

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Pickens County

Honorable R. Knox McMahon, Circuit Court Judge

TRENTON JAMES BLACK,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-001724

APPENDIX

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RECEIVED

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S.C. SUPREME COURT

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STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 TRENTON JAMES BLACK,)
)
 DEFENDANT.)
 _____)

2013-GS-39-01809 - 01814

TRANSCRIPT OF RECORD

MAY 22, 2014
PICKENS, SOUTH CAROLINA

BEFORE:

THE HONORABLE EDWARD W. MILLER

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

SAMUEL TOOKER, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

STEVEN ALEXANDER, ESQUIRE

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

INDEXWITNESSPAGE NO.

CERTIFICATE OF REPORTER

23

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
C-1	Mental Health Reports	5	

1 **THE COURT:** How many days in jail?

2 **MR. TOOKER:** Five hundred and sixty days.

3 **MR. ALEXANDER:** I have six hundred and forty days, Your
4 Honor. Had six hundred and forty total. This is going back
5 to 2011. He had two days on those -- on charges that are
6 being dismissed.

7 **MR. TOOKER:** Well, I wasn't giving him credit for the
8 ones we're dismissing.

9 **MR. ALEXANDER:** Well, we would ---

10 **THE COURT:** Well, that drops it down to six thirty-
11 eight.

12 **MR. ALEXANDER:** He's got six nineteen on these
13 offenses.

14 **MR. TOOKER:** Okay. Six nineteen.

15 **THE COURT:** Okay.

16 **MR. ALEXANDER:** He's got twenty-one days on other stuff
17 that's being dismissed. So ...

18 **THE COURT:** Okay.

19 **MADAME CLERK:** Raise your right hand. Do you solemnly
20 swear or affirm the testimony you're about to give in this
21 case to be the truth, the whole truth and nothing but the
22 truth so help you God?

23 **MR. BLACK:** Yes, ma'am, I do.

24 **MADAME CLERK:** Mr. Black?

25 **MR. BLACK:** Yes, ma'am.

1 **MADAME CLERK:** 2013-GS-39-1814, Trenton James Black,
2 unlawful carrying of a handgun. 2013-GS-39-1813, possessing
3 or receiving stolen goods. 2013-GS-39-1812, attempted
4 murder. 2013-GS-39-1811, possession of a weapon during the
5 commission of a crime. 2013-GS-39-1810, resisting arrest
6 with a deadly weapon. 2013-GS-39-1809, resisting arrest
7 with assault.

8 **THE COURT:** All right. In the last twenty-four hours
9 have you had any drugs, alcohol or medication?

10 **MR. BLACK:** No, sir.

11 **THE COURT:** Have you ever been treated for substance
12 abuse or mental illness?

13 **MR. BLACK:** Yes, sir.

14 **THE COURT:** What?

15 **MR. BLACK:** When I was in my "Y", I went to ATU,
16 Addiction Treatment Unit at Turbeville.

17 **THE COURT:** Okay. You're sober today, though, right?

18 **MR. BLACK:** Yes, sir.

19 **THE COURT:** Any competency issues, counsel?

20 **MR. ALEXANDER:** No, Your Honor. I was going to hand up
21 -- we had him evaluated. He came back, of course,
22 competent, McNaughton as well, Your Honor.

23 **THE COURT:** All right. Well, we'll make these two
24 reports part of the record, Court's exhibit. Okay.

25 (Whereupon Court's exhibit 1 was marked)

1 **THE COURT:** All right. Mr. Black, you're up here --
2 I've got a number of indictments. The first one is 2013-
3 1809. It alleges you did in Pickens County, September 10,
4 2012 unlawfully, wilfully and knowingly assault, beat or
5 wound Deputy Scott A. Ticknor with the Sheriff's Office
6 while resisting arrest. That carries ten years. You
7 understand that?

8 **MR. BLACK:** Yes, sir.

9 **THE COURT:** You're also here on 2013-1810. Alleges you
10 did in Pickens County, September 10, 2012 knowingly and
11 wilfully resist the efforts of Deputy Scott Ticknor with the
12 Sheriff's Office to arrest you, and you did so with a deadly
13 weapon or you were in possession of a deadly weapon. That
14 carries two to ten years. You understand that?

15 **MR. BLACK:** Yes, sir.

16 **THE COURT:** You're also here on 2013-1811. Alleges you
17 did in Pickens County on or about September 10, 2012 possess
18 or visibly display a handgun during the commission of a
19 violent crime, that is attempted murder. And that carries
20 up to five years. You understand that?

21 **MR. BLACK:** Yes, sir, Your Honor.

22 **THE COURT:** You're also here on 2013-1812. Alleges you
23 did in Pickens County, September 10, 2012 unlawfully with
24 malice aforethought and with the intent to kill, attempted
25 to kill Deputy Scott A. Ticknor. That carries up to thirty

1 years in prison.

2 It's a violent offense, which affects parole
3 eligibility. It's a most serious offense. If you get
4 convictions for two or more most serious offenses, you are
5 eligible for life in prison without parole. Do you
6 understand that?

7 **MR. BLACK:** Yes, sir, Your Honor.

8 **THE COURT:** You're here on 2013-1813. Alleges you did
9 in Pickens County, September 10, 2012 possess a stolen
10 motorcycle that you knew or should have known to be stolen
11 that belonged to Dakota Eckerd. And that carries up to five
12 years. You understand that?

13 **MR. BLACK:** Yes, sir, Your Honor.

14 **THE COURT:** And finally you're here on 2013-1814.
15 Alleges you did, Pickens County, September 10, 2012
16 unlawfully possess a handgun. That carries up to a year in
17 prison. You understand that?

18 **MR. BLACK:** Yes, sir, Your Honor.

19 **THE COURT:** Understanding the nature of the charges
20 against you and the maximum possible punishment, how do you
21 want to plead?

22 **MR. BLACK:** Guilty, Your Honor.

23 **THE COURT:** Is that your free and voluntary decision?

24 **MR. BLACK:** Yes, sir, Your Honor.

25 **THE COURT:** You understand you have an absolute right

1 to a trial by jury where you would be presumed innocent
2 unless and until the State can prove you guilty beyond any
3 reasonable doubt of each and every element of each offense
4 that you're charged with?

5 **MR. BLACK:** Yes, sir, Your Honor.

6 **THE COURT:** You'd have a right to confront and cross
7 examine the witnesses and the evidence put up against you by
8 the State. You would have a right to compel in court all
9 relevant and competent evidence in your own defense or you
10 can remain silent. Your silence cannot be held against you.
11 And you can never be compelled to incriminate yourself. Do
12 you understand all those rights?

13 **MR. BLACK:** Yes, sir, Your Honor.

14 **THE COURT:** You want to give all those rights up to
15 enter this plea?

16 **MR. BLACK:** Yes, sir, Your Honor.

17 **THE COURT:** Are you guilty?

18 **MR. BLACK:** Yes, sir, Your Honor.

19 **THE COURT:** Are you totally and completely satisfied
20 with the representation of your attorney?

21 **MR. BLACK:** Yes, sir, Your Honor.

22 **THE COURT:** Do you have any complaints you want to make
23 about the way you've been treated by anyone in this case?

24 **MR. BLACK:** No, sir, Your Honor.

25 **THE COURT:** Have you had enough time to review the

1 evidence the State has against you?

2 MR. BLACK: Yes, sir, Your Honor.

3 THE COURT: All right. Please listen while the State
4 recites the facts they would prove at trial.

5 MR. TOOKER: Thank you, Your Honor. May it please the
6 Court. This is, as Your Honor can tell from the sentencing
7 sheets, a straight-up plea.

8 THE COURT: Right. I got you.

9 MR. TOOKER: With regards to the facts, on September
10 10th of 2012 Deputy Scott Ticknor, who is here with us in
11 court, was in plain clothes and executing warrants. And he
12 noticed the Defendant, Mr. Black, at a gas station in
13 Pickens County, South Carolina.

14 Mr. Black was on a motorcycle that Deputy Ticknor had
15 heard had been reported stolen, saw Mr. Ticknor [sic] on the
16 motorcycle and then also had pending warrants that needed to
17 be served on Mr. Black. Deputy Ticknor was inside the
18 store, saw him through the window, told the store owner or
19 operator to contact law enforcement, put his badge outside
20 his shirt, ran outside and told Trent to stop and that he
21 was under arrest.

22 He approached the Defendant. As he approached the
23 Defendant, knocked the bike over because the Defendant
24 attempted to get on the bike to flee. When he knocked the
25 bike over the Defendant then struck Deputy Ticknor in the

1 head with his motorcycle helmet. They ended up on the
2 ground, and the Defendant pulled out a gun.

3 He put that gun to Deputy Ticknor's head. Black yelled
4 at Deputy Ticknor, get off me, Tick. They have some
5 acquaintance. They've known each other for a good deal of
6 time. Deputy Ticknor, I believe, has arrested Mr. Black on
7 numerous occasions in addition to having known him as a kid.

8 The struggle ensued. The Defendant put the gun to
9 Deputy Ticknor's head, said, Tick, let me go. Said, if you
10 don't let me go, I'm going to kill you. The gun then
11 discharged just north of the deputy's head. The deputy was
12 able to get his hands on it, push the gun away from him.

13 Mr. Black was able to re-rack the gun and discharge it
14 again. Again, fortunately, it did not strike the deputy.
15 The deputy was able to get the gun away from Mr. Black,
16 kicked it away.

17 At that point in time a bystander picked up the gun.
18 Another bystander came over and put the Defendant into a
19 chokehold, put him into a submission hold. And then law
20 enforcement was able to arrive and detain the Defendant.
21 Those are the facts as we would show them at trial.

22 Now this case is an extremely serious case, of course,
23 as Your Honor can tell. The Defendant has a prior record
24 I'm sure you would like ---

25 **THE COURT:** Yeah. Tell me about that.

1 **MR. TOOKER:** Starting in 2001, assault and battery,
2 2001, felony DUI, open container, possession of alcohol by a
3 minor for which he received a YOA not to exceed six years;
4 2003, assault and battery and a parole revocation on that
5 YOA; 2005, another parole revocation on that YOA, 2005, a
6 failure to stop for blue lights for which the Defendant was
7 sentenced to eighteen months incarceration; 2008, a failure
8 to stop for blue light, possession of meth, resisting
9 arrest, possession with intent to distribute a schedule I
10 through III controlled substance for which he was sentenced
11 to ninety days incarceration followed by four years
12 probation; then 2010 a probation revocation.

13 After 2010 the Defendant -- and this is part of this
14 negotiation. He's pleading straight-up to these charges.
15 And these are the charges that we would try him on if ---

16 **THE COURT:** Okay.

17 **MR. TOOKER:** --- he did not plead to them. We're
18 dismissing several charges.

19 **THE COURT:** All right.

20 **MR. TOOKER:** He was arrested 11 of -- 2011 for failure
21 to stop for blue light and receiving stolen goods. He was
22 in possession of stolen vehicle. The police tried to
23 apprehend him. He ran off.

24 February of 2012, another failure to stop for blue
25 light, possession of stolen vehicle and possession of drugs.

1 Again, the Defendant's seen in a stolen vehicle, he runs
2 off. The police try to pull him over. He runs on foot.

3 They eventually find drugs in the car. Some of those
4 drugs, I believe, came back as non-controlled substances.
5 They were packaged like drugs, but ended up not being drugs.

6 Then in June of 2012 a PWID methamphetamine case where
7 he's in possession of multiple baggies. Again, they came
8 back no controlled substance. Then this incident, September
9 of '12.

10 Since he's been arrested he's been arrested on two
11 additional charges, an assault and battery by mob in the
12 jail, which was dismissed. And then an ABHAN in April of
13 this year in the jail where he broke a guy's jaw.

14 The Defendant has a record of intentionally evading
15 arrests, ---

16 **THE COURT:** I can determine what the record is.

17 **MR. TOOKER:** Okay. It's the State's position that were
18 it not for Deputy Ticknor's efforts, had he not, you know,
19 put up the fight he had, this would be a murder and a death
20 penalty case. He would have killed a cop while he was
21 trying to arrest him.

22 We're requesting forty years. And that's for twenty
23 years for each time he fired one of those bullets. Now,
24 Deputy Ticknor is here. And he would like to address the
25 Court at the appropriate time. In addition, Sheriff Rick

1 Clark is here and would like to address the Court at the
2 appropriate time.

3 THE COURT: All right. Is what he told me about the
4 facts of the case true and correct?

5 MR. BLACK: Yes, sir.

6 THE COURT: Is what he told me about your prior
7 criminal history true and correct?

8 MR. BLACK: Yes, sir, Your ---

9 THE COURT: Okay.

10 MR. BLACK: --- Honor.

11 THE COURT: I'm sorry?

12 MR. BLACK: I said, yes, sir, Your Honor.

13 THE COURT: Okay. All right. I'll be happy to hear
14 from -- yes, sir.

15 DEPUTY TICKNOR: I appreciate the Court's time today.

16 THE COURT: Yes, sir. I appreciate your service.

17 DEPUTY TICKNOR: Trent and I grew up together. Like I
18 say, he has sent a few letters to me through the mail
19 through the jail asking for forgiveness, and I've done that.
20 And like I say, whatever the Court sees fit today is
21 appropriate. I'm back on the job, and I'm doing what I'm
22 supposed to be doing. So we're good to go.

23 THE COURT: I appreciate it. It was very -- it must be
24 very difficult for you if you've known him all your life.

25 DEPUTY TICKNOR: I've known him a while.

1 **THE COURT:** All right. Sheriff.

2 **SHERIFF CLARK:** Thank you, Your Honor. Just briefly.

3 I'm here in support of my officer, of course, today and a
4 longtime friend, but also in support of law enforcement in
5 South Carolina.

6 As our society becomes more violent we're facing this
7 more and more. And we've got to send a message that if
8 you're going to do this, if we're not able to successfully
9 terminate the situation, you've got to stay in the jail long
10 enough so you don't kill police officers because we're the
11 last line of defense between the criminals and our citizens.
12 And we can't afford to even tolerate what cop killers or
13 potential cop killers do. And we appreciate your service to
14 this and your consideration of our side.

15 **THE COURT:** All right. Thank you very much. All
16 right. What y'all want to tell me?

17 **MR. ALEXANDER:** Thank you, Your Honor. Trent's thirty
18 years old, Your Honor. He has one child that was born
19 shortly before this incident happened.

20 We're asking, Your Honor, obviously, he knows he's
21 looking at substantial time. I mean, he's known that from
22 the get-go and our discussions. But we're asking Your Honor
23 to consider, you know, something less than that, you know,
24 twenty years or less on this charge.

25 He agrees with the facts that that's what happened.

1 And you won't be surprised, I mean, he was high on
2 methamphetamine at the time. You can look at his record and
3 tell he's got -- had a drug problem for going back ten years
4 or more on and off. He's been in trouble, all surrounding
5 drug use.

6 He does have -- he's got a couple of assaults going
7 back. And I think they're simple assaults from what I can
8 tell. And he had the resisting arrests, I guess.

9 The stuff in the jail, since that was mentioned, one
10 was -- he was dismissed at prelim for lack of evidence. And
11 then the ---

12 **THE COURT:** Well, that's part of this plea is that
13 you're not going to pursue prosecution on those cases. So
14 it was appropriate that they be enumerated here in court.

15 **MR. ALEXANDER:** No -- yeah, I'm not objecting to that.

16 **THE COURT:** Okay. All right.

17 **MR. ALEXANDER:** I was just ---

18 **THE COURT:** Okay.

19 **MR. ALEXANDER:** And then the -- I don't know anything
20 about that recent charge other than what the warrant is.

