

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from York County

Honorable J. Derham Cole, Circuit Court Judge

RONNIE K BRADY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-002035

APPENDIX

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S.C. SUPREME COURT

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STATE OF SOUTH CAROLINA)	GENERAL SESSIONS
)	
County of York)	2013-GS-46-2963
)	
State of South Carolina,)	
)	
vs.)	TRANSCRIPT OF RECORD
)	
Ronnie Brady, Jr.)	
)	
)	
)	

November 21st, 2013
York, South Carolina

BEFORE:

THE HONORABLE J. MARK HAYES, II, JUDGE.

APPEARANCES:

MARINA HAMILTON, ASSISTANT SOLICITOR
Attorney for the State

ASHLEY ANDERSON, ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant

AMINAH R. HARDY, RPR, CVR-CM
Official Court Reporter

EXHIBITS

No.

Description

Page

(No exhibits were marked.)

P R O C E E D I N G S

1
2 MS. HAMILTON: Your Honor, this is Ronnie Brady, Jr.
3 He's represented by his attorney, Ashley Anderson. He's
4 originally charged with manufacturing methamphetamine,
5 third offense. He's pleading guilty to those charges
6 today. The state is not making a recommendation in this
7 case. He has been in jail 214 days.

8 THE COURT: You are Mr. Brady?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Sir, it is your intent to enter a plea to
11 the charge that was announced by the solicitor?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Just to let you know, we're making
14 recording of everything that's going on here today. This
15 lady that's sitting way over there on that side of the
16 courtroom is the court reporter. You're speaking a little
17 bit soft, but please speak up loud so that both she and I
18 can hear you. Okay?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And if ever during this process if you
21 can't hear me or one of the other lawyers, let us know and
22 we'll speak up as well.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Thank you. How old are you, sir?

25 THE DEFENDANT: 35.

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

2 THE DEFENDANT: Ninth grade.

3 THE COURT: Did you ever obtain a GED?

4 THE DEFENDANT: No, sir.

5 THE COURT: Are you married, single, divorced,
6 widowed?

7 THE DEFENDANT: Married.

8 THE COURT: Do you have children?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: How many?

11 THE DEFENDANT: Three.

12 THE COURT: How old are they?

13 THE DEFENDANT: Got a one-year-old daughter, a
14 19-year-old daughter, and a 17-year-old son.

15 THE COURT: And do you have a job -- did you have a
16 job outside the home prior to your arrest on this charge?

17 THE DEFENDANT: I was laid off.

18 THE COURT: From what?

19 THE DEFENDANT: From -- I worked for Southern States
20 Rebar out of Rock Hill.

21 THE COURT: Have you ever served in the military?

22 THE DEFENDANT: No, sir.

23 THE COURT: And on this charge, you've been in jail
24 for 214 days?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Sir, within the last 24 hours, have you
2 consumed any type of substance that is adversely or
3 negatively affecting your ability to understand what we're
4 doing today?

5 THE DEFENDANT: No, sir.

6 THE COURT: Have you ever received any type of
7 substance abuse treatment for drug or alcohol problems?

8 THE DEFENDANT: No, sir.

9 THE COURT: Are you satisfied with the work your
10 lawyer has done?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you feel like you had enough time to
13 talk to her about the legal elements of the charge that's
14 against you, the facts behind the case, and also any
15 possible defenses?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Sir, has anybody come to you and promised
18 you anything or have they threatened you in any way in
19 order to get you to make the decision to enter the plea
20 today?

21 THE DEFENDANT: No, sir.

22 THE COURT: Am I correct to conclude that this is
23 this a free and voluntary decision by you?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Sir, I need you to understand that under

1 the law, you are presumed innocent of this charge. You do
2 have a right to have a jury trial on this charge. At any
3 jury trial that would take place, it would be the state
4 that has the burden of proof, and the state would have to
5 convince all 12 members of a jury that you are, in fact,
6 guilty beyond a reasonable doubt of this charge. Do you
7 understand that you have the right to that jury trial?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you wish to have a jury trial on this
10 charge?

11 THE DEFENDANT: No, sir.

12 THE COURT: Sir, I need for you to understand that
13 there are other very important constitutional rights you
14 are entitled to but you have to give up in order to enter
15 this plea. You have to give up the right to confront and
16 cross-examine the state's witness. You also have to give
17 up your right to present evidence you or your lawyer may
18 feel would establish a defense to this charge, and you
19 have to give up your right of subpoena and also your right
20 to remain silent. Do you understand all those rights?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And do you wish to give up all those
23 rights?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: All right, sir. In just a minute, the

1 solicitor is going to give me the facts.

2 I need the lawyers to approach for a minute.

3 (WHEREUPON, a bench conference was held.)

4 THE COURT: All right, sir. If you would, please
5 listen to the solicitor. She's going to give us the
6 facts.

7 MS. HAMILTON: Thank you, Your Honor. On
8 April 21st of this year, officers with Rock Hill Fire
9 Department were dispatched to Rock Hill Motel in York
10 County located at 914 Riverview Road in reference to a
11 trash fire in the parking lot. Upon arrival, officer
12 discovered that room 238 was on fire. The entire room was
13 charred. Parts of the TV and phone had melted, and the
14 beds were burned, exposing metal springs. There was a
15 circular burn mark on the floor in front of the beds.

16 Officers found in the room item consistent with a
17 methamphetamine lab: chemical bottles, cold packs, Coleman
18 camp fuel, tubing, and a funnel. Officers also found
19 three empty boxes of Sudafed that were in the trash can
20 located in that room. There was a bottle, a Coke bottle
21 consistent with what cooks are using these days to cook
22 methamphetamine. They call it the shake-and-bake method.
23 That was found on scene also. It was discovered that the
24 item in -- that was in the parking lot that was actually
25 on fire was a Coleman camp fuel bottle in the parking lot

1 of that hotel.

2 Officers questioned Sally Hickman who stayed in room
3 240 of that hotel, and she stated that her stepson, Ronnie
4 Brady, the defendant, was responsible for the fire and
5 left the scene. She stated that she was staying in room
6 240. Her stepson, Ronnie Brady, had recently moved to
7 room 238 because Ms. Hickman had a two-year-old grandchild
8 staying with her in that room.

9 Ms. Hickman stated she heard an explosion and came
10 out of her room, saw the defendant leaving down the stairs
11 with his pants leg on fire. She said it looked like his
12 feet were on fire also. The defendant was found a short
13 time later at the corner of Riverview Road and Celanese
14 with burns on his left leg. When questioned, he admitted
15 to Commander Brown of the DEU that he was cooking
16 methamphetamine and it blew up. He stated he ran because
17 he was scared.

18 He gave a statement to officers that same night
19 stating he was using the shake-and-bake method. He stated
20 that the cook was almost done when he was pouring it into
21 the trash can when some of the lithium strips caught on
22 fire. When asked by a detective how long he had been
23 cooking meth, he stated all of his life. Another captain
24 on scene asked Brady how many time he had been burned
25 cooking methamphetamine, he stated about six times. When

1 also asked why did he come to Rock Hill from Arkansas, he
2 stated he was running from the police because he was
3 wanted for cooking methamphetamine.

4 Your Honor, his record includes a 2009 possession
5 with intent to distribute methamphetamine; possession of
6 drug paraphernalia with intention to manufacture
7 methamphetamine; 2004, possession of a controlled
8 substance without prescription, first offense; and 1998
9 theft of property. All of those offenses are out of
10 Arkansas. Your Honor, can I hand up -- I have shown the
11 defense a picture of the damage to the room. May I
12 approach, Your Honor?

13 THE COURT: Without objection, yes, ma'am.

14 MS. HAMILTON: Additionally, Solicitor Brackett is in
15 the room. He would like to be heard as to sentencing, but
16 I have a statement from Marvin Brown who is the commander
17 of DEU who was not able to be here today. He would like
18 that statement read at this time, Your Honor.

19 THE COURT: We'll do that when we come back to the
20 state.

21 Mr. Brady, you were able to hear the prosecutor when
22 she told me the facts behind the case?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Now, do you believe as she stated the
25 facts she is substantially correct?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And, sir, do you understand that on this
3 drug charge since it is a third and subsequent offense, I
4 could sentence you up to -- what's the sentencing range?

