

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Appeal from Florence County

S.C. SUPREME COURT

Honorable Edgar W. Dickson, Circuit Court Judge

MAURICE WILSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-001433

APPENDIX

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF FLORENCE	)	2012-GS-21-311
	)	2012-GS-21-1034
	)	2011-GS-21-0936
	)	
	)	
State Of South Carolina	)	)
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
Maurice Ian Wilson	)	)
<u>DEFENDANT</u>	)	August 6, 2012
		Florence, South Carolina

B E F O R E:

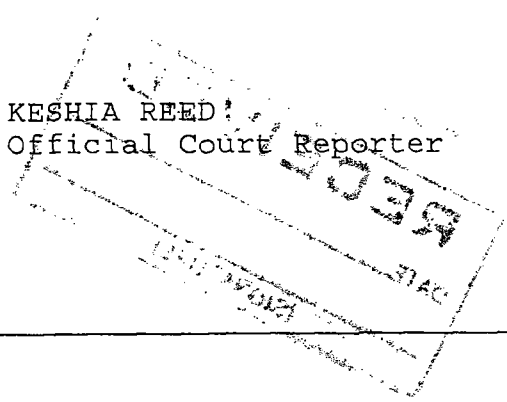
THE HONORABLE D. CRAIG BROWN, JUDGE.

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

CATHERINE A. WYSE, ASSISTANT SOLICITOR  
Attorney for the State

WILL GROVE, ASSISTANT PUBLIC DEFENDER  
Attorney for the Defendant

KESHIA REED  
Official Court Reporter



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I N D E X

(WHEREUPON, there were no witnesses called.)

1 MRS. WYSE: Your Honor, these are indictments  
2 numbers 2011-GS-21-936, 2012-GS-21-311, 2012-GS-21-1034  
3 two counts on that indictment. Your Honor, this is  
4 Maurice Wilson, he's in front of you pleading. The  
5 exchange for his plea we're going to drop a pending CDV  
6 third, habitual traffic offender indictment number 12-806,  
7 DUI second it as a part of the indictment, 12-1034. And  
8 there's an old trafficking cocaine base that we're going  
9 to drop as well, Your Honor.

10 THE COURT: Mr. Grove, you represent Mr. Maurice  
11 Wilson?

12 MR. GROVE: I do, Your Honor.

13 THE COURT: Have you explain to him the charges  
14 contained in the indictment, the possible punishment and  
15 his Constitution Rights?

16 MR. GROVE: Yes, Your Honor, I have.

17 THE COURT: Your opinion does he understand the  
18 charges against him, the possible and his Constitutional  
19 Rights?

20 MR. GROVE: I believe he does.

21 THE COURT: Has he indicated to you a desire to  
22 plead guilty to these charges or not guilty?

23 MR. GROVE: Guilty, Your Honor.

24 THE COURT: Do you agree with his decision to  
25 plead guilty to these charges?

1 MR. GROVE: Yes, Your Honor, I do.

2 THE COURT: Your investigation of the facts and  
3 circumstances of these cases, do you believe the State  
4 could produce sufficient evidence, convince a jury of his  
5 guilt beyond a reasonable doubt and that if he were to  
6 stand trial, his conviction as to these charges would be  
7 probable?

8 MR. GROVE: Yes, Your Honor.

9 THE COURT: Has he been ordered to submit to a  
10 psychological or mental evaluation?

11 MR. GROVE: No, sir.

12 THE COURT: Any question in your mind about his  
13 competency?

14 MR. GROVE: None.

15 THE COURT: Has he been sworn?

16 THE CLERK: Earlier he was.

17 THE COURT: Swear him again please ma'am.

18 THE CLERK: If you will, sir, raise your right  
19 hand. Do you swear to tell the truth, the whole truth,  
20 and nothing but the truth so help you God?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Sir, you are Maurice Ian Wilson?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Certain questions that I must ask  
25 you to ensure that you're entering into your pleas freely,

1 voluntarily, knowingly and intelligently and that you have  
2 a full understanding of the nature of the offenses that  
3 you're pleading guilty to and the consequences of your  
4 pleas. If at any point in time you need to speak to your  
5 attorney, Mr. Grove, you let me know and I'll be happy to  
6 let you talk to him, okay?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: How old are you?

9 THE DEFENDANT: Thirty-four.

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

11 THE DEFENDANT: GED.

12 THE COURT: What kind of work you do?

13 THE DEFENDANT: Car detailing, landscaping.

14 THE COURT: And I know I've asked you these  
15 questions already, but for the record, I'm asking them  
16 again, okay.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Because it's a hole different  
19 proceeding at this point. You understand?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Are you married?

22 THE DEFENDANT: Engaged.

23 THE COURT: Have any children?

24 THE DEFENDANT: I have four of my own and two  
25 step kids.

1 THE COURT: All right. You ever been treated  
2 for alcohol abuse, drug abuse or mental illness?

3 THE DEFENDANT: No, sir.

4 THE COURT: Within the last 24 hours other than  
5 the antibiotics that you've already told me you are on  
6 here today for your staff infection, within the last 24  
7 hours have you taken any other medications whatsoever?

8 THE DEFENDANT: Benadryl that's it.

9 THE COURT: All right. Does that along with the  
10 antibiotics you're taking, those are doctor prescribed  
11 medications?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do those medications in any way  
14 affect your ability to know and understand what you're  
15 doing here today?

16 THE DEFENDANT: No, sir.

17 THE COURT: Are you aware any physical,  
18 emotional or nervous problem that would prevent you from  
19 understanding what you doing here today?

20 THE DEFENDANT: No, sir.

21 THE COURT: The State indicates that you're  
22 pleading guilty to four separate offenses one being a CDV  
23 second, which carries a mandatory 30 days up to a year; is  
24 that correct?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: The second offense being a CDV  
2 third, which carries a mandatory minimum one year and a  
3 maximum of five years; is that right?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: A habitual traffic offender, which  
6 carries up to five years; is that correct?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And then this throwing bodily fluids  
9 on local law enforcement corrections officer, which  
10 carries up to 15; is that correct?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And you understand that the law  
13 provides that your plea to that particular offense, the  
14 throwing bodily fluid offense, is a mandatory consecutive  
15 sentence to whatever else you're pleading guilty; is that  
16 your understanding?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: You explain that to him, Mr. Grove?

19 MR. GROVE: I have, Your Honor.

20 THE COURT: The statute reads consecutive to  
21 whatever other sentence you're serving. You understand  
22 that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: You've already pled guilty today and  
25 received a seven year sentence on another offense that you

1     pled guilty to. And you're pleading guilty to three other  
2     offenses separate and apart from this throwing bodily  
3     fluid. You understand that?

4             THE DEFENDANT: Yes, sir.

5             THE COURT: And the law requires that I give you  
6     a consecutive sentence. You understand that?

7             THE DEFENDANT: Yes, sir.

8             THE COURT: So if I gave you 15 years on this,  
9     you're looking at 22 years by going forward here today.  
10    You understand that?

11            THE DEFENDANT: Yes, sir.

12            THE COURT: That's just on what you pled guilty  
13    to today. Plus, this throwing bodily fluids?

14            THE DEFENDANT: Yes, sir.

15            THE COURT: If I were to run all of these  
16    offenses consecutive, what you're pleading to right now  
17    you're looking at 26 years. You understand that?

18            THE DEFENDANT: Yes, sir.

19            THE COURT: Consecutive to what you pled to  
20    earlier has you at 33 years. You understand that?

21            THE DEFENDANT: Yes, sir.

22            THE COURT: You still want to go forward on  
23    these pleas here this afternoon?

24            THE DEFENDANT: Yes, sir.

25            THE COURT: All right. Now, you understand

1 that when you plead guilty you give up certain important  
2 Constitutional Rights. You understand that you have a  
3 right to a jury trial. At a jury trial, I will instruct  
4 the jury that you are presumed innocent, that you are  
5 presumed not guilty. The State would bear the burden of  
6 proving you guilty beyond a reasonable doubt. You would  
7 have the right to question any witnesses against you as  
8 well as the right to present witnesses for your defense.  
9 You would have the right to remain silent. If you went to  
10 trial and did not testify, I would instruct the jury that  
11 they could not hold that fact against you. You would have  
12 the right to present any defense you might have to the  
13 charge or charges against you. If you made any  
14 incriminating statements, you have a right to challenge  
15 the admissibility of those statements. Do you understand  
16 these rights?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you understand that when you  
19 plead guilty, you give up those rights?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: But understanding your rights and  
22 understanding that when you plead guilty, you give them  
23 up, how do you plead here today guilty or not guilty?

24 THE DEFENDANT: Guilty.

25 THE COURT: As to each of these charges?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: You are represented by Mr. Grove,  
3 you satisfied with how he has advised you and represented  
4 you in these cases?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Have you talk with him as often and  
7 for as long as you felt necessary for him to represent  
8 you?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You need any more time to talk to  
11 him?

12 THE DEFENDANT: No, sir.

13 THE COURT: Understood your talks with him?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Has he done everything you believe  
16 he could have done or should have done for you?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Has he done anything you think he  
19 shouldn't have done?

20 THE DEFENDANT: No, sir.

21 THE COURT: You completely satisfied?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Have any complaints whatsoever?

24 THE DEFENDANT: No, sir.

25 THE COURT: Has anybody promised you anything or

1 held out any hope of reward to get you to plead guilty?

2 THE DEFENDANT: No, sir.

3 THE COURT: Has anybody used any threats, force,  
4 pressure or intimidation to get you to plead?

5 THE DEFENDANT: No, sir.

6 THE COURT: Anybody mistreated you in any way  
7 whether it be law enforcement or the Solicitor's office?

8 THE DEFENDANT: No, sir.

9 THE COURT: You had enough time to make up your  
10 mind as to whether or not you want to plead guilty or go  
11 to trial?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And what do you want to do?

14 THE DEFENDANT: Plead guilty.

15 THE COURT: Pleading guilty as to each of these  
16 charges?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Are you doing so of your own free  
19 will?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Have you understood my questions?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right, Mrs. Wyse.

24 MRS. WYSE: Thank you, Your Honor. May it  
25 please the Court. On February third of 2011, within the

1 city limits of Florence, Officer McCall was dispatched to  
2 169 South Aiken Drive in reference to a domestic dispute.  
3 When he arrived on scene, he saw a male wearing a black  
4 toboggan, blue and white coat, blue jeans running from the  
5 residence and he cleared a fence into the next yard. When  
6 he got closer to the incident, he identified a white  
7 female, Tonya Parker, who was complaining that Maurice  
8 Wilson had assaulted her. She stated that he actually  
9 picked her up late from an appointment or something. She  
10 had to wait for a while. And when she asked him where he  
11 was, he wouldn't tell her. She could tell that he been  
12 drinking. She question him about that. And then he said  
13 to her, Bitch, you never believe me. He punched her on  
14 the left cheek. She ask him to stop hitting her and  
15 called her out by her name.

16 Tonya Parker actually went on to say that when  
17 they got to the residence -- and that was just in the car,  
18 Your Honor. When they got to the residence, the argument  
19 continued, grabbed her by the arms, pushed her to the  
20 floor, stomp the right side of her face. And as she was  
21 on the floor, he did proceed to kick her a few times.  
22 When the officer arrived on the scene, he notice that the  
23 complainants face was red and that she had some slight  
24 bruising on the inside of her lower lip. She also stated  
25 that when he drinks he gets like this.



1 intoxicated driver on West Palmetto Street near Coit  
2 Street and that would be within the city limits of  
3 Florence. When they pulled him over, he became very very  
4 boisterous and loud. And I'll actually let Officer  
5 Anderson tell you from this point on what occurred at that  
6 stop?

7 THE COURT: Yes, sir, state your name for the  
8 record be happy to hear from you.

9 OFFICER ANDERSON: Ashley Anderson. On  
10 March 21st at 2151 hours, I was notified by dispatch about  
11 a possible intoxicated driver. There was a subject  
12 following him. I was over on Coit Street at the time. As  
13 I was pulling out of a call that I was already on on Coit  
14 street, a gentleman flagged me down and pointed at the  
15 vehicle that Mr. Wilson was driving said he's been  
16 swerving all over the road. I got behind Mr. Wilson, I  
17 pulled him over. As I did, got out of my vehicle. He got  
18 out his started walking back. I asked Mr. Wilson to get  
19 back in the vehicle. He asked why he being pulled over, I  
20 explain to him we got a call about him being possibly  
21 intoxicated. He did get back in the vehicle. I then got  
22 him out of the vehicle I was just talking to him, did a  
23 sobriety test on him. He was -- his HGN, walking and turn  
24 and one leg stand was -- he just did not do well on them.  
25 At the time, I placed him under arrest for driving under

1 the influence. Then transport him to the City County  
2 Complex for the data master.

3 On data master, I asked him to sit down, he  
4 refuse to sit down. He kept charging towards me trying to  
5 shove me with his shoulders because I had handcuffs on him  
6 because at the time I felt like he was being very  
7 disorderly. And for my safety, I kept the handcuffs on  
8 him. Since, he refuse to sit down and was being very  
9 disorderly, I decide not to do the data master from my  
10 safety. And I took him out and put him -- well, actually  
11 another officer was there on scene whenever he saw us in  
12 the data master while I was trying to keep him calm trying  
13 to sit him down. We then took him out to the vehicle,  
14 asked him to get in the vehicle he refused. Officer  
15 Hubble, who was the other officer on the scene, pulled out  
16 a taser and told him to get in the vehicle. And he  
17 refused to, so she did tase him on the leg.

18 We then got him in the vehicle, transport him to  
19 the jail. Once we got to the jail, I got him out the  
20 vehicle while standing at the door open to it. He walked  
21 up to me, got in my face and said, You are a fucking pussy  
22 and spit on me. Hitting me on my lower neck, upper top of  
23 my uniform. Then took him into the jail and the whole  
24 time he was just being disorderly saying his lawyer was  
25 going to chew my ass and that's when I turn him over to

1 the jail.

2 MRS. WYSE: Your Honor, as far as convictions  
3 are concern for the CDV's as well as for the habitual  
4 traffic offender, we did go over that this morning, but  
5 I'll go over it again. 1995 receiving stolen goods, 1996  
6 possession of one gram of ice or crack cocaine. He got  
7 YOA sentence five years suspended to probation for 18  
8 months. And then there was 1997 a conviction for simple  
9 possession. He got one year suspended to five years  
10 probation. Then in 1997 he was arrested for and convicted  
11 of criminal domestic violence of a high and aggravated  
12 nature. He was also convicted again in 1997 of drug  
13 possession. Again, in 1997, he was convicted of criminal  
14 domestic violence first offense. He was also convicted of  
15 criminal domestic violence first offense in 1999. He was  
16 convicted of breach of peace in 1999. Disorderly conduct,  
17 DUI per say in 2009. Criminal domestic violence first  
18 offense convicted on three separate counts 30 days each.  
19 Convicted of driving under suspension in 2010, operating a  
20 vehicle without a license in 2010. Public disorderly,  
21 public disorderly, assault and battery third on June 19th  
22 of 2011. Your Honor, and then with the previous charges  
23 that we had this morning from the hit and run, he also  
24 pled guilty to a driving under suspension third or more.  
25 And he was convicted also of driving on the wrong side of

1 the road.

2           Your Honor, he's been in and out of our system  
3 since this incident in -- last August occurred. He's  
4 ramped up several charges as you've heard. He's pleading  
5 guilty to some of the charges. And on other of the  
6 charges, we are dismissing them for his cooperation.  
7 That's all I have.

8           THE COURT: Mr. Wilson, you've heard the facts  
9 as stated by the solicitor and by this officer as it  
10 relates to each of these charges, you agree with those  
11 facts?

12           THE DEFENDANT: Yes, sir, everything except it  
13 was just one common thing that wasn't mentioned in the --  
14 when me and Mr. Anderson got into it here at the --  
15 downstairs at this jailhouse. It was -- well, I know I  
16 was highly intoxicated because I was in pain on  
17 prescription medicine and I did have a couple of drinks  
18 that night.

19           And when we got here, he did try to get me out  
20 the car or whatever, but before he was able to get me out  
21 the, he call some other people down here. And, I guess,  
22 before they could even come out the basement or wherever  
23 they come from when he brings them down here, it was --  
24 something was on the ground. I don't know what it was and  
25 I just heard them say some crack or something. And I know

1 I didn't have no crack on me. And the paperwork I got it  
2 where he try to take something to Ms. Debora Jackson that  
3 say he had crack on him and I know I didn't have no drugs  
4 on me. And she dismissed the charge of assaulting a  
5 police officer and she told Mr. Anderson that I'm not gone  
6 sign no warrant on Mr. Wilson because you didn't  
7 physically see him drop no crack on the ground or whatever  
8 that was that he picked up. Any other charges I'm not  
9 disputing none of that, but it was just that was one of  
10 the main reasons why I became disorderly because I think  
11 that he was trying to be unfair to me and I know I didn't  
12 have no drugs on me but he went and...

13 THE COURT: You understand that when you plead  
14 guilty you give up any defenses you may have to any of the  
15 charges?

16 THE DEFENDANT: I didn't know that, sir.

17 MR. GROVE: Judge, I think that he's trying to  
18 address some mitigation. He doesn't dispute the charges  
19 to which we are pleading guilty.

20 THE COURT: Is that right, Mr. Wilson?

21 THE DEFENDANT: Yes, sir.

22 MRS. WYSE: Your Honor, I forgot to mention the  
23 121 months in federal prison, I'm sorry, distribution  
24 charges.

25 THE COURT: All right. Well, you also

1 understand, Mr. Wilson, that intoxication, voluntary  
2 intoxication is not a defense in this state as well. Do  
3 you understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: All right. When you plead guilty,  
6 you give up any defenses you may have to the charges  
7 against you. Do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And you still want to go forward on  
10 these charges here today and plead guilty?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Now, as to the facts as stated by  
13 them by the solicitor and this officer here today, do you  
14 agree with those facts?

15 THE DEFENDANT: Yes, everything she said was  
16 true.

17 THE COURT: All right. Are you in fact guilty  
18 of throwing bodily fluids, habitual traffic offender,  
19 criminal domestic violence third or greater and criminal  
20 domestic violence second?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: You in fact guilty of those charges?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And how do you plead to each of  
25 those charges?

1 THE DEFENDANT: Guilty.

2 THE COURT: All right. I find that there is a  
3 substantial factual basis for this defendant's plea as to  
4 each of these charges. His decision to plead guilty as to  
5 each of these charges has been entered into freely,  
6 voluntarily, knowingly and intelligently. That he's had  
7 the advice of counsel of an attorney with whom he's  
8 indicated he's completely satisfied. I will accept his  
9 plea as to each of these charges. Be happy to hear from  
10 you, Mr. Grove.

11 MR. GROVE: Thank you, Your Honor. Before I  
12 loose sight of it, on the criminal domestic violence first  
13 offense, my records show that he is entitled to one day of  
14 credit. On the third offense, my records show three days  
15 of credit. And on the habitual traffic as well as the  
16 bodily fluids charge, he has been incarcerated since the  
17 March 21st incident date, I believe that makes 149 days on  
18 each of those two charges.

19 You heard some mitigation presented earlier,  
20 Judge, I want bore you with the same mitigation, but  
21 remind you he is a father of four, step father of two,  
22 has done landscaping work and car detailing work both for  
23 other people and as a small business owner himself.

24 Judge, he does not have any excuses and  
25 certainly no defenses to his actions for which he's

1 pleading guilty in front of Your Honor today. And as a  
2 person who has been spit on in the face by a client of  
3 mine, I can certainly empathize with Officer Anderson that  
4 is not a fun experience. Again, intoxication is no  
5 defense and it is no excuse, but I do think that it might  
6 indicate to Your Honor that that's behavior that would  
7 otherwise be out of the ordinary for Maurice. And it's  
8 something, I believe, he sent an apology letter to Officer  
9 Anderson after he had sort of cool down and sobered up.  
10 Again, that doesn't make it and it doesn't make it any  
11 better, but it does certainly show remorse for his actions  
12 after he had sort of realized what went on.

13 Judge, these are charges we have never disputed.  
14 These were charges which were always going to result in a  
15 guilty plea. The charge which was throwing the proverbial  
16 wrench into the situation was resolved earlier this  
17 afternoon. And I am not an expert on the service of time  
18 in SCDC in their -- the way that they structure their  
19 sentences, Judge, but my understanding is with a mandatory  
20 consecutive time on the bodily fluids charge that that  
21 will very likely, if not, assuredly remove any possibility  
22 of a parole and require Maurice to max out so to speak the  
23 remainder of his charges, which will certainly extend his  
24 time beyond what it otherwise may have been. Your Honor,  
25 we're hopeful that you will consider concurrent time on

1 the other two charges -- other three charges excuse me.  
2 And again, Judge, we're hopeful that you will consider a  
3 very short amount of time on the bodily fluids charge  
4 especially considering that that particular charge will  
5 extend his time for the other charges for which he's  
6 serving beyond what they would have otherwise been. But  
7 he understands that Your Honor's under no obligation to do  
8 any of that. And again, hopes that Your Honor will  
9 consider his forthrightness in standing up here and  
10 admitting his guilt on these charges when determining an  
11 appropriate sentence. He may like to address, Your Honor,  
12 following my remarks.

13 THE COURT: All right. Thank you, Mr. Grove.  
14 I will be happy to hear from you, Mr. Wilson,  
15 anything you want to tell me?

16 THE DEFENDANT: Yes, sir, the next morning when  
17 I woke up while I was down there at the county jail, I did  
18 realize that I did act out in unappropriately. Normally,  
19 I'm not that way. And I did write Mr. Anderson a letter  
20 and I never got no response back from him. But I don't  
21 know how he took that, you know, towards hisself or how he  
22 wanted to go by that. But I been down there for almost  
23 five months now and I wish he would just let everything,  
24 you know, be by gone with that. I feel like I did enough  
25 time for that. He might not consider that and I know I

1 got some more time that I already have to do now. So I  
2 just wish that he would forgive me and that you would have  
3 some kind of remorse on me knowing that I already have a  
4 seven year sentence placed upon him me, that's all. Thank  
5 you.

6 THE COURT: Anything else, Ms. Wyse?

7 MRS. WYSE: Your Honor, I just like to point out  
8 the fact that Officer Anderson, you know, became aware  
9 that Mr. Wilson had a very serious staff infection. He  
10 did have to worry about that after being spit on. As well  
11 as since August 22nd of 2011, he's been charged with 20  
12 different offenses. I hope that you will take that into  
13 consideration. Some of these offenses, of course, been  
14 magistrate court offenses, so they wouldn't come up here,  
15 but anyway I just hope that you take that into  
16 consideration.

17 THE COURT: Since August of 2011?

18 MRS. WYSE: Yes, sir.

19 THE COURT: Anything else from the State?

20 MRS. WYSE: Nothing else from the State, Your  
21 Honor.

22 THE COURT: Anything from defense counsel?

23 MR. GROVE: No, Your Honor, thank you.

24 THE COURT: Mr. Wilson, it is difficult to see  
25 somebody such as yourself that's got a lot of potential.

1 And you've let drugs and alcohol destroy you.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: I mean, as you stand in this  
4 courtroom here today, you seem like a nice fellow very  
5 humble, very respectful. And most -- not all, but most  
6 people that come in here in your situation are and I  
7 understand that. No judge takes pleasure in sentencing  
8 individuals to terms of incarceration. And I want you out  
9 there working and supporting those children, making an  
10 honest living paying taxes like I do. I mean, and like  
11 everybody else in this courtroom is working in here.

12 On indictment 2012-GS-21-1034, the defendant is  
13 committed to the state department of corrections that's on  
14 the habitual traffic offender offense a period of three  
15 years. He's given credit for a 139 days.

16 On the criminal domestic violence third,  
17 committed to the state department of corrections for a  
18 period of five years, given credit for three days that  
19 he's done.

20 On the CDV second, he's committed to the state  
21 department of corrections for a period of one year, given  
22 credit for a day that he's done on that.

23 On the throwing of bodily fluids, the defendant  
24 is committed to the state department of corrections for a  
25 period of eight years.

1           Now, the CDV second, the CDV third and the HTO  
2 are all to run concurrent along with concurrent on the  
3 offense for which he pled pursuant to North Carolina vs.  
4 Alford earlier today, which is warrant number M378594 and  
5 indictment number 2012-GS-21-199. And the throwing of  
6 bodily fluids, those first three offense third and HTO run  
7 concurrent with warrant M378594 and M378595.

8           On the throwing bodily fluids, that eight year  
9 sentence is to run consecutive to the seven year sentence  
10 that he received earlier today, which is M378594. Good  
11 luck to you, Mr. Wilson, give him credit for the throwing  
12 bodily fluids 139 days. That's a total of 15 years. I  
13 don't want them to turn around DOC try to run consecutive  
14 everything. It's just the eight and the two sevens.

15                           END OF REQUESTED TRANSCRIPT

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FORM 5

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF Florence )  
Maurice F. Wilson )  
#00222456 )  
 Full name and prison number (if any) of Applicant. )  
 )  
 v. )  
 )  
 State of South Carolina )

IN THE COURT OF COMMON PLEAS

2013 CP 21 292

APPLICATION FOR  
POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

VERIFIED: A TRUE COPY  
 Clerk of Court  
 Florence County, SC

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 Wateree Correctional Institution
2. Name and location of Court which imposed sentence City - County Complex Courthouse, in Florence, S.C.
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2012-GS-21-01034
  - (b) 2012-GS-21-00199 "Do not want to challenge sentence"
  - (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) August 6, 2012
  - (b) \_\_\_\_\_

(c) \_\_\_\_\_

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ✓

(b) after a plea of not guilty N/A

(c) after a plea of nolo contendere N/A

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. N/A

ii. N/A

iii. \_\_\_\_\_

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

i. \_\_\_\_\_

ii. N/A

iii. \_\_\_\_\_

(c) the date of each such result:

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

i. N/A

ii. A

iii. \_\_\_\_\_

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

(a) Counsel never informed me of my right to

(b) an appeal

(c) \_\_\_\_\_

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

- (a) Ineffective Assistance of Counsel
- (b) Involuntary Plea
- (c) ~~Lack of~~ Court Lacked subject matter jurisdiction

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

- (a) Charge should not have been a consecutive
- (b) sentence since the sentence
- (c) date for all charges are 8-6-12.

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. A
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
  - i. N/A
  - ii. \_\_\_\_\_
  - iii. N/A
  - iv. \_\_\_\_\_
- (c) the disposition thereof:
  - i. N/A
  - ii. \_\_\_\_\_

- iii. \_\_\_\_\_ N/A
- iv. \_\_\_\_\_ N/A

(d) the date of each such disposition:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_ N/A
- iii. \_\_\_\_\_ N/A
- iv. \_\_\_\_\_

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

- i. \_\_\_\_\_ N/A
- ii. \_\_\_\_\_ N/A
- 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?

\_\_\_\_\_ No

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

(a) which grounds have been presented:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_ N/A
- iii. \_\_\_\_\_ N/A

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

- i. \_\_\_\_\_ N/A
- ii. \_\_\_\_\_ N/A
- 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) This is my first attempt to challenge
- (b) the sentence.

- (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? N/A
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
- (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. Will Grove; Public Defender
- ii. City-County Complex
- iii. 180 N. Irby St.  
Florence, S.C. 29506
- (b) the proceedings at which each such attorney represented you:
- i. Plea & Sentencing
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

19. State clearly the relief you seek in filing this application:  
That all charges be ran concurrent vacating the consecutive sentence

20. Are you now under sentence from any other court that you have not challenged?  
No

STATE OF SOUTH CAROLINA )

County of Florence Sumter

VERIFICATION

I, Maurice F. Wilson, 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.

Maurice F. Wilson

SWORN to and subscribed before me this 23rd  
day of January, 2013

Sumela D Hatfield (L.S.)  
Notary Public

My Commission Expires: 3/15/2011

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

I, Maurice I. Wilson, 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.

Maurice I. Wilson  
Applicant

SWORN or affirmed to and subscribed before me this  
23<sup>rd</sup> day of January, 2013

Pamela D. Huff  
Notary Public

My Commission Expires: 3/15/2021

2013 FEB -14 AM 11:07  
CLERK OF COURT  
COURT HOUSE  
FLORENCE COUNTY, SC

FILED

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF FLORENCE )  
 )  
 State of South Carolina, )  
 )  
 vs. )  
 Maurice I. Wilson, )  
 )  
 Defendant. )

---

IN THE COURT OF GENERAL SESSIONS  
 INDICTMENT NOs.: 2012-GS-210199

DEFENDANT'S WITNESS LIST

1. Maurice Ian Wilson
2. Tonya Parker
3. Investigator Terrance Carraway
4. Jeffery Vanderhall

CERTIFIED: A TRUE COPY  
 Clerk of Court  
 FLORENCE COUNTY, S.C.

*Will E. Grove*  
 Will E. Grove  
 Assistant Public Defender  
 Attorney for Defendant

Florence, SC  
 August 6, 2012

COURT'S  
 EXHIBIT NO. 1  
 IDENTIFICATION/EVIDENCE  
 DKT.#  
 DATE: 8-6-2012



STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF FLORENCE )  
 )  
 State of South Carolina, )  
 )  
 vs. )  
 )  
 Maurice I. Wilson, )  
 )  
 Defendant. )

IN THE COURT OF GENERAL SESSIONS  
 INDICTMENT NOS.: 2012-GS-210199

DEFENDANT'S RETURN TO STATE'S  
 REQUEST FOR NOTICE OF ALIBI

FILED  
 2012 JUL 27 PM 4:32  
 JONNIE B. STEARIN  
 CLERK OF COURT C.C.P. & G.S.  
 FLORENCE COUNTY, SC


TO: TWELFTH CIRCUIT SOLICITOR'S OFFICE: Catherine A. Wyse, Assistant Solicitor

Pursuant to Rule 5(e)(2) of the S.C.R. Crim. P., the Defendant notifies the State he may call the following witnesses to establish his alibi:

Tonya Parker  
 1808 Kristen Lane  
 Effingham, SC  
 (843) 319 7940

CERTIFIED A TRUE COPY  
 Maria Y. ...  
 CLERK OF COURT C.C.P. & G.S.  
 FLORENCE COUNTY, S.C.

The Defendant was at home at the time of the incident.

  
 Will E. Grove  
 Assistant Public Defender  
 Attorney for Defendant

Florence, SC  
 July 27, 2012

THE STATE OF SOUTH CAROLINA )  
 COUNTY OF FLORENCE )  
 THE STATE )  
 v. )  
 MAURICE IAN WILSON, )  
 DEFENDANT. )

IN THE COURT OF GENERAL SESSIONS  
 TWELFTH JUDICIAL CIRCUIT  
 Warrant/Indictment Nos.: M378594; M378595  
**NOTICE OF MOTION AND MOTION FOR  
 THE PRODUCTION AND INSPECTION OF  
 EVIDENCE AND INFORMATION WHICH  
 MAY LEAD TO EVIDENCE**  
**(Brady Disclosure)**

OCT 21 PM 2:55  
 THE FLEET-SHEARIN  
 LLP  
 FLORENCE COUNTY, SC

To: Edgar L. Clements, III, Solicitor, Twelfth Judicial Circuit

YOU WILL PLEASE TAKE NOTICE that as counsel for the above named Defendant, we are requesting, under the authority of Brady v. Maryland, 373 U.S. 83 (1963); Napue v. Illinois, 360 U.S. 364 (1959); Alcorta v. Texas, 355 U.S. 28 (1957); Mooney v. Holohan, 294 U.S. 103 (1935); Giglio v. U.S., 405 U.S. 150 (1972); Moore v. Illinois, 408 U.S. 786 (1972); and, State v. Bryant, 307 S.C. 458 (1992), that your office supply to us, all information in the custody, possession, control or knowledge of the State, private parties retained by the State, or any law enforcement agency involved in the investigation of the above captioned case which may be favorable to the Defendant with regard to the offense with which he has been charged.

Respectfully submitted,

TWELFTH CIRCUIT PUBLIC DEFENDER

By: \_\_\_\_\_  
 A. Grayson Smith, Esq.  
 Attorney for Defendant  
 180 N. Irby Street, MSC-N  
 Florence, SC 29501  
 (843) 665-3055

CERTIFIED: A TRUE COPY  
 A. Grayson Smith  
 CLERK OF COURT, C.P. & GEN.  
 FLORENCE COUNTY, S.C.

Date: October 21, 2011

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF FLORENCE	)	
	)	
	)	2013-CP-21-292
	)	
Maurice I. Wilson, #222456	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

---

Respondent, making its Return to the Application for post conviction relief (PCR) filed February 4, 2013, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Florence County Clerk of Court. Applicant was indicted at the January 2012 term of the Florence County Grand Jury for leaving the scene of an accident with property damage and leaving the scene of an accident with great bodily injury (2012-GS-21-199). Applicant was also indicted at the July 2012 term of the Florence County Grand Jury for driving under the influence(second offense), habitual traffic offender, and throwing of bodily fluids (2012-GS-21-1034). Will Grove, Esquire, represented Applicant.

On August 6, 2012, Applicant plead guilty as indicted, and was sentenced by the Honorable D. Craig Brown to an aggregate of fifteen years, including a consecutive sentence of eight years for throwing bodily fluids. Applicant did not appeal his conviction. In his PCR application, Applicant

indicated that he does not wish to challenge his sentence stemming from indictment 2012-GSW-21-199. Applicant is only seeking relief from the convictions that ensued from indictment 2012-GS-21-1034.

Attached herewith and incorporated herein are the records of the Florence County Clerk of Court regarding the subject conviction, and Applicant's SCDC records, and if available, the transcript. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## II.

Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective assistance of counsel"
2. "Involuntary Plea"
3. "Court Lacked Subject Matter Jurisdiction"

## III.

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, 80 L.Ed.2d 674. 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 counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

Respondent submits that 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, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

#### IV.

The State therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the State moves for summary dismissal pursuant to S.C. Code Ann. ' 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

V.

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

VI.

WHEREFORE, having made its Return, the State requests that the Application be denied and the matter dismissed with prejudice.

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY W. ELLIOTT  
Senior Assistant Deputy Attorney General

TYSON ANDREW JOHNSON, SR.  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211  
Telephone: (803) 734-3737

5/21, 2013.

STATE OF SOUTH CAROLINA )

COUNTY OF FLORENCE )

MAURICE I. WILSON, #222456 )

Applicant, )

vs )

STATE OF SOUTH CAROLINA, )

Respondent. )

IN THE COURT OF COMMON PLEAS

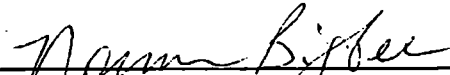
2013-CP-21-292

AFFIDAVIT OF SERVICE BY MAIL

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

**Jonathan D. Waller, Esquire**  
**1720 Main St., Suite 104**  
**Columbia, SC 29201**

DATED this 21<sup>ST</sup> day of May, 2013.

  
 Norma Bigbee, Legal Assistant

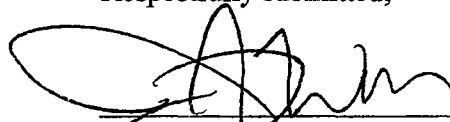
STATE OF SOUTH CAROLINA )	IN THE COURT OF COMMON PLEAS
COUNTY OF FLORENCE )	TWELTH JUDICIAL CIRCUIT
Maurice I. Wilson, #222458, )	2013-CP-21-0292
Applicant, )	
v. )	
State of South Carolina, )	<b>Amendment to Application for</b>
Respondent. )	<b>Post Conviction Relief</b>

Applicant, by and through his Attorney, Jonathan D. Waller, Esquire, would amend his Application for Post Conviction Relief filed on February 4, 2013, by adding the claim of after-discovered evidence to question 10 and by adding the following specific prayers for relief to his original allegation of ineffective assistance of counsel:

1. As to representation rendered by William E. Grove, Esquire:
  - a. The relief sought under Applicant’s Application for Post Conviction Relief; Ineffective assistance of counsel; is the vacation of his convictions and sentences and that his case be remanded to the General Sessions court for further proceedings.
  
2. As to the after discovered evidence:
  - a. Applicant was sentenced with the prosecution and the sentencing judge under the mistaken belief that Applicant was infected with a highly contagious, highly dangerous form of Staph. As noted in the transcript, the sentencing judge took this fact into account when rendering sentence upon the applicant. After sentencing occurred, while Applicant was still undergoing medical treatment, it was discovered that he did not in fact have a staph infection as was previously believed.

b. The relief sought in Applicant's claim of after-discovered evidence is in the alternative to Applicant's claim of Ineffective assistance of counsel and is the vacation of Applicant's sentence for that conviction and for that conviction to be remanded to the General Sessions court for resentencing based upon the evidence discovered post-conviction.

Respectfully submitted,



Jonathan D. Waller  
Attorney for the Applicant  
1720 Main Street  
Suite 104  
Columbia, South Carolina 29201

February 6, 2014  
Columbia, SC

State of South Carolina	)	Court of Common Pleas
	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2013-CP-21-00292
	)	
Maurice I. Wilson,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
	)	
State of South Carolina,	)	
	)	
Defendant.	)	
	)	

October 9, 2014  
Florence, South Carolina

B E F O R E:

The Honorable Edgar W. Dickson, Judge

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

Jonathan Waller, Esquire  
Attorney for the Plaintiff

Croom Hunter, Esquire  
Attorney for the Defendant

Krystal J. Smith  
Court Reporter

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I N D E X

<u>WITNESS/DESCRIPTION</u>	<u>PAGE NUMBER</u>
Maurice Wilson	
Direct by Mr. Waller.....	5
Cross by Mr. Hunter.....	21
Redirect by Mr. Waller.....	31
Applicant Rests.....	33
Will Grove	
Direct by Mr. Hunter.....	33
Cross by Mr. Waller.....	40
Redirect by Mr. Hunter.....	45
Direct by the Court.....	46
State Rests.....	47
Court Reporter Certification.....	50

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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(No Exhibits Presented)

1 OCTOBER 9, 2014

2 (WHEREAS this matter was scheduled for a post-conviction  
3 relief hearing, the applicant appeared along with his  
4 counsel of record. The hearing began at 2:27 p.m.)

5 THE COURT: All right. Mr. Hunter? Yes, sir?

6 MR. HUNTER: Your Honor, the State would call the case of  
7 Maurice Wilson v. The State of South Carolina, 2013-CP-21-292.  
8 Mr. Wilson is presently confined in SCDC pursuant to orders  
9 from the Florence County Clerk of Court.

10 He was indicted at the January 2012 term of the Florence  
11 County Grand Jury for leaving the scene of an accident with  
12 property damage and leaving the scene of an accident with  
13 great bodily injury. He was also indicted at the July 2012  
14 term of the Florence County Grand Jury for driving under the  
15 influence, second offense, habitual traffic offender, and  
16 throwing of bodily fluids. He was represented by Will Grove.

17 On August 6<sup>th</sup>, 2012, he pled guilty as indicted and was  
18 sentenced by the Honorable D. Craig Brown to an aggregate term  
19 of 15 years, including a consecutive sentence of eight years  
20 for throwing bodily fluids.

21 He did not file an appeal and he filed this application  
22 for post-conviction relief on February 4<sup>th</sup>, 2013. He's  
23 represented here today by Mr. Waller.

24 THE COURT: Mr. Waller?

25 MR. WALLER: Thank you, Your Honor. May it please the

## MAURICE WILSON - DIRECT BY MR. WALLER

1 Court.

2 THE COURT: Yes, sir.

3 MR. WALLER: I would call Maurice Wilson to the stand.

4 THE COURT: All right. Mr. Wilson?

5 THE CLERK: Place your left hand on the Bible and raise  
6 your right hand. Do you swear or affirm that the testimony  
7 you are about to give is the truth, the whole truth, and  
8 nothing but the truth, so help you God?

9 THE APPLICANT: Yes, ma'am.

10 THE CLERK: Please take your seat and state your name for  
11 the record.

12 THE APPLICANT: Maurice Ian Wilson.

13 THE COURT: All right. Mr. Waller, your witness.

14 MR. WALLER: Thank you, Your Honor.

15 MAURICE WILSON, being first duly  
16 sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. WALLER:

19 Q: Mr. Wilson, how are you this morning?

20 A: I'm fine, sir.

21 Q: Or this afternoon. Excuse me. Mr. Wilson, how old are  
22 you?

23 A: I'm 36.

24 Q: How -- where are you from?

25 A: I'm from Florence.

## MAURICE WILSON - DIRECT BY MR. WALLER

1 Q: You've lived here all your life?

2 A: Yes, sir.

3 Q: Mr. Wilson, I want to back up to August of 2011 for a  
4 second. You had -- you were charged with several crimes at  
5 that point; right?

6 A: Yes, sir.

7 Q: You were charged with a hit-and-run with property damage?

8 A: Yes, sir.

9 Q: You were charged with hit-and-run with great bodily  
10 injury?

11 A: Yes, sir.

12 Q: You were charged with a CDV?

13 A: Yes, sir.

14 Q: A couple CDVs?

15 A: Yes, sir.

16 Q: You were charged with a habitual traffic offender?

17 A: Yes, sir.

18 Q: A DUI?

19 A: Yes, sir.

20 Q: And a trafficking cocaine charge?

21 A: Yes, sir.

22 Q: Okay. And Mr. Grove represented you on all of those  
23 charges?

24 A: Yes, sir.

25 Q: Okay. Did -- how did you -- how did Mr. Grove come to be

## MAURICE WILSON - DIRECT BY MR. WALLER

1 your attorney?

2 A: He became -- came to be my attorney by being represented  
3 by me by the Public Defender's Office.

4 Q: Okay. So he was appointed to represent you?

5 A: Yes, sir.

6 Q: Okay. When -- how many times did you meet with Mr. Grove  
7 about -- did all these charges happen at once?

8 A: No, sir.

9 Q: Okay. What came first?

10 A: The hit-and-run charge came first.

11 Q: Okay. Was Mr. Grove appointed to represent you when that  
12 was all that was pending?

13 A: No, sir.

14 Q: Okay. So he didn't represent you until everything was  
15 there?

16 A: Just about.

17 Q: Okay. When -- how many times do you think you met with  
18 Mr. Grove?

19 A: Maybe four.

20 Q: Okay.

21 A: Three or four.

22 Q: Did y'all discuss all of these charges?

23 A: Through a period of time.

24 Q: Okay.

25 A: I think so.

MAURICE WILSON - DIRECT BY MR. WALLER

1 Q: Did -- in your meetings with Mr. Grove, did y'all discuss  
2 the evidence the State had against you?

3 A: Not on all the charges.

4 Q: Okay. Did -- did you discuss any defenses that you might  
5 have to these charges?

6 A: Yes. I discussed with him -- with Mr. Grayson Smith. He  
7 represented me first before Mr. Will Grove came along. And  
8 there was some notes that he had in his folder that I don't  
9 think Mr. Will Grove was aware of.

10 Q: Okay. What were those?

11 A: There was some video footage from Cruizers at one of the  
12 stores around one of the times that was mentioned in the hit-  
13 and-run charge.

14 Q: Okay. So that was concerning the hit-and-run charge?

15 A: Yes, sir.

16 Q: Okay. Did y'all discuss the other charges to where you  
17 felt comfortable knowing what was going on?

18 A: I would say to a certain extent we did.

19 Q: Okay. Now, you -- y'all were preparing to go to trial on  
20 at least one charge; is that right?

21 A: Yes, sir.

22 Q: What was that?

23 A: That was the hit-and-run.

24 Q: Okay. When was that supposed to happen?

25 A: The trial?

## MAURICE WILSON - DIRECT BY MR. WALLER

1 Q: Yes, sir.

2 A: It was supposed to start in August. I think it was  
3 August the 6<sup>th</sup>.

4 Q: Okay. Of what year?

5 A: 2013.

6 Q: Okay. And did you and Mr. Grove meet prior leading up to  
7 that to prepare?

8 A: Well, I would say he came at the beginning on that charge  
9 right there. Then he came the day before the trial started.

10 Q: Okay. Did y'all -- did y'all discuss that charge?

11 A: Well, we discussed that charge and we discussed it  
12 because we was prepared to go to trial for it.

13 Q: Okay. When y'all were preparing to go to trial, did you  
14 provide him with any -- any witnesses or any information about  
15 that charge?

16 A: Yes. I just -- I provided him with several witnesses,  
17 and one of the witnesses -- he went out and went and visited  
18 her, but the day before we started the trial he told me he  
19 didn't like what she had to say; so he didn't subpoena her.

20 Q: Okay. But he did go speak with her?

21 A: He went to go speak to her.

22 Q: Okay. Now, ultimately, you ended up pleading under  
23 United States -- excuse me -- under an *Alford* plea to the hit-  
24 and-run charge; is that correct?

25 A: Yes, sir. That's correct.

MAURICE WILSON - DIRECT BY MR. WALLER

1 Q: Did Mr. Grove go over with you the implications and what  
2 a *North Carolina v. Alford* plea means?

3 A: He said he went over it, but it was maybe five minutes  
4 that he went over it. I don't think we had it -- we didn't  
5 have enough time to go over that for me to really understand  
6 what that whole charge was based around.

7 Q: Okay. But did you -- did you understand enough to go  
8 forward with your plea that day?

9 A: Yes, sir.

10 Q: Okay. Did you -- and I believe the judge asked you this.  
11 Did you -- did anyone threaten you or promise you anything to  
12 get you to plead guilty to that charge?

13 A: Yes, he asked me that during that time. I felt like  
14 nobody did, but later on down the line I felt like I was  
15 pretty much pushed to plead guilty to that charge.

16 Q: Okay. Why did you feel like that?

17 A: Because they didn't never have no evidence against me  
18 from to start with and in my Rule 5 my name wasn't never  
19 mentioned. They said a suspect. In my terminology of  
20 suspect, that could have been anybody.

21 Q: Okay. But ultimately, you did plead to that charge?

22 A: Yes, sir.

23 Q: Okay. And then did y'all take a break afterwards, after  
24 you pled guilty to the hit-and-run?

25 A: Yes, sir. After I pled guilty to it and I was placed

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1 under a seven-year sentence, then Judge Craig Brown called a  
2 break.

3 Q: Okay. Why -- do you -- do you remember that hearing  
4 where you pled under *North Carolina v. Alford*?

5 A: Yes, sir, I remember.

6 Q: Okay. At that time, did you have a -- did you have a  
7 wound?

8 A: Yes, sir. I had several wounds, maybe six of them.

9 Q: Okay.

10 A: Six or eight.

11 Q: Tell me -- tell me a little bit about your wound, if you  
12 don't mind?

13 A: Well, through a period of time while I was incarcerated  
14 down in the Effingham -- the Florence County Detention Center,  
15 my scalp -- it went from, like, being normal-sized to a lot of  
16 inflammation during the course of my stay down there.

17 Q: Okay. Did -- do you recall if it was mentioned at your  
18 first guilty plea anything about any of these wounds?

19 A: Well, I know there was a point where there was  
20 speculation that it was a possible chance that I had a staph  
21 infection and -- and it was a city police officer involved  
22 with the crime and, when that was mentioned by the prosecutor,  
23 Your Honor Craig Brown took that in consideration, whereas I  
24 could have put that police officer at home with a highly  
25 contagious, you know, staph infection like that.

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- 1 Q: Okay. Was it -- do you recall if that was mentioned  
2 during your first plea?
- 3 A: To the plea to the hit-and-run?
- 4 Q: Yes, sir.
- 5 A: Well, it was mentioned to the jury that came in.
- 6 Q: Okay. Do you recall if it was mentioned during your  
7 plea?
- 8 A: I can't remember.
- 9 Q: Okay. Judge Brown calls a break and, after the break,  
10 what happened next?
- 11 A: Well, right after -- shortly after the break when I come  
12 -- when I came back in to sit down, Judge Brown came out of  
13 his chambers and the first thing I heard was, Your Honor, Mr.  
14 Wilson is already under sentence; so this carries a mandatory  
15 consecutive.
- 16 Q: Did you plead guilty to other charges that day?
- 17 A: Yes, sir.
- 18 Q: Okay. What -- what did you plead guilty to that day or  
19 that later period of time?
- 20 A: I pled guilty to every charge that I was indicted for  
21 except the throwing bodily fluids on a police officer.
- 22 Q: Okay. Let me back up. I'm sorry. Your first plea  
23 earlier -- the first one you did --
- 24 A: Yes, sir.
- 25 Q: -- was for the hit-and-run; is that correct?

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1 A: Yes, sir.

2 Q: Okay. The second plea was for everything else that you  
3 were currently charged with?

4 A: No, sir.

5 Q: Was it either wrapped up or part of a plea agreement? Is  
6 that fair to say?

7 A: Well, I would just say everything that I was indicted on  
8 except the disposition on the trafficking cocaine base charge  
9 and the disposition on that -- that was exchanged for the plea  
10 deal. And I ended up pleading guilty to everything except the  
11 throwing bodily fluids.

12 Q: Okay. Did you plead guilty to throwing bodily fluids?

13 A: Yes, sir.

14 Q: Okay. And did the judge inform you that that was a  
15 mandatory consecutive sentence to any sentence that you're  
16 serving?

17 A: Well, the way he implemented it to me, I didn't really  
18 understand it because if I knew that charge had carried a  
19 mandatory consecutive like that, I believe the whole situation  
20 would have had a different outcome.

21 Q: Did you and Mr. Grove discuss that the throwing bodily  
22 fluids charge carried a mandatory consecutive sentence?

23 A: We discussed that to a certain point where he promised me  
24 that -- he told me -- his exact words -- he said, Mr. Wilson  
25 -- he said Catherine -- she's not worrying about that charge

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1 with the police officer. He said that she wants you to plead  
2 guilty to that hit-and-run charge. He said that she's not  
3 looking at giving you any time for that. She might give you  
4 one day. She might give you 30 days. The only thing she want  
5 you to do is plead guilty to that hit-and-run charge.

6 Q: Okay.

7 A: And he -- he did improvise me that once I pled to that  
8 charge that, whatever I would have got, it would have been  
9 consecutive to whatever I had got the first time.

10 Q: Okay. Did you -- did you all have that discussion before  
11 you pled to the hit-and-run or after?

12 A: We had that discussion after.

13 Q: Okay. And so -- and I'm sorry. I'm just trying to get  
14 the timeline straight. You pled guilty to the hit-and-run?

15 A: Uh-huh.

16 Q: Then y'all had the conversation about the mandatory  
17 sentence?

18 A: I don't think it went like that. It was basically a  
19 string of events. We talked about the whole plea deal at one  
20 time.

21 Q: Okay. Well, walk us through that string of events, if  
22 you don't mind?

23 A: Okay. Well, as you all -- as the courts know, I had  
24 several charges with the CDVs, the habitual offender and the  
25 DUI and the hit-and-run charge.

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1 Now, we talked about that and he was, like, well, she's  
2 not really focusing on this right here and I said, well, what  
3 kind of time is she offering on this right here. He said,  
4 well, it depends on if you plead guilty to that hit-and-run  
5 charge. And I told him, just like the whole five months he  
6 was coming to see me, I'm not guilty on that. He asked me,  
7 well, if you can't give them the driver, then they're going to  
8 find you guilty, just like what he told me the same morning.

9 So he said if you don't plead guilty to that, then she's  
10 going to hit you with that trafficking charge and you're going  
11 to get 25 years for that if you don't plead to it. So  
12 basically I think it was in Mr. Will Grove and Ms. Catherine  
13 Wyse best interest that I pleaded guilty to that charge that I  
14 was not guilty to or it was going to be a harsher punishment  
15 set on me for that trafficking cocaine base charge that was  
16 five years old that I don't even remember nothing about it.

17 Q: Okay. At what point did y'all have the discussion about  
18 the throwing bodily fluids charge?

19 A: Well, I was kind of upset that morning because I was  
20 prepared to go to trial, but Mr. Will Grove wasn't prepared  
21 because he didn't have my star witness there, Ms. Ellen Motte,  
22 and I believe that she was my best key witness in that  
23 situation right there. And once he told me that he didn't  
24 like what she had to say and he wasn't going to subpoena her  
25 to come to court, I felt like I was going to lose.

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1           So if my counsel told me that if I didn't give him --  
2 give the State who the driver was in that truck, then I was  
3 going to be found guilty of it. So my best interest was not  
4 to get the 25 years on the trafficking cocaine base charge and  
5 just settle for what him and the prosecutor wanted. So that's  
6 why I took the plea.

7 Q:    Okay. And you're talking about the plea to the hit-and-  
8 run; is that right?

9 A:    Yes, sir.

10 Q:    When did y'all talk about the throwing bodily fluids  
11 charge?

12 A:    Well --

13 Q:    Was it --

14 A:    -- when he --

15 Q:    I'm sorry. I didn't mean to interrupt you. Go ahead.

16 A:    When he brought the paperwork to me to sign for the plea,  
17 I didn't see that charge on it. So I asked him about that  
18 charge. I said, well, what about the other charge? And to me  
19 it seemed like he knew that they was going to call a break and  
20 me already getting that seven just so that the judge didn't  
21 have -- well, he took away where I could have had that charge  
22 run concurrent.

23           And when I didn't see that charge on it, I asked him  
24 about it, and he stated once again -- he said, well, Catherine  
25 is not worrying about that charge because it wasn't no

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1 physical harm done to that police officer. She might  
2 recommend one day. She might recommend 30 days. But the  
3 judge didn't make his decision yet; so I didn't -- my  
4 assumption was I wasn't getting no more than 30 days, even if  
5 it was concurrent.

6 Q: Okay. When did you get arrested for that charge?

7 A: For that --

8 Q: The throwing bodily fluids.

9 A: That was on -- I think it was March 21<sup>st</sup>, 2012.

10 Q: Okay. Did you have the issue with your scalp at that  
11 time?

12 A: No, sir. I already had medical treatment for it.

13 Q: Okay. When -- when you came to court, did you -- what  
14 was your appearance like? Did you have -- what was your scalp  
15 like then?

16 A: Well, I had -- I had a few bandages around it and, like,  
17 a cap that you see a doctor wear on his shoes.

18 Q: Okay.

19 A: It was that texture right there.

20 Q: Okay. And I know you previously testified that there was  
21 some mention that it was possibly staph?

22 A: Yes, sir.

23 Q: Was it ultimately -- did it turn out to be staph?

24 A: No, sir. When I -- when I got to Kirkland -- well, the  
25 day that I got sentenced and went back to the Florence County

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1 Detention Center, I asked to see a copy of my medical chart,  
2 which that was on the 6<sup>th</sup>. And by the time the 9<sup>th</sup> came, I was  
3 leaving; so they didn't have it prepared for me. So I left a  
4 request to staff to Capt. Brunson that it be sent to me and I  
5 received that on the 21<sup>st</sup> at Kirkland, if I'm not mistaken.  
6 And when I got it, I looked at my discharge summary and what I  
7 was ultimately diagnosed with it, and it was hidradenitis of  
8 the scalp.

9 Q: Okay. Did you have surgery for that?

10 A: Yes, sir.

11 Q: Did you have surgery before you pled guilty?

12 A: Yes, sir.

13 Q: Okay. About how far before?

14 A: Well, the surgery took place from -- I think it was -- it  
15 was July the 2<sup>nd</sup>. That's when I was admitted in and I was  
16 discharged on July 9<sup>th</sup>.

17 Q: Okay. What kind of -- what did the doctors and the staff  
18 at the detention center tell you you need to do for treatment  
19 for hidradenitis?

20 A: Well, during that time I don't even believe they knew  
21 what I had because I asked Nancy Truluck on numerous  
22 occasions. I said why is -- why is it getting all this  
23 inflammation in it and she said, well, honey, I don't know. I  
24 said, well, can y'all take a culture of it and send it off to  
25 a lab and see if it has any bacteria in it because it was high

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1 speculations and rumors going around, but it wasn't nothing  
2 never documented that was given to me or that I saw that  
3 stated that I had a staph infection.

4 Q: Okay. Who is Nancy Truluck?

5 A: She was the head nurse during that time at the Florence  
6 County Detention Center.

7 Q: Okay. Did you take medication at any point during your  
8 stay in the detention center?

9 A: Yes, sir. When I first started writing requests of  
10 staffs to medical, I think it was around -- it was from April  
11 all the way up until the morning that they came to my room and  
12 I was in pretty bad shape where I had to go to the hospital.

13 Q: Okay. Did that medication that you took -- did that  
14 help?

15 A: No. Because I felt like they was treating me for a staph  
16 infection, something that I didn't have.

17 Q: Okay. Once you had the surgery and learned that you did  
18 not have staph infection, you had hidradenitis, did your  
19 symptoms subside any better?

20 A: Well, actually is called hidradenitis and, yes, sir, my  
21 situation got bad once it was in a situation where I was  
22 getting treatment for -- well, from a place where they knew  
23 what was going on.

24 Q: Okay. Mr. Wilson, I've asked you everything that I need  
25 to ask. Do you have anything that I -- do you feel that I've

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1 left out anything or anything that you think the Court needs  
2 to be aware of?

3 A: Yes, sir. I think -- I think that Mr. Will Grove -- he  
4 did a very poor investigation on my -- on my whole case  
5 because there was a lot of things that should've been brought  
6 forward to the table where I was prepared myself to go to  
7 trial, but I don't think he was prepared to go to trial.

8 So I felt like that was where he took away my right,  
9 especially when he took away Ellen Motte when he said that he  
10 didn't like what he -- what she had to say. I believe that  
11 since I told him that I wanted him to subpoena her, he should  
12 have went on ahead and subpoenaed her regardless of what his  
13 terminology was. I felt like she -- she knew what time I came  
14 home that night. She know I wasn't present in another place  
15 during that time. They said the car wreck -- the accident  
16 happened between nine and 9:15, and I was at home during that  
17 time; so I couldn't have been in two places at once. She's a  
18 retired schoolteacher from Maryland and I knew that she was  
19 going to get on that stand and she was going to tell the right  
20 thing.

21 Q: Okay. And just to clarify, when you say getting ready  
22 for trial, to what charges were y'all getting ready for trial?

23 A: We were getting ready to charge for the hit-and-run and  
24 leaving the scene of property damage.

25 Q: Okay. But not the -- not the other stuff?

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1 A: None of the other charges.

2 Q: Anything else?

3 A: No, sir. That's it.

4 MR. WALLER: I have no further questions. Please answer  
5 any questions from the attorney general.

6 THE APPLICANT: Yes, sir.

7 THE COURT: Mr. Hunter, anything on cross-examination?

8 MR. HUNTER: Yes, sir.

9 THE COURT: Okay.

10 CROSS-EXAMINATION

11 BY MR. HUNTER:

12 Q: Good afternoon, Mr. Wilson.

13 A: Good afternoon, sir.

14 Q: Let's start out with your -- your first of your two pleas  
15 from that day. Your first plea to hit-and-run -- that was an  
16 *Alford* plea; correct?

17 A: Yes, sir.

18 Q: Okay. Did Mr. Grove explain to you what an *Alford* plea  
19 is?

20 A: Yes, sir. He explained -- he explained it to me.

21 Q: Okay. And it was your decision to plead guilty, wasn't  
22 it?

23 A: Well, I said that I wanted to because he told me that I  
24 was going to lose at trial that morning and I didn't want to  
25 lose at trial and my counsel saying that we're not going to

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1 win; so I didn't want to put forth with it.

2 Q: Okay. So -- so basically you relied on Mr. Grove's  
3 advice in your -- in making your decision to plead guilty?

4 A: He told me that was the best decision that I needed to  
5 make because if I didn't, I was going to get more time for  
6 that trafficking cocaine base charge.

7 Q: Okay. And -- and you got seven years on that plea,  
8 didn't you?

9 A: Yes, sir.

10 Q: Okay. Do you remember the judge telling you that you  
11 could get up to ten years on that charge?

12 A: Yes, sir.

13 Q: Okay. Do you recall the judge asking you if you still  
14 wanted to go forward and you said you did still want to plead  
15 guilty?

16 A: Yes, sir.

17 Q: Okay. Do you recall the judge telling you by pleading  
18 guilty you were giving up your rights to a jury trial and to  
19 -- and to challenge the evidence that was against you?

20 A: Yes, sir.

21 Q: Okay. Do you recall the judge telling you that he could  
22 run your sentences consecutive and you could receive up to  
23 eleven years on that plea?

24 A: I remember when he asked me did anybody promise me or  
25 threaten me anything. And on that sentence right there, he

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1 did state that the hit-and-run resulting in great bodily  
2 injury carried up to ten years.

3 Q: Right.

4 A: And then it was another -- another situation where they  
5 said that leaving the scene of property damage had carried  
6 more than one year. I can't remember what was actually said  
7 that morning, but I know it was more -- more than one year and  
8 that he made a correction on it and said that, no, it was  
9 eleven years.

10 Q: Okay. Now, when you pled guilty, this was a -- this was  
11 a recommendation that you would get seven years; correct?

12 A: Well, I --

13 Q: You didn't know?

14 A: I pleaded guilty to a seven-year cap.

15 Q: Okay. Well, do you remember the judge telling you that  
16 he did not have to go along with that recommendation, that he  
17 could give you more time?

18 A: Yes, sir.

19 Q: Okay. And you told him you still wanted to go forward?

20 A: Yes, sir.

21 Q: Okay. Do you recall the judge asking you if you were  
22 satisfied with Mr. Grove and you said you were?

23 A: Yes, sir. I said it.

24 Q: Okay. That you didn't have any complaints about his work  
25 on this case?

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1 A: Well, during the time -- during the time I felt like I  
2 didn't have no -- no complaints about his case because he told  
3 me that he did all that he could do for me.

4 Q: Okay. So at the time you were happy with getting the  
5 seven years?

6 A: No, I wasn't.

7 Q: Well, you knew it could be a lot worse?

8 A: Yes, sir.

9 Q: Okay. I believe you already touched on this, but nobody  
10 promised -- you told the judge no one promised you anything in  
11 exchange to get you to plead guilty. Do you recall that?

12 A: Well, nobody didn't promise me anything, but it just was  
13 a situation where it was an old 2007 charge of a trafficking  
14 cocaine base charge. I got the paperwork that came down to  
15 the Florence County jail from his investigator, Mr. Thomas  
16 McKenzie.

17 Q: Right, right, but you understand that that charge was  
18 still out there and the solicitor could still bring that  
19 charge?

20 A: Yes, sir.

21 Q: Okay.

22 MR. HUNTER: I beg the Court's indulgence.

23 THE COURT: Take your time.

24 Q: Do you recall at the end of that first plea telling the  
25 Court that you were sorry for what had happened?

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- 1 A: In which situation?
- 2 Q: The hit-and-run.
- 3 A: I told the Court that I'm sorry. I was sorry for their  
4 family and I was sorry that I put myself in those situations  
5 -- in that situation right there. I did.
- 6 Q: Okay. Let's move on to the second plea, and this was the  
7 plea where you pled guilty to throwing bodily fluids. Now, in  
8 exchange for this plea, the solicitor dropped a bunch of  
9 charges, didn't he?
- 10 A: Yeah, she did.
- 11 Q: She did? Okay. In fact, she dropped a CDV charge, a  
12 habitual traffic offender, a DUI, and the trafficking charge;  
13 is that correct?
- 14 A: Yes, sir.
- 15 Q: Okay. Do you recall the judge telling you at your second  
16 plea, the one in the afternoon, that throwing bodily fluids is  
17 a mandatory consecutive sentence?
- 18 A: Now, I'm kind of aware he said something like that, but  
19 from my understanding it was if you was already serving time.
- 20 Q: Okay. Well, do you recall where the judge --
- 21 MR. HUNTER: Your Honor, this is on page 7 and page 8.
- 22 Q: Do you recall where the judge told you that -- he said  
23 understanding that you've already pled guilty to these other  
24 charges, the throwing bodily fluids would be consecutive to  
25 those charges?

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1 A: Yes, sir.

2 Q: Okay. So you knew it would be a consecutive sentence?

3 You were just hoping it would be less than what you got?

4 A: Pretty much.

5 Q: Okay. And the judge told you that if he ran everything

6 consecutive, all your charges, you could get up to 26 years?

7 A: Yes, sir.

8 Q: Okay. And you told him you understood that. Do you

9 remember if he asked you if you still want to go forward and

10 you told him you did?

11 A: Yes, sir.

12 Q: Okay. Once again, do you remember at the second plea, as

13 well as the first plea, the judge went over all your rights

14 that you were waiving, again the right to a jury trial, the

15 right to challenge the evidence? Do you recall that?

16 A: Yes, sir.

17 Q: And do you recall he asked you again if you were happy

18 with Mr. Grove, satisfied with his services? Do you recall

19 that?

20 A: Yes, sir.

21 Q: Okay. Do you recall the judge asking you if you

22 understood all his questions and you told him you had?

23 A: During that time, I thought I understood them.

24 Q: Okay.

25 MR. HUNTER: I beg the Court's indulgence.

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1 THE COURT: Take your time.

2 Q: Do you recall when the solicitor went over the facts as  
3 to what happened, when she was finished, you told the judge  
4 that everything she said was true?

5 A: State that again, please.

6 Q: At your second plea --

7 A: Uh-huh.

8 Q: When the solicitor went over the facts and the judge told  
9 you to listen to the facts and if you disagreed with anything  
10 the solicitor said, the judge told you to tell him that you --  
11 that you disagreed. Do you recall that? Do you recall  
12 telling the judge that you agreed with everything the  
13 solicitor had told him you did?

14 A: If I'm not mistaken, that's the part when I did mention  
15 about the arresting police officer, Mr. Ashley Anderson. Is  
16 that what you're talking about?

17 Q: Yeah. Well, it's everything that was covered in that  
18 plea. So it would be the throwing bodily fluids, the habitual  
19 traffic offender, and both of the CDV charges.

20 A: No, I didn't tell him that.

21 Q: You didn't tell him that?

22 A: I told him that -- I said that everything except for the  
23 arresting officer when he went the next morning and went to  
24 Ms. Deborah Jackson and tried to get her to sign a warrant on  
25 me for PWID --

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1 Q: Okay. Well, that's not really what I asked you, Mr.  
2 Wilson.

3 A: Well, I'm not -- I'm not aware of which part you're  
4 talking about.

5 Q: Well, we can move on.

6 MR. HUNTER: And, Your Honor, that's -- that's on page  
7 19.

8 THE COURT: Okay.

9 MR. HUNTER: For your edification.

10 Q: Now, Mr. -- Mr. Wilson, is it your testimony that you  
11 didn't -- you thought you had a staph infection; is that  
12 correct? Up until after you pled guilty?

13 A: I didn't know one hundred percent sure, but that was  
14 basically what was going around the jailhouse and what people  
15 were saying in medical.

16 Q: Okay. And didn't you -- didn't you write -- I mean you  
17 went to medical pretty often when you were in --

18 A: Yeah.

19 Q: - jail; is that correct?

20 A: Yes, sir.

21 Q: Okay. And didn't you write requests saying I have a  
22 staph infection, I need medicine, essentially?

23 A: Yeah.

24 Q: Okay. So you thought you had a staph infection?

25 A: Yes.

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1 Q: Okay. So it's pretty fair to say that when you pled  
2 guilty, everybody thought you had a staph infection?

3 A: No, sir.

4 Q: Who didn't think you had a staph infection?

5 A: The people who treated me at the county jail. They knew  
6 it and I believe they hide it from me.

7 Q: Okay. All right. So you're saying that all of these  
8 medical diagnoses and all of these medical records here are  
9 lies fabricated by the nurses and doctors at the jail?

10 A: No. I just never received them until I got to Kirkland  
11 after August 9<sup>th</sup>.

12 Q: Okay. But you're saying you think they knew it wasn't a  
13 staph infection, but they were treating it as if it was one  
14 anyway?

15 A: Well, they was giving me antibiotics and, you know,  
16 antibiotics -- that's basically for some kind of infection,  
17 bacteria, and things of that nature.

18 Q: Well, that's what a staph infection is?

19 A: Yes, sir.

20 Q: Okay.

21 MR. HUNTER: I beg the Court's indulgence.

22 THE COURT: Yes, sir.

23 Q: Now, Mr. Wilson, you said earlier that -- that you asked  
24 Mr. Grove to subpoena a witness for you; is that correct?

25 A: Yes, sir.

## MAURICE WILSON - CROSS BY MR. HUNTER

1 Q: What's her name?

2 A: Ms. Ellen Motte.

3 Q: Ellen Motte? Okay. Is she here today?

4 A: No, she's not here. She's in Baltimore.

5 Q: Okay. And I just want to -- and I might have  
6 misunderstood your testimony earlier. You had your surgery  
7 after you pled guilty; is that correct?

8 THE COURT: You need to answer either yes or no.

9 THE APPLICANT: I'm thinking right now, sir.

10 THE COURT: Oh, that's okay. I just wanted to make sure  
11 you heard. Okay. Sorry.

12 A: No, sir. I had it before because the morning of the  
13 trial I was still bandaged up.

14 Q: Okay. So you -- okay. Now, Mr. Grove did tell you that  
15 he talked to that witness and he did not think she would be  
16 beneficial; right?

17 A: Not in those exact words, but somewhat in that nature.  
18 He just told me -- I asked him was she coming and he said, no,  
19 she's not coming. I said, did you go out and interview her  
20 and speak with her about what we talked about. He said, yes,  
21 sir, I did, but I didn't like what she had to say; so I didn't  
22 subpoena her.

23 Q: Okay.

24 MR. HUNTER: Thank you, Mr. Wilson. I don't have any  
25 further questions for you.

MAURICE WILSON - REDIRECT BY MR. WALLER

1 THE COURT: Anything on redirect?

2 MR. WALLER: Briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. WALLER:

5 Q: Mr. Wilson, you -- when were you arrested on the throwing  
6 bodily fluids charge?

7 A: Throwing bodily fluid? That was March 21<sup>st</sup> --

8 Q: Okay. Were you arrested --

9 A: -- of 2012.

10 Q: Were you arrested for any other charges at the same time?

11 A: Well, I was getting to that point, but -- and there was  
12 some charges that came up, but Ms. Deborah Jackson -- she  
13 denied the warrant on the charges.

14 Q: Well, my question is how did you get to be -- how did you  
15 get to be around a law enforcement officer on March the 21<sup>st</sup>?

16 A: Well, he pulled me over on Church Street in a vehicle.

17 Q: Okay. And you were -- were you arrested that day?

18 A: I was arrested that night.

19 Q: Okay. And did you have the issues with your scalp at  
20 that time?

21 A: No, sir.

22 Q: Okay.

23 A: I'd already been treated.

24 Q: When -- when did you -- when did you begin complaining to  
25 the detention center about your scalp issues?

MAURICE WILSON - REDIRECT BY MR. WALLER

1 A: It had to have been either April or May.

2 Q: Okay. After you were in the --

3 A: I was already in the detention center.

4 Q: For how long were you in there?

5 A: Maybe two months.

6 Q: Okay. You testified earlier that the judge said that

7 when you pled guilty the second time all your charges could be

8 run consecutively and he wanted to make sure you understood

9 that?

10 A: Yes, sir.

11 Q: Okay. Did he run any charges consecutively?

12 A: He only ran -- he ran one charge consecutively.

13 Q: Okay. And what charge was that?

14 A: That was the throwing bodily fluids.

15 Q: How did he run all the other charges?

16 A: He run all those charges concurrent to the seven that I

17 pleaded to.

18 Q: Okay.

19 MR. WALLER: No further questions.

20 THE COURT: Anything on recross?

21 MR. HUNTER: No, Your Honor.

22 THE COURT: Thank you, sir. You may step down.

23 THE APPLICANT: Thank you, sir.

24 THE COURT: All right. Mr. Waller, who's your next

25 witness?

WILL GROVE - DIRECT BY MR. HUNTER

1 MR. WALLER: Your Honor, the applicant has no further  
2 witnesses.

3 THE COURT: All right. Does the State have any  
4 witnesses?

5 MR. HUNTER: Yes, Your Honor. The State would call Will  
6 Grove.

7 THE COURT: Okay. Mr. Grove?

8 THE CLERK: Do you swear or affirm the testimony that you  
9 are about to give is the truth, the whole truth, and nothing  
10 but the truth, so help you God?

11 THE WITNESS: I do.

12 THE CLERK: Take your seat and state your name for the  
13 record.

14 THE WITNESS: William Eugene Grove, G-r-o-v-e.

15 THE COURT: Your witness, Mr. Hunter.

16 WILL GROVE, being first duly  
17 sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. HUNTER:

20 Q: Mr. Grove, do you recall representing Mr. Wilson in this  
21 -- in these charges?

22 A: I do.

23 Q: Okay. How did you come about representing Mr. Wilson in  
24 this case?

25 A: I started with the public defenders here in Florence

WILL GROVE - DIRECT BY MR. HUNTER

1 April of that year and I was basically immediately appointed

2 --

3 Q: Okay.

4 A: -- to Mr. Wilson's case, along with a lot of others.

5 Q: Did you file Rule 5 and Brady motions in this case?

6 A: I didn't myself. He had -- he had already been charged

7 and all of these -- our office automatically generates those

8 when we receive warrants notifying us of an arrest and an

9 appointment.

10 Q: Did -- did you review all that? So you got all the

11 discovery materials?

12 A: Certainly.

13 Q: Did you review that with Mr. Wilson?

14 A: I did.

15 Q: Okay. Did you discuss the charges that he was facing and

16 the elements that would make up those charges?

17 A: I did.

18 Q: Okay. How would you characterize the State's evidence

19 against Mr. Wilson?

20 A: Well, that depends. The -- the two cases I guess that

21 are at issue, the hit-and-run bodily injury case and the --

22 and the throwing bodily fluids case were drastically different

23 and one was entirely circumstantial and the other one was

24 entirely direct.

25 Q: Okay. And after discussing -- you know, going over the

WILL GROVE - DIRECT BY MR. HUNTER

1 evidence with Mr. Wilson, whose decision to plead guilty was  
2 it?

3 A: It was Mr. Wilson's.

4 Q: Okay. Were you prepared to go to trial on these charges?

5 A: Sure.

6 Q: Okay. Now, did you speak with -- I believe her name was  
7 Ellen Motte?

8 A: Yes. I certainly spoke with her. I spoke with someone  
9 else as well. If you'll give me a minute, I can pull out some  
10 notes. I was looking through my file earlier.

11 I don't have a particular note identifying my  
12 conversation with Ms. Motte. I do remember being -- being  
13 asked to contact her, as well as I believe at least one other  
14 witness. No one was willing to come and testify to the  
15 information that Mr. Wilson was expecting them to come and  
16 testify to. No one was willing to assert that he was in their  
17 physical presence at the critical time.

18 Q: Okay. So it's fair to say -- is it fair to say that  
19 their testimony would not have benefited your client?

20 A: Absolutely. And I told that to him, as I've told plenty  
21 of other clients in getting ready for trials. I'm not in the  
22 habit of calling witnesses who aren't going to further our  
23 defense. To call a witness that -- that would not put you in  
24 a different place at a different time -- that's not going to  
25 be beneficial to us. I don't see the purpose in calling a

WILL GROVE - DIRECT BY MR. HUNTER

1 witness that isn't going to help.

2 Q: Did you discuss -- prior to his plea, did you discuss --  
3 well, first of all, let me ask you how the *Alford* plea came  
4 about.

5 A: Well, I met with Mr. Wilson several times out at the  
6 detention center, including the Sunday before trial. And  
7 Monday, we were first up and we picked the jury and as we were  
8 picking a jury or immediately after picking a jury, he leaned  
9 over to me and indicated if I could get the cap of seven back,  
10 he wanted to plea.

11 So I asked for a brief recess and approached the  
12 solicitor, Ms. Wyse, and asked her if she would be in a  
13 position to re-extend his original offer and she said she  
14 would on the condition that he plea without a recommendation  
15 to the remaining cases. He could plea to a cap of seven for  
16 that particular charge, but he would plea without a  
17 recommendation on everything else.

18 Q: Okay. And I meant to ask you earlier, but I passed over  
19 this. Do you recall how many times you met with Mr. Wilson  
20 prior to his plea?

21 A: I don't know. His trial was set to go forward in August.  
22 I started -- I think April 16<sup>th</sup> of 2012 was my first day here.  
23 Several times, enough times to be ready for a trial and  
24 certainly enough times to advise him on all of his charges.

25 Q: Okay. And prior to his plea, did you go over the

## WILL GROVE - DIRECT BY MR. HUNTER

1 constitutional rights he was waiving by pleading guilty?

2 A: Sure. I have a -- in the same way that I guess a judge  
3 has a plea colloquy, I have one that is virtually on repeat  
4 every time I meet with a client. Every time we prepare for a  
5 plea, I go through step-by-step all of the things that you're  
6 going to be giving up.

7 Q: Did you go over the fact that the sentence for throwing  
8 bodily fluids would be consecutive?

9 A: Yes. We -- I have specific memory of talking about that  
10 with him in the detention center and also before his plea,  
11 during his plea. I talked with him about it on a number of  
12 occasions and he mentioned earlier and I certainly remember  
13 thinking and telling him that that -- that particular charge  
14 was not important to Ms. Wyse. It was not significant in --  
15 in his case.

16 The significant case, to her at least, was the hit-and-  
17 run bodily injury charge. It was a young man was a victim and  
18 he was I think paralyzed from the neck down, and that was the  
19 case that she was interested in prosecuting. She wasn't  
20 jumping up and down about prosecuting other cases.

21 Q: Did you --

22 A: That -- that was the -- that was the crux of his package  
23 I guess.

24 Q: Did either you or to your knowledge the solicitor promise  
25 him that he would receive a certain sentence for the throwing

WILL GROVE - DIRECT BY MR. HUNTER

1 bodily fluids?

2 A: No. I've been a public defender for a little more than  
3 four years and I have -- I have learned from my first day that  
4 no sentence is ever guaranteed unless it's a negotiated  
5 sentence and even that doesn't have to be accepted. I don't  
6 -- I'm not in the habit of making promises to my clients. I  
7 will tell them what I'll ask the judge for. I will tell them  
8 what a recommendation from a prosecutor would be or will be,  
9 so long as we have an offer, but no, I have -- I don't think I  
10 have ever made a guarantee to a client as to what would  
11 happen.

12 Q: Did -- now, there's been a lot of talk of the staph  
13 infection. Were you aware of this infection that Mr. Wilson  
14 had?

15 A: I was. And up until this PCR was filed, I was under the  
16 impression -- I was still under the impression that it was a  
17 staph infection. He had told me that and he had obviously  
18 visited the medical staff at the jail several times. He had  
19 had a surgery. It was affecting his health by all means.

20 I think we at one point may have had a bond review for  
21 his case because of his medical issues. That didn't change  
22 his custody status, but yes, I was very aware of his staph  
23 infection.

24 Q: So he did have -- he had a surgery prior to his plea?

25 A: He did. Or he had at least one surgery. He was

WILL GROVE - DIRECT BY MR. HUNTER

1 hospitalized for about a week.

2 Q: Okay. Now, prior to his pleas -- let's talk for a second  
3 about how the pleas were broken up. Did you go over with him  
4 beforehand that there would essentially be two different  
5 please?

6 A: Yes. That was -- we had already picked a jury in his  
7 case. I believe we were in the 11<sup>th</sup> floor courtroom, but the  
8 jury was waiting in the deliberation room and so at that point  
9 his offer was plea to a cap of seven on the trial at hand and  
10 we can resolve everything else later that day or some other  
11 time. I think the judge's issue at that point was resolving  
12 this one case for which we had a jury and then releasing that  
13 jury for the day and we could address the other issues at  
14 another time.

15 Q: Did you have any concerns that Mr. Wilson didn't  
16 understand what was going on?

17 A: No.

18 Q: And he did have a bunch of charges dismissed, didn't he?

19 A: Yeah. I had -- I think he had eleven total -- ten --  
20 eleven -- twelve charges all told and we would have pled to --  
21 I mean more than half, but several were dismissed.

22 Q: Okay.

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

24 THE COURT: Anything on cross?

25 MR. WALLER: Thank you, Your Honor.

WILL GROVE - CROSS BY MR. WALLER

1 THE COURT: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. WALLER:

4 Q: Mr. Grove, did you discuss with Mr. Wilson the -- all the  
5 charges, all eleven charges, as you just testified to?

6 A: I believe so. Sure. I wouldn't have had a reason not  
7 to.

8 Q: But the trial was not all -- not for all of those; is  
9 that correct?

10 A: No. The only -- the only charges that we were moving  
11 forward on were hit-and-run bodily injury, hit-and-run  
12 property damage, maybe a habitual traffic offender tied in  
13 there with those two, but the big charges were the hit-and-run  
14 bodily injury, hit-and-run property damage.

15 Q: Okay. So y'all picked a jury or were in the process  
16 about to pick a jury; is that correct?

17 A: Yes, sir.

18 Q: Okay. And he ultimately pled under *North Carolina v.*  
19 *Alford*?

20 A: He did.

21 Q: Okay. Was there any discussion before he pled guilty to  
22 those to plead guilty to everything all at once?

23 A: I don't -- candidly, I don't remember. It happened  
24 relatively quickly. His -- his concern was can you give me  
25 that cap of seven back and I spoke with Ms. Wyse and she said,

WILL GROVE - CROSS BY MR. WALLER

1 yes, for these two charges and he will have to plea to  
2 everything else some other time, and he was agreeable to that.  
3 We didn't actually have to plea to everything else. Other  
4 things were dismissed, but --  
5 Q: And you actually --  
6 MR. WALLER: And, Your Honor, there's two transcripts and  
7 I don't -- I've marked mine one and two. I don't know if you  
8 --  
9 THE COURT: I've marked mine hit-and-run and other.  
10 MR. WALLER: Okay. Great. This is the -- the hit-and-  
11 run one.  
12 THE COURT: Okay. What page are you referring to?  
13 MR. WALLER: Page 27 and then continuing -- well, the top  
14 of page 27.  
15 THE COURT: All right, sir.  
16 Q: And, Mr. Grove, you -- you mentioned to the judge that he  
17 has a staph infection that turned itself into MERSA; is that  
18 right?  
19 A: Certainly. That was the information that I had been  
20 given.  
21 Q: Okay. And at this point he'd already had surgery?  
22 A: That's correct.  
23 Q: He had already been being treated?  
24 A: That's correct.  
25 Q: And you also right after that, still on page 27,

WILL GROVE - CROSS BY MR. WALLER

1 mentioned to the judge that we may find ourselves in front of  
2 you later today or later this week to resolve the remaining  
3 charges that he has; is that correct?

4 A: That sounds right.

5 Q: Okay. And then what happened next? A break was taken?

6 A: Yeah. And I don't remember exactly the timeline, but it  
7 would have been either right before lunch or right after lunch  
8 he would've taken a break. It wouldn't surprise me if he  
9 brought the jury back out and told them that that case been  
10 resolved and given them instructions to call back the next  
11 night. That's routine, but I don't remember specifically.

12 Q: Had y'all already picked a jury?

13 A: I believe so, yeah. We had -- we had picked a jury and  
14 an alternate.

15 Q: Did he pick -- did he plead guilty in front of the jury  
16 that had been picked?

17 A: No. They were waiting in the deliberation room in the  
18 event that, if we didn't get all the way through the plea, we  
19 were ready to begin the trial.

20 Q: Okay. Were you aware -- at what point were you aware of  
21 his staph infection?

22 A: One of the first times I met with him I guess. In  
23 addition to obviously his concern over his charges, his second  
24 chief concern was getting appropriate medical treatment and he  
25 had a common complaint that he wasn't receiving it. As it

WILL GROVE - CROSS BY MR. WALLER

1 obviously turns out, that was true.

2 Q: Okay. Were you aware of when he began to complain about  
3 medical problems to the det -- the detention center? Excuse  
4 me.

5 A: No. I don't know when that started.

6 Q: Okay. After he had his surgery, did you attempt to  
7 obtain any treatment records for him?

8 A: I don't think so.

9 Q: Okay. Moving forward to the second guilty plea on page 7  
10 and 8, the judge goes over all the charges and particularly  
11 the throwing bodily fluids and that it has to be a mandatory  
12 consecutive sentence?

13 A: Yes.

14 Q: Is that your recollection? Okay. And on page 8, you  
15 actually -- excuse me -- page --

16 MR. WALLER: I beg the Court's indulgence one second,  
17 Your Honor.

18 Q: You and the Court discuss it and the Court actually says  
19 on page 7 that the statute reads consecutive to whatever other  
20 sentence you're serving and asked Mr. Wilson if he understands  
21 that?

22 A: That sounds right.

23 Q: Okay. And again on page 23 of that transcript, the staph  
24 infection was discussed again and actually taken into  
25 consideration in the judge's sentencing. Is that your

WILL GROVE - CROSS BY MR. WALLER

1 recollection?

2 A: Yeah.

3 Q: Okay. Why did -- why was there no discussion or why was  
4 the decision not made to plead guilty to all five charges at  
5 the same time?

6 A: I don't -- I don't know. I guess it's just a timing  
7 issue. That -- my understanding of that statute would make it  
8 a moot point. I don't think that that charge has to be run  
9 consecutive with any other sentence that you receive at any  
10 other time. If that's the interpretation of that statute, I  
11 interpreted it wrong. I didn't see pleading later on that day  
12 to other charges as having -- as having any sort of an adverse  
13 effect on Mr. Wilson.

14 Q: Okay. So in your mind, he wasn't serving a sentence so  
15 he didn't have to serve anything consecutively?

16 A: Right. My understanding of that statute is it's a  
17 mandatory consecutive time no matter what. Unless you don't  
18 have another sentence that you are serving, it has to be  
19 consecutive.

20 So if you plead -- my reading is if you plead guilty at  
21 the same time to two things and one of them is throwing bodily  
22 fluids, it is mandatory that it runs consecutive to whatever  
23 the other one is. Or if you have 100 things, it is mandatory  
24 consecutive to whatever the other 99 are. I did not read it  
25 as if you pled at a different time that that would hold any

WILL GROVE - REDIRECT BY MR. HUNTER

1 bearing on the mandatory consecutive nature of the charge.

2 Q: Okay.

3 MR. WALLER: I have no further questions.

4 THE WITNESS: Thank you.

5 THE COURT: Okay. Anything on redirect?

6 MR. HUNTER: Very briefly, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. HUNTER:

9 Q: Mr. Grove, did you have any -- at the time of Mr.  
10 Wilson's plea, did you have any reason to believe that his  
11 medical condition had changed?

12 A: No. The only information I had ever been given was that  
13 he had a staph infection that had I guess escalated into  
14 MERSA.

15 Q: So did you feel like you needed to get his medical  
16 records?

17 A: I had no reason to believe it was anything else.

18 Q: Okay. And so do you believe if he had pled to everything  
19 at once, the bodily fluids would still have had to run  
20 consecutive to whatever else he had gotten?

21 A: Yes. And we were in front of the same judge not long  
22 afterwards the same day. I don't think it would have had any  
23 effect on the overall outcome.

24 MR. HUNTER: Thank you. No further questions, Judge.

25 THE COURT: Before --

WILL GROVE - DIRECT BY THE COURT

1 MR. WALLER: Nothing further, Your Honor.

2 DIRECT EXAMINATION BY THE COURT

3 THE COURT: Well, I've got a question I want to ask. Mr.  
4 Grove, the thing about the staph infection, I know everybody,  
5 including Mr. Wilson, was under the impression that it was a  
6 staph infection.

7 THE WITNESS: That's correct.

8 THE COURT: So that's the assumption I'm making when I'm  
9 asking you this question. But in your professional opinion,  
10 do you believe that the fact that the defendant had a staph  
11 infection materially and negatively affected the judge's  
12 sentence in this case or do you think it had no effect at all?

13 THE WITNESS: I'm sure -- I mean it had to have affected  
14 it at some point on some level. To what degree, I don't know,  
15 but I do know that -- that that -- the judge took that one  
16 fairly -- fairly seriously, as well as did the officer. I  
17 think that given the fact that he had what everybody believed  
18 at the time to be a staph infection, that made it a little bit  
19 different than just a normal person who would otherwise appear  
20 to be healthy. Mr. Anderson -- Officer Anderson had to go and  
21 -- go to the hospital and get treatment to make sure that he  
22 hadn't gotten any sort of infection and that he hadn't been  
23 negatively affected.

24 THE COURT: And he had to worry about it and all that  
25 kind of stuff.

WILL GROVE - DIRECT BY THE COURT

1 THE WITNESS: Right. And that was -- I think that was  
2 addressed by either Ms. Wyse, the prosecutor, or the judge  
3 during the plea.

4 THE COURT: Uh-huh.

5 THE WITNESS: Without -- I mean without that, it would  
6 have been a run-of-the-mill throwing bodily fluids on an  
7 officer case. I think it -- I think it made it a little more  
8 serious certainly.

9 THE COURT: Okay. All right. Now, Mr. Hunter, I know  
10 you -- does that -- does my question to him bring up any  
11 questions you want to ask?

12 MR. HUNTER: No, Your Honor. I don't -- I don't think  
13 so.

14 THE COURT: Okay. All right. And Mr. Waller, my  
15 question to him -- does that bring up any questions you want  
16 to ask as follow-up?

17 MR. WALLER: No, sir, Your Honor.

18 THE COURT: I believe you were saying you don't have any  
19 other questions?

20 MR. WALLER: No, sir.

21 THE COURT: Thank you, sir. I appreciate it.

22 THE WITNESS: Thank you, Your Honor.

23 THE COURT: All right. Who's next?

24 MR. HUNTER: That's the State's case, Your Honor.

25 THE COURT: All right. It's my understanding that we're

1 waiting for medical reports. Is that correct?

2 MR. WALLER: Yes, sir. We have -- we've received some  
3 from the jail. Those are essentially just treatment, you  
4 know, instructions and things like that. The medical records  
5 from the hospital where he was treated were mailed from  
6 Georgia on Monday. They are probably sitting on my desk right  
7 now.

8 THE COURT: Okay.

9 MR. WALLER: They will be here. I will certainly  
10 supplement them to the Court as soon as they come in.

11 THE COURT: All right. And again, Mr. Waller, I believe  
12 in lieu of closing you wanted to submit a memo?

13 MR. WALLER: Yes, sir, Your Honor.

14 THE COURT: Okay. And we'll go with the same 20 days?

15 MR. WALLER: Yes, sir.

16 THE COURT: Twenty days after we get the medical report?

17 MR. WALLER: Sure.

18 THE COURT: Okay. Because if for some reason -- I have  
19 been waiting for things in the mail my life too, like checks  
20 that my clients have said they've mailed. So we'll go 20 days  
21 after we get the medicals. Okay?

22 MR. WALLER: Yes, sir, Your Honor.

23 THE COURT: And then the same 20 days for you to respond.

24 MR. HUNTER: Yes, sir, Your Honor.

25 THE COURT: Okay. Thank y'all. I'm sorry, Mr. Grove.

1 You could have walked in front without being shot.

2 (WHEREUPON, the proceedings ended at 3:23 p.m.)

3

4 --- END REQUESTED TRANSCRIPT ---

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1 State of South Carolina )  
2 ) Certificate  
3 County of Florence )  
4

5 I, the undersigned, Krystal J. Smith, Notary Public and  
6 Official Court Reporter for the Twelfth Judicial Circuit of  
7 the State of South Carolina, do hereby certify that the  
8 foregoing pages, numbered 1 through 49 constitute a true,  
9 accurate, and complete Transcript of Record of all the  
10 proceedings had and evidence introduced in the hearing of the  
11 above captioned case, relative to appeal, in the Court of  
12 Common Pleas for Florence County, South Carolina, on the 9<sup>th</sup>  
13 day of October, 2014.

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

16

17 s/Krystal J. Smith

18 Court Reporter

19

20 Florence, South Carolina

21 September 15, 2016

22

23

24

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STATE OF SOUTH CAROLINA )  
 COUNTY OF FLORENCE )  
 Maurice I. Wilson, )  
 S.C.D.C. No. 222456, )  
 Applicant, )  
 v. )  
 State of South Carolina, )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 TWELFTH JUDICIAL CIRCUIT

Case No. 2013-CP-21-0292

ORDER OF DISMISSAL

FILED  
 2015 JUL -6 PM 12: 24  
 CONNIE REEL-SHEARIN  
 C.C.P. & G.S.  
 FLORENCE COUNTY, SC

**Procedural History**

The Applicant is presently confined in SCDC pursuant to orders of commitment from the Florence County Clerk of Court. Applicant was indicted at the January 2012 term of the Florence County Grand Jury for leaving the scene of an accident with property damage and leaving the scene of an accident with great bodily injury (2012-GS-21-0199). Applicant was also indicted at the July 2012 term of the Florence County Grand Jury for driving under the influence (second offense), habitual traffic offender, and throwing of bodily fluids (2012-GS-21-1034). Will Grove, Esquire, represented Applicant.

On August 6, 2012, Applicant pled guilty as indicted and was sentenced by the Honorable D. Craig Brown to an aggregate term of fifteen (15) years imprisonment, including a consecutive eight (8) year term for throwing bodily fluids. As part of Applicant's plea, the State dropped an unrelated charge for trafficking cocaine base. Applicant did not appeal his pleas or sentences.

Applicant filed a timely application for post-conviction relief (PCR) on February 4, 2013. In his application, Applicant indicated he did not wish to challenge the convictions resulting from indictment 2012-GS-21-0199; rather, Applicant only wished to challenge the convictions on

*Connie Reel Shearin*  
 CLERK OF COURT C.P. & G.S.  
 FLORENCE COUNTY, S.C.

stemming from indictment 2012-GS-21-1034. An evidentiary hearing was held on October 9, 2014 at the Florence County Courthouse. Applicant was present and represented by Jonathan Waller, Esquire. The State was represented by Assistant Attorney General J. Croom Hunter, Esquire.

#### **Allegations**

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

1. Ineffective assistance of counsel.
2. Involuntary guilty plea.
3. Court lacked subject matter jurisdiction.

However, at the PCR hearing, Applicant only proceeded on the ground that counsel was ineffective in his handling of Applicant's medical condition and how that condition was presented to the plea judge.

#### **Summary of Testimony Presented**

At the evidentiary hearing, Applicant testified on his own behalf. Respondent also presented testimony from trial counsel, Will Grove, Esquire (Counsel). As an initial matter, this Court finds Counsel's testimony credible and Applicant's testimony not credible. The Court also had before it a copy of the plea transcripts, the Florence County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, and the return.

During the evidentiary hearing, Applicant testified that he is thirty-six (36) years old and from Florence. Applicant testified Will Grove was appointed to represent him. Applicant testified he only met with Counsel three or four times prior to his plea. Applicant testified Counsel discussed the charges Applicant was facing, but that Counsel did not discuss the State's

evidence relating to every charge. Applicant testified he was prepared to go to trial on the hit and run, but he decided to take an Alford plea. Applicant testified he provided Counsel with the name of a beneficial witness (Ellen Mott) but Counsel told him he did not like what the witness had to say. Applicant testified that he had wounds on his head that were inflamed during his time in the detention center and at the time of his plea. Applicant testified the solicitor told the judge at Applicant's plea that Applicant was suffering from a staph infection. Applicant testified that he pled guilty to all of the charges but the throwing bodily fluid charge at his first plea. Applicant testified that later on the same day, he pled guilty to throwing bodily fluids. Applicant testified he did not understand why the judge imposed a mandatory consecutive sentence for the throwing bodily fluids charge. Applicant testified he and Counsel discussed the mandatory consecutive sentence "to a certain extent." Applicant testified Counsel told him he did not think the solicitor was particularly focused on the throwing bodily fluids charge and was more concerned with the other charges to which Applicant pled guilty. Applicant testified Counsel advised him he would likely be convicted if he went to trial on his charges and would face much longer prison terms. Applicant further testified Counsel advised him he could face twenty-five (25) years imprisonment on a trafficking cocaine charge if he did not plead guilty. Applicant testified he felt he would lose at trial because his witness (Ellen Mott) was not present to testify.<sup>1</sup> Applicant testified he took the plea because he thought it was in his best interest. Applicant testified that by the time of his guilty pleas, he had already received treatment and had surgery for his scalp condition. Applicant testified that it was not until after he went to SCDC that he became aware his condition was not staph, but a condition called Hidradenitis.

On cross-examination, Applicant testified Counsel explained what an Alford plea was. Applicant testified he pled because Counsel told him he would likely lose at trial. Applicant

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<sup>1</sup> This Court notes Applicant did not present any testimony from Ellen Mott at the PCR hearing.

testified he recalled the plea judge going over the potential maximum sentences for the charges to which he was pleading guilty. Applicant further testified he recalled the judge going over the rights he was waiving by pleading guilty. Applicant testified he told the plea judge he was satisfied with Counsel's representation. Applicant testified he did not have any complaints about Counsel's performance at the time of the plea. Applicant testified the solicitor dropped the CDV, habitual traffic offender, and DUI charges in exchange for his plea. Applicant testified he knew he would receive a consecutive sentence, but he just wanted less time than the judge gave him. Applicant testified he frequently sought medical attention for his condition while he was at the detention center. Applicant testified he thought he had a staph infection.<sup>2</sup> Applicant testified he believed the medical personnel knew he did not have a staph infection but did not tell anyone.

After Applicant's testimony, the State presented testimony from Will Grove. Counsel testified he discussed Applicant's charges with him. Counsel testified his office filed the appropriate Rule 5 and Brady motions, and he went over the discovery with Applicant. Counsel testified he went over the elements of the charges. Counsel testified he explained that the hit and run evidence was circumstantial while the throwing bodily fluids evidence was direct evidence. Counsel testified he was prepared to go to trial. Counsel testified he spoke with Mott and another witness, and neither witness was willing to say they were with Applicant at the time of the hit and run. Counsel testified he told Applicant their testimony would not be helpful. Counsel testified he met with Applicant several times at the detention center. Counsel testified they picked a jury the day of the plea, and then Applicant told him he would plea to a cap of seven (7) years. Counsel testified the solicitor offered a cap of seven (7) years on the hit and run and no recommendation on the other charges. Counsel testified Applicant decided to plead guilty under

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<sup>2</sup> This Court finds that Applicant's medical records from his time in pretrial detention reflect that Applicant believed he was suffering from a staph infection.

Alford. Counsel testified he had the same conversation regarding the consequences of pleading guilty that he has with every client. Counsel testified he explained to Applicant that he would have to serve a consecutive sentence for throwing bodily fluids. Counsel testified he did tell Applicant he thought the hit and run charge was more important to the solicitor than the throwing bodily fluids. Counsel testified he did not promise Applicant he would receive a certain sentence. Counsel testified 10-12 charges were dismissed in exchange for Applicant's plea. Counsel testified he did not remember receiving an offer for Applicant to plead to all the charges. Counsel testified he thought Applicant had a staph infection. Counsel testified Applicant told him he had a staph infection. Counsel testified everyone, including the judge, was under the impression Applicant had a staph infection when he pled guilty. Counsel testified there was no reason for anyone to believe Applicant's condition was not a staph infection. Counsel testified he did not believe it mattered that Applicant's plea to throwing bodily fluids took place later in the day than his plea to the other charge. Counsel testified he believed the sentence would still be mandatory consecutive. Upon questioning from the Court, Counsel testified he believed the judge considered the staph infection in his sentence for throwing bodily fluids. Counsel also testified the officer Applicant spit on had to go to the hospital.

#### **Findings of Fact and Conclusions of Law**

In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 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 counsel as a ground for relief, the applicant must prove "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." Id. at 442, 334 S.E.2d at 814 (citing Strickland v. Washington, 466 U.S. 668 (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)). Courts presume 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).

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).

Applicant alleges Counsel was ineffective for failing to obtain Applicant's medical records and object to the State's allegation at the plea that Applicant was suffering from a staph infection at the time he spit on the officer. This Court finds Applicant's argument fails because

he has not shown Counsel was deficient in any way, and he has not shown any prejudice resulting from Counsel's alleged ineffectiveness.

**A. Alleged Deficiency**

Counsel was not ineffective for failing to clarify Applicant's medical condition because he had no reason to believe Applicant did not have a staph infection. Counsel is not ineffective for failing to present a defense inconsistent with Applicant's version of events. See McCray v. State, 317 S.C. 557, 455 S.E.2d 686 (1995); Judge v. State, 321 S.C. 554, 471 S.E.2d 146 (1996).

Testimony at the PCR hearing from both Applicant and Counsel clearly shows that at the time of the plea, everyone involved believed Applicant was suffering from a staph infection. Applicant's medical records from his time at the detention center show that he believed he was suffering from a staph infection. Even though the hospital records indicate Applicant was diagnosed as suffering from "obvious hidradenitis" upon his admission prior to surgery, there is no indication in the record that anyone involved with Applicant's guilty plea was aware the diagnosis had changed. Furthermore, there is no testimony or evidence in the record that Applicant was not, in fact, suffering from a staph infection at some point while he was in custody. Records from the detention center indicate Applicant was treated by medical personnel for a staph infection for months. Counsel's testimony that he had no reason to believe Applicant was suffering from anything other than a staph infection was totally reasonable under the circumstances. In fact, Applicant testified he believed at the time of the plea that he was suffering from a staph infection. Applicant claimed at the PCR hearing that the medical personnel at the jail purposely withheld from him the change in his diagnosis. However, Applicant did not present testimony from any of the medical personnel; as such, those claims are unfounded. While Applicant's ignorance regarding the change in his diagnosis is unfortunate,

Applicant's argument that it was incumbent upon Counsel to pore over hundreds of pages of Applicant's medical records in search of differing diagnoses, which he had no reason to believe existed, is without merit.

Furthermore, whether or not Applicant was suffering from staph or hidradenitis is immaterial to Counsel's performance leading up to Applicant's plea. There is no indication in the record that Counsel was unprepared for Applicant's guilty plea. Counsel testified he conferred with Applicant multiple times and explained the charges and potential sentences he was facing, as well as going over the evidence against Applicant. Counsel testified he was prepared to go to trial. In fact, Applicant testified that it was not until after the plea, when he discovered he did not have a staph infection, that Applicant had any complaints about Counsel's performance. As such, there is no indication from the record that Counsel's performance was anything but reasonable under the circumstances.

**B. Failure to Show Prejudice**

Even assuming *arguendo* that Counsel's performance was deficient, Applicant has failed to show any prejudice resulting from Counsel's alleged ineffectiveness because Applicant received a lawful sentence. S.C. Code Ann. § 24-13-470 (A) provides:

An inmate, a detainee, a person taken into custody, or a person under arrest, who attempts to throw or throws body fluids including, but not limited to, urine, blood, feces, vomit, saliva, or semen on an employee of a state correctional facility or local detention facility, a state or local law enforcement officer, a visitor of a state correctional facility or local detention facility, or any other person authorized to be present in a state correctional facility or local detention facility in an official capacity is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years. A sentence under this provision must be served consecutively to any other sentence the inmate is serving. This section shall not prohibit the prosecution of an inmate for a more serious offense if the inmate is determined to be HIV-positive or has another disease that may be transmitted through body fluids.

Additionally, failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported by mere speculation as to the result.

Rollinson v. State, 346 S.C. 506, 552 S.E.2d 290 (2001).

Applicant was sentenced to a term of eight (8) years imprisonment for throwing bodily fluids. The record reflects the plea judge advised Applicant he could receive a term of up to fifteen (15) years imprisonment on the charge. Counsel's testimony that he believed the plea judge took Applicant's medical condition into consideration when crafting the sentence is both speculative and irrelevant. Even if Applicant did receive a harsher sentence because of his presumed condition, the plea judge's sentence was well within the statutory range provided for the crime. Regardless, there is simply no evidence in the record that Applicant received a harsher sentence due to his medical condition. The plea judge did not address Applicant's medical condition when he sentenced Applicant. In fact, the judge made sure to note for the record that Applicant's other two sentences were to run concurrent with one another, saying "I don't want them to turn around [at] DOC [and] try to run consecutive everything." Plea transcript of August 6, 2012, at 25. Clearly the plea judge's intention was to craft a sentence that was not overly punitive. As such, there is no indication that Applicant was prejudiced in any way.

Because Applicant has failed to show any ineffectiveness by plea counsel, or any resulting prejudice from Counsel's alleged deficiencies, this Court finds the PCR Application should be denied and dismissed with prejudice.

#### 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.

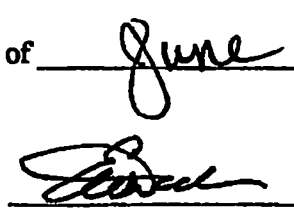
Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, his post-conviction relief attorney must serve and file a notice of appeal on Applicant's behalf. Applicant and his attorney are 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 must be remanded to the custody of the Department of Corrections to complete service of his sentence.

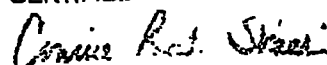
AND IT IS SO ORDERED this 12<sup>th</sup> day of June, 2015.

  
 Edgar W. Dickson  
 Presiding Judge  
 Twelfth Judicial Circuit

2015 JUL -6 PM 12:24  
 GONNIE REEL-SHEARIN  
 C.C.P. & G.S.  
 FLORENCE COUNTY, SC

FILED

Orangeburg, South Carolina

CERTIFIED A TRUE COPY  
  
 CLERK OF COURT C.P. & G.S.  
 FLORENCE COUNTY, S.C.

**FILED**

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS  
12<sup>TH</sup> JUDICIAL CIRCUIT

COUNTY OF FLORENCE )

2015 JUL 20 PM 3:04

Maurice I. Wilson, #222456,

CONNIE REEL-SHEARIN  
CCCP & GS  
FLORENCE COUNTY, S.C.

MOTION PURSUANT TO RULE 59(e)  
SCRCP, TO AMEND

Applicant,

vs.

Case No. 2013-CP-21-00292

State of South Carolina,

Respondent.

YOU WILL PLEASE TAKE NOTICE that the Applicant, Maurice I. Wilson, by and through his undersigned counsel, hereby gives notice of his intent to move and does so move the Court pursuant to Rule 59(e), SCRCP, for an Order of the Court to alter or amend its prior Order filed July 7, 2015 and received by counsel on July 9, 2015.

The Applicant filed a timely application for post-conviction relief (PCR) on February 4, 2013. In his application, Applicant indicated that he did not wish to challenge the convictions resulting from indictment 2012-GS-21-0199; rather Applicant only wished to challenge the convictions stemming from indictment 2012-GS-21-1034. By letter dated February 6, 2014, Applicant filed and served an Amendment to Application for Post Conviction Relief alleging, in part, a claim of After Discovered Evidence; stating that:

Applicant was sentenced with the prosecution and the sentencing judge under the mistaken belief that Applicant was infected with a highly contagious, highly dangerous form of Staph. As noted in the transcript, the sentencing judge took this fact into account when rendering sentence upon the applicant. After sentencing occurred, while Applicant was still undergoing medical treatment, it was discovered that he did not in fact have a staph infection as was previously believed.

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*Connie Reel Shearin*  
CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

Applicant contends that despite the Order stating such, Applicant's claim of after discovered evidence was not abandoned by applicant prior or during the evidentiary hearing held October 9, 2014 at the Florence County Courthouse.

Applicant respectfully requests this Court to reconsider its prior Order pursuant to Rule 59(e), SCRPC and for the reasons stated below to grant the Amended Application for Post Conviction Relief.

Applicant contends and agrees with the testimony of all parties at the evidentiary hearing that he was being treated at the Florence County Detention Center for what was believed to be a Staph infection. Applicant also agrees that he had a surgical procedure prior to entering his guilty plea where he was, unbeknownst to him, diagnosed with Hidradenitis. As testified to, neither applicant nor his counsel was aware in the change in diagnosis until after the plea had been entered. In fact, Applicant's plea counsel testified that he only became aware of Applicant's change in diagnosis much later and in preparation for the PCR hearing. Applicant agrees with plea counsel's belief that the sentencing judge took Applicant's medical diagnosis into consideration when sentencing applicant despite the fact that the diagnosis was later shown to be incorrect.

Applicant contends that, despite the Order's conclusions, while there is no evidence that Applicant was not suffering from a Staph infection at some point, the Court's conclusion that the fact that he was being treated for a staph infection means that he, at some point, was suffering from a staph infection is incorrect. Applicant asserts that the fact that he was being unsuccessfully treated for a staph infection and his condition remained unchanged until his diagnosis and treatment for Hidradenitis suggests that the diagnosis of staph was incorrect all along and that the Court should have concluded as such.

For the foregoing reasons, Applicant requests that the Court withdraw its previous Order and issue a new Order granting Applicant the Post Conviction Relief he seeks.

Respectfully submitted,

By: 

Jonathan D. Waller  
Giese Law Firm, LLC  
1315 Blanding Street  
Columbia, South Carolina 29201  
Telephone: 803-708-6767  
Facsimile: 803-708-6769  
E-mail: [jwaller@thegieselawfirm.com](mailto:jwaller@thegieselawfirm.com)

ATTORNEY FOR THE APPLICANT

July 17, 2015

Columbia, South Carolina

STATE OF SOUTH CAROLINA )  
 COUNTY OF FLORENCE )  
 Maurice I. Wilson, #222456, )  
 Applicant, )  
 v. )  
 State of South Carolina, )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 TWELFTH JUDICIAL CIRCUIT

Case No. 2013-CP-21-0292

**RETURN TO APPLICANT'S  
 RULE 59(e) MOTION**

Respondent, by and through undersigned counsel, making a Return to Applicant's Motion to Alter or Amend a Judgment, would respectfully show unto this Court:

1. The matter is before the Court by way of a post-conviction relief action filed February 4, 2013.
2. An evidentiary hearing was convened on October 9, 2014, at the Florence County Courthouse.
3. Applicant was present at the hearing and represented by Jonathan D. Waller, Esquire. Applicant testified on his own behalf.
4. After a full review of the evidence presented at the evidentiary hearing, this Court issued an order filed July 7, 2015, denying the application for post-conviction relief.
5. Applicant – through counsel – submitted a Motion to Alter or Amend Judgment on July 17, 2015 (which was received by Respondent on July 20, 2015). Applicant argues the Order of Dismissal fails to properly address his allegations that counsel's ineffective assistance caused Applicant's conviction. Furthermore, Applicant argues that the standing Order of Dismissal fails to properly reflect the arguments made and evidence presented at the evidentiary

hearing in order to support the Court's ruling.

6. Respondent submits Applicant's motion to alter or amend should be denied. Applicant is not requesting either an alteration or amendment to the Order of Dismissal. Rather, Applicant is asking the Court to reverse its decision and grant post-conviction relief. Such a request is more properly addressed through the appellate process. See Wilder Corp. v. Wilke, 330 S.C. 71, 77, 497 S.E.2d 731, 734 (1998) ("Post-trial motions are not necessary to preserve issues that have been ruled upon at trial; they are used to preserve those that have been raised to the trial court but not yet ruled upon by it." (citing Hubbard v. Rowe, 192 S.C. 12, 5 S.E.2d 187 (1939))).

7. Respondent submits the post-conviction relief court fully reviewed and properly ruled upon all issues raised in the motion to alter or amend.

8. Therefore, Respondent submits Applicant's Motion to Alter or Amend should be denied

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

KAREN C. RATIGAN  
Senior Assistant Deputy Attorney General

J. CROOM HUNTER  
Assistant Attorney General  
S.C. Bar No. 101253

By:   
ATTORNEYS FOR RESPONDENT

Office of the Attorney General

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

July 24, 2015

STATE OF SOUTH CAROLINA )

COUNTY OF FLORENCE )

MAURICE I. WILSON, #222456 )

Applicant, )

vs )

STATE OF SOUTH CAROLINA, )

Respondent. )

IN THE COURT OF COMMON PLEAS  
2013-CP-21-0292

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return to Applicant's Rule 59(e) motion in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Jonathan D. Waller, Esquire**  
1315 Blanding St.  
Columbia, SC 29201

DATED this 24<sup>th</sup> day of July, 2015.

  
Norma Bigbee, Legal Assistant  
For Respondent

STATE OF SOUTH CAROLINA )  
 COUNTY OF FLORENCE )  
 Maurice I. Wilson, #222456, )  
 Applicant, )  
 v. )  
 State of South Carolina, )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 TWELFTH JUDICIAL CIRCUIT

Case No. 2013-CP-21-0292

**ORDER**

2016 JUN 15 PM 2:48  
 DONNIE REEL-SHEARIN  
 DCCP & GS  
 FLORENCE COUNTY, SC

**FILED**

This matter comes before this Court by way of a post-conviction relief (PCR) application filed by Maurice I. Wilson (Applicant) on February 4, 2013. An evidentiary hearing in to the matter was convened on October 9, 2014, at the Florence County Courthouse. Applicant was present at the hearing and was represented by Jonathan D. Waller, Esquire. Respondent was represented by Assistant Attorney General J. Croom Hunter of the South Carolina Attorney General's Office. This Court issued an Order filed July 7, 2015, denying the application for post-conviction relief.

Applicant filed a motion pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, in which he asks this Court to alter or amend its order dismissing his PCR application. Respondent made its return to the motion, requesting this motion be dismissed.

Based upon careful reconsideration of the evidence in this case, including Applicant's motion and supporting memorandum, this Court is not persuaded to alter or amend its judgment. This Court further finds oral argument would not aid in the reconsideration of the original judgment. The Order of Dismissal issued by this Court contains the required findings of fact and conclusions of law as required by section 17-

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 Donnie Reel-Shearin  
 CLERK OF COURT, C.P. & G.S.  
 FLORENCE COUNTY, S.C.

27-80 of the South Carolina Code (2014) and Rule 52(a) of the South Carolina Rules of Civil Procedure.

**IT IS THEREFORE ORDERED** that Applicant's motion be denied and dismissed.

AND IT IS SO ORDERED this 27<sup>th</sup> day of May, 2016.



EDGAR W. DICKSON  
Presiding Judge  
Twelfth Judicial Circuit

Orangeburg, South Carolina

2016 JUN 15 PM 2:48  
CONNIE REEL-SHEARIN  
C.C.P. & G.S.  
FLORENCE COUNTY, SC

FILED

CERTIFIED: A TRUE COPY  
*Connie Reel-Shearin*  
CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

WITNESSES

Ashley Anderson Florence Police Department

Catherine Anderson Wyse

ARREST WARRANT NUMBER

58405FY 58408FY M379604

ACTION OF GRAND JURY. TRUE BILL

*Kimberly Smallie*  
Foreperson of Grand Jury  
Date: *7-19-12*

VERDICT

Foreperson of Petit Jury Date:

DOCKET NO. 2012-GS-21-01034

The State of South Carolina

County of  
FLORENCE

COURT OF GENERAL SESSIONS

JULY TERM 2012

THE STATE

vs.

MAURICE IAN WILSON

Indictment for

DRIVING UNDER THE INFLUENCE  
SECOND OFFENSE  
AND  
HABITUAL TRAFFIC OFFENDER  
AND  
THROWING OF BODILY FLUIDS

2012 JUL 19 PM 11:00

CERTIFIED A TRUE COPY  
Clerk of Court  
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF FLORENCE )

INDICTMENT FOR  
DRIVING UNDER THE INFLUENCE SECOND  
OFFENSE  
AND  
HABITUAL TRAFFIC OFFENDER  
AND  
THROWING OF BODILY FLUIDS

At a Court of General Sessions, convened on JULY 19, 2012 the Grand Jurors of FLORENCE County present upon their oath:

**COUNT ONE-DRIVING UNDER THE INFLUENCE SECOND OFFENSE**

That Maurice Ian Wilson did in Florence on or about March 21, 2012, unlawfully drive a motor vehicle while: under the influence of alcohol to the extent that faculties to drive were materially and appreciably impaired; or under the influence of any other drug or a combination of any drugs or substances which cause impairment to the extent that faculties to drive were materially and appreciably impaired; or under the combined influence of alcohol and any other drug or drugs or substances which cause impairment to the extent that faculties to drive were materially and appreciably impaired, such not being the first offense within a period of ten (10) years, including and immediately preceding the foregoing date, in violation of Section 56-05-2930, S. C. Code of Laws, 1976, as amended.

**COUNT TWO- HABITUAL TRAFFIC OFFENDER**

That Maurice Ian Wilson did in Florence County on or about March 21, 2012, drive a motor vehicle on a public highway of this state after having been declared an Habitual Offender by the South Carolina Department of Public Safety, in violation of Section 56-01-1100, S. C. Code of Laws, 1976, as amended.

**COUNT THREE - THROWING OF BODILY FLUIDS**

That Maurice Ian Wilson did on or about March 21, 2012, while in Florence County, throw or attempt to throw bodily fluids, to wit: spitting on and cursing at Officer A. Anderson, an employee of Florence Police Department, in violation of Section 24-13-0470 S. C. Code of Laws, 1976 as amended.

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



**E.L. Clements, III**  
TWELFTH CIRCUIT SOLICITOR

WITNESSES

Brian Barley Florence Police Department

DOCKET NO. 2012-GS-21-00199

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

JANUARY TERM 2012

THE STATE

vs.

MAURICE IAN WILSON

Catherine J Anderson

ARREST WARRANT NUMBER

M378594 M378595

ACTION OF GRAND JURY

TRUE BILL

*Vincent Bonelli*  
Foreperson of Grand Jury

Date: 1-5-12

VERDICT

Foreperson of Petit Jury

Date:

Indictment for

LEAVING THE SCENCE OF AN ACCIDENT  
WITH PROPERTY DAMAGE  
AND  
LEAVING THE SCENE OF AN ACCIDENT  
WITH GREAT BODILY INJURY

CERTIFIED: A TRUE COPY  
*Christie A. Spivey*  
CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

CONNIE REEL-SHEARIN  
COP & GS  
FLORENCE COUNTY, SC

2012 JAN -5 PM 2:15

FILED

STATE OF SOUTH CAROLINA )  
COUNTY OF FLORENCE )

INDICTMENT FOR  
LEAVING THE SCENCE OF AN ACCIDENT WITH  
PROPERTY DAMAGE  
AND  
LEAVING THE SCENE OF AN ACCIDENT WITH  
GREAT BODILY INJURY

At a Court of General Sessions, convened on JANUARY 5, 2012 the Grand Jurors of FLORENCE County present upon their oath:

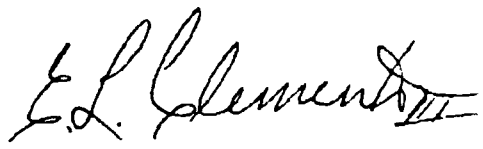
**COUNT ONE- LEAVING THE SCENCE OF AN ACCIDENT WITH PROPERTY DAMAGE**

That Maurice Ian Wilson did in Florence County on or about August 21, 2011 while operating a motor vehicle become involved in an accident which resulted in property damage to property belonging to Syreeka Edwards, and did leave the scene of the accident without first rendering aid and/or information, in violation of Section 56-05-1220, S. C. Code of Laws, 1976, as amended.

**COUNT TWO- LEAVING THE SCENE OF AN ACCIDENT WITH GREAT BODILY INJURY**

That Maurice Ian Wilson did in Florence County on or about August 21, 2011, while operating a motor vehicle become involved in an accident which resulted in great bodily injury to Jeffrey Vanderhall, and did leave the scene of the accident without first rendering aid and/or information, in violation of Section 56-05-1210(A)(2), S. C. Code of Laws, 1976, as amended.

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



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**E.L. Clements, III**  
TWELFTH CIRCUIT SOLICITOR