21 **THE COURT:** All right.

22 **MR. ALEXANDER:** It's just so new. But he was high on
23 drugs. He knew that he had a warrant. I think it was a
24 warrant from like missing a city or a traffic ticket or
25 something, you know. It wasn't even anything on these

1 pending.

2 But he'd been having, you know, psychological issues
3 for a while. He'd known he's -- he was facing time on these
4 other charges that he was out on bail on. And he was having
5 a lot of suicidal thoughts and problems leading up to that.

6 And then when Deputy Ticknor approached him and
7 confronted him to arrest him, he obviously reacted in a
8 totally and inappropriate way. It's inexcusable. And he
9 said that to me himself. Those are his words, not mine.

10 And he -- he has told me from the beginning, you know,
11 I was trying to kill myself. And in the process when Deputy
12 Ticknor was struggling with him, what the solicitor stated
13 is what happened.

14 And so -- and I think, you know, I've known Trent for a
15 long time. I've known his family. His family's here. My
16 office has done a lot of work for his family and general
17 stuff. I've known his grandparents a while, civil stuff.
18 So we know the family well. He comes from a good family,
19 Your Honor.

20 And his prior record, from looking at it, I mean, he
21 does have a few of these assault things on there going back
22 a while. But the reaction he did, I would submit it's out
23 of character for him.

24 Now it's inexcusable. He was -- it's his fault. And
25 he said this, he was on drugs at the time, and that's what

1 escalated it to what happened. And so -- and he's accepting
2 of that. We would just ask Your Honor to consider, you
3 know, some sentence, ten to twenty year range, something
4 like that, whatever Your Honor deems appropriate in that
5 nature.

6 He's thirty years old. He has one child. He's been in
7 jail ever since on this charge. But that's what we'd ask
8 Your Honor to consider. And I think Trent wants to address
9 the Court.

10 **THE COURT:** All right. Anything you want to tell me?

11 **MR. BLACK:** Yes, sir. First off, if I may, may I
12 apologize ---

13 **THE COURT:** Well, you've got to say it to me. I mean,
14 I don't know -- you want him to ---

15 **MR. BLACK:** Your Honor, I'd like to apologize to Mr.
16 Ticknor because Mr. Ticknor really is a good person. Like I
17 say, I've known him a long time. And he's always been there
18 to help me. He's an outstanding officer. I mean, he is a
19 good -- really a good guy. I know this from my heart.

20 And also I'd like to apologize to Mr. Rick Clark for,
21 you know, putting his law enforcement officers in his County
22 in, you know, lives in jeopardy.

23 I'd like to apologize to all the people in Pickens
24 County because, you know, the other people at that store
25 could have got hurt that day. I mean, I sit back and think

1 about all this stuff. I've read over it and all.

2 And, Your Honor, I just ask you, you know, please,
3 please have mercy, you know. Just please have mercy on me.

4 **THE COURT:** Okay. Anything else?

5 **MR. ALEXANDER:** I don't know if his -- any of his
6 family wants to speak or not, Your Honor. His grandparents
7 are here, his brothers, some other family members. I think
8 his mother wants to speak, Your Honor.

9 **THE COURT:** All right. You have to state your name for
10 the record, ma'am.

11 **MS. BLACK:** Right here?

12 **THE COURT:** Yes, ma'am. Just speak up so we can hear
13 you.

14 **MS. BLACK:** I'm Rhonda Black.

15 **THE COURT:** Okay.

16 **MS. BLACK:** I'm Trent's mother. Trent has
17 psychological history going back to third grade. They
18 diagnosed him ADHD and put him on Ritalin. And to this day
19 I blame that for the mess.

20 He was diagnosed bipolar as soon as he reached a proper
21 age through Pickens Mental Health, Department of Juvenile
22 Justice and South Carolina Department of Corrections.

23 He has Intermittent Explosive Disorder. He's -- he was
24 taught in mental health to be handled differently and to
25 walk away from situations that were enraging him to prevent

1 the black-outs.

2 This kid, we had an elderly neighbor, he cut her grass.
3 He took care of her garbage. All she had to do was call and
4 ask.

5 My parents are in their seventies. They didn't even
6 have to ask, he would wash their cars, cut the grass, take
7 care of them. Loves kids, and animals, old people. Has got
8 the best heart of anybody you would ever meet. I've even
9 had officers at the jail tell me they like Trent, that he's
10 a nice guy.

11 And I wanted to add, this last charge, the high and
12 aggravated, he was taken off his medications at the jail.
13 Up until then, he was fine. There was no problem.

14 But we love him and we support him. Whatever happens,
15 we're going to be there for him and his baby girl. But he
16 is needed at home.

17 But I don't expect -- I'm praying you don't do forty
18 years because when he gets out, none of us will be here.
19 Forty years, I'll be ninety-four. You know, he's not going
20 to have anybody when he gets home.

21 And I have the utmost respect for Ticknor. And I voted
22 for Sheriff Clark.

23 **THE COURT:** Okay. Anything else?

24 **MR. ALEXANDER:** The only thing I would add, I meant to
25 say this, because the -- he doesn't remember the entire

1 incident, but he remembers enough of it that -- what the
2 solicitor said. And that's what occurred, you know.

3 **THE COURT:** It kind of concerns me, though, he's out
4 there and he recognized Officer Ticknor, called him by his
5 apparent nickname, and then put a gun to his head, fired
6 twice. I mean, it's easy to -- I'm sorry, I interrupted
7 you.

8 **MR. ALEXANDER:** No, no.

9 **THE COURT:** It's easy to come into court and, you know,
10 when you're up at the bar to have regret and remorse.

11 **MR. ALEXANDER:** And I would only say, he -- from, you
12 know, this is going back to September of 2012, I mean, from
13 the beginning he -- he actually did it against my advice. I
14 told him, don't write anybody any letters. And he wrote him
15 anyway, you know. So he's been expressing that remorse from
16 the beginning. You know, I told him don't contact anybody,
17 but he did it anyway. So ---

18 **THE COURT:** Yeah.

19 **MR. ALEXANDER:** --- which is fine in the end.

20 **THE COURT:** I don't believe he should have been in
21 possession of a handgun anyway.

22 **MR. ALEXANDER:** Absolutely not, Your Honor.

23 **THE COURT:** He's how old? Thirty?

24 **MR. ALEXANDER:** He's thirty years old, Your Honor.

25 **THE COURT:** Well, if you had no prior record, it'd be

1 one thing. Based on the non-parolable aspect of it, though,
2 I'm -- fired a gun twice at someone you've known all your
3 life, I mean, he was doing his duty.

4 I'm going to give him thirty on the attempted murder.
5 Ten on the two resisting cases. Five on the gun ---

6 (Whereupon the Defendant collapsed)

7 **THE COURT:** --- gun case. And five on the receiving
8 case. Time served on the pistol case. Is he all right?
9 I'll have to announce the sentence after he's, I mean, we
10 can't -- that's -- all right. We'll take a break. Please
11 clear the courtroom. Y'all please clear the courtroom as
12 quickly as possible. Thank you very much.

13 (Whereupon court was in recess at 11:31 am)

14 (Whereupon court reconvened at 11:34 am)

15 **THE COURT:** I just want to, for the record, note that
16 as I was announcing the sentence, the Defendant apparently
17 passed out. It was -- the courtroom was full. In order to
18 prevent any sort of excited event in the courtroom, I then
19 ordered that it be cleared.

20 And we will re-announce the sentence to ensure that the
21 Defendant is fully aware of it. But we'll just take about a
22 ten minute break to allow everyone to recover and settle
23 down. All right. Thank you very much.

24 (Whereupon court was in recess at 11:35 am)

25 (Whereupon court reconvened at 11:54 am)

1 THE COURT: All right. Mr. Black, you okay?

2 MR. BLACK: Yes, sir.

3 **THE COURT:** All right. I'm going to go through the
4 sentence again. On the attempted murder, thirty years. On
5 the two resisting cases, ten years apiece. On the weapon
6 case, five years. On the receiving stolen goods, five
7 years. And on the unlawful carrying, time served.

8 MR. ALEXANDER: All concurrent?

9 **THE COURT:** They are concurrent.

10 **MR. ALEXANDER:** Thank you.

11 THE COURT: All right.

12 **MR. ALEXANDER:** Credit for time served?

13 **THE COURT:** He's entitled to that by law.

14 MR. ALEXANDER: Yes, sir.

15 **THE COURT:** All right. Thank you very much.

16 **MR. TOOKER:** Thank you, Your Honor.

17 (Hearing Ended at 11:54 am)

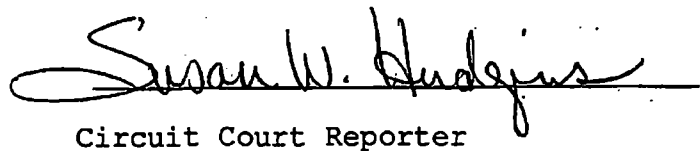
18 (End of Requested Transcript of Record)

Certificate of Reporter

I, the undersigned, Susan W. Hudgins, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Pickens County, South Carolina, on the 22nd day of May 2014.

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

March 11, 2015


Circuit Court Reporter

FORM 5

STATE OF SOUTH CAROLINA

2015 JAN 23 PM 2 26

IN THE COURT OF COMMON PLEAS

COUNTY OF

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

2015-CP-39-101

Full name and prison number (if any) of Applicant

v.

APPLICATION FOR

State of South Carolina

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Lieber C/I
2. Name and location of Court which imposed sentence Pickens County General Session
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) #M079757 / #2012 A3910500049 / #2012 A3910500050
 - (b) #2012 A3910500046 / #2012 A3910500047
 - (c) #2012 A3910500045
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) MAY 12, 2014
 - (b) 30 yrs

STATE OF SOUTH CAROLINA

COUNTY OF PICKENSTOLANTON BLACK #282569

Plaintiff(s)

vs.

STATE OF SOUTH CAROLINA

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2015-CP-39-101

(Please Print)

Submitted By: _____

Address: _____

SC Bar #: _____

Telephone #: _____

Fax #: _____

Other: _____

E-mail: _____

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
- ☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- ☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- ☐ This case is exempt from ADR (certificate attached).

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|---|---|--|
| ☐ Contracts | ☐ Torts - Professional Malpractice | ☐ Torts - Personal Injury | ☐ Real Property |
| ☐ Construction (100) | ☐ Dental Malpractice (200) | ☐ Assault/Battery/Defamation (300) | ☐ Claims & Delivery (400) |
| ☐ Debt Collection (110) | ☐ Legal Malpractice (210) | ☐ Conversion (310) | ☐ Condominium (410) |
| ☐ Employment (120) | ☐ Medical Malpractice (220) | ☐ Motor Vehicle Accidents (320) | ☐ Foreclosure (420) |
| ☐ General (130) | ☐ Nurses' File Med Mal (230) | ☐ Premises Liability (330) | ☐ Mechanic's Lien (430) |
| ☐ Breach of Contract (140) | ☐ Other (299) | ☐ Products Liability (340) | ☐ Partition (440) |
| ☐ Other (199) | | ☐ Personal Injury (350) | ☐ Possession (450) |
| | | ☐ Wrongful Death (360) | ☐ Building Code Violation (460) |
| | | ☐ Other (399) | ☐ Other (499) |
| ☐ Income Payments | ☐ Judgments/Settlements | ☐ Administrative Law/Relief | ☐ Appeals |
| ☐ PCR (500) | ☐ Death Settlement (700) | ☐ Reinstatement Driver's License (600) | ☐ Arbitration (900) |
| ☐ Sexual Predator (510) | ☐ Foreign Judgment (710) | ☐ Judicial Review (610) | ☐ Magistrate-Civil (910) |
| ☐ Mandamus (520) | ☐ Magistrate's Judgment (720) | ☐ Relief (620) | ☐ Magistrate-Criminal (920) |
| ☐ Habeas Corpus (530) | ☐ Minor Settlement (730) | ☐ Permanent Injunction (630) | ☐ Municipal (930) |
| ☐ Other (599) | ☐ Transmittal Judgment (740) | ☐ Foreclosure (640) | ☐ Probate Court (940) |
| | ☐ Lis Pendens (750) | ☐ Other (699) | ☐ SCDOT (950) |
| | ☐ Other (799) | | ☐ Worker's Comp (960) |
| ☐ Special/Complex/Other | | | ☐ Zoning Board (970) |
| ☐ Environmental (600) | ☐ Pharmaceutical (630) | | ☐ Administrative Law Judge (980) |
| ☐ Automobile Acc. (610) | ☐ Unfair Trade Practices (640) | | ☐ Public Service Commission (990) |
| ☐ Medical (620) | ☐ Out-of-State Depositions (650) | | ☐ Employment Security Comm. (991) |
| ☐ Other (699) | | | ☐ Other (999) |

Submitting Party Signature: [Signature]Date: 1-5-15

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

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PICKENS COUNTY
SOUTH CAROLINA

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- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ☒ _____
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
NO
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) COURT DID NOT INFORM ME I HAD THAT RIGHT
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

STATUTE UNCONSTITUTIONAL

- (a) INEFFECTIVE OF COUNSEL
 (b) DUE PROCESS VIOLATED
 (c) PLEA AGREEMENT BREACHEN
PROSECUTORIAL MISCONDUCT

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

- (a) SEE ATTACHMENTS
 (b) _____
 (c) _____

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

- (a) any petition in a State Court under South Carolina Law? NO
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
 (d) any other petitions, motions or applications in this or any other Court? NO

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

- (a) the specific nature thereof:
 i. _____
 ii. _____
 iii. _____
 iv. _____
 (b) the name and location of the Court in which each was filed:
 i. _____
 ii. _____
 iii. _____
 iv. _____
 (c) the disposition thereof:
 i. _____
 ii. _____
 iii. _____

- iv. _____
- (d) the date of each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
- NO
15. If you answered "yes" to (14) identify.
- (a) which grounds have been presented
- i. _____
- ii. _____
- iii. _____
- (b) the proceedings in which each ground was raised:
- i. _____
- ii. _____
- iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) I WAS NOT ADVISED BY COUNSEL I HAD A
- (b) RIGHT TO DIRECT APPEAL
- (c) _____
17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? YES
- (b) your trial, if any?
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? WAS NOT ADVISED BY COUNSEL I HAD A RIGHT TO APPEAL.
- (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. STEVEN ALEXANDER
 - ii. P.O. BOX 618
 - iii. PICKENS, S.C. 29671
- (b) the proceedings at which each such attorney represented you:
- i. ARRAIGNMENT
 - ii. PRELIMINARY HEARINGS
 - iii. GUILITY PLEA

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

VACATE SENTENCE

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

NO

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County of Pickens CLERK OF COURT
PICKENS COUNTY

VERIFICATION

I, John 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.

John Black

SWORN to and subscribed before me this 13th
day of Jan, 2015

Ludwien Bryant (s.)
Notary Public

My Commission Expires: May 26, 2020

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

I, ^{Fenton} ~~Black~~, 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 security thereof.

Fenton Black
Applicant

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

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SWORN or affirmed to and subscribed before me this
13th day of Jan, 2015.