5 MS. ANDERSON: Your Honor, the sentencing range is
6 ten years to 30 years.

7 THE COURT: That I could sentence you between ten to
8 30 years on this charge?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And, sir, do you understand also this
11 particular charge is classified under the law as both a
12 violent offense and also a serious offense under the law?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And have you been to able to talk to your
15 lawyer as to the consequences and ramifications of this
16 offense being classified as both a violent and also as a
17 serious offense?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Understanding the possible sentences I
20 could impose, between ten to 30 years, and the fact this
21 is classified as both a violent and serious offense and
22 the consequences and ramifications of those two
23 classifications, you still wish to enter this plea?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Sir, are you, in fact, guilty of

1 manufacturing methamphetamine, third offense?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Have all of your answers to my questions
4 been truthful?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Discovery been shared with the defense?

7 MS. HAMILTON: It has, Your Honor.

8 THE COURT: Any other prior record than what's been
9 given so far?

10 MS. HAMILTON: No, Your Honor.

11 THE COURT: And did you say that you did have a
12 statement and also comment from the solicitor?

13 MS. HAMILTON: Yes, Your Honor. The statement from
14 Marvin Brown reads, "We have had in York County 35
15 methamphetamine labs in the last three years. Five
16 resulted in explosions in which there were injuries at
17 every explosion. Five methamphetamine labs in motel rooms
18 including Brady. Brady also had to be treated, and we are
19 lucky even by his own admission that no one else got hurt.

20 We had ten labs last year and 15 so far this year
21 even with increased enforcement. We've searched at least
22 15 other locations seeing evidence of methamphetamine labs
23 but not enough to charge. So far this year, we have
24 arrested 27 people for methamphetamine labs, including
25 five the following week for trafficking methamphetamine."

1 MR. BRACKETT: Good morning, Your Honor. May it
2 please the Court. Two and a half years ago, the first
3 meth lab in a motel was found in York County. And at the
4 time that it happened and we took care of that case, I
5 went to the media and I made a public statement. I told
6 the meth community -- which surprisingly is unlike other
7 drug communities, very tight-knit communities. People
8 have to work together to obtain the ingredients necessary
9 to make methamphetamine. Some people, their job is to go
10 out and get the pills, the pseudoephedrine pills that they
11 crush up and use to make the meth. So they all tend to
12 know each other and they all communicate and they pay very
13 close attention to what happens in these cases.

14 I made a statement publicly to alert the community
15 that when you operate a meth lab -- which is a highly,
16 volatile, flammable, combustible operation -- when you
17 operate a meth lab and you choose to do so in a motel or
18 apartment building, you are not just placing your own life
19 in danger, which is bad enough. You're placing the lives
20 in the adjacent rooms and adjacent apartments in danger as
21 well, and to do so shows an utter and total disregard for
22 their safety.

23 This particular case -- and I said at the time,
24 whenever one of those cases comes, I'm going to take a
25 personal interest in it and I'm going to come to court

1 just like I am today to let the Court know that we have to
2 take a strong stand against this. We have to let the
3 people who would do this kind of thing know that we're not
4 going to put up with it, and we need to send them a
5 message. And I'm going to ask for a stronger sentence
6 than I would normally ask for had he been found cooking
7 meth in a tool shed in his backyard.

8 This particular case is even more egregious than the
9 regular one. First of all, of course, there was an
10 explosion and the room did catch on fire. Worse than
11 that, it happened at 1:00 in the morning in a motel.
12 All -- it's safe to assume that all or a good portion of
13 the people in the rooms adjacent to his were asleep. When
14 the room caught fire, he didn't run and alert anybody. He
15 left and ran down the road leaving God knows what behind
16 him. We were a few degrees from an epic tragedy, tragedy
17 that would have capture national headlines if that hotel
18 had caught fire and people had been trapped in their
19 rooms. A rapidly moving fire in a situation like that,
20 God only know how many people could have been killed
21 because of his thoughtlessness and his selfishness.

22 And I believe the Court needs to impose a sentence
23 that reflects the severity of this crime, but also sends a
24 message as I said I would do to the other people out there
25 when they're trying to make the decision of where they

1 want to go and cook meth. I hope that they reflect back
2 on Mr. Brady's sentence and say, "Maybe we shouldn't use
3 the motel. Maybe we should cook out in the woods or some
4 private building away from other people where other people
5 can't get hurt." I hope that they look back on the
6 sentence and come to the conclusion that motels and
7 apartments are not the places they want to cook
8 methamphetamine. I hope they don't cook at all, but if
9 they choose to, they should certainly take a lesson from
10 Mr. Brady's experience here today and understand that
11 putting other people lives at risk only results in a harsh
12 and severe consequence when you're held accountable in
13 court. Thank you, Your Honor.

14 THE COURT: Thank you, sir. Anything else from
15 state?

16 MS. HAMILTON: Nothing else from the state, Your
17 Honor.

18 THE COURT: Yes, ma'am.

19 MS. ANDERSON: May it please the Court. Your Honor,
20 little background. I'd like to talk first a little bit
21 about Mr. Brady himself and then some of the circumstances
22 of this case. Your Honor, as you heard, he has been in
23 jail 214 days. Your Honor, essentially I think you can
24 see from the record and from what Mr. Brady has handed up,
25 Mr. Brady is an addict. He's been an addict probably for

1 about 20 years. That was reflected even some of the
2 statement to the drug enforcement officers about
3 methamphetamine.

4 Your Honor, he's 35 years old now. He's been very
5 candid with me that he's been addicted and using
6 controlled substances since age 15 or 16, cocaine
7 methamphetamine, and marijuana. Your Honor, I think his
8 record clearly reflects that. It reflects possession of
9 controlled substances. If you look at the Arkansas
10 dispositions of the 2009, there were additional charges of
11 possession of pills and possession of paraphernalia for
12 the intention of use that were dismissed. So I don't
13 think Mr. Brady's record in any way reflects someone that
14 has sought to deal drugs, sought to put drugs out onto the
15 street that many individuals we see in court here.

16 Mr. Brady's record reflects someone who has struggled
17 with substance abuse issues for most of his life, and who
18 has always been, I think, using or obtaining drugs for his
19 own use. Your Honor, he advises me as he's told you he's
20 never had any treatment for that. He has had periods of
21 sobriety. He had about a two-year period of sobriety at
22 one point. His mother passed away and he fell back into
23 that. What precipitated, Your Honor, this incident is
24 Mr. Brady essentially did not have anywhere to live. This
25 was not a situation of him seeking out a hotel room for

1 the intention of manufacturing meth. This was a situation
2 where this was the only place he had to stay at the time.
3 His wife left him with the -- his one-year-old daughter at
4 the time. That also sort of started the spiral, and
5 unfortunately he made the decision in the throes of an
6 addiction to manufacture methamphetamine.

7 Your Honor, this isn't a situation where sort of what
8 Marvin Brown's statement referenced. I don't think in any
9 way you could make Mr. Brady making, manufacturing
10 methamphetamine that night equivalent of someone who is
11 setting up a lab for the intention of distributing
12 methamphetamine out in the community. That doesn't
13 mitigate the fact that this was a very serious situation.
14 Mr. Brady himself knows how serious it was.

15 As you've heard, he made statements to the police
16 officers that he was glad no one was hurt, and I think
17 that he knows that certainly had he sort of been in his
18 right mind that he would have never done this. I don't
19 think in any way it was his intention to be completely
20 disregard others' safety. He just -- he's fueling an
21 addiction at that time and that's what drove this.

22 But Your Honor, this was essentially for himself. He
23 was attempting to make methamphetamine for his own
24 addiction to use himself. And so I do think that
25 distinguishing him a little bit when we talk about meth

1 lab. I understand any sort of place where methamphetamine
2 is manufactured has -- required a sort of hazardous clean
3 up. It requires all of that. But this isn't a situation
4 where Mr. Brady was setting up any sort of permanent basis
5 or attempting to put drugs out in the community.

6 Your Honor, he has been -- while he's been in jail
7 he's been in F block taking advantage of programs there,
8 and so I think does speak to the fact that he has a desire
9 to be better. Unfortunately, he's just never had any sort
10 of long-term substance abuse addiction treatment. He's
11 never had that opportunity, and certainly he doesn't have
12 that opportunity here as he stands in front of you today.

13 Your Honor, this is a case where Mr. Brady was honest
14 with the officers, and in several interviews admitted his
15 role in this. I'm looking at one interview with Detective
16 Welch with the drug enforcement unit where Mr. Brady
17 stated he was responsible for the fire. He would tell the
18 police anything they wanted to know. So he was very
19 candid. This wasn't a situation -- yes, he admits he ran
20 initially, but he did admit to his role in this and is
21 admitting to his role today.

22 Your Honor, I point out -- because I think it's an
23 unusual circumstance. Your Honor is well aware of how
24 this sort of court system works in that, you know, plea
25 bargaining is a huge part of our system in keeping our

1 system running. I point out that Mr. Brady never received
2 a plea offer in the case. And I understand the state is
3 not required to do so, but I do think it speak the fact
4 that Mr. Brady had no incentive to come in and plead
5 today. He was never offered any sort of deal, never sort
6 of dealt with like probably 99 percent of defendants who
7 come through this court system do. He's pleading to Your
8 Honor without any recommendation, without any reduction
9 and with the state coming in and asking for a heavy
10 sentence, and yet he is still here taking responsibility,
11 not requiring the state to go through a trial, not
12 requiring the court to go through a trial and a jury be
13 summoned and prove him guilty beyond a reasonable doubt,
14 even though frankly he hasn't been given any incentive to
15 waive all those rights. And I think that again speaks to
16 the fact he is taking responsibility for what happened and
17 I think that mitigates on his behalf.

18 Your Honor, he does have family present. They're
19 seated on the front row. His father -- come on up, sir --
20 who is Ronnie Brady, Sr., would like to address the Court.

21 Your Honor, we are asking for the minimum ten years
22 in this case. It is an 85 percent, no parole case. It's
23 a violent offense that affects certainly Mr. Brady's
24 ability to participate in programs, meaning that he will
25 serve a lengthy sentence of the ten years. As you heard

1 from his record, his record is fairly minor in terms of
2 possession offenses, and I think 85 percent, no parole
3 ten-year sentence is certainly a huge jump from what he
4 has served in the past, and I think would be a substantial
5 punishment for him, especially considering the fact that
6 he does have a young daughter and his daughter will be
7 rather grown or, you know, will be a number of years
8 before he has the opportunity to see her.

9 He is very remorseful, but Your Honor this is a
10 situation where the tragedy with Mr. Brady is that
11 addiction has brought him here today. We would ask to
12 hear from his father, Ronnie Brady, Sr.

13 THE COURT: Do you agree what your lawyer just
14 stated?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. Sir, if you would, I just
17 need to let you know we're making a recording of
18 everything that happens here today. This lady sitting way
19 over there is a court reporter, so please speak up loud
20 enough that both she and I can hear you. Start by giving
21 us your full name.

22 MR. BRADY, SR.: Ronnie Kenneth Brady.

23 THE COURT: Yes, sir, Mr. Brady. Be more than happy
24 to hear from you.

25 MR. BRADY, SR.: First of all, I'd like to thank the

1 Court for giving me the opportunity to speak for my son.
2 I'm not here to say that my son is not guilty of any
3 wrongdoing. Certainly he is. He's battled a demon of
4 drug addiction for most of his adult life, and he's had up
5 and down with it. But the five previous years before this
6 incident, he was clean. He worked every day. He lived
7 with me. He's never been a drug dealer. He wasn't
8 manufacturing drugs to sell it, to push it on other
9 people, bring that heartache to other families. He just
10 has that weakness.

11 The time he spent in jail -- the officers I talked
12 to, the people I talked to, he spent six and a half hours
13 a day in Bible study. He sees the wrongs of what he's
14 done. He has a different outlook on life. He's not
15 denying what he did. He accepts responsibility for what
16 he did. He does have a one-year-old daughter. He has a
17 daughter who's enrolling in college. He has a son who is
18 graduating and trying to go to college next year. And
19 they need their father.

20 I know that he has to pay a punishment for what he's
21 done. He's willing to accept that. I'm willing to accept
22 that. We have the utmost respect for the Court, but I
23 would just ask you keep in mind when he gets out, he will
24 have a strong support group. His family loves him more
25 than life itself. We all do. We miss him. And we just

1 ask you be as lenient but fair as you can possibly be
2 because we do need him back in our lives. I guess that's
3 about all I can say is just, you know, he's a good boy.

4 MS. ANDERSON: Your Honor, Mr. Brady would like to
5 address you as well.

6 THE COURT: Mr. Brady, I'll be more than happy to
7 hear from you. If you would, just speak loud enough that
8 both the court reporter and I can hear you.

9 THE DEFENDANT: I just want to apologize to everybody
10 involved. I want to apologize to the solicitor. I want
11 to apologize to York County, state of South Carolina. I'm
12 very sorry for what I've done. I want to apologize to all
13 of y'all and just ask you to please show mercy on me.

14 THE COURT: Thank you, sir. I find there's a
15 substantial factual basis for the plea and the defendant's
16 decision to enter the plea is made freely voluntarily,
17 knowingly, and intellectually by him. Therefore I will
18 accept the plea.

19 On this case under indictment 13-GS-46-2963, this is
20 going to be a -- this is a substantial sentence by any
21 calculation. By the time you reach a third offense of --
22 a third drug offense of this nature, the legislature is
23 deemed you have to give a substantial sentence. In the --
24 I was in a county one time we were doing plea court and I
25 asked -- and in another county, we actually bring all of

1 the defendants of the day into the courtroom. And I
2 asked -- at the start of the day, I happened to ask how
3 many people sitting in this jury box -- they were all
4 defendants ready to plea -- how many of you had
5 methamphetamine charges? I think everybody but about one
6 or two were there on a meth charge. Methamphetamine is a
7 significant problem, as the solicitor has stated. And
8 just the facts behind this case are just astonishing to
9 me, and we're very lucky the tragedy of it didn't extend
10 to harming other people that were in the hotel.

11 Given the facts that are behind the case -- and I
12 have taken into account you tried to fashion some
13 mitigation in there by the fact you have stepped up to the
14 plate and accepted responsibility. But I'm going to
15 impose a 25-year sentence on this case. Give you credit
16 for 214 days. I have indicated on the sentencing sheet my
17 desire is that you receive the addiction treatment unit
18 while you're in the Department of Corrections. That will
19 give you a way of dealing with your addiction problem.
20 Sir, I want to wish you the best of luck.

21 (Whereupon, the proceedings were concluded.)

22

23

24

25

FORM 5

2014CP46-2471

STATE OF SOUTH CAROLINA)

County of York)

Ronnie K. Brady I.R. 357967)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

APPLICATION FOR
POST-CONVICTION RELIEF

DAVID HAMILTON
C.C.P. & G.S. CLERK
YORK COUNTY, SC

2014 AUG 15 PM 12:13

FILED-RECEIVED

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 MCCJ E3B-148 326 Redemption
Way McCormick SC 29899
2. Name and location of Court which imposed sentence Court of
General sessions county of York
3. Name(s) of co-defendant(s) (if any) None
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2013 GS4602963
 - (b) _____

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

2014 AUG 18 AM 8:22

CERTIFIED TRUE COPY

- (c) _____
- 5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 11-21-13
 - (b) 25 years in SCDC
 - (c) _____

- 6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty ✓
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?
NO

- 8. If you answered "yes" to (7), list:
 - (a) the name of each Court to which you appealed:
 - i. _____
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. _____
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. _____
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. _____
 - ii. _____
 - iii. _____

- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) I WAS told by pleading Guilty
 - (b) I could not Appeal

(c) _____

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

(a) Ineffective Assistance Counsel

(b) _____

(c) _____

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

(a) My Public Defender told me I would get 10 years And I got 25.

(b) This is only my 2nd felony of Any Kind, but they charged

(c) me with A 3rd.

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? NO

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO

(d) any other petitions, motions or applications in this or any other Court? NO

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

(a) the specific nature thereof:

i. N/A

ii. _____

iii. _____

iv. _____

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

i. N/A

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

_____ N/A _____

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

(a) which grounds have been presented:

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

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

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

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

- (a) N/A
- (b) _____
- (c) _____

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

- (a) your arraignment and plea? Yes
- (b) your trial, if any? _____
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

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. E. Ashley Anderson
Assistant Public Defender
 - ii. P.O. Box 691 York, SC 29745
(803) 628-3031
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. 17. (A) (C)
 - ii. _____
 - iii. _____

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

A sentence Reduction or any type of Relief.

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

NO

STATE OF SOUTH CAROLINA)
County of York)

VERIFICATION

I, Ronnie K. Brady J.R. 357967, 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.

Ronnie Brady

SWORN to and subscribed before me this 12th
day of August, 2014.

Penny G. Matou (L.S.)
Notary Public

My Commission Expires: Feb 28, 2018

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

I, Ronnie K. Brady J.R. 357967, 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.

Ronnie Brady
Applicant

SWORN or affirmed to and subscribed before me this

12th day of August, 2014.

Renny G. Morton
Notary Public

My Commission Expires: Feb 28, 2018

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

II.

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

1. "Ineffective Assistance of Counsel"
 - a. "My Public Defender told me I would get 10 years and I got 25. This is only my 2nd felony of any kind, but they charged me with a 3rd."

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

III.

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

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

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

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

IV.

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

V.

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

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

J. RUTLEDGE JOHNSON
Assistant Attorney General

By: 
~~ATTORNEYS FOR RESPONDENT~~

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

December 10 2014.

STATE OF SOUTH CAROLINA)

COUNTY OF YORK)

IN THE COURT OF COMMON PLEAS

2014-CP-46-2671

RONNIE K. BRADY, JR., #357967)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA,)

Respondent.)

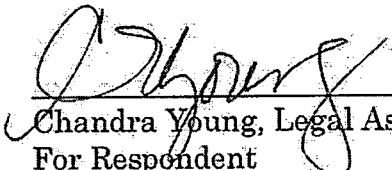
1. I am an employee of the Respondent in the above-captioned action.

2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

3. I have this day served a copy of the Return in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

W. Michael Hemlepp, Jr.
3027 S. Paraham Rd
York, SC 29745

DATED this 10th day of December, 2014.


Chandra Young, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA)	COURT OF COMMON PLEAS
)	
County of York)	2014-CP-46-2671
)	
RONNIE BRADY,)	
)	
)	
vs.)	TRANSCRIPT OF RECORD
)	
STATE OF SOUTH CAROLINA.)	
)	
)	
)	

January 21st, 2015
York, South Carolina

BEFORE:

THE HONORABLE J. DERHAM COLE , JUDGE.

APPEARANCES:

WILLIAM MICHAEL HEMLEPP, JR., ESQ.
Attorney for the Applicant

J. RUTLEDGE JOHNSON, ASSISTANT ATTORNEY GENERAL
Attorney for the State

AMINAH R. HARDY
Official Court Reporter

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EXHIBITS

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(No exhibits were marked.)

P R O C E E D I N G S

1
2 MR. JOHNSON: May it please the Court, Your Honor.
3 This is the case of Ronnie Brady vs. the State of South
4 Carolina. It's case number 2014-CP-46-2671. Mr. Brady
5 was indicted at the August 2013 term of York County Grand
6 Jury for manufacturing methamphetamine third offense. On
7 November 21st, 2013, he pled guilty to the charge as
8 indicted before the Honorable J. Mark Hayes, II. The
9 sentence was 25 years. There was a notice of appeal filed
10 and appeal perfected. The Court of Appeals dismissed the
11 appeal. The remittitur was thereafter issued on June 26,
12 2014. He filed a timely PCR application on August 15,
13 2014. The State filed its return December 10, 2014. And
14 he is represented here today by Mr. Mike Hemlepp.

15 THE COURT: All right. Are y'all ready to proceed on
16 the application?

17 MR. HEMLEPP: We are, Your Honor.

18 THE COURT: Go ahead.

19 MR. HEMLEPP: Thank you. The applicant would call --
20 well, I would call the applicant to the stand.

21 RONNIE BRADY, after having first being duly sworn,
22 testified under oath as follows:

23
24 THE COURT: All right. Answer your lawyer's
25 questions.

RONNIE BRADY - DIRECT EXAMINATION BY MR. HEMLEPP

1 MR. HEMLEPP: May it please the Court, Your Honor?

2 THE COURT: Yes, sir.

3 DIRECT EXAMINATION:

4 BY MR. HEMLEPP:

5 Q Mr. Brady, could you please give us your full name
6 and can you spell your last name for the court reporter?

7 A Ronnie Kenneth Brady, Jr., B-R-A-D-Y.

8 Q Okay. Have you ever testified in court before?

9 A No, sir.

10 Q Okay. This is a very big room. The Judge needs to
11 hear what you have to say. The Attorney General's Office
12 needs to hear what you have to say. I need you to speak
13 up about as loudly and clearly as I am right now. Can you
14 do that for me?

15 A Yes, sir.

16 Q Tell me, Mr. Brady, how old are you?

17 A Thirty-six.

18 Q And how far did you go in school?

19 A Ninth grade.

20 Q Ninth grade. Where did you grow up?

21 A West Memphis, Arkansas.

22 Q In Arkansas?

23 A Uh-huh.

24 Q And did you at some point move to South Carolina?

25 A Yes, sir.

RONNIE BRADY - DIRECT EXAMINATION BY MR. HEMLEPP

1 Q When was that?

2 A In my 20's, early 20's.

3 Q Okay. What brought you to South Carolina?

4 A My father lived up here.

5 Q And did you -- after you moved to South Carolina, did
6 you develop a drug problem?

7 A I had already had a drug problem from my teenage
8 years.

9 Q What was your drug of choice?

10 A Methamphetamine.

11 Q Okay.

12 A Marijuana at first.

13 Q And did you, in fact, sometime make your own
14 methamphetamine?

15 A Yes, sir.

16 Q There was a incident that occurred in April of 2013
17 here in York County involving your making of
18 methamphetamine; is that correct?

19 A Yes, sir.

20 Q Did that result in you getting arrested?

21 A Yes, sir.

22 Q Did that also result in you getting injured?

23 A Yes, sir.

24 Q Tell the Judge about that.

25 A I -- I was -- I'm a recovering drug addict, Your

RONNIE BRADY - DIRECT EXAMINATION BY MR. HEMLEPP

1 Honor. I was in a motel room making meth to use. I
2 caught on fire and I burned myself, burned my leg.

3 Q Were the police called because of that?

4 A Yes, sir.

5 Q And you were arrested for this charge?

6 A Yes, sir.

7 Q Were you taken to the jail?

8 A Yes, sir.

9 Q How long did you -- well, let me back up. While you
10 were in jail, were you appointed an attorney?

11 A Yes, sir.

12 Q Who was your attorney?

13 A Ashley Anderson.

14 Q Okay. And Ms. Anderson is with the public defender's
15 office; is she not?

16 A Yes, sir.

17 Q Did you have the opportunity to talk to her about
18 your charge?

19 A Yes, sir.

20 Q And did she tell you about the possible sentence you
21 could receive?

22 A Yes, sir.

23 Q Did she tell you about your right to trial?

24 A Yes, sir, she did.

25 Q Did the two of y'all talk about whether you should go

RONNIE BRADY - DIRECT EXAMINATION BY MR. HEMLEPP

1 to trial or go to a plea -- or accept a plea?

2 A She told me that she could almost guarantee me if I
3 went into the courtroom with an open plea, she'd get me 10
4 years, 85 percent is what she told me.

5 Q Okay.

6 A She told me she could almost guarantee that. I
7 believed her, I mean. She said -- I asked her -- this is
8 what I asked her, I said, Well, how sure are you of that?
9 She said, Eighty, 90 percent sure. That's what she told
10 me and I believed her, so.

11 Q Okay. So you decided to plead guilty --

12 A Yes, sir.

13 Q -- to the charge? Now, let me ask you this, you're
14 not telling Judge Cole that you weren't guilty?

15 A No, sir, not at all.

16 Q You admit that you were guilty?

17 A Yes, sir.

18 Q During the guilty plea, there is -- there was a
19 representative of the State, an assistant solicitor
20 handling your case, do you remember who that was?

21 A No, sir, I don't.

22 Q Do you remember a Ms. Hamilton?

23 A Sounds familiar.

24 Q Could that be?

25 A Yes, yes, I think that's right.

RONNIE BRADY - DIRECT EXAMINATION BY MR. HEMLEPP

1 Q After you had pled guilty in front of the Judge, did
2 anything unusual happen in your plea? Did the solicitor
3 come back?

4 A Yeah, yes, sir.

5 Q Had you ever met Solicitor Brackett?

6 A No, sir.

7 Q What happened to that plea?

8 A He come in and stood up and made a statement. They
9 brought up the statement that I had given when I was under
10 the influence of meth that night where I was talking about
11 how I had been cooking meth my whole life and stuff like
12 that, which that was very untrue. And it, basically, made
13 me look like a monster, really. I mean, I'm a drug
14 addict, yes, I mean, but, basically, made me look like a
15 terrorist or something. I mean, there's no way I would
16 plead guilty. I would have took it to trial. There's no
17 way I would have pled guilty if I had known any of that.

18 MR. JOHNSON: Objection, motion to strike, Your
19 Honor. That's not in his application, anything the
20 solicitor did or said, and the fact he's now claiming he
21 wouldn't have pled guilty and gone to trial had he known.
22 I move to strike all that testimony, Your Honor. It's not
23 pled and I had no notice of it.

24 THE COURT: Has that been previously pled?

25 MR. HEMLEPP: Your Honor, what was pled in the

RONNIE BRADY - DIRECT EXAMINATION BY MR. HEMLEPP

1 application, the public defendant told me I would get 10
2 years, I got 25.

3 THE COURT: There was no allegation about the
4 prosecutor making a statement during the plea?

5 MR. HEMLEPP: There was not and we're not going on
6 that ground. We're going purely on the advice that was
7 given to him by the public defender.

8 THE COURT: So you're not proceeding -- you're not
9 seeking any relief on that ground that he just testified
10 to?

11 MR. HEMLEPP: We're not, Your Honor. We believe it's
12 relevant, however, to the advice he was given by his
13 lawyer.

14 THE COURT: I understand. You can proceed.

15 MR. HEMLEPP: Thank you. So am I allowed on this
16 line of question?

17 THE COURT: Yes.

18 MR. HEMLEPP: Thank you, Your Honor.

19 BY MR. HEMLEPP:

20 Q Prior to the plea, did Ms. Anderson tell you that the
21 Solicitor's Office was going to come in?

22 A No, sir.

23 Q And make an additional presentation?

24 A No, sir.

25 Q To your -- well --

RONNIE BRADY - DIRECT EXAMINATION BY MR. HEMLEPP

1 A I don't think she knew about that.

2 Q Okay.

3 A I mean, I really don't know. She didn't tell me
4 anything about it.

5 Q In fact, you got 25 years after having been told that
6 you would likely receive 10?

7 A Yes, sir.

8 Q Again, and I want to make this clear, you're not
9 alleging that you did not commit the crime? You admit --

10 A No, sir.

11 Q -- you committed this crime?

12 A Yes, sir.

13 Q Do you believe that had you been advised differently
14 you would have gone to trial?

15 A I know I would have.

16 Q You and I have talked briefly about your case. You
17 understand that Judge Cole's decision here is to let this
18 stand or to completely invalidate this plea. Those are
19 the only choices before the Court?

20 A Yes, sir.

21 Q Do you still want him to go forward on this case?

22 A Yes, sir.

23 Q Is there anything about this case, about this plea or
24 your application that you believe that Judge Cole needs to
25 know in order to make an adequate decision in this case?

RONNIE BRADY - DIRECT EXAMINATION BY MR. HEMLEPP

1 A Well, I would like to say this. Your Honor, I never
2 been in trouble in South Carolina ever. I've only had one
3 other prior drug charge and that was in the State of
4 Arkansas. And somehow, they enhanced this to a third and
5 I think that's wrong. It's only my second time. It's
6 only my second felony ever. I mean, I just wanted you to
7 know that.

8 Q Is there anything else you think the Court needs to
9 know?

10 A No, sir.

11 MR. HEMLEPP: Okay, Mr. Brady, thank you. The
12 Attorney General's Office is going to ask you some
13 questions and the Court may as well.

14 Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. JOHNSON:

17 Q Mr. Brady?

18 A Yes, sir.

19 Q Is it your contention that you've only had one prior
20 conviction for a drug-related incident?

21 A Yes, sir.

22 Q 2004, you were convicted, correct?

23 A Yes, sir.

24 Q And that charge would be possession of a counterfeit
25 substance with intent to distribute?

RONNIE BRADY - CROSS-EXAMINATION BY MR. JOHNSON

1 A Yes, sir.

2 Q Correct? Without a -- is that the one without a
3 prescription?

4 A I don't recall. The only one I recall is
5 manufacturing methamphetamine.

6 Q In 2004, right?

7 A I'm not sure if that was 2004.

8 Q 2009, you were also convicted of --

9 A 2009, that's when I was convicted.

10 Q But you were also convicted of the 2004 charge,
11 weren't you?

12 A No, sir.

13 MR. JOHNSON: Your Honor, as an officer of the court,
14 I am currently looking at his NCIC record, which I'm not
15 allowed to publish --

16 THE APPLICANT: That was dismissed.

17 MR. JOHNSON: -- due to federal privacy law. I have
18 showed counsel. And there is a 2004 conviction and a
19 2009.

20 THE APPLICANT: That 2004 was dismissed, that was
21 dropped.

22 MR. JOHNSON: Your Honor, according to NCIC, it was
23 not, therefore, he has two prior drug convictions.

24 BY MR. JOHNSON:

25 Q All right, Mr. Brady, your main contention is that

RONNIE BRADY - CROSS-EXAMINATION BY MR. JOHNSON

1 you say counsel promised you 10 years when you got 25?

2 A Yes, sir.

3 Q Okay. But the Judge at your guilty plea asked you if
4 you understood the sentencing range was 10 to 30, correct?

5 A Yes sir.

6 Q And you said yes, sir?

7 A Yes, sir.

8 Q At no point during the guilty plea did you say hey,
9 counsel promised me 10 years, did you?

10 A No, sir, I didn't.

11 Q Okay. Even when you had an opportunity to say that,
12 you didn't say that, did you?

13 A No, sir.

14 Q And you are, in fact, guilty of this charge?

15 A Yes, sir.

16 MR. JOHNSON: No further questions, Your Honor.

17 THE COURT: Do you have any other allegations or
18 claims you'd like to make about your lawyer's
19 representation?

20 THE APPLICANT: No, sir.

21 THE COURT: All right. Thank you. You can step down
22 and have a seat with your lawyer.

23 MR. HEMLEPP: Your Honor, Ms. Anderson is here as a
24 State's witness because she's going to testify for the
25 State. The applicant rests.

ASHLEY ANDERSON - DIRECT EXAMINATION BY MR. JOHNSON

1 MR. JOHNSON: Your Honor, before I call Ms. Anderson
2 to the stand, if I could have counsel stipulate to the
3 fact that he has seen the NCIC record and that it does
4 appear on the NCIC that there is two different
5 convictions, one from 2004 and one from 2009 from West
6 Memphis, Arkansas.

7 MR. HEMLEPP: I have seen that, Your Honor. I'm not
8 allowed under the statute to receive it, but I can see the
9 NCIC. In addition, I know Ms. Anderson has in her files
10 some copies of convictions.

11 THE COURT: Ms. Anderson has the actual record?

12 MR. HEMLEPP: Yes, sir.

13 THE COURT: Okay.

14 MR. JOHNSON: With that being said, we call Ashley
15 Anderson to the stand.

16 ASHLEY ANDERSON, after having first being duly sworn,
17 testified under oath as follows:

18 MR. JOHNSON: May it please the Court, Your Honor?

19 THE COURT: Yes, sir.

20 DIRECT EXAMINATION

21 BY MR. JOHNSON:

22 Q Good morning, Ms. Anderson.

23 A Good morning.

24 Q Can you please explain to the Court how you became
25 involved in Mr. Brady's case?

ASHLEY ANDERSON - DIRECT EXAMINATION BY MR. JOHNSON

1 A I was appointed to represent Mr. Brady on his charge,
2 would have been back some point around April of 2013.

3 Q And did you file and receive discovery in this case
4 from the State?

5 A Yes.

6 Q And did you explain that to Mr. Brady?

7 A Yes.

8 Q Did he ever tell you his side of the story?

9 A I believe what Mr. Brady -- also, there was an
10 initial investigator that spoke to Mr. Brady before we
11 received this file shortly after his arrest. I'm looking
12 for that date.

13 We had an investigator who spoke with Mr. Brady
14 initially on April 23rd of 2013 about his charge. That
15 would be prior to even us receiving discovery. And at
16 that time, Mr. Brady had relayed to the investigator he
17 had been making meth in a motel room, that the --
18 something happened with manufacturing it, caused an
19 explosion, he burned his left leg. So, I believe from the
20 beginning of my representation of Mr. Brady, he had
21 been -- admitted, essentially, that he had been
22 manufacturing meth at a hotel and it had caught fire. He
23 had initially fled the hotel room. I believe the police
24 arrived on scene. And he had later indicated to me and I
25 believe to the police his statement was he intended to

ASHLEY ANDERSON - DIRECT EXAMINATION BY MR. JOHNSON

1 come back and make sure everything was okay. I believe he
2 was apprehended before he got back on scene.

3 Q And at that point, did you begin trying to negotiate
4 a plea deal with the State?

5 A I did. This was an unusual situation that the State
6 refused to make a plea offer on Mr. Brady's case, which is
7 unusual circumstances. I do recall trying to get them to
8 make some sort of offer. I believe at one point -- I'm
9 looking through my notes -- trying to get them even to
10 reduce it down to a second offense, allow him to plead to
11 that to minimize exposure. It's unusual for them not to
12 make a plea offer, but they absolutely refused over the
13 course of Mr. Brady's case to ever make an offer on the
14 case.

15 Q Did you research his prior criminal history?

16 A I received a copy of his NCIC report, which indicated
17 a 2004 conviction that looked to me like possession of a
18 controlled substance without a prescription first offense.
19 It indicated an 11-month sentence. I'm not sure if that
20 was -- but that looked like maybe it had been suspended on
21 one year probation. There was then a disposition in 2009,
22 which look to be another sort of controlled substance. I
23 did subsequently receive a copy from the State of a fax
24 from the circuit court in Crittenden County, Arkansas, as
25 to that 2009 conviction as well. But both of those were

ASHLEY ANDERSON - DIRECT EXAMINATION BY MR. JOHNSON

1 indicated on his NCIC report that I received initially.

2 Q Did you have any reason to believe that he had not
3 had two prior convictions?

4 A No. According to my reading of his NCIC report, he
5 did have two prior convictions that could be used for
6 enhancement.

7 Q And did you explain that to Mr. Brady?

8 A Yes.

9 Q And he understood that conversation?

10 A Yes.

11 Q Okay. Did you ever explain the potential sentence of
12 this charge, of the manufacturing methamphetamine third
13 offense to Mr. Brady?

14 A Yeah, that would have been part of the discussion as
15 well. And like I said, I do have notes of a meeting on
16 June 13th of 2013 about the priors, going over the
17 discovery, talking about the possibility of a plea and
18 talking about trying to get it reduced to a second
19 offense. So that as well would have indicated that we had
20 talked about it was a third offense at that point.

21 Q Did you ever promise him a 10-year sentence?

22 A No, I never promise any outcome at a plea or trial.
23 This was a straight-up plea.

24 Q So he was well aware that he faced anywhere from 10
25 to 30 years?

ASHLEY ANDERSON - DIRECT EXAMINATION BY MR. JOHNSON

1 A Yes. I think we intended certainly to argue for the
2 10 years and would do what we could to try to get him
3 that, but I never guarantee a result.

4 Q As a matter of fact, as a plea of mitigation, you
5 asked the Judge to give him the minimum of 10 years?

6 A Yes.

7 Q But as we know now, the Judge did not go along with
8 that recommendation.

9 MR. JOHNSON: No further questions at this time, Your
10 Honor.

11 THE COURT: Mr. Hemlepp?

12 CROSS-EXAMINATION

13 BY MR. HEMLEPP:

14 Q Ms. Anderson, you stated to the Court that it was
15 unusual that the Solicitor's Office had not made an offer
16 in this case?

17 A Yes.

18 Q Can you elaborate on that?

19 A Most cases do receive an offer. There are some that
20 do not. I think they're in the minority. This was just
21 one of those. I tried several times to get the State to
22 do an offer, but from the very beginning, they just
23 refused to make Mr. Brady an offer.

24 Q How long have you been with the public defender's
25 office?

ASHLEY ANDERSON - CROSS-EXAMINATION BY MR. JOHNSON

1 A With the public defender's office, since February of
2 2009. I worked for the Solicitor's Office prior to that.

3 Q Okay. And how long did you work for the Solicitor's
4 Office?

5 A From 2005 to 2009.

6 Q So you've been working in York County for 10 years
7 now?

8 A Yes.

9 Q And how many -- and I'm not going to hold you to a
10 numeric answer, but how many drug charges have you handled
11 in York County General Sessions court?

12 A Probably in the hundreds easily.

13 Q Most of the time, would you say it's the practice of
14 the Solicitor's Office that an assistant solicitor handles
15 drug cases, not the elected solicitor?

16 A Most of the time, yes.

17 Q Have you ever seen Solicitor Brackett handle a drug
18 case?

19 A I've seen him come in for sentencing purposes at
20 times on cases that either he had an interest or was asked
21 to come in there by the solicitor.

22 Q Is that unusual?

23 A It happens. I mean, it's not the most frequent or
24 most common, but I have had it happen in more than one
25 case and I've seen it happen on more than one occasion.

ASHLEY ANDERSON - CROSS-EXAMINATION BY MR. JOHNSON

1 Q Okay. Did you know that was going to happen in this
2 case?

3 A No. We're pretty much never told that -- there are
4 some solicitors who will let us know ahead of time if the
5 police are going to come in. There are a lot of times
6 it's not until you walk up to the bench for the plea that
7 you find out that or even that the media is going to be
8 there.

9 MR. JOHNSON: Your Honor, at this time, I renew my
10 motion to strike testimony about anything with the
11 solicitor.

12 THE COURT: Overruled.

13 MR. HEMLEPP: Thank you, Your Honor.

14 BY MR. HEMLEPP:

15 Q Given the fact that they had not make an offer, did
16 you inquire to the Solicitor's Office why they did not
17 make an offer in this case?

18 A I can't recall and I'm not sure if the discussion was
19 before or after the plea, honestly. I mean, I don't want
20 to get it mixed up. I know at some point, maybe the drug
21 unit felt that way. I think there was -- I know I can say
22 with the plea, the big argument was about the fact it was
23 a hotel room and the fire and could have been a very
24 serious situation. I don't remember if I had a discussion
25 with the solicitor about that specifically before or

ASHLEY ANDERSON - REDIRECT EXAMINATION BY MR. HEMLEPP

1 after. I can't remember.

2 Q Okay. When you represent somebody who's going before
3 the Court and they are going to plead guilty to a charge
4 that has significant jail time attached to it like this
5 one, for instance, do you discuss with your clients, like,
6 factors that go into sentencing, that the Court could
7 consider in sentencing?

8 A I think I generally -- if there are things that the
9 Judge, maybe sort of bad facts or whatever, I mean, I will
10 discuss that. I'll discuss factors that are sort of good
11 for the client. But yes, normally. -

12 Q Did you discuss with your client -- well, let me back
13 up. Prior to the plea, did you know -- based upon the
14 fact that there was not a plea offer and through
15 discussions with the assistant solicitor, Ms. Hamilton, I
16 believe?

17 A Yes.

18 Q Did you know that the fact that this happened in a
19 motel room was a significant factor for the State?

20 A I don't know how to answer that. I don't really
21 know. I don't remember any specific -- whether she said
22 specifically this is a big deal to me or not. I just -- I
23 can't remember.

24 Q So I can extrapolate from that answer that you also
25 did not discuss that with your client?

ASHLEY ANDERSON - REDIRECT EXAMINATION BY MR. HEMLEPP

1 A I don't know. I can't recall at this point what
2 specifically would have been said.

3 Q Okay. If you knew that the Solicitor's Office felt
4 strongly about that in this case, would you have discussed
5 that with your client prior to plea and discussing the
6 factors the Court considers in sentencing?

7 A Normally, if I know the State is going to come in and
8 make some specific presentation, I will let the client
9 know. Now, that is all based on what I know at the time I
10 step in the courtroom. So, you know, I can't remember at
11 what point what was said at the point of the plea colloquy
12 because I can't remember -- I just can't remember the
13 specifics.

14 Q But to your knowledge, you did not know that they
15 were going to make a presentation prior to the plea?

16 A I do not recall knowing at that time.

17 Q You do not recall. You don't recall whether you
18 discussed that with your client?

19 A I don't remember.

20 Q And -- but you would agree with me that that would
21 be -- had you known, you would have discussed it with him
22 to --

23 A I generally --

24 Q -- make him aware prior to the plea?

25 A Generally, I try to do that just so the client

ASHLEY ANDERSON - REDIRECT EXAMINATION BY MR. HEMLEPP

1 doesn't walk in and there's a camera pointed in their face
2 and have sort of no clue about it. I've had that happen
3 to me, so I try to let the client know.

4 Q And in addition, the law states that the interest of
5 law enforcement can be considered by the Court in
6 sentencing?

7 A Right.

8 Q And you would have advised your client of that
9 because that's the law, especially, in a case that has
10 such a wide variance of sentences --

11 A Yeah, I --

12 Q Serious sentences --

13 A I -- I --

14 Q -- you would agree with me?

15 A I generally advise the client I cannot control what
16 the State comes in and says. They're entitled to have
17 their -- you know, because I've had clients get upset
18 about what the solicitor is saying. And I generally point
19 out they're entitled to say whatever they want and then we
20 can say whatever we want, so I don't have any control over
21 what they present.

22 MR. HEMLEPP: Can I have a moment, Your Honor? I
23 have nothing further.

24 MR. JOHNSON: Just briefly, Your Honor.

25 REDIRECT EXAMINATION

ASHLEY ANDERSON - REDIRECT EXAMINATION BY MR. JOHNSON

1 BY MR. JOHNSON:

2 Q Ms. Anderson, is the State required to make an offer
3 in any case?

4 A No.

5 Q And would you agree with me that the 25-year sentence
6 is a legal sentence? I mean, it's within the range of the
7 charge?

8 A Yes, it was within the range.

9 Q At any time, did Mr. Brady, upon the solicitor
10 speaking, tell you he didn't want to plead guilty, he
11 wanted to stop, he wanted to go to trial?

12 A No.

13 MR. JOHNSON: No further questions, Your Honor.

14 THE COURT: Let me ask a couple of things.

15 Ms. Anderson, on Page 9 of the -- beginning with Line
16 4 of the transcript, it appears that the prosecutor,
17 Ms. Hamilton, is relating to the Judge what the
18 Defendant's previous criminal history is, which included a
19 2009 conviction and a 2004 conviction. She says that
20 those were in Arkansas. When she told the Judge that he
21 had those two prior convictions, did your client at any
22 time make a statement to you that that's incorrect, that I
23 don't have a 2004 conviction it was dismissed or thrown
24 out?

25 THE WITNESS: No, Your Honor.

1 THE COURT: Also, on Page 10 of the transcript, when
2 the Court informed your client that because this was --
3 this drug charge was the third or subsequent offense that
4 the sentencing range would be between 10 and 30, at that
5 time, did your client ever tell you or indicate to you
6 that he did not have two prior offenses and, therefore,
7 this should not be considered a third or subsequent
8 offense?

9 THE WITNESS: No, Your Honor.

10 THE COURT: And did you review his previous criminal
11 history?

12 THE WITNESS: I did, Your Honor.

13 THE COURT: And did you discuss it with him?

14 THE WITNESS: Yes, Your Honor.

15 THE COURT: And did y'all discuss the two prior
16 convictions and the fact that those would make this a
17 third or subsequent offense?

18 THE WITNESS: We did, Your Honor. And I also went
19 over the plea waiver form that we have required prior to
20 the plea and that's gone over with him in person. And
21 that plea waiver form also shows both of those convictions
22 listed as his record.

23 THE COURT: And he never indicated that that was not
24 correct?

25 THE WITNESS: No, Your Honor.

1 THE COURT: Okay. That's all I have. Do y'all have
2 any additional questions?

3 MR. JOHNSON: No follow-up, Your Honor.

4 MR. HEMLEPP: No follow-up.

5 THE COURT: Thank you. You may step down.

6 MR. JOHNSON: The State has no other witnesses, but
7 we would renew our objection for the record on the
8 solicitor's speech and ask that all that testimony be
9 stricken from the record. His allegation that he wouldn't
10 have pled guilty if he had known the solicitor --

11 THE COURT: Well, as you know, because you heard it
12 too, Mr. Hemlepp says they're not trying to seek relief on
13 that ground. That's true.

14 MR. JOHNSON: Correct.

15 MR. HEMLEPP: Your Honor, I think it's relevant to
16 the advice given to the client.

17 THE COURT: I understand.

18 MR. HEMLEPP: But I'm not objecting to the fact he
19 has the right to come in here and present that.

20 THE COURT: I understand. Anything else?

21 MR. HEMLEPP: Your Honor, prior to close, if I
22 could -- might have to review the file with the Court to
23 make sure the Court's file is complete. If the Court
24 please, the application by the applicant has been filed
25 together with the plea affidavit, the plea waiver form

1 that York County uses, the indictment, the warrant, the
2 sentencing sheet, the transcript of the hearing of
3 November 21st, 2013. There was an appeal filed in this
4 case, Your Honor, but that appeal was dismissed and there
5 is a remittitur also in the file for the purposes of the
6 applicant's grounds. We're mainly concerned with the
7 documents related to the plea and the complete transcript.
8 And with that, the applicant would rest. Thank you, Your
9 Honor.

10 THE COURT: Anything else?

11 MR. JOHNSON: Nothing from the State, Your Honor.

12 THE COURT: I'll review the record in the case,
13 including the transcript, and issue an order.

14 MR. HEMLEPP: Thank you, Your Honor.

15 (Whereupon, the proceedings were concluded.)
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25

STATE OF SOUTH CAROLINA)
)
 COUNTY OF YORK)
)
 Ronnie K. Brady, Jr.,)
 S.C.D.C. No. 357967,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 OF THE SIXTEENTH JUDICIAL CIRCUIT

2014-CP-46-2671

ORDER OF DISMISSAL

FILED-RECEIVED
 2016 AUG 24 AM 8:58
 DAVID HAMILTON
 C.C.P. & G.S.
 YORK COUNTY, SC

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed August 15, 2014. Respondent made its Return on or about December 10, 2014. An evidentiary hearing into the matter was convened on January 21, 2015, at the Moss Justice Center in York, South Carolina. Applicant was present at the hearing and represented by Michael Hemlepp, Jr., Esquire. J. Rutledge Johnson, Esquire, of the South Carolina Attorney General's Office represented the Respondent. At the hearing, Applicant testified on his own behalf. Ashley Anderson, Esquire, also testified. This Court also had before it a copy of the records of the York County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the Return, and the plea transcript.

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the York County Clerk of Court. Applicant was indicted at the August 2013 term of the York County Grand Jury for Manufacturing of Methamphetamine (2013-GS-46-2963). Applicant was represented by E. Ashley Anderson, Esquire, of the York County Public Defender's Office. On November 21, 2013, Applicant pled guilty to the charge as

indicted. The Honorable J. Mark Hayes, II, sentenced Applicant to a term of twenty-five (25) years imprisonment.

A Notice of Appeal was timely filed on behalf of Applicant. The South Carolina Court of Appeals dismissed Applicant's appeal by written order, dated June 2, 2014. The Remittitur was returned on June 26, 2014.

Allegations

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

1. Ineffective Assistance of Counsel
 - a. "My Public Defender told me I would get 10 years and I got 25. This is only my 2nd felony of any kind, but they charged me with a 3rd."

II. SUMMARY OF EVIDENCE PRESENTED AT PCR HEARING

Applicant's Testimony

Applicant testified that he spoke with Counsel about his charges and the potential sentences. He testified that they discussed the possibility of going to trial or pleading guilty. Counsel also testified that Counsel guaranteed that he would receive a ten year sentence. Applicant testified that it was his decision to plead guilty and he admitted guilt to the plea court.

Applicant further testified that he would not have pled guilty had he known that Solicitor Kevin Brackett would come in and speak. He testified that Counsel did not tell him that the Solicitor would be speaking at his plea. He further testified that he would have gone to trial if he had known that he would have received a ten year sentence.

Counsel Ashley Anderson's Testimony

Counsel testified that she reviewed discovery and explained it to Applicant. She testified that Applicant admitted to making methamphetamine from the beginning. She testified that she

tried to negotiate a plea offer but the State refused to make an offer. She testified that she tried to get the State to allow Applicant to plead to a second offense drug charge. She testified that Applicant had prior charges stemming from 2004 and 2009 and that she explained this fact to Applicant. Counsel also testified that she went over the plea waiver form with Applicant before he signed the form.

Counsel testified that she explained the minimum and maximum sentences of manufacturing methamphetamine, third offense, to Applicant. She testified that she did not promise Applicant that he would receive a ten year sentence and testified that she believed that he was well aware that the range was ten to thirty years. Counsel testified that she asked the plea judge for the minimum ten year sentence. She testified that Applicant's sentence was legal.

Counsel testified that she did not know that Solicitor Brackett would be speaking or making a presentation, and that if she had known this fact then she would have told Applicant. She testified that she discussed with Applicant everything the plea judge would take into account in making his sentence determination. Counsel further testified that Applicant never told her that he did not want to plead guilty.

III. APPLICABLE LAW

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

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

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any deficient performance must have prejudiced 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).

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the guilty plea transcript, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

As a matter of general impression, this Court finds Applicant's testimony and assertions to be not credible. In contrast, this Court finds Counsel's testimony to be credible and persuasive on all matters. These credibility findings have been applied to the Court's findings and conclusions set forth below.

Ineffective Assistance of Counsel

Applicant alleges Counsel was ineffective in guaranteeing that he would receive a ten year sentence. This Court finds that Applicant failed to meet his burden of proving that his plea counsel was ineffective. This Court finds Applicant's attorney demonstrated the normal degree of skill, knowledge, professional judgment, and representation that are expected of an attorney who practices criminal law in South Carolina. State v. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977); Strickland, 466 U.S. at 668; Butler, 286 S.C. 441, 334 S.E.2d 813.

An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the applicant 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) (citations omitted). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S. Ct. 1709, 23 L.Ed.2d 274 (1969).

This Court finds that the plea waiver form, signed and initialed by Applicant, clearly states that Applicant was agreeing to plead guilty to manufacturing methamphetamine, 3rd

offense, and that the offense carries a ten to thirty year sentence. The waiver form explains that the State was not making a recommendation and also lists his prior convictions which include PWID methamphetamine and possession of drug paraphernalia with intent to manufacture methamphetamine from 2009 and possession of a controlled substance without a prescription from 2004.

This Court finds Counsel's testimony credible that she did not promise or guarantee a particular sentence to Applicant. This Court finds that Applicant's desire to receive a sentence of ten years does not change the fact that he was well informed from Counsel, the plea waiver form, and the plea judge that he was pleading to a charge that carried ten to thirty years. See Wolfe v. State, 485 S.E.2d 367, 371, 326 S.C. 158, 165 (1997) (Wishful thinking regarding sentencing does not equal a misapprehension concerning the possible range of sentences, especially where one acknowledges on the record that one knows the range of sentences and that no promises have been made). This Court also finds that the record reflects that Applicant told the plea court that his decision to plead guilty was made freely and voluntarily and no one had promised him anything to get him to plead.

Based on the foregoing, this Court finds that Applicant has failed to meet his burden of proving that Counsel provided erroneous advice that induced Applicant to plead guilty. Applicant has failed to show that he otherwise would have elected to go to trial and has not shown any error in Counsel's assistance that led him to plead guilty instead. Therefore he cannot prove any prejudice. Accordingly, this allegation is denied and dismissed with prejudice.

Involuntary Guilty Plea

To the extent that Applicant alleges that his plea was given involuntarily, this Court finds this allegation must be dismissed. To find a guilty plea is voluntarily and knowingly entered into,

the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S. Ct. 1709, 23 L.Ed.2d 274 (1969). Defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 97 S. Ct. 1621, 52 L.Ed.2d 136 (1977)). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347 (4th Cir.1975).

This Court finds, and the record reflects, Applicant was fully advised that he was pleading guilty and therefore waiving any challenges to the evidence against him. The plea court's thorough colloquy with Applicant demonstrates that he understood the consequences of pleading guilty and the potential sentence he could receive. Applicant presented no credible evidence as to why he should be able to depart from his statements at the plea hearing. This Court finds very credible Counsel's testimony regarding his preparation and advice concerning the case. The record reflects Applicant fully admitted his guilt to the plea court and agreed with the State's version of the facts. "A guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights." Jamison v. State, 410 S.C. 456, 467, 765 S.E.2d 123, 129 (2014) (citing State v. Rice, 401 S.C. 330, 331-32, 737 S.E.2d 485, 485-86 (2013));

Hyman v. State, 397 S.C. 35, 44, 723 S.E.2d 375, 379 (2012)). Notably the South Carolina Supreme Court has held "[a] guilty plea represents a break in the chain of events which has preceded it in the criminal process." Id. (citations omitted). "When a criminal defendant has solemnly admitted in open court that he is in fact guilty of the offense with which he is charged, he may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea." Id. (citing Rice, 401 S.C. at 332, 737 S.E.2d at 486). After a full review of the guilty plea transcript, this Court finds the plea judge correctly found Applicant's plea was freely, voluntary, and intelligently made.

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 Applicant failed to present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds Applicant has abandoned any such allegations.

V. CONCLUSION

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Applicant failed to demonstrate counsels' performance was unreasonable under prevailing professional norms. Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625; Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 594 (2009). Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.


The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d

395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCR, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

1. The application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant will remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 23rd day of August, 2016.



 J. DERRAM COLE
 Presiding Judge
 Sixteenth Judicial Circuit

York, South Carolina

DOCKET NO. 2013-GS-46-02963

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

WITNESSES

DEU/Vaughn

The State of South Carolina
County of York

Defendant

COURT OF GENERAL SESSIONS

August 22, Term 2013

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

In

ARREST WARRANT NUMBER

2013A4610200298

X Brady
Defendant

THE STATE

vs.

Witness: *Children's Aid*
C.C.C. PLS. AND G.S.

ACTION OF GRAND JURY

RONNIE KENNETH BRADY, JR.

TRUE BILL

Johnny Earls

Foreperson of Grand Jury

Date:

8/22/13

VERDICT

Indictment for
MANUFACTURING
DISTRIBUTION OF METHAMPHETAMINE
SAA

SC Code: 44-53-375(B)(3)

CDR Code: 3200

Foreperson of Petit Jury

Date:

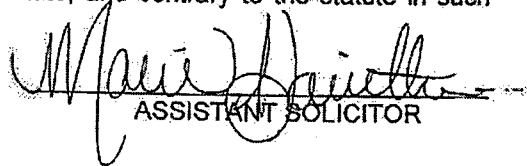
STATE OF SOUTH CAROLINA) INDICTMENT
) CERTIFIED TRUE COPY
COUNTY OF YORK)
2014 AUG 18 AM 10: 22

At a Court of General Sessions, ^{DAVID HAMILTON} August 22, 2013, the Grand Jurors
of York County present upon their oath ^{CLERK OF COURT}
YORK COUNTY, SC

MANUFACTURING ^{etc}
DISTRIBUTION OF METHAMPHETAMINE

On or about April 21, 2013, the Defendant, Ronnie Kenneth Brady, Jr., did manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine, in violation of the provisions of Section 44-53-370. Said incident occurred in York County, South Carolina all in violation of Section 44-53-375 of the Code of Laws of South Carolina, (1976, as amended).

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


ASSISTANT SOLICITOR