said that he was going -- going to

1 explain the first statement that Chris Coburn made
2 when he was arrested stating that me and Ellison
3 was at the crime and committed the crime and then
4 he was going to go back to the second statement
5 Chris Coburn stated that Ellison didn't have
6 nothing to do with the crime and that me and
7 somebody else committed the crime. He was going to
8 challenge it and see how he was making up
9 assumptions and then the third thing when he
10 testified under oath at his plea hearing stating
11 that me and Ellison was in the crime. He was going
12 to challenge it to the judge.

13 Q. That last part when he said he was
14 going to challenge it to the judge, did you
15 understand that to mean he would challenge it to
16 the judge at your guilty plea or at a trial?

17 A. I thought he was speaking about a trial
18 instead of a guilty plea.

19 Q. You were aware back then that a video
20 surveillance of the bank existed, right?

21 A. Yes, sir.

22 Q. You were aware back then that there was
23 an identification lineup done in your case
24 identifying you?

25 A. Yes, sir.

1 Q. In your two meetings with your attorney
2 do you recall any discussion about how he might
3 attempt to block an identification of you by a
4 witness?

5 A. No, sir. I recall Mary LeMatty
6 speaking about a blockage of statement and
7 confession at trial. Never I did recall it on
8 Pierce Wehman.

9 Q. Okay.

10 A. And she stated that it would be up to
11 the judge's discretion.

12 Q. When you went to court for the plea,
13 what was your understanding from talking to your
14 attorney why it was better to go to court on the
15 open plea than on the offer of 20 years that was
16 made before?

17 A. Because he stated that he believed that
18 I wouldn't get the max for my sentence. He
19 believed that stating -- that me confessing my part
20 in the crime like Chris Coburn that I wouldn't get
21 the maximum of my sentence.

22 Q. Was there any other things that your
23 attorney was going to try to do at the guilty plea
24 to make you look better and get lower than the 20?

25 A. He was going to speak on my psychiatric

1 report, and my confession, which he only spoke on
2 my confession instead of my psychiatric report. He
3 never spoke on that. He never spoke on the
4 history.

5 Q. Okay. Did he in any way talk about the
6 issues with the evidence from your co-defendant Mr.
7 Coburn?

8 A. Explain that more.

9 Q. You have already testified Mr. Coburn
10 gave more than one statement, right?

11 A. Yes, sir.

12 Q. Some helped, some hurt, right? You
13 need to answer yes or no.

14 A. Yes, sir.

15 Q. And would you say your attorney -- did
16 you believe your attorney intended to talk about
17 that shaky evidence at the time of the guilty plea?

18 A. Honestly, yes.

19 Q. And did he?

20 A. Yes, and the judge turned him down.
21 She told him she didn't want to hear about Chris
22 Coburn's confession at this moment because this is
23 a guilty plea.

24 Q. On the original -- and so ultimately
25 Judge Harrington gave you 30 years on each running

1 concurrently, right?

2 A. Yes, sir.

3 Q. Looking back then --

4 A. I guess could I say something before
5 you go forward? When I went in the courtroom I
6 only had one charge. I had -- when I was -- my
7 lawyer was talking to me before I went in the
8 courtroom, I only had one charge which was armed
9 robbery. The consolidation charge when I got in
10 the courtroom, the entering the bank came about and
11 I thought -- under my discretion I thought entering
12 the bank was dismissed until I got in the
13 courtroom.

14 Q. At the time of the guilty plea with
15 Judge Harrington?

16 A. Yes, sir.

17 Q. Did your attorney spend any additional
18 time talking to you about that added charge?

19 A. No, sir. He was like just go along
20 with it. I didn't know about that charge until I
21 came in the courtroom. I thought that charge was
22 dismissed at the consolidation hearing. Can I say
23 something, sir?

24 Q. I have got a question for you. You
25 rejected the offer of 20 years, what was it,

1 probably couple of weeks before the court date?

2 A. I'd say a week.

3 Q. And you rejected that on the advice of
4 your attorney?

5 A. On the advice of my attorney.

6 Q. You believed you would get a better
7 sentence in front of the judge pleading on an open
8 plea?

9 A. Yes, sir.

10 Q. If you had not pled guilty did you feel
11 Mr. Wehman was prepared to take your case to trial?

12 A. If I had not pled guilty?

13 Q. Um-hmm.

14 A. No. No.

15 Q. Sorry. What is your answer?

16 A. No, sir. I think he -- I don't think
17 he would have been ready for trial. He wasn't
18 ready for the guilty plea.

19 Q. If he had discussed with you the
20 procedure that he could try to block your statement
21 at trial would you have pled guilty or would you
22 have wanted to go forward and try to block your
23 statement at trial?

24 A. I would have went to trial, sir.

25 Q. If he had talked to you about using

1 inconsistent statements of Mr. Coburn, your
2 co-defendant, if he had talked to you about using
3 those against him at a trial, would you have pled
4 guilty or you wanted to go to trial and have him do
5 that?

6 A. I would have went to trial, sir.

7 Q. If your attorney had talked about the
8 fact that he could try to block any identification
9 of you by witnesses at a trial would you have pled
10 guilty or tried to go to trial and block those
11 identifications?

12 A. Say that again, sir?

13 Q. If your attorney had talked to you
14 about his ability to try to block identification of
15 you by witnesses at a trial, would you have pled
16 guilty or would you have wanted him to go to trial
17 and fight those identifications?

18 A. I would have went to trial, sir.

19 Q. If he had discussed with you any
20 important defenses or strategy at trial would you
21 have felt that he was more prepared -- let me ask
22 that again. If he had discussed with you back then
23 any strategies for trial, for defenses at trial,
24 would that have changed your opinion on whether he
25 was prepared to go to trial or not?

1 A. Yes, that would have changed my opinion
2 that he was ready to go to trial or not. Could I
3 say something, sir?

4 Q. Yes, sir.

5 A. In my opinion, I'm ready to go to
6 trial, it was a lot on me because certain charges
7 that I ain't got dismissed and preliminary hearing
8 were pending on my record while I was in the
9 courtroom. My possession of a firearm during the
10 commission of a violent crime, that was still
11 pending which is to date still pending on my record
12 as an open charge and it was dismissed in a
13 preliminary hearing.

14 Q. Your Honor, if I could have just a
15 moment.

16 (Brief pause.)

17 MR. DAVIS: Mr. Lance, thank you.
18 That's all. The attorney general may have some
19 questions for you.

20 THE COURT: Would counsel approach,
21 please, one second.

22 (Off-the-record conference.)

23 THE COURT: Mr. Lance, upon hearing
24 your testimony you testified that you were in the
25 hospital after this alleged incident occurred. And

1 we have been provided the packet of your case and
2 in the packet during the factual recitation of the
3 facts, looking at the facts it appears, and I'm not
4 for sure, I don't know for sure whether this is
5 true or not, my husband is in private practice in
6 Summerville and I'm questioning whether or not he
7 represents the people, the older couple in the
8 vehicle that was hit in the civil matter.

9 I just want to make sure that your
10 rights are protected in case he does as to whether
11 or not I may have a conflict of interest or not. I
12 don't really talk about the cases, but I know when
13 that came up that was a case that he may be
14 handling or maybe not. I know that he talked about
15 it. So I'm checking with his office right now to
16 see if he does represent those people or not in a
17 civil matter.

18 So it would be up to you to discuss
19 with your attorney whether or not you wish to go
20 forward today if he does represent them or not or
21 if you wished to waive that conflict. I'm checking
22 with his office right now.

23 So do you want to take a brief minute
24 to talk to your attorney about that?

25 (Brief recess.)

1 THE COURT: Counsel, I just received
2 the response from the law firm. They do represent
3 the Campbells.

4 MR. DAVIS: Your Honor, can we approach
5 for a second?

6 THE COURT: Sure.

7 (Off-the-record conference.)

8 (Attorney confers with client.)

9 MR. DAVIS: Your Honor, may it please
10 the Court, I have had -- I don't know exactly what
11 time we started talking about this, but several
12 minutes now to chat with my client and explain the
13 general situation and anything additionally you
14 feel you need to put on the record, we certainly
15 respect that.

16 I have talked about the situation,
17 about any concerns he might have. I have told him
18 that we could ask that you be recused and continued
19 to a different term so there was absolutely no
20 connection between who is on the bench and any
21 other involvement with the facts of this case.

22 I have also indicated to him that what
23 the nature of that is. And if he chose to continue
24 forward today since we have begun the process and
25 rely on you to decide that he could waive any

1 conflict there and then your discretion and move
2 on. I have conferred with the attorney general.
3 The next available docket hearing in Dorchester
4 would be middle of May.

5 So I explained that to him as well the
6 attorney. I am prepared today, but if he wishes to
7 go forward at a later date I would be back then.

8 Given all that, it's his indication to
9 continue forward today even knowing the situation
10 that arose earlier. If you want to address him
11 about that, anything additional you feel you need
12 to put on the record, but he is prepared to waive
13 any potential conflict and move forward today.

14 THE COURT: So, Mr. Lance, if you don't
15 mind, please stand. Mr. Lance, you understand Mr.
16 Davis has talked to you about the potential
17 conflict of interest here. My husband represents
18 the people in the car that was apparently hit
19 during this alleged incident. Do you understand
20 that?

21 THE APPLICANT: Yes, ma'am.

22 THE COURT: Understanding that,
23 obviously it's not me representing them, but it's
24 my husband and since we are married there's some
25 sort of a financial interest there and I want you

1 to be fully aware of that before you make any kind
2 of decision as to whether or not you want me to
3 continue with this case. Obviously it's completely
4 up to you. It's not going to hurt my feelings one
5 way or the other. I certainly can depart myself of
6 that knowledge because we don't talk about facts of
7 cases. I recall when it came up and that's why I
8 looked at the transcript to see and checked with
9 his office to see if they represent them or not.

10 I just want to make sure that you are
11 fully informed of that potential conflict and that
12 you make an informed decision because obviously we
13 can bring you back at another date to have another
14 judge hear it so there is no question. But I want
15 to make sure that you are completely satisfied if
16 you want to go forward today or not, that you had
17 enough time to talk to your attorney about that
18 potential conflict of interest and whether or not
19 you wish to waive it. Do you understand everything
20 that you have talked to your attorney about.

21 THE APPLICANT: Yes, ma'am.

22 THE COURT: Do you want to go forward
23 and have me continue hearing this case or do you
24 want another judge to hear it?

25 THE APPLICANT: Go forward.

1 THE COURT: Are you sure?

2 THE APPLICANT: Yes, ma'am.

3 THE COURT: All right. Come back on up
4 to the stand and we will proceed. Mr. Mitchell,
5 cross-examination.

6 CROSS-EXAMINATION

7 BY MR. MITCHELL:

8 Q. Good morning, Mr. Lance.

9 A. Good morning, sir.

10 Q. All right. So you were indicted for
11 armed robbery, right?

12 A. Yes, sir.

13 Q. And also entering a bank with intent to
14 steal?

15 A. Yes, sir.

16 Q. Okay. So you knew about that entering
17 a bank with intent to steal before the plea,
18 correct?

19 A. Did I know about it?

20 Q. You knew that was your charge?

21 A. Yeah, but I recall that it was
22 dismissed, it got consolidated to the armed
23 robbery.

24 Q. So you were thinking that it had been
25 previously dismissed, but you knew you were charged