Luduan Bryant
Notary Public

My Commission Expires: May 26, 2020

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PICKENS COUNTY
SOUTH CAROLINA

SUPPORTING FACTS AND ARGUMENTS

GROUND 10(2)

(A) APPLICANTS COUNSEL WAS INEFFECTIVE FOR, FAILING TO PROPERLY OBJECT AND OR WITHDRAWING APPLICANTS GUILTY PLEA, DUE TO STATES BREACH OF PLEA AGREEMENT. THIS VIOLATED APPLICANTS RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL, AS GUARANTEED BY AMENDMENTS 6 AND 14 TO THE U. S. CONSTITUTION AND ARTICLE 1, SECTIONS 3 AND 14 OF THE SOUTH CAROLINA CONSTITUTION; SEE STRICKLAND V WASHINGTON 466 US 668 (1984)

(1) RELEVANT FACTS

APPLICANT AND HIS COUNSEL HAD ENTERED INTO AN ORAL AGREEMENT WITH THE STATE FOR THE STATE NOT TO MAKE A RECOMMENDATION AS TO THE LENGTH OF SENTENCE APPLICANT MIGHT RECEIVE.

DURING THE STATES PRESENTATION TO THE COURT CONCERNING THE FACTS OF THE CASE. THE PROSECUTOR RECOMMENDED A SENTENCE OF 20 YEARS

(1)

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FOR EACH SHOT FIRED (WHICH WAS (2) TWO). APPLICANTS COUNSEL DID NOT OBJECT NOR DID HE BRING TO THE COURT'S ATTENTION THAT THE STATE HAD AGREED NOT TO RECOMMEND A SENTENCE. SEE (PLEA TRANSCRIPT)

(II) RELEVANT LEGAL PRINCIPLES AND ARGUMENT

THE SIXTH AMENDMENT GUARANTEES ALL CRIMINAL DEFENDANTS THE RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL. STRICKLAND V WASHINGTON 466 US 668 (1984); SEE ALSO WILLIAMS V TAYLOR, 529 U.S. 362 (2000). IN ORDER TO ESTABLISH THAT ONE IS ENTITLED TO RELIEF ON AN INEFFECTIVE ASSISTANCE OF COUNSEL CLAIM, ONE MUST DEMONSTRATE THAT: (1) HIS ATTORNEY'S REPRESENTATION "FELL BELOW AN OBJECTIVE STANDARD OF REASONABLENESS" AND, (2) HE WAS PREJUDICED AS A RESULT THEREOF. STRICKLAND V WASHINGTON 466 US AT 687-88; SEE ALSO MARTINEZ V STATE 304 S.C. 39 (1991) (DESCRIBING STANDARD). COUNSEL'S PERFORMANCE FAILS BELOW STRICKLAND'S "OBJECTIVE STANDARD OF REASONABLENESS" IF IT IS OUTSIDE "THE WIDE RANGE OF REASONABLE PROFESSIONAL ASSISTANCE"; Id. AT 690. INEFFECTIVE ASSISTANCE

(2)

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IT OCCURS WHEN AT THE TIME OF PLEA THE STATE
 RECOMMENDED 20 YRS FOR EACH SHOT FIRED, APPLICANTS
 COUNSEL WITHDREW OBJECTED NOR REQUESTED TO WITH-
 DRAW GUILTY PLEA NOR DID HE POINT OUT TO THE
 JUDGE THAT THE PROSECUTOR HAD CHANGED HIS
 PLEA AGREEMENT NOR DID APPLICANTS COUNSEL EVEN
 MEET WITH PROSECUTOR OR JUDGE TO DISCUSS UNFULFILLED
 PLEA AGREEMENT SEE JORDAN V CATRE (SC 1999) 520
 SEED 617. (HOLDING THAT THE CONDUCT OF JORDAN'S
 COUNSEL IN NOT PROTECTING JORDAN'S RIGHT TO ENFORCE
 THE PLEA AGREEMENT WITH SOLICITORS OFFICE FELT
 BELOW "PREVAILING PROFESSIONAL NORMS" STICELAND
 466 US AT 694 (1994) SEE ALSO CUSTODIO V
STATE 644 SE2D 36 (SC 2007) ("ACCORDINGLY, PETITIONER
 WAS PREJUDICED BY COUNSEL'S FAILURE TO HAVE PLEA
 AGREEMENT ENFORCED") IN CUSTODIO THE SUPREME
 COURT STATES ("THE STATE MAY WITHDRAW FROM A
 PLEA BARGAIN AGREEMENT AT ANY TIME PRIOR TO,
 BUT NOT AFTER THE ACTUAL ENTRY OF THE GUILTY PLEA
 BY DEFENDANT OR ANY CHANGE OF POSITION BY HIM
 CONSTITUTING DETRIMENTAL RELIANCE UPON THE
 AGREEMENT") IN APPLICANTS CASE THE AGREEMENT
 WAS FOR THE STATE TO DISMISS SEVERAL CHARGES
 AND MAKE NOT RECOMMENDATION AS TO THE

(3)

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LENGTH OF SENTENCE APPLICANT WAS TO RECEIVE, IT WAS, A DETRIMENTAL RELIANCE AS FAR AS APPLICANT WAS CONCERNED UPON THE AGREEMENT. SEE ROLEN V STATE 384 SC 409, 683 SE2d 471 (2009) (FINDING COUNSEL WAS INEFFECTIVE FOR FAILING TO MOVE TO WITHDRAW PETITIONERS GUILTY PLEA) SEE HARDEN V STATE 277 SE2d 692 (1981), ALSO STATE V BICKHAM 672 SE2d 105 (2009) SEE SPOUSE V STATE 585 SE2d 278 (SC 2003); UNITED STATES V HARVEY 791 F.2d 294, 299 (4th CIR 1996)

THE UNITED STATES SUPREME COURT HAS MADE IT CLEAR THAT A PLEA OF GUILTY MUST BE MADE INTELLIGENTLY SEE BOYKIN V ALABAMA 395 U.S. 238, 243 N5, 89 S. CT. 1709, 1712 N5 (1969); BEADY V UNITED STATES 397 US 742, 748, 90 S. CT. 1463, 1469 (1970) (holding that "WAIVERS" OF CONSTITUTIONAL RIGHTS NOT ONLY MUST BE VOLUNTARY BUT MUST BE KNOWING, INTELLIGENT ACTS DONE WITH SUFFICIENT AWARENESS OF THE RELEVANT CIRCUMSTANCES AND LIKELY CONSEQUENCES"). A PLEA IS NOT INTELLIGENTLY MADE WHEN STATE BRIBES PLEA AGREEMENT.

THE U. S. SUPREME COURT HAS SPECIFICALLY SAID THAT THE "PROQUON PRONG" REQUIRES THE APPLICANT TO

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SHOW ONLY A "REASONABLE PROBABILITY" OF A DIFFERENT RESULT AND APPLICANT DOES NOT HAVE TO PROVE THAT HIS COUNSEL'S ERRORS "MORE LIKELY THAN NOT ALTERED THE OUTCOME". SEE WILLIAMS 529 US AT 390-91 (2000) HOLDING THAT ANALYSIS OF THE PREJUDICE BRONG SHOULD FOCUS SOLELY ON WHETHER THERE WAS REASONABLE PROBABILITY THAT BUT FOR COUNSEL'S ERRORS THE RESULT OF THE PROCEEDING WOULD HAVE BEEN DIFFERENT.

THE FAILURE OF APPLICANT'S COUNSEL TO PROPERLY OBJECT TO PLEA AGREEMENT BREACH DENIED APPLICANT A FAIR PLEA TRIAL. ALSO COUNSEL'S FAILURE TO OBJECT DENIED APPLICANT TO RAISE ISSUE ON DIRECT APPEAL, WHICH RESULTED PREJUDICE.

COUNSEL'S FAILURE TO BRING THE PLEA BREACH TO THE ATTENTION OF THE COURT COULD HAVE HAD A TREMENDOUS EFFECT ON THE JUDGMENT. SEE STRICKLAND 466 US AT 690-92 ("AN ERROR BY COUNSEL, EVEN IF PROFESSIONALLY UNREASONABLE DOES NOT WARRANT SETTING ASIDE THE JUDGMENT OF A CRIMINAL PROCEEDING IF THE ERROR HAD NO EFFECT ON THE JUDGMENT")

(5)

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GROUND (B)

(B) APPLICANT'S COUNSEL WAS INEFFECTIVE FOR FAILING TO PROPERLY OBJECT TO PROSECUTOR'S MISLEADING STATEMENTS CONCERNING THE FACTS OF THE CASE. THIS VIOLATED APPLICANT'S RIGHT TO ASSISTANCE OF COUNSEL, AS GUARANTEED BY AMENDMENTS 6 AND 14 OF THE U.S. CONSTITUTION AND ARTICLE I, SECTIONS 3 AND 14 OF THE SOUTH CAROLINA CONSTITUTION. SEE STRICKLAND V WASHINGTON 466 U.S. 668 (1984)

(1) RELEVANT FACTS

THE PROSECUTOR TOLD THE COURT THAT APPLICANT STRUCK OFFICER SCOTT TICKNOR NUMEROUS TIMES WITH A MOTORCYCLE HELMET.

PAGES 3 OF 14 SUPPLEMENTARY INCIDENT REPORT OF THE PICKENS COUNTY SHERIFF'S OFFICE APPLICANT'S EXHIBIT I IS A COPY OF OFFICER TICKNOR'S STATEMENT AS TO WHAT HAPPENED. OFFICER TICKNOR STATES "I CONTINUED HOLDING HIM (APPLICANT) WITH MY RIGHT HAND, THEN SHIFTED MY LEFT ARM INTO THE LEFT SIDE OF HIS JAW, AND PUSHED FORWARD. THIS CAUSED HIS HELMET TO COME UP AND EVENTUALLY

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FALL OFF, I THEN FELT A HARD STRIKE ABOVE MY LEFT EAR WHICH STUNNED ME FOR A SECOND AS I CONTINUED TO TRY AND PUSH THE BIKE OVER (SEE EXHIBIT 1)

NO WHERE IN OFFICER TIERNONS STATEMENT OR THE 6 EYE WITNESS STATEMENTS (SEE EXHIBIT 3 THOUGH) DOES IT SAY APPLICANT STRUCK OFFICER TIERNOR WITH A HELMET

ALL OF THESE EXHIBITS WERE PART OF DISCOVERY. APPLICANTS COUNSEL "SHOULD" HAVE BEEN AWARE OF WHAT WAS SAID IN THESE STATEMENTS, THAT IS IF COUNSEL HAD TAKEN TIME TO READ THE DISCOVERY PACKAGE. COUNSEL FAILED TO PROPERLY OBJECT TO THIS STATEMENT OF PROSECUTION (SEE TRANSCRIPT)

II RELEVANT LEGAL PRINCIPLES AND ARGUMENTS

THESE BASIC PROFESSIONAL STANDARDS COULD INCLUDE BUT ARE NOT LIMITED TO: A DUTY OF LOYALTY, A DUTY TO ADVOCATE APPLICANTS CAUSE, A DUTY TO CONSULT WITH DEFENDANT ON IMPORTANT DEVELOPMENTS DURING THE PROSECUTION, AND A DUTY TO USE THE LEVEL

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OF SKILL AND KNOWLEDGE THAT MAKE A TRIAL TRULY ADVERSARIAL. STICKLAND 466 US AT 688-89 (OUTLINE THESE DUTIES BUT NOTING THAT THEY "NEITHER EXHAUSTIVELY DEFINE THE OBLIGATIONS OF COUNSEL NOR FORM A CHECKLIST FOR JUDICIAL EVALUATION OF ATTORNEY PERFORMANCE") SEE UNITED STATES V CROWIE 466 US 648, 658 (1984) (RECOGNIZING A RIGHT WHERE PERFORMANCE OF COUNSEL DEPRIVED DEFENDANT OF A FAIR TRIAL)

AS TO APPLICANTS DUTY OF LOYALTY, DUTY TO ADVOCATE THE DEFENDANT CAUSE AND HIS DUTY TO USE HIS LEVEL OF SKILL AND KNOWLEDGE, APPLICANTS COUNSEL FAIL FOLLOW PROFESSIONAL STANDARDS. THAT ANY REASONABLE JURIST WOULD AGREE WAS BELOW AN "OBJECTIVE STANDARD OF REASONABLENESS" SEE STICKLAND SEE ALSO MARKEY V RUSSELL, NO 02-4237, 148 F.2D APP'X 355 369 (6TH CIR. AUG. 9, 2005) (UNPUBLISHED) (HOLDING STATE COURT UNREASONABLY APPLIED STICKLAND WHEN IT FAILED TO CONSIDER THE CUMULATIVE EFFECT OF COUNSEL ERRORS)

THE FAILURE OF APPLICANTS COUNSEL TO PROPERLY OBJECT TO THIS ISSUE APPLICANT WAS DENIED A FAIR PLEA TRIAL. AND SINCE THERE IS A CHANCE THE OUTCOME OF APPLICANTS PLEA WOULD HAVE

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BEEN DIFFICULT, APPLICANT CAN NOT RAISE THIS ISSUE ON APPEAL DUE TO COUNSEL'S FAILURE TO OBJECT, WHICH RESULTED IN PREJUDICE. AND ALSO BY NOT OBJECTING THIS ISSUE WAS NOT BROUGHT TO THE ATTENTION OF THE COURT BEFORE THE COURT IMPOSED SENTENCE AGAIN PREJUDICE APPLICANT'S PLEA.

GROUND (C)

(C) PETITIONER WAS CONVICTED ON THE BASIS OF A GUILTY PLEA THAT WAS THE PRODUCT OF INEFFECTIVE ASSISTANCE OF COUNSEL. THIS VIOLATED APPLICANT'S RIGHT TO COUNSEL AND TO DUE PROCESS OF LAW AS GUARANTEED BY AMENDMENTS 6, 5, AND 14 TO THE U.S. CONSTITUTION AND ARTICLES 1, SECTIONS 3 AND 14 OF THE SOUTH CAROLINA CONSTITUTION AND b THE RIGHT TO DUE PROCESS SEE HILL V LOCKHART, 474 U.S. 52 (1985)

(1) RELEVANT FACTS

APPLICANT'S GUILTY PLEA WAS INDUCED BY FALSE INFORMATION FROM HIS COUNSEL THAT

(9)

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THE SOLICITOR WOULD DISMISS SERUAL CHARGES
AND MAKE NO SENTENCE RECOMMENDATION.

SERUAL CHARGES WERE DISMISSED BUT SOLICITOR
RECOMMENDED 20 YRS FOR EVERY SHOT FIRED A
TOTAL OF 2 SHOTS SO A RECOMMENDATION OF
40 YRS.

APPLICANT WOULD HAVE PROCEEDED TO TRIAL
IF NOT FOR COUNSEL'S FALSE INFORMATION.

II RELEVANT LEGAL PRINCIPLES AND ARGUMENT

THE U.S. SUPREME IN HILL V LOCKHART, 474
U.S. 57 (1985) (HELD THAT THE TWO-PRONG STICKLAND
~~TEST~~ STANDARD IS "APPLICABLE TO INEFFECTIVE-
ASSISTANCE CLAIMS ARISING OUT OF THE PLEA PROCESS")
HILL CLAIMED HIS GUILTY PLEA WAS INDUCED BY
FALSE INFORMATION ABOUT HIS PAROLE ELIGIBILITY.
THE COURT HELD THAT IF A DEFENDANT CLAIMS THAT
HE PLEAD GUILTY BECAUSE OF INEFFECTIVE ASSISTANCE
OF COUNSEL, THE SECOND PRONG OF THE STICKLAND TEST
WOULD BE SATISFIED BY SHOWING "A REASONABLE
PROBABILITY THAT, BUT FOR COUNSEL'S ERRORS, HE WOULD
NOT HAVE PLEADED GUILTY AND WOULD HAVE INSISTED
ON GOING TO TRIAL" HILL V LOCKHART 474 US AT 59; SEE

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ALSO MEYERS V GILLIS, 142 F3d 664, 666-70 (3rd CIR 1998) (FINDING THE SECOND PRONG OF THE STICKLAND TEST SATISFIED, THE COURT HELD THE DEFENDANT WOULD BE ELIGIBLE FOR PAROLE AFTER SEVEN YEARS WHEN LAW REQUIRED MANDATORY LIFE SENTENCE WITHOUT POSSIBILITY OF PAROLE); UNITED STATES V HANSEL 70 F3d 6, 8 (2nd CIR 1995) (FINDING COUNSEL PROVIDED INEFFECTIVE ASSISTANCE IN PLEA BARGAINING WHEN COUNSEL FAILED TO INFORM DEFENDANT THAT CHARGES AGAINST HIM WERE TIME-BARRED AND DEFENDANT WOULD NOT HAVE PLEADED GUILTY BUT FOR COUNSEL ERROR)

APPLICANT HAD SET IN THE PICKENS COUNTY DETENTION CENTER, WITH NO HOPE OF REACHING A PLEA AGREEMENT. APPLICANT HAD TOLD HIS COUNSEL HE WOULD GO TO TRIAL.

COUNSEL LATER INFORMS APPLICANT THAT THE SOLICITORS OFFICE WOULD DISMISS SEVERAL CHARGES AND NO SENTENCE RECOMMENDATION. AND THAT JUDGE MILLER WAS GOING TO BE ON THE BENCH.

IF NOT FOR COUNSEL'S ADVICE THAT STATE WOULD MAKE NO SENTENCE RECOMMENDATION

(11)

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Applicant would have went to trial.

IT IS IMPORTANT TO NOTE THAT THE THEORY UNDERLYING THESE DECISIONS IS THAT SUCH CONDUCT CONSTITUTES UNREASONABLE PERFORMANCE UNDER PREVAILING PROFESSIONAL STANDARDS ESTABLISHED BY THE AMERICAN BAR ASSOCIATION OR STATE-SPECIFIC ETHICAL RULES OF CONDUCT. A PLEA OFFER CONSTITUTES DEFICIENT PERFORMANCE WOULD BE CONSISTENT WITH THE MAJORITY OF OTHER STATE AND FEDERAL JURISDICTIONS.

INEFFECTIVE COUNSEL

IT IS CLEAR THAT COUNSEL HAD NO SPECIFIC REASON OR STRATEGIC REASON TO FAIL TO PROPERLY OBJECT TO THIS BLATANT BREACH OF PLEA AGREEMENT MADE BY THE PROSECUTOR.

COUNSEL DID NOT BRING ANY OF THIS ERRORS MADE BY THE PROSECUTOR TO THE ATTENTION OF THE COURT NOR DID COUNSEL GIVE NOTICE OF APPEAL.

(12)

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SO, THESE QUESTION RAISES THE ISSUE AT MRWA. D.D COUNSEL GIVE APPLICANT FALSE INFORMATION CONCERNING APPLICANTS PLEA. JUST TO GET APPLICANT TO PLEA GUILTY, WHEN ITS CLEAR THAT APPLICANT WAS GOING TO TAKE THE LARGE TRIAL. SEE HILL 474 US AT 57.

IT IS APPARENT THAT COUNSEL'S PERFORMANCE WAS UNREASONABLE AND PREJUDICE. COUNSEL'S FAILURE TO OBJECT TO THE PLEA BREACH AND THE ERRONEOUS STATEMENTS MADE BY THE PROSECUTOR AT ISSUE HERE CONSTITUTE DEFICIENT PERFORMANCE.

THE PLEA BY APPLICANT WAS BASED SOLELY ON COUNSEL'S ADVICE THAT THE STATE WOULD MAKE NO RECOMMENDATION AS TO THE LENGTH OF SENTENCE, THEREFORE IT IS A REASONABLE PROBABILITY THAT, BUT FOR COUNSEL'S ... ERRORS, THE RESULT OF THE PROCEEDING WOULD HAVE BEEN DIFFERENT. A REASONABLE PROBABILITY IS A PROBABILITY SUFFICIENT TO UNDERMINE CONFIDENCE IN THE OUTCOME." STICKLAND V WASHINGTON, 466 US 668, 694 (1984)

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GROUNDED

(F) APPLICANTS COUNSEL WAS INEFFECTIVE FOR FAILING TO PROPERLY OBJECT TO PROSECUTORS STATEMENT THAT "HE VIEWED APPLICANTS PLEA TO ATTEMPTED MURDER AS A PLEA TO MURDER". THIS VIOLATED APPLICANTS RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL AS GUARANTEED BY AMENDMENTS 6 AND 14 TO THE U.S. CONSTITUTION AND ARTICLE 1, SECTIONS 3 AND 14 OF THE SOUTH CAROLINA CONSTITUTION. SEE STOKLAND V WASHINGTON 466 U.S. 668 (1984)

(1) RELEVANT FACTS

Applicant PLEAD GUILTY TO ATTEMPTED MURDER. THE PROSECUTOR TOLD THE COURT THAT HE VIEWED APPLICANTS PLEA "AS IF" APPLICANT WAS PLEADING GUILTY TO MURDER SEE (PLEA TRANSCRIPT)

APPLICANTS COUNSEL FAILED TO PROPERLY OBJECT.

(~~9~~)
(13A)

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SOUTH CAROLINA(II) RELEVANT LEGAL PRINCIPLES AND ARGUMENT

WITHOUT REPEATING IN DETAIL MOST OF THE LEGAL PRINCIPLES AND ARGUMENTS THAT HAVE BEEN STATED ABOVE IN GROUNDS 10(a)

(A) BRIEF REMINDER TO THE COURT THAT, APPLICANTS COUNSEL "FELL BELOW AN OBJECTIVE STANDARD OF REASONABLENESS" WHEN COUNSEL FAILED TO PROPERLY OBJECT TO PROSECUTOR'S COMMENT THAT HE VIEWED APPLICANTS PRIMA 'AS IF' HE WAS PLEADING GUILTY TO MURDER". SEE (SEE TRANSCRIPT)

WHEN IN FACT APPLICANT HAD NEVER BEEN CHARGED WITH MURDER IN THIS CASE, MUST LESS INDICTED FOR MURDER. NO-ONE HAD DIED IN APPLICANTS CASE.

APPLICANT WAS PREJUDICED BY PROSECUTOR'S STATEMENT TO THE COURT, AND WAS RENDERED INEFFECTIVE ASSISTANCE COUNSEL.

A FAIR ASSESSMENT OF COUNSEL'S PERFORMANCE REQUIRES THAT EVERY EFFORT BE MADE TO

(~~13~~)
13

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ELIMINATE THE DISTORTING EFFECTS OF HINDSIGHT, TO RECONSTRUCT THE CIRCUMSTANCES OF COUNSEL'S CONDUCT AND TO EVALUATE THE CONDUCT FROM COUNSEL PERSPECTIVE.

REASONABLE JURIST WOULD NOT DIFFER THAT THAT COUNSEL'S CONDUCT WAS FAR BELOW THE "PROFESSIONAL NORMS" THE CIRCUMSTANCES OF APPLICANT'S PLEA WOULD HAVE CAUSED ANY COMPETENT COUNSEL TO OBJECT. IT SEEMS IN APPLICANT'S CASE THAT COUNSEL WAS JUST STAND-BY. HE GAVE NO DUTY OF LOYALTY TO APPLICANT.

AS TO THE "PREJUDICE PRONG" OF STICKLAND THE U.S. SUPREME COURT HAS SPECIFICALLY SAID THAT THE "PREJUDICE PRONG" ONLY REQUIRES APPLICANT TO SHOW A "REASONABLE PROBABILITY" OF A DIFFERENT RESULT AND APPLICANT DOES NOT HAVE TO PROVE THAT HIS COUNSEL ERRORS "MORE LIKELY THAN NOT AFFECTED THE OUTCOME."

(~~13P~~)
13P

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IT FOLLOWS THAT THERE WAS A REASONABLE PROBABILITY THAT IF THE PROSECUTION HAD NOT BREACHED THE PLEA AGREEMENT THE OUTCOME WOULD HAVE ALMOST CERTAINLY HAVE BEEN DIFFERENT AS TO THE LENGTH OF APPLICANTS SENTENCE.

IN SUM, DEFENSE COUNSEL'S FAILURE TO OBJECT TO PLEA BREACH CANNOT BE EXCUSED SOLELY BECAUSE APPLICANTS VICTIM WAS A PICKENS COUNTY POLICE OFFICER.

GROUND (D)



PLEA AGREEMENT BREACHED

(D) APPLICANT PLED GUILTY ON THE BASIS OF PROMISES BY THE STATE WHICH WERE NOT FULFILLED. THIS VIOLATED APPLICANTS RIGHT TO DUE PROCESS AS GUARANTEED BY AMENDMENT 5 AND 14 TO THE U.S. CONSTITUTION AND TO THE SOUTH CAROLINA CONSTITUTION. SEE SANTOBELLO V. NEW YORK, 404 U.S. 257 (1971)

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(I) RELEVANT FACTS

THE STATE HAD MADE A PLEA AGREEMENT WITH APPLICANT AND HIS COUNSEL NOT TO MAKE A SENTENCE RECOMMENDATION [OPEN PLEA] AT THE TIME OF APPLICANT'S PLEA OF GUILTY.

DURING THE STATE'S PRESENTATION TO THE COURT CONCERNING THE FACTS OF THE CASE, THE PROSECUTOR RECOMMENDED A SENTENCE OF 20 YRS FOR EACH SHOT FIRED. SEE (PLEA TRANSCRIPT)

THAT STATEMENT IS IN CLEAR VIOLATION OF THE ORAL CONTRACT THAT APPLICANT HAD ENTERED INTO WITH THE STATE.

(II) RELEVANT LEGAL PRINCIPLES AND ARGUMENT

A GUILTY PLEA THAT WAS INDUCED BY AN UNFULFILLED PROMISE IS NOT VOLUNTARY AND INTELLIGENT, AND IT MUST EITHER BE VACATED OR THE PROMISE HONORED (SEE SANTOBELLO V NEW YORK 404 US AT 257, 262; ("WHEN A PLEA RESTS

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IN ANY SIGNIFICANT DEGREE ON A PROMISE OR AGREEMENT OF THE PROSECUTOR, SO THAT IT CAN BE SAID TO BE PART OF THE INDUCEMENT OR CONSIDERATION, SUCH PROMISE MUST BE FULFILLED") SEE ALSO CUSTODIO V STATE 644 SE2d 36 (3C 2007) IN CUSTODIO THE S.C. SUPREME STATES ("THE STATE MAY WITHDRAW A PLEA BARGAIN ARRANGEMENT AT ANY TIME PRIOR TO BUT NOT AFTER THE ACTUAL ENTRY OF THE GUILTY PLEA BY DEFENDANT OR ANY CHANGE OF POSITION BY HIM CONSTITUTING DETRIMENTAL RELIANCE UPON THE AGREEMENT.

EVEN IMPLICIT ACTIONS SUGGESTING A POSITION IN SENTENCEMENT MAY BE A BREACH OF THE AGREEMENT BY THE PROSECUTOR.

AS SUCH IN THIS INSTANT CASE WHERE THE PROSECUTOR STATES APPLICANT STRUCK OFFICER WITH HELMET. WHEN IN FACT IN THE OFFICER STATEMENT DOES IT NO WHERE SUGGEST THAT APPLICANT STRUCK HIM WITH A HELMET. OR IN ANY OF THE EYE WITNESS STATEMENTS DOES IT SAY APPLICANT STRUCK OFFICER WITH HELMET. SEE (EXHIBITS 3 THRU 8) SEE

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PEOPLE V TINDLE, 61 NY 2d, 752, 754 N.E. 1354, 1355.
472 N.Y.S. 2d 919, 920 (1984) (FINDING THAT THE
PROSECUTOR'S DESCRIPTION OF THE CASE A "VERY VERY
SERIOUS" AND REFERENCE TO DEFENDANT'S FLIGHT
AND BURGLARY WAS ESSENTIALLY A REQUEST FOR A
LIFETIME PRISON SENTENCE AND IN BREACH OF ITS
AGREEMENT NOT TO TAKE A POSITION IN SENTENCING")

HERE ITS CLEAR THAT PROSECUTOR'S STATE-
MENT TO THE COURT WAS FOR A LIFETIME
PRISON SENTENCE, WHEN IN FACT NO WHERE
IN THE OFFICER'S OR EYE WITNESS'S STATE-
MENTS DOES IT SAY THAT APPLICANT STRUCK
OFFICER WITH INTENT. IT'S BLATANT THAT
THE PROSECUTOR MADE THIS STATEMENT HIM-
SELF WITHOUT EVIDENCE TO THE FACT.

IN RINGLING THE 4TH CIR STATED " (THE
COURT HELD THAT A PLEA BARGAIN REST ON
CONTRACTUAL PRINCIPLES, AND THAT EACH PARTY
SHOULD RECEIVE THE BENEFIT OF THE BARGAIN.
SEE UNITED STATES V RINGLING 988 F.2d 504 (4TH
CIR 1993) THE COURT FURTHER STATED THAT
A PLEA AGREEMENT ANALYSIS MUST BE MORE

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STRICTER THAN A CONTRACT BECAUSE THE RIGHTS INVOLVED ARE FUNDAMENTAL RIGHTS AND CONSTITUTIONAL BASED. THE COURT ALSO NOTED THAT THE GOVERNMENT HAD TO BE HELD TO A HIGHER DEGREE OF RESPONSIBILITY THAN THE DEFENDANT FOR IMPRECISIONS OR AMBIGUITIES.

THE 4TH CIRCUIT ALSO STATED IN KINGLY "IT IS THE GOVERNMENT AT LARGE - NOT SPECIFIC UNITED STATES ATTORNEYS OR UNITED STATES DISTRICTS" - "THAT ARE BOUND BY PLEA AGREEMENTS NEGOTIATED BY AGENTS OF THE GOVERNMENT. WHEN A DEFENDANT'S FUNDAMENTAL RIGHTS ARE AT STAKE THE RIGHT HAND SHOULD KNOW WHAT THE LEFT HAND IS DOING". SEE ALSO SMITH V THURFT 312 SC 282, 440 SE2d 341 (1994) SEE THOMPSON V STATE 240 SC 112, 531 SE2d 294 (SC 2000); SMITH V STATE 407 SC 270, 754 SE2d 900 (SC 2004) (HOLDING "WE FIND PLEA COUNSEL'S FAILURE TO OBJECT FELL BELOW PROVIDING PROFESSIONAL WORKS") SEE BROWN V BOOLE 337 F3d 1155, 1160-61 (9TH CIR 2003) (GRANTING HABEAS RELIEF AND RELEASE OF PRISONER WHEN STATE BREACHED

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ORAL PLEA AGREEMENT THAT PRISONER WOULD ONLY HAVE TO SERVE HALF OF HER 15 YEAR SENTENCE. SEE ALSO JOHNSON v. BIRD 466 F.2d 479-80 (5th Cir 1972) (HOLDING THAT IF A PROSECUTOR SAYS HE WILL MAKE A SENTENCING RECOMMENDATION IN EXCHANGE FOR A GUILTY PLEA BUT THEN ACTUALLY RECOMMENDS A HARSHER SENTENCE IN COURT, THE PLEA BARGAIN HAS BEEN BROKEN AND DEFENDANT IS ENTITLED TO RESISTING OR WITHDRAWAL OF HIS GUILTY PLEA)

IN THIS CASE THE PROSECUTOR CLEARLY BREACHED THE PLEA AGREEMENT BY RECOMMENDING A 40 YR SENTENCE TO BE IMPOSED.

APPLICANT IS ENTITLED TO RELIEF FOR THE REASONS AND FACTS STATED HEREIN. BECAUSE OF THE PROSECUTOR'S MISCONDUCT

GROUND(E)

PROSECUTORIAL MISCONDUCT

(E) APPELLANT WAS DENIED DUE PROCESS GUARANTEED

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BY AMENDMENTS 5, AND 14 OF THE U.S. CONSTITUTION
AND ARTICLE 1 SECTION 3 OF THE SOUTH CAROLINA
CONSTITUTION. SEE ORRISON V. WILKINSON 477 US 168
(1986)

(I) RELEVANT FACTS

(E) THE PROSECUTOR STATED TO THE COURT
CONCERNING APPELLANTS GUILTY PLEA TO
ATTEMPTED MURDER, THAT HE VIEWED THE
CHARGE AS MURDER SINCE OFFICER
TICKNOR COULD HAVE BEEN KILLED.

THIS IS A BIAS STATEMENT TO INFORM
THE JUDGE TO GIVE APPLICANT A LENGTHY
PRISON TERM SEE (PIRA TRANSCRIPT)

APPLICANT WAS NOT INDICTED FOR MURDER,
THE PROSECUTOR'S STATEMENT CONSTITUTED
ERRONEOUS MISCONDUCT. SEE UNITED STATES
V. FIAS 285 F3D 183, 190 (2ND CIR 2002) (NOTING
THAT REMARKS OF A PROSECUTOR DURING SUMMATION
DO NOT AMOUNT TO A DUE PROCESS VIOLATION UNLESS
THEY CONSTITUTE ERRONEOUS MISCONDUCT)

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IN THIS INSTANCE THE REMARK THAT
TIES SHOULD BE LOOKED OUT AS A MURDER
CHARGE IS IN ITSELF AN EGREGIOUS REMARK.

ANY REASONABLE JURIS WOULD CONSTRUCT THIS
REMARK AS EGREGIOUS. AND ANY REASONABLE
JURIS WOULD AGREE THAT APPLICANTS RIGHT
TO DUE PROCESS WAS VIOLATED.

THAT THE COMMENT "SO INFECTED THE PLEA
WITH UNFAIRNESS AS TO MAKE THE RESULTING
CONVICTION A DENIAL OF DUE PROCESS, SEE
DARDEN V WAINWRIGHT 477 US AT 181,

UNLIKE DARDEN APPLICANTS PLEA WAS
SO INFECTED THAT THE PLEA WAS SO UNFAIR
AS TO MAKE THE RESULTING CONVICTION A
DENIAL OF DUE PROCESS. APPLICANT WAS
NOT CHARGED WITH MURDER.

THE PROSECUTOR'S STATEMENT THAT HE VIEWED
APPLICANTS PLEA TO ATTEMPTED MURDER AS
IF APPLICANT WAS PLEADING TO MURDER RENDERED
APPLICANTS PLEA FUNDAMENTALLY UNFAIR AND

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DEPRIVED THE SENTENCING DETERMINATIONS
RELIABILITY OF OUR PROCESS GUARANTEED BY
THE 14TH AMENDMENT.

PROSECUTOR'S STATEMENT THAT HE VIEWS
APPLICANT'S CASE AS IF HE WERE PLEADING TO
A "DEATH PENALTY CASE" SHOULD NOT BE VIEWED
AS AN IMPROPER COMMENT. BUT SHOULD BE
VIEWED AS TO WHAT EFFECT THE STATEMENT
HAD ON THE COURT'S DETERMINATION OF APPLICANT'S
SENTENCE. AND BY MAKING SUCH AN FAVORABLE
STATEMENT THE PROSECUTOR WAS ASKING FOR
A LENGTHY SENTENCE. WHEN AS FACTS ABOVE
SHOW THAT THE ORAL AGREEMENT WAS FOR THE
PROSECUTOR NOT TO ASK FOR A SENTENCE (AN
OPEN PLEA)

APPLICANT'S CASE IS DISTINGUISHED FROM
PARSON THAT THE PROSECUTOR'S STATEMENT SO
INFLECTED APPLICANT'S SENTENCE THAT NO
REASONABLE JURIST WOULD DIFFER.

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GROUND 10 (A)

(A) APPLICANT WAS CHARGED AND SENTENCED FOR VIOLATING A STATUTE THAT WAS UNCONSTITUTIONALLY VAGUE AND OVER BOARD VIOLATING AMENDMENTS 1 AND 5, 8 OF THE U.S. CONSTITUTION AND ARTICLE 1, SECTION 15 OF THE SOUTH CAROLINA CONSTITUTION VIOLATING APPLICANT'S RIGHT TO DUE PROCESS AND THE RIGHT NOT TO BE SUBJECTED TO CRUEL AND UNUSUAL PUNISHMENT SEE KOLENDUR V LANSER 461 U.S. 352 (1983)

(I) RELEVANT FACTS

SECTION 16-3-29 ATTEMPTED MURDER OF THE 1976 SOUTH CAROLINA CODE OF LAWS ACT NO 273, SECTION 6. A, EFF JUNE 2, 2010. STATES [A] PERSON WHO, WITH INTENT TO KILL, ANOTHER PERSON WITH MALICE AFORETHOUGHT, EITHER EXPRESSED OR IMPLIED, COMMITS THE OFFENCE OF ATTEMPTED MURDER.

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SOUTH CAROLINAII RELEVANT LEGAL PRINCIPLES AND ARGUMENT

THE STATUTE IS CLEARLY VAGUE AND OVERBOARD AS TO THE LANGUAGE "EITHER EXPRESSED OR IMPLIED".

ANYONE MAKING A STATEMENT AGAINST ANOTHER COULD BE CHARGED WITH THIS VAGUE AND OVERBOARD STATUTE OF ATTEMPTED MURDER.

THE SOUTH CAROLINA COURTS HAS MADE IT CLEAR THAT THE CHARGE OF ATTEMPTED MURDER CONSIST OF A VICTIM RECEIVING WOUNDS THAT COULD HAVE KILLED THE VICTIM JUST DID NOT DIE. NOT FOR A PERSON TO EXPRESS OR IMPLY THESE WOUNDS WITH MORE WORDS.

THE APPLICANT IN THIS CASE WHEN INFLECTED WOUNDS SOME ENOUGH TO KILL THE VICTIM WAS TREATED FOR MINOR WOUNDS.

THIS STATUTE IS CLEARLY UNCONSTITUTIONAL BEING VAGUE AND OVERBOARD.

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THE SIXTH AMENDMENT ENTITLES A DEFENDANT TO THE ASSISTANCE OF COUNSEL AT ALL CRITICAL STAGES OF A CRIMINAL PROCEEDING, AND SENTENCING IS A CRITICAL STAGE OF A CRIMINAL PROCEEDING. SEE UNITED STATES V. TAYLOR 933 F.2d 307 (5th Cir.) cert. denied 112 S.Ct. 235 (1991) THE SUPREME COURT HAS WRITTEN THAT "[T]HE CONSTITUTION'S GUARANTEE OF ASSISTANCE OF COUNSEL CANNOT BE SATISFIED BY MERE FORMAL APPOINTMENT" SEE ANNEY V. ALABAMA, 308 U.S. 444, 446, 60 S.Ct. 321, 322, 84 L.2d 377 (1940). APPLICANT'S TRANSCRIPT CLEARLY SHOWS THAT AT APPLICANT'S SENTENCING HIS COUNSEL ACTED AS A "MERELY SPECTATOR" FROM THE CUMULATIVE EFFECTIVE OF COUNSEL DEFICIENT PERFORMANCE. THE SUPREME COURT HAS RECOGNIZED THAT THERE ARE SOME CIRCUMSTANCES IN WHICH ALTHOUGH COUNSEL IS PRESENT, "THE PERFORMANCE OF COUNSEL MAY BE SO INADEQUATE THAT, IN EFFECT NO ASSISTANCE OF COUNSEL IS PROVIDED" SEE UNITED STATES V. CROWIE 466 U.S. 648, N.11, 104 S.Ct. 2039, 2044 n.11 (1984) (QUOTING UNITED

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STATES V DECTOR 624 F.2d 196, 219 (D.C. Cir) (MACKINNON J. CONCURRING) CERT. DENIED 444 U.S. 944, 100 S.Ct. 302 (1979). SEE ALSO STICKLAND 466 US AT 686, 104 S.Ct. AT 2063; AND UNITED STATES V TAYLOR, 933 F.2d AT 313

IN THIS CASE APPLICANT COUNSEL FELL FAR BELOW THE "PROFESSIONAL NORMS" OF EFFECTIVE REPRESENTATION.

APPLICANT WAS PREJUDICED BY COUNSEL'S FAILURE TO "TO ADVOCATE AT SENTENCING. AGAIN COUNSEL ACTED AS A "MERE SPECTATOR". HE ABANDONED HIS DUTY OF LOYALTY TO APPLICANT BY ACTING AS A "MERE SPECTATOR" SEE TUCKER V DAY 969 F.2d 155 (5th Cir 1992)

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EXHIBIT

AGENCY I.D. SUPPLEMENTARY INCIDENT REPORT
SC0390000 PICKENS COUNTY SHERIFF'S OFFICE

CASE NUMBER

2012-21784

PAGE

INQ. ENVO.

☐ ORIGINAL REPORT ☐ SUPPLEMENTAL REPORT ☐ ADDITIONAL VICTIM ☐ ADDITIONAL STOLEN PROPERTY ☐ ADDITIONAL RECOVERED PROPERTY
☐ MODIFIED ORIGINAL ☐ CASE STATUS CHANGE ☐ ADDITIONAL OFFENDERS

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could see that as he pumped gas he was continuing to scan the area.

When I first came into the store, I saw a customer outside who seems to hang out regularly at the M-Mart. The customer was a white male, approximately 45 years of age, with long grayish hair which was approximately shoulder-length, and thick glasses. I have seen this man at the M-Mart on numerous occasions, including times when I was openly carrying a badge and gun. As I was on the phone with dispatch I saw the customer speak for just a moment to individuals next to where Trent was at, then he stepped across the gas pump island and began talking to Trent. The customer was moving his hands as he spoke, and I saw Trent freeze, stare directly at the store where I was standing, and then lift the visor of his helmet as he continued to look at the store where I was located.

I was still on the phone with dispatch as this was occurring, and could see that Trent was about to flee. I got off the phone and started moving towards the door. I pulled my badge out from under my shirt and exposed my sidearm as I exited the store, and ran towards Trent. The bike was parked with the front tire towards the store, and he was still straddling the bike. I approached from the bike's left as Trent was trying to activate the ignition and start the bike. I grabbed him with my left hand at his chest and my right hand at his upper back and shouted at him to stop. He was gripping the left handlebar with his left hand and using his left arm to push into my chest in an attempt to keep me off him. His right hand continued to try and activate the ignition of the bike. I began shoving into him and the motorcycle, trying to push both Trent and the bike into the gas pump in an effort to prevent him from driving off. I grabbed the key out of the ignition and threw it. Trent was still holding the bike partially upright, and yelled, "Get off me, Tick!" He let go of the bike with his left hand and wrapped his left arm around the lower part of my back. I continued holding him with my right hand, then shifted my left arm into the left side of his jaw and pushed forward. This caused his helmet to come up and eventually fall off. I then felt a hard strike above my left ear which stunned me for a second as I continued to try and push the bike over.

Trent rotated towards me, which caused the bike to fall over. I fell towards my right side onto the ground, which trapped my right arm momentarily. My left arm was pulled back behind me as Trent continued to rotate over. I then felt something press hard into the area just below my left ear, and heard Trent say, "Tick, let me go! Let me go!" I was able to bring my left arm in and with my left hand grabbed what was in contact below my left ear. I moved my head and my hand, then saw that I was holding a black pistol that was being gripped by Trent. During this time I heard Trent saying he was going to kill me. I could see that my left thumb was over the muzzle and I moved my thumb. Just after that the gun discharged right beside my head.

The muzzle blast stunned me so close to my head, and I grabbed for the pistol with my right hand.

SUSPECT IDENTIFIED ☐ YES ☒ NO		SUSPECT LOCATED ☐ YES ☒ NO		☐ ACTIVE ☐ ARM, CLOSED	☐ ARRESTED UNDER 15	☐ EX-CLEAR UNDER 15
				☐ UNFOUNDED	☐ ARRESTED 16 AND OVER	☐ EX-CLEAR 16 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINED COOPERATION 5. ☐ JUVENILE - NO CUSTODY						
REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE
906 - SCOTT TICKNOR		08/10/2012	806	893 - LT. TONY GILSTRAP		09/12/2012
				FOLLOWUP INVESTIGATOR OFFICER		
				☐ YES ☒ NO ☐ 1619 - BEN DOW		09/12/2020 1819

EXHIBIT - 2
VOLUNTARY STATEMENT

878-1972

DATE 9/10/12 PLACE Moorefield Mem, N.Y. TIME STARTED 1435 M.

I, the undersigned, Christy Hanlon, am 34 years of age, my date and place of birth being 24 at _____

I now live at Gardia Rd. Liberty

Before answering any questions or making any statements, B. A. Pow

a person who identified himself as a _____, duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent and I do not have to answer any questions or make any statements at all; that any statement I make can and will be used against me in a court or courts of law for the offense or offenses concerning which the following statement is hereinafter made; that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make; that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority, before or at anytime during any questioning or statements that I make, without cost or expense to me; that I can stop answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more statements, whether or not I have already answered some questions or made some statements.

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made of my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, favor or offer of favor, without leniency or offer of leniency, by any person or persons whatsoever.

The officer was in the store and He Run out the store up to the pump were trent Black was and tried to take him down and trent and him wrestled and trent was hitting the officer to get him off him. And then I saw trent with the Gun. And I Called 911 for the Officer Some back-u the the officer and him was trying to take him down and then they was wrestle on the ground. And two Shots was fired. And by Stander came to help the officer And they handcuff him. and I stayed on the line until other Officer Came.

I have read each page of this statement consisting of 16 pages, each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 1445 M. on the 10 day of 9, 2012.

WITNESS: B. A. Pow

WITNESS: _____

Christy Hanlon
 Signature of person giving voluntary statement

EXHIBIT - 3

VOLUNTARY STATEMENT

DATE 09/10/2012 PLACE 111 West - Hwy 178 - Liberty SC TIME STARTED 2:39 P. M.I, the undersigned, Ronald Douglas Moulden Jr., am 38 years of age, my date and place ofbirth being the day of at Pickens CoI now live at City Lake Road - Pickens SCBefore answering any questions or making any statements, N/A - Witness Statement -

a person who identified himself as a N/A - Witness Statement

duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent and I do not have to answer any questions or make any statements at all; that any statement I make can and will be used against me in a court or courts of law for the offense or offenses concerning which the following statement is being made; that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make; that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority, before or at anytime during any questioning or statements that I make, without cost or expense to me; that I can stop answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more statements, whether or not I have already answered some questions or made some statements.

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made of my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, favor or offer of favor, without leniency or offer of leniency, by any person or persons whomsoever:

I was on duty on that date and was at North Freeman Rd & Hwy 178 - Liberty.
At about a quarter of 10 the gas pumps at McDonald's started. One of the employees at that
company was involved in the trouble. The gas attendant that was on top of the pump or ground
and the employee - Betty Love was helping the officers. The officers arrived shortly and
arrested the male. I did not see anything else.

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before I was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 247 M. on the 10 day of SEP, 2012.

WITNESS: [Signature]WITNESS: [Signature]Signature of person giving voluntary statement [Signature]

EXHIBIT-4

VOLUNTARY STATEMENT

DATE 9/10/12 PLACE 111th Street Hwy 178 TIME STARTED 1435 P.M.I, the undersigned, Sherry Hayes am 35 years of age, my date and place ofbirth being the day of — Easley, SCI now live at E. Freedmanwood Dr. LibertyBefore answering any questions or making any statements Det. Michael Owens

a person who identified himself as a Det. Sheriff
 duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent; and I do not have to answer any questions or make any statements at all that any statement I make can and will be used against me in a court of courts of law for the offense or offenses concerning which the following statement is being made; that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make; that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority, before or at anytime during any questioning or statements that I make, without cost or expense to me; that I can stop answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more statements, whether or not I have already answered some questions or made some statements.

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the above named person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made of my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, favor or offer of favor, without lullacy or offer of leniency, by any person or persons whomsoever.

SCOTT (CUSTOMER) CAME IN STORE, LOOKING AT PHONE CHARGERS, LINED
ONE ON COUNTER BESIDE COFFEE MAKER, MOTIONED HE WOULD BE BACK,
RAN OUTSIDE TO PUMP #4, WHERE MAN WAS DUMPING GAS IN HIS
MOTORCYCLE. HEARD HIM TELL THE GUY TO GET OFF MOTORCYCLE.
THE GUY STARTED FIGHTING WITH SCOTT WHILE SCOTT WAS TRYING
TO ARREST HIM. THEY FOUGHT FOR SEVERAL MIN. SAW THE MAN
WITH A GUN, SCOTT WAS STILL TRYING TO GET HIM DOWN, AND
HEARD 2 GUNSHOTS WE HAD ALREADY CALLED 911, THEN
A FEW CUSTOMERS FROM STORE HELPED SCOTT KEEP HIM
DOWN. WE HEARD SCOTT CONTINUE TO TELL THE GUY TO
STAY DOWN. THE GUY KEEP FIGHTING.

END of Statement

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished and I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 1416 P.M. on the 10th day of Sept, 2012.

WITNESS: Sherry HayesWITNESS: Sherry Hayes

Signature of person giving statement

EXHIBIT-05

JUVENILE

VOLUNTARY STATEMENT

DATE 9-10-2012 PLACE M. Hunt Hwy 178 TIME STARTED 1435 P.M.I, the undersigned, Dawn Gilbert, am 31 years of age, my date and place ofbirth being the 2 day of January at Roanoke VAI now live at LibertyBefore answering any questions or making any statements, Martin A. J...

a person who identified himself as a Det. of Sheriff Office

duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent and I do not have to answer any questions or make any statements at all; that any statement I make can and will be used against me in a court or courts of law for the offense or offenses concerning which the following statement is hereinafter made; that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make; that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority, before or at anytime during any questioning or statements that I make, without cost or expense to me; that I can stop answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more statements, whether or not I have already answered some questions or made some statements.

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement, to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made of my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, favor or offer of favor, without leniency or offer of leniency, by any person or persons whomsoever.

I was getting gas on pump 3 and the guy on motor cycle when the cop came running to guy on motor cycle they started fighting I moved my van and went to go inside and the guy on motorcycle pulled a gun and started shooting I ran in pumpers I seen the guy put a gun at cops neck the cop started yelling for help and the guy that was in the Gas truck helped him when the police got here.

End of Statement

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 1445 P.M. on the 10th day of Sept, 2012.

WITNESS: M. A. J...WITNESS: Dawn Gilbert

Signature of person giving voluntary statement

EXHIBIT - 6
VOLUNTARY STATEMENT

DATE 9-10-12 PLACE MT West Gas Station TIME STARTED M.

I, the undersigned, David B. Owens am 39 years of age, my date and place of birth being the at Concepcion

I now live at EAST Cliff dr West Union SC 29696

Before answering any questions or making any statements

a person who identified himself as Deputy Sheriff
 duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent, and I do not have to answer any questions or make any statements at all; that any statement I make can and will be used against me in a court or courts of law for the defense or offenses concerning which the following statement is hereinafter made; that I have the right to consult with a lawyer of my own choice before or at any time during any questioning or statements I make; that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority, before or at any time during any questioning or statements I make, without cost or expense to me; that I can stop answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more statements, whether or not I have already answered some questions or made some statements.

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made of my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, favor or offer of favor, without intimidation or offer of leniency, by any person or persons whomsoever.

I was delivering gas at that gas station when I had a bad pop. I got out of my truck & saw two men waiting on the ground. A second pop rang out that's when the deputy screamed, "Help me, I'm a deputy." I ran over to grab the man with the gun. The man started hitting the deputy. That's when I had no choice other than to choke the man out. I held the man down until deputies got here.

The deputy was screaming for help when I came around from the front of my truck. The man had the gun pointed toward the deputy's head, right upon ear. Another man stepped in & removed the gun as the deputy collapsed.

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or pretended what to say in this statement.

This statement was completed at 2:50 P M. on the 10th day of Sept, 2012

WITNESS: Mike Ferguson David B. Owens

WITNESS: Signature of person giving voluntary statement

EXHIBIT-07

- 010 1116 -
store

VOLUNTARY STATEMENT

DATE 9-10-2012 PLACE M Mart (Hwy 178 Liberty) TIME STARTED 14:35 P.M.I, the undersigned, Israel Kelly am 40 years of age, my date and place of

birth being the

I now live at

Banff Spring G Liberty SC 29657

Before answering any questions or making any statements,

Marvin Nye

a person who identified himself as a

Det. of PCSO

duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent and I do not have to answer any questions or make any statements at all; that any statement I make can and will be used against me in a court of law for the offense or offenses concerning which the following statement is hereinafter made; that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make; that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority, before or at anytime during any questioning or statements that I make, without cost or expense to me; that I can stop answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more statements, whether or not I have already answered some questions or made some statements.

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement, to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made of my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, favor or offer of favor, without leniency or offer of leniency, by any person or persons, whomsoever.

I WAS ON PUMP 3. GAS. GUY WAS ON A MOTORCYCLE
ANOTHER GUY CAME OUT OF THE STORE GRABBED HIM
THEY FIGHT FOR A BIT GUY PULLED OUT A GUN FIRED
A SHOT GOT A CROSS THE TOP OF MY HEAD AND A
NOTHER ONE AT A GAS TANK I THOUGHT THEY WERE
JUST ONE ON ONE FIGHTING THEN THE OTHER GUY
WHO CAME OUT OF THE STORE SAID HE WAS A POLICE
THE GUY IN THE GAS TANKER HELPED HIM OUT WITH
THE SHOOTER.

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 1441 P.M. on the 10th day of Sept, 2012.

WITNESS:

Israel Kelly

WITNESS:

Marvin Nye

Signature of person giving voluntary statement

From: TRENTON BLACK # 282569-CA-24

(14)

LIEBER CORR. INST

P.O. BOX 205

RIDEFIELD, S.C. 29472

2015 JAN 23 PM 2
CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

DEAR CLERK OF COURT

PLEASE SENT BACK A TIME STAMPED COPY
OF ENCLOSED P.C.R.

Sincerely

Trent Black

2015 MAR 31 AM 11 26

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINASTATE OF SOUTH CAROLINA
COUNTY OF PICKENSIN THE COURT OF
COMMON PLEASTRENTON BLACK #282569
PLAINTIFF2015-CP-39-101

v

STATE OF SOUTH CAROLINA
RESPONDANTAMENDMENT TO APPLICATION
FOR POST-CONVICT RELIEFTHIS AMENDMENT IS TO RULE 15 OF
CIVIL PROCEDURE.GROUND 10 (H)

(H) APPLICANTS COUNSEL WAS INEFFECTIVE FOR FAILING TO PROPERLY OBJECT TO THE STATEMENT MADE BY THE SHERIFF OF PICKENS COUNTY STATE OF SOUTH CAROLINA. THIS VIOLATED APPLICANTS RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL AS GUARANTEED BY AMENDMENTS 6 AND 14 TO THE U.S. CONSTITUTION AND ARTICLE 1 SECTIONS 3 AND 14 OF THE SOUTH CAROLINA CONSTITUTION. SEE STICKLAND V WASHINGTON 466 US 668 (1984)

(1) RELEVANT FACTS

Applicant PLEAD GUILTY TO THE CHARGE OF ATTEMPTED MURDER. AT THE TIME OF HIS PLEA THE SHERIFF OF PICKENS COUNTY ADDRESSED THE COURT. THE SHERIFF IN HIS STATEMENT TO THE COURT SAID A MESSAGE SHOULD BE SENT TO "COP KILLERS" LIKE HIM THAT YOU CAN NOT DO THIS. APPLICANT'S COUNSEL FAILED TO PROPERLY OBJECT.

II RELEVANT Legal Principles AND Argument

Applicant HAD NOT KILLED ANYONE, Applicant WAS PLEADING TO ATTEMPTED MURDER CHARGE NOT A CHARGE THAT INVOLVED A DEATH.

WHEN THIS STATEMENT BY THE ELECTED SHERIFF WAS MADE TO THE COURT AND APPLICANT'S COUNSEL DID NOT OBJECT TO SUCH A STATEMENT APPLICANT WAS PREJUDICED BY SAID STATEMENT AND THE INEFFECTIVENESS OF HIS COUNSEL

IF COUNSEL HAD OBJECTED THEN THERE

WAS A REASONABLE PROBABILITY THAT
 APPLICANTS SENTENCE WOULD HAVE BEEN
 DIFFERENT. SEE TRANSCRIPT-

3-24-15

DATE

Trent Blair

Trenton Black #281569
 LIEBER Corr. INST
 P.O. Box 205
 RIDGEVILLE, S.C. 29472

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

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

Revised 3/2003

2015 MAR 31 AM 11 26

STATE OF SOUTH CAROLINA)

County of Pickens)

VERIFICATION

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

I, Trenton Black 282569, 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.

Trenton Black

SWORN to and subscribed before me this 26th
day of March, 2015.

Ludherm Bryant (L.S.)
Notary Public

My Commission Expires: May 26, 2020

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2015-CP-39-0101
COUNTY OF PICKENS	)	
	)	
Trenton James Black,	)	
S.C.D.C. No. 282569,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

In response to the post-conviction relief application filed January 23, 2015, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Pickens County Clerk of Court's orders of commitment. The Pickens County Grand Jury indicted the Applicant at the June 2013 term of General Sessions for resisting arrest with assault (2013-GS-39-1809), resisting arrest with a deadly weapon (2013-GS-39-1810), possession of a weapon during commission of a violent crime (2013-GS-39-1811), attempted murder (2013-GS-39-1812), and unlawful carrying of a pistol (2013-GS-39-1814). Steven Alexander, Esquire represented the Applicant.

On May 22, 2014, the Applicant pled guilty.¹ The Honorable Edward W. Miller sentenced the Applicant to concurrent terms of 10 years for resisting arrest with assault, 10 years for resisting arrest with a deadly weapon, 5 years for possession of a weapon during commission

¹ The State not prossed a charge of possession of methamphetamine (2013-GS-39-1807).

of a violent crime, 30 years for attempted murder, and time-served for unlawful carrying of a pistol. The Applicant did not appeal.

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

II.

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

1. "Statute unconstitutional."
 - a. The attempted murder statute is unconstitutionally vague.
2. "Ineffective of counsel."
 - a. Failed to object to or withdraw the Applicant's guilty plea because the State disregarded its oral agreement that it would not make a sentence recommendation.
 - b. Failed to object to the State's misleading statements concerning the facts of the case.
 - c. Induced the Applicant's guilty plea with false information.
 - d. Failed to "properly object to prosecutors statement that 'he viewed Applicants plea to attempted murder as a plea to murder.'"
3. "Due process violated."
4. "Plea agreement breached."
 - a. "Applicant pled guilty on the basis of promises by the State which were not fulfilled."
5. "Prosecutorial misconduct."
 - a. "The prosecutor stated to the court concerning Applicants guilty plea to attempted murder, that he viewed the charge as murder since Officer Ticknor could have been killed."

In an "Amendment to Application for Post Convict Relief" filed March 31, 2015, the Applicant made the following allegations:

1. Ineffective assistance of counsel:
 - a. Failed to properly object to the statement made by the Sheriff

during the guilty plea hearing.

III.

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

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

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

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the

proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. “A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial.” Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

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

IV.

The Respondent notes the Applicant has also made an allegation that his due process rights were violated. The Applicant, however, does not explain this allegation with any specificity. The Uniform Post-Conviction Procedure Act requires the Applicant to “specifically set forth the grounds upon which the application is based.” S.C. Code Ann. § 17-27-50 (2003). Before the Court will hold an evidentiary hearing, the Applicant must make a prima facie showing that he is entitled to relief. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). This allegation is so vague that it is impossible for the Respondent to respond.

V.

The Applicant has alleged prosecutorial misconduct. “[T]he test for reversible prosecutorial misconduct generally has two components: that (1) the prosecutor’s remarks or conduct must in fact have been improper, and (2) such remarks or conduct must have

prejudicially affected the defendant's substantial rights so as to deprive the defendant of a fair trial." United States v. Chorman, 910 F.2d 102, 103 (4th Cir. 1990). The Respondent submits the Applicant has not met his burden of demonstrating there was misconduct at his guilty plea hearing.

VI.

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

VII.

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

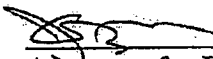
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

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

By: 
Attorneys for Respondent

May 29, 2015

STATE OF SOUTH CAROLINA)

COUNTY OF PICKENS)

IN THE COURT OF COMMON PLEAS

2015-CP-39-0101

TRENTON JAMES BLACK, 282569)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

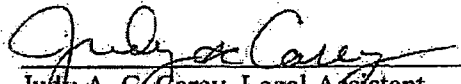
STATE OF SOUTH CAROLINA,)

Respondent.)

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

**Trenton James Black, 282569
 Lieber Correctional Institution
 Post Office Box 205
 Ridgeville SC 29472**

DATED this 29th day of May, 2015.


 Judy A. C. Carey, Legal Assistant
 For Respondent

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF PICKENS) IN THE COURT OF COMMON PLEAS

3
4 Trenton James Black,)
5 Applicant,) TRANSCRIPT OF RECORD
6 -vs-) 2013-CP-39-00101
7 The State,)
8) April 18, 2016
9 Respondent.) Pickens, South Carolina

10
11 B E F O R E:

12 HONORABLE R. KNOX MCMAHON, JUDGE
13
14

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

16 R. MILLS ARIAIL, JR., ESQUIRE
17 Attorney for the Applicant

18 PATRICK SCHMECKPEPER, ESQUIRE
19 Attorney for the Respondent
20
21
22

23 Margaret A. Woods
24 Circuit Court Reporter
25

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EXHIBITS

NO.

DESCRIPTION

ID.

EV.

NO EXHIBITS INTRODUCED

1 MR. SCHMECKPEPER: Thank you, Your Honor, may it please
2 the Court, my name is Patrick Schmeckpeper for the State.
3 This is the matter of Trenton James Black vs. the State of
4 South Carolina, 2015-CP-39-0101. Mr. Black was indicted in
5 the June 2013 term for a Pickens County grand jury for
6 resisting arrest with assault, resisting assault verse --
7 resisting arrest with a deadly weapon, possession of a weapon
8 durin' the commission of a violent crime, attempted murder and
9 the unlawful carrying of a pistol. He pled guilty on May 22nd
10 2014, was sentenced by Judge Miller to a term of 30 years
11 concurrent with his other sentences, he's got an active
12 sentence of 30 years, uh, and got time served for unlawful
13 carrying of a pistol. Applicant did not appeal, filed this
14 application for post-conviction relief on January 23rd, 2015.
15 This time I'll turn the, turn matters over to opposing counsel
16 can put his allegations on the record and present his case.

17 THE COURT: Alright, of course. Uh, Mr. Ariail.

18 MR. ARIAIL: Uh, yes, Your Honor, we're ready proceed.

19 THE COURT: Alright. Yes, sir, you may call your first
20 witness.

21 MR. ARIAIL: Yes, Your Honor, I call on my client to the
22 stand. C'mon up, Mr. Black.

23 THE COURT: Alright, if you'd come around be sworn for us
24 please, uh, Mr. Black.

25 THE APPLICANT: Yeah.

TRENTON JAMES BLACK - DIRECT EXAMINATION BY MR. ARIAIL

1 (Whereupon, the applicant came forward.)

2 THE CLERK: Place your left hand on the Bible and raise
3 your right hand, please.

4 TRENTON JAMES BLACK, having
5 been first duly sworn, testified as follows:

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

7 THE APPLICANT: Trenton James Black.

8 THE CLERK: Please be seated.

9 DIRECT EXAMINATION BY MR. ARIAIL:

10 Q. Mr. Black, how you doin' today?

11 A. I'm alright.

12 Q. Good. Uh, you filed PCR application regards to the
13 charges that Mr. Schmeckpeper just put on the record, correct?

14 A. Yes, sir.

15 Q. Okay, and you were represented in that case by
16 Mr. Alexander?

17 A. Yes, sir.

18 Q. Were you represented on all those charges by him?

19 A. Yes, sir.

20 Q. I wanna make sure the record is clear, there was a a
21 charge a resisting arrest with assault, resisting arrest with
22 a deadly weapon, position -- possession of a weapon during
23 commission of a violent crime, attempted murder and an
24 unlawful carrying of a pistol, were those all the charges?

25 A. Y -- uh, yes.

TRENTON JAMES BLACK - DIRECT EXAMINATION BY MR. ARIAIL

1 Q. Okay. And, uh, durin' this process yo -- did you retain
2 or was he, Mr. ---

3 A. He was ---

4 Q. --- Al ---

5 A. --- uh, court appointed.

6 Q. Court appointed, okay, so you talked to him, were you
7 incarcerated during this period of time?

8 A. Yes.

9 Q. Okay, did you ever get out on bond?

10 A. No, sir.

11 Q. Okay, so you're down here at the Pickens LEC?

12 A. Yes.

13 Q. How many times he come and talk to you?

14 A. Um, talked maybe just six, seven, eight.

15 Q. Okay, eight times. Did he provide you ---

16 A. Three ---

17 Q. --- discov -- sorry.

18 A. --- in two years, yeah.

19 Q. In two years you ---

20 A. Yes.

21 Q. --- were down there? Okay, did he provide you the
22 discovery in the case and go over it with you?

23 A. Yes.

24 Q. Okay, so you understood the charges that were against
25 you, is that correct?

TRENTON JAMES BLACK - DIRECT EXAMINATION BY MR. ARIAIL

- 1 A. May not. I kindly understand the law laws and stuff, I'm
2 not real, I'm not real good with laws, you know.
- 3 Q. Okay, well you knew the charges, correct?
- 4 A. Yes.
- 5 Q. Did he go through and tell you what had to be I guess
6 proven by the solicitor to convict you a those charges,
7 elements?
- 8 A. Yeah, I think, I think he did ---
- 9 Q. Okay.
- 10 A. --- some.
- 11 Q. Did he say what evidence was gonna be against you and
12 used at trial?
- 13 A. Yes, sir.
- 14 Q. Okay, so do you think that he did what he needed to do to
15 explain to you the charges, uh, and the facts and the elements
16 of the case?
- 17 A. Pretty much but he did, ---
- 18 Q. Okay.
- 19 A. --- he did that but my thing is, uh, uh, like when I
20 entered a plea agreement ---
- 21 Q. Right, ---
- 22 A. --- and he ---
- 23 Q. --- I'm ---
- 24 A. --- just ---
- 25 Q. --- I'm gettin' there, I just, ---

TRENTON JAMES BLACK - DIRECT EXAMINATION BY MR. ARIAIL

1 A. Okay.

2 Q. --- I'm gonna take it one step at a time so I just wanna
3 get the background but, uh, prior to that you had these
4 discussions and you went, you decide to plead guilty,
5 correct?

6 A. Yes.

7 Q. Okay, you did, you made a decision you didn't want a
8 trial, is that ri -- beyo -- correct?

9 A. Yes.

10 Q. Okay. He explain to you what you give up when you have a
11 trial?

12 A. Yes.

13 Q. Okay, that you couldn't testify, you can't bring in
14 witnesses, you can't, you know, can't do all these things you
15 have constitutional rights to do, did he tell you all those?

16 A. Yes.

17 Q. Okay, so then you decide to plead guilty, is that
18 right?

19 A. Yes.

20 Q. Okay, and you went in front of I think it was Judge
21 Miller, correct?

22 A. Yes.

23 Q. Okay, you pled guilty to these charges, right?

24 A. Yes, sir.

25 Q. Now I wanna go through and ex -- uh, understand exactly

TRENTON JAMES BLACK - DIRECT EXAMINATION BY MR. ARIAIL

1 what you're sayin' of the concerns about why he was
2 ineffective durin' the plea, okay?

3 A. Um-hum.

4 Q. Tell me what you believe he that shoulda done that he
5 didn't do durin' a plea that has affected you.

6 A. See, the the plea was set up as a a open pleas, 0 to 30,
7 0 10, 0 10, 2 to 10 and 0 to 5 and a 5 I believe it was and
8 it's supposed to been no sentence recommendation and he would
9 would not hammer the facts but Sam Tooker the solicitor
10 recommended a sentence for 40 years, 20 years for each time
11 the gun went off he said, ---

12 Q. Okay.

13 A. --- um, and he stated that I struck the officer with my
14 helmet durin' the incident but when you read the officer's
15 incident report it clearly says that he got his arm under my
16 chin and pushed which caused him to come up fall off, fall
17 away, so, I mean, ---

18 Q. Okay, ---

19 A. --- we ---

20 Q. --- I'm gonna take ya, I'm gonna take ya back 'cause we
21 gotta break this down but you said some things I I know Judge
22 McMahan needs to know about and and understand a little
23 better, so when you say "the solicitor," you're sayin' the
24 solicitor made a recommendation, he and and he wa -- you were
25 told he was not gonna make recommendation.

TRENTON JAMES BLACK - DIRECT EXAMINATION BY MR. ARIAIL

- 1 A. Yes.
- 2 Q. Okay. Did he, Mr. Alexander explain to you at any time
- 3 that this was an open plea and the solicitor can say anything
- 4 he wants to and present any witnesses that he wants to ---
- 5 A. No, he ---
- 6 Q. --- in a plea?
- 7 A. --- he didn't say that but he said it was a open plea
- 8 n -- with no sentence recommendations, 0 ---
- 9 Q. Okay.
- 10 A. --- to like 3, 0 to 30 and, you know.
- 11 Q. Okay, and I, and I understand that he's saying
- 12 basically can go wherever in that sentence range. He didn't
- 13 tell you ---
- 14 A. No.
- 15 Q. --- it was gonna be 10 to 12 years or anything like that.
- 16 A. No.
- 17 Q. He -- did he say ---
- 18 A. No, ---
- 19 Q. --- that?
- 20 A. --- he didn't, no, he didn't say that, ---
- 21 Q. Okay, ---
- 22 A. --- no, sir.
- 23 Q. --- but did he tell you they can present the witnesses
- 24 they want durin' a plea or they can say certain things in the
- 25 case, did he tell ya that?

TRENTON JAMES BLACK - DIRECT EXAMINATION BY MR. ARIAIL

1 A. No, sir.

2 Q. Okay, so you're sayin' you weren't aware that he couldn't
3 make these statements or say these things durin' the plea.

4 A. No, sir.

5 Q. Okay, and you think that the things that were said which
6 were I guess in regards to the facts bein' presented and
7 you're sayin' "he," him or the facts, what do you mean by
8 that?

9 A. He said he wouldn't hammer the facts but my thing is he
10 he stated everything that as it was written in the, uh, the
11 police report, incident report but he also stated that I
12 struck the officer with my motorcycle helmet, that I hit the
13 officer with my helmet but he, the officer it says in the
14 incident report officer says we're, we was tusslin' and he
15 pushed causin' the helmet had come up and fall away so, I
16 mean, that to him it come up, fell away, I I also had, I was
17 right here with it. Man, it's like it . . .

18 Q. Okay, so you're sayin' the one major issue was that you
19 struck Officer Tigner (phonetic), is that right?

20 A. He's he's sayin' I hit him with a hammer but I know when
21 I didn't, it's like false statement, right?

22 Q. Okay, well it -- so that that's what you're sayin' your
23 attorney should objected to ---

24 A. Yeah, um, ---

25 (Indiscernible cross-talk.)

TRENTON JAMES BLACK - DIRECT EXAMINATION BY MR. ARIAIL

- 1 Q. --- or had it brought out, uh, during the plea, is that
2 correct?
- 3 A. Yes.
- 4 Q. Did he speak anything to that or make any statements
5 about that about that bein' incorrect?
- 6 A. No, sir.
- 7 Q. Okay. Now you also say, you've you've told me that the
8 solicitor recommended 40 years as part a this per -- plea,
9 correct?
- 10 A. Yeah.
- 11 Q. Were you told or were any statements made to you that,
12 uh, the the cap was 30 years or ---
- 13 A. He said I was gonna plead 0 to 30 no sentence or he
14 wouldn't make no sentence recommendation.
- 15 Q. Okay, when you say "no sentence recommendation," you're
16 sayin' he's he's not gonna ---
- 17 A. Just ---
- 18 Q. --- say I want 40 years outta ---
- 19 A. That ---
- 20 Q. --- this charge.
- 21 A. --- that's what what was supposed ---
- 22 Q. Okay, and answer ---
- 23 A. --- to been, that's why I took a, the -- a plea bargain.
- 24 Q. Okay, and Mr. Alexander did he object to that?
- 25 A. No.

TRENTON JAMES BLACK - CROSS-EXAMINATION BY MR. SCHMECKPEPER

1 Q. Okay. Now you say that you're, another issue sayin' that
2 it was a problem was the sheriff came and testified against
3 you, is that correct?

4 A. Yeah.

5 Q. Okay, so that were you aware that he could testify or
6 make statements against you during your plea?

7 A. Well I knew he could but they said, they said the sheriff
8 wouldn't speak, he wouldn't hammer facts and it be open pleas
9 and no sentence recommendation.

10 Q. Okay. Now I think, yeah, it -- and wanna make sure I got
11 all those are the things we've discussed in regards to what he
12 didn't do, were there other things durin' the plea that I have
13 left out that you wanna put as part a the record, this your
14 one day to do it.

15 A. No, sir.

16 Q. Okay, so you think that covers all your issues that you
17 have with this?

18 A. Yes.

19 MR. ARIAIL: Okay, I have no further questions, Your
20 Honor.

21 THE COURT: Thank you, uh, Mr. Ariail. Yes, sir.

22 MR. SCHMECKPEPER: Thank Your Honor, may it please the
23 Court.

24 CROSS-EXAMINATION BY MR. SCHMECKPEPER:

25 Q. Morning, Mr. Black.

TRENTON JAMES BLACK - CROSS-EXAMINATION BY MR. SCHMECKPEPER

- 1 A. Morning.
- 2 Q. Now you said I think on your direct examination that you
3 met with counsel seven or eight times, ---
- 4 A. Think it's ---
- 5 Q. --- he went ---
- 6 A. Yes.
- 7 Q. --- over discovery with you?
- 8 A. Yes.
- 9 Q. Do you remember the actual guilty plea?
- 10 A. It was a -- what what ---
- 11 Q. Yeah.
- 12 A. --- ever's s -- stated?
- 13 Q. No, do do you remember the actual proceeding?
- 14 A. Uh, yes.
- 15 Q. Now I think your, one of, one of your allegations is
16 that, uh, the solicitor said that you hit the victim with a
17 helmet, you didn't do that, ---
- 18 A. No.
- 19 Q. --- do you remember the solicitor saying that during your
20 guilty plea?
- 21 A. Um, yes, sir.
- 22 Q. And then do you remember the plea judge asking you at one
23 point whether everything the solicitor said was accurate?
- 24 A. Yes, sir.
- 25 Q. Do you ha -- do you remember how you responded?

TRENTON JAMES BLACK - CROSS-EXAMINATION BY MR. SCHMECKPEPER

1 A. But I never -- I'm probly sure I said yeah. I was so
2 nervous that day, I mean, ---

3 Q. Let's talk about, uh, this recommendation. Do you
4 remember where in the transcript or where exactly the
5 solicitor said 40 years?

6 A. Um, just ---

7 Q. It was after after he gave the facts, right?

8 A. Yes, I guess, um, right.

9 MR. SCHMECKPEPER: Your Honor, if I could approach, ---

10 THE COURT: Yeah, yes, sir.

11 MR. SCHMECKPEPER: --- it ---

12 THE COURT: Did you wanna show him the transcript?

13 MR. SCHMECKPEPER: It's the transcript, Your Honor, and
14 I've got an extra ---

15 THE COURT: Alright.

16 MR. SCHMECKPEPER: --- copy if ---

17 (Whereupon, a discussion was held off the record.)

18 BY MR. SCHMECKPEPER:

19 Q. And if you could just turn your attention to page 12,
20 line 17. Let's go line 22.

21 THE APPLICANT: Twenty-two?

22 THE COURT: See that?

23 THE APPLICANT: Yes.

24 Q. You would agree that that's where the solicitor asked 40
25 years?

TRENTON JAMES BLACK - CROSS-EXAMINATION BY MR. SCHMECKPEPER

1 A. Yes.

2 Q. If you turn to the next page, page 13 ---

3 THE COURT: What line?

4 MR. SCHMECKPEPER: Line 3, Your Honor.

5 Q. So would you agree that immediately after the solicitor
6 said 40 years and after giving all the facts a the case the
7 judge asked you, Is everything he told me about the facts a
8 the case correct, and you said yes, is that, is that right?

9 A. Yes.

10 Q. So immediately after the solicitor broke the deal you're
11 purportedly relying on you had an opportunity say somethin',
12 is that correct?

13 A. Yeah.

14 Q. And you didn't say, you just, you just said I agree with
15 the facts a ---

16 A. Well ---

17 Q. --- the case.

18 A. --- I froze, I mean, I was, that day I was so nervous, I
19 mean, I couldn't even . . .

20 Q. Let's talk about the rest a this deal you got. Uh, isn't
21 it true that you had some other pending charges when you pled
22 guilty?

23 A. Yeah, yeah.

24 Q. Uh, was one a those assault and battery of a high and
25 avgrate -- high and aggravated nature?

TRENTON JAMES BLACK - CROSS-EXAMINATION BY MR. SCHMECKPEPER

- 1 A. Yes.
- 2 Q. And was that dismissed as part a this plea deal?
- 3 A. Yes.
- 4 Q. And you understand you, if you, if you had gone to trial
- 5 on this they could have also prosecuted on that assault and
- 6 battery of a high and aggravate nature, that coulda been
- 7 consecutive time, is that correct?
- 8 A. Yes.
- 9 Q. And you knew the victim in this case, is that correct?
- 10 A. Yes.
- 11 Q. You known him for a while?
- 12 A. Yes.
- 13 Q. You sent him some letters while you were in jail, is that
- 14 correct?
- 15 A. Yes, I did.
- 16 Q. Wha'd you say in those letters?
- 17 A. I apologized to him for what what I did.
- 18 Q. And your attorney even told ya not to, not to communicate
- 19 with him.
- 20 A. Uh, yes, he did.
- 21 Q. But you were, I mean, were you -- and I'm lookin' at
- 22 this, you were genuinely remorseful, is that correct, you're
- 23 sorry for what you done?
- 24 A. Yes, sir. Good God, I mean, ya know, I was on meth real
- 25 bad and . . .

TRENTON JAMES BLACK - CROSS-EXAMINATION BY MR. SCHMECKPEPER

1 MR. SCHMECKPEPER: Beg the Court's indulgence.

2 THE COURT: Yes, sir, course.

3 MR. SCHMECKPEPER: Your Honor, I have no further
4 questions.

5 THE COURT: Alright, thank you. Uh, redirect,
6 Mr. Ariail?

7 MR. ARIAIL: No redirect, Your Honor.

8 THE COURT: Thank you, uh, thank you very much, uh,
9 Mr. Black, you may step down.

10 THE APPLICANT: Yes, thank you.

11 THE COURT: Alright, uh, Mr. Ariail, you may call your
12 next witness.

13 MR. ARIAIL: Yes, Your Honor, I call Steven Alexander to
14 the stand.

15 THE COURT: Alright, Mr. Alexander, if you'll come around
16 and join us.

17 (Whereupon, the witness came forward.)

18 THE CLERK: Place your left hand on the Bible, raise your
19 right hand.

20 STEVEN LUTHER ALEXANDER, having
21 been first duly sworn, testified as follows:

22 THE CLERK: State your full name for the record.

23 THE WITNESS: Steven Luther Alexander.

24 THE CLERK: Please be seated.

25 THE WITNESS: Good mornin'. Thank Your Honor.

STEVEN LUTHER ALEXANDER - DIRECT EXAMINATION BY MR. ARIAIL

1 DIRECT EXAMINATION BY MR. ARIAIL:

2 Q. Mr. Alexander, how you doin' today?

3 A. Good, how are you?

4 Q. Good, doin' fine. Uh, I wanna just go, uh, through this
5 real quick in regards to, uh, when my client discussed about
6 the plea 'cause I think that's where we need to concentrate
7 on. It -- do you remember having any conversations with him
8 prior to the plea about how it's gonna go and who can testify
9 and what can come in?

10 A. We certainly talked, uh, 'bout the plea and, uh, it's at
11 least some a those details, yes, sir.

12 Q. Okay, did you te -- have, uh, tell me if you remember
13 discussing with him that, you know, solicitor can say, can
14 recite the facts and can provide information about that, about
15 the case.

16 A. Right. I mean, I talked to him that they would, uh, you
17 know, about the his rights and all that but then at at some
18 point the solicitor would go over the facts and, uh, I mean,
19 we did have some kinda verbal deal that, uh, uh, I don't know
20 if I used, I probly did say not hammer the facts, that
21 Mr. Tucker was the solicitor on this case and I, it was kinda
22 one a his phrases if I remember right so but, uh, I guess
23 that's a matter of perspective whether they did or not,
24 uh, ---

25 Q. Right.

STEVEN LUTHER ALEXANDER - DIRECT EXAMINATION BY MR. ARIAIL

1 A. --- based on the full allegations but so we talked about
2 that, um, and then about that it was a straight-up plea and
3 that, uh, we would obviously be able to ask the judge for
4 whatever we, whatever sentence we thought was appropriate and,
5 uh, you know, I I obviously told him I I didn't know what the
6 judge would do but what I thought the judge might do
7 possibilities like.

8 Q. Okay. Did he, uh, did ya'll discuss at any time that the
9 solicitor wouldn't make any sentence recommendation?

10 A. I mean, not that I remember. Um, I mean, I -- we talked
11 about it was straight-up plea, I mean, I I I may have said
12 that. I probly did say that they are not gonna make a
13 recommendation from the standpoint we're not gonna recommend
14 10 years, uh, and, uh, it may have been bad communication on
15 my part that, uh, I guess what I was saying was they're not
16 gonna make the recommendation that we want and therefore is a
17 straight-up plea and ---

18 Q. Right.

19 A. --- we can, everybody just goin' in asking for what they
20 want pretty much, uh, and I -- it -- uh, I didn't communicate
21 that well to him then, you know, but but no, I don't, I never
22 just told him specifically that, you know, that they weren't
23 gonna ask for any specific amounta time like they ended up
24 doin' ---

25 Q. Um-hum.

STEVEN LUTHER ALEXANDER - DIRECT EXAMINATION BY MR. ARIAIL

1 A. --- like 20 years per per bullet or whatever, uh, but we
2 did discuss that there was no recommendation from the
3 standpoint of that he would be accepting anyway so . . .

4 Q. Okay. And he understood it was up to the discretion a
5 the judge to sentence him and he could ha -- I mean, did ya'll
6 discuss he coulda got consecutive sentences?

7 A. Yes, sir.

8 Q. I mean, he coulda gotten if I'm, my calculations are
9 correct, he coulda gotten it looks like 80, if ya run 30, 10,
10 10, 10, sixt -- I I think that's 65 years.

11 A. Yeah, I think he had a ABHAN in there for 20 too I think,
12 I'm not mistaken ---

13 Q. Yeah.

14 A. --- so . . . Yeah, but I -- we discussed that that, um, I
15 mean, as part of plea bargain they were dismissing the
16 majority of all his pending charges and obviously goin'
17 forward on the the main one so . . .

18 Q. Okay. Now, uh, he, did ya'll discuss that the solicitor
19 could bring in or they brought in Officer Tigner here and they
20 also brought in sheriff, did ya'll discuss that they can bring
21 in people to testify on if they want to?

22 A. That, I mean, I discussed with him that, you know,
23 certainly the victim, uh, Detective Tigner would have the
24 right to speak. Uh, I I don't remember if if we discussed
25 prior to the plea whether the the sheriff would be able or or

STEVEN LUTHER ALEXANDER - DIRECT EXAMINATION BY MR. ARIAIL

1 was gonna speak, uh, but I I I wanna say we did because if I'm
2 rememberin' right that he spoke at the bond hearing we had for
3 him and so we we anticipated, I think we anticipated there
4 bein' multiple law enforcement people there ---

5 Q. Right.

6 A. --- because a the incidents. I I believe we did
7 discu -- I don't remember exact conversation a that but I
8 believe we did. I know we discussed Deputy Tigner that he
9 would be able to speak and that certainly the, you know,
10 Sheriff Clark would be allowed to be there ---

11 Q. Right.

12 A. --- so . . .

13 Q. I guess if he and what I'm loo -- he's saying is that
14 durin' this plea there's things you should have objected to.
15 If you believe that this was not the spirit of your agreement
16 with the solicitor, would you have objected?

17 A. I would have ---

18 Q. Okay.

19 A. --- then, uh, I mean, in that sense I didn't. I didn't
20 see anything that was objectionable at the time even with
21 Sheriff Clark speaking, yeah, whether he's a, he's not the
22 victim in the case but I guess he's the victim's boss, you
23 know, so . . .

24 Q. Yeah, uh, what about this, uh, statement that was made by
25 solicitor that he struck the officer or Deputy Tegner --

STEVEN LUTHER ALEXANDER - DIRECT EXAMINATION BY MR. ARIAIL

1 Tigner with his helmet, uh, but it was not in the report, you
2 remember anything about that and ---

3 A. I I don't remember whether it was in the report or not
4 and, uh, and I was reviewin' the transcript, I mean, we that
5 initially basically said that's what happened, he agrees well
6 that happened then I think I clarified my statement later on
7 in the plea toward the end that made clear to the judge that,
8 uh, that Trent didn't remember the majority of the incident
9 because he was, ---

10 A. Right.

11 Q. --- uh, he was on methamphetamines at the time, uh, but
12 that from what we know that's what occurred so I I I didn't,
13 did not object to anything about the helmet, uh, and, uh, I I
14 frankly probly thought that was, even if that's not what
15 occurred, uh, I probly thought it was better just to ignore it
16 and focus on other other matters given what the attempted
17 murder ---

18 Q. Yeah.

19 A. --- facts were actually were so . . .

20 Q. I guess that was my question and remember I was gettin',
21 you kinda answered it, so you didn't believe it woulda been
22 helpful to object to that based on the other circumstances
23 part a ---

24 A. Correct, yes.

25 Q. Okay.

STEVEN LUTHER ALEXANDER - CROSS-EXAMINATION BY MR. SCHMECKPEPER

1 MR. ARIAIL: Your Honor, I have no further questions.

2 THE COURT: Thank you, uh, Mr. Ariail. Attorney General.

3 MR. SCHMECKPEPER: Thank Your Honor.

4 CROSS-EXAMINATION BY MR. SCHMECKPEPER:

5 Q. Good mornin'.

6 A. Morning.

7 Q. Just got a few quick questions.

8 A. Okay.

9 Q. Uh, when'd you get this case?

10 A. When did I get it?

11 Q. 'bout how far in advance of the guilty plea did you get
12 this case?

13 A. Oh, I had it a year and a half, I mean, I can tell you
14 the exact time when I got it. Uh, the file was created
15 February 28th 2012 so I probly got it within a week after that
16 and I had it the whole time so ---

17 Q. I think ---

18 A. --- he pled on it's like May 22nd 2014 so . . .

19 Q. And I think applicant testified that you reviewed
20 discovery with him, did you go over the facts a the case?

21 A. We did, yeah, numerous times I met with him. He was
22 probly about accurate his statement on how many times I went
23 to the jail and we talked on the phone numerous times.

24 Q. Did the State have a weak case here?

25 A. That, I mean, not in my opinion, uh, and and Trent I

STEVEN LUTHER ALEXANDER - CROSS-EXAMINATION BY MR. SCHMECKPEPER

1 think agreed, you know, this was not one we wanted to take to
2 trial, uh, and, uh, I, you know, I would -- I mean, we
3 certainly talked about possible defenses and that in this case
4 the defense would have been at, uh, he was not intending to
5 attempt to kill, uh, Deputy Tigner, that he was in fact tryin'
6 to kill himself and we explored that and, uh, you know, to
7 some extent prepared for what might be a trial on it but, uh,
8 in the end o -- he didn't, decided not to go that route and,
9 uh, go with the plea so . . .

10 Q. Alright, and there were eyewitnesses this ---

11 A. There were.

12 Q. --- right?

13 A. There were numerous independent witnesses as it it
14 happened at a gas station, uh, so . . .

15 Q. One of 'em was the victim police officer ---

16 A. Yes, sir.

17 Q. --- who actually testified and tried to, ya know, I I
18 wouldn't say mitigate it but or didn't necessarily ask the
19 judge to give the vi -- to give the applicant a a a lesser
20 sentence but didn't ask for a harsher sentence?

21 A. I would agree with that.

22 MR. SCHMECKPEPER: Beg the Court's indulgence.

23 THE COURT: Yes, sir.

24 MR. SCHMECKPEPER: Your Honor, I have no further
25 questions.

MOTIONS AND MATTERS

1 THE COURT: Redirect?

2 MR. ARIAIL: No, Your Honor.

3 THE COURT: Thank you, uh, thank you very much, uh,
4 Mr. Alexander, thank you for bein' with us this mornin'.

5 THE WITNESS: Thank Your Honor.

6 MR. ARIAIL: Your Honor, that is our case.

7 THE COURT: Alright. Uh, Mr., uh, Schmeckpeper, uh, any
8 witnesses on behalf the State?

9 MR. SCHMECKPEPER: Your Honor, I have no witness. I
10 obviously be able to ha -- and happy to answer any questions
11 or present argument if necessary.

12 THE COURT: Alright, uh, what is ya'lls preference
13 Mr. Ariail, uh, Mr. Schmeckpeper, you wanna present arguments,
14 you just wanna s -- uh, uh, e-mail my law clerk proposed
15 orders?

16 MR. ARIAIL: I, Your Your Honor, I just usually, I defer
17 to the judge in regards to that, normally I don't do any
18 argument at the end of it.

19 THE COURT: Alright. I usually let lawyers try their own
20 cases but, uh, that's fine with me. Uh, ya'll can submit, uh,
21 proposed orders. Uh, what period a time you need, ya'll know
22 how busy you are.

23 MR. SCHMECKPEPER: I appreciate maybe thirty days, Your
24 Honor.

25 THE COURT: Course, ---

MOTIONS AND MATTERS

1 MR. ARIAIL: That's fine with me.

2 THE COURT: --- Mr. Ariail?

3 MR. ARIAIL: That's fine, Your Honor.

4 THE COURT: Alright, thank you, ---

5 MR. SCHMECKPEPER: Thank you.

6 THE COURT: Uh, thank you very much, uh, thirty days
7 proposed orders. Uh, good luck to you, uh, Mr. Black.

8 THE APPLICANT: Thank you, sir.

9 THE COURT: Alright, thank you. Thank you again,
10 Mr. Alexander.

11 MR. ALEXANDER: Yes, sir.

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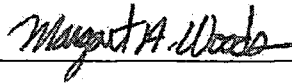
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2
3 CERTIFICATE OF REPORTER

4 I, Margaret A. Woods, Court Reporter in and for the State
5 of South Carolina at Large, hereby certify that I reported the
6 preceding case on April 18, 2016 at the time and place
7 heretofore set forth; and that the foregoing pages numbered
8 from 4 through 27, inclusive, constitute a true and accurate
9 transcription of my stenographic notes of the said proceeding.

10 I further certify that I am neither attorney nor counsel
11 for, nor related to or employed by any of the parties
12 connected to the action, nor am I financially interested in
13 the action.

14 October 3, 2016

15 

16 Margaret A. Woods, Court Reporter
17 in and for the State of South Carolina at Large.
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STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

Trenton James Black,
S.C.D.C. No. 282569

Applicant,

v.

State of South Carolina,

Respondent.

2015 FEB 11 24
IN THE COURT OF COMMON PLEAS
CLERK OF COURT
THIRTEENTH JUDICIAL CIRCUIT
PICKENS COUNTY
SOUTH CAROLINA
CA No. 2015-CP-39-0101

ORDER OF DISMISSAL
(with prejudice)

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on January 23, 2015. Respondent filed its Return on June 2, 2015. An evidentiary hearing into the matter was convened on April 18, 2016, at the Pickens County Courthouse. Applicant was present at the hearing and was represented by Mills Atrial, Jr., Esquire. Respondent was represented by Patrick Schmeckpeper, Esquire, of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Pickens County Clerk of Court's orders of commitment. The Pickens County Grand Jury indicted the Applicant at the June 2013 term of General Sessions for resisting arrest with assault (2013-GS-39-1809), resisting arrest with a deadly weapon (2013-GS-39-1810), possession of a weapon during commission of a violent crime (2013-GS-39-1811), attempted murder (2013-GS-39-1812), and unlawful carrying of a pistol (2013-GS-39-1814). Steven Alexander, Esquire represented the Applicant.

On May 22, 2014, the Applicant pled guilty.¹ The Honorable Edward W. Miller sentenced the Applicant to concurrent terms of 10 years for resisting arrest with assault, 10 years

¹ The State not crossed a charge of possession of methamphetamine (2013-GS-39-1807).

for resisting arrest with a deadly weapon, 5 years for possession of a weapon during commission of a violent crime, 30 years for attempted murder, and time-served for unlawful carrying of a pistol. The Applicant did not appeal.

Allegations

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

1. "Statute unconstitutional."
 - a. The attempted murder statute is unconstitutionally vague.
2. "Ineffective of counsel."
 - a. Failed to object to or withdraw the Applicant's guilty plea because the State disregarded its oral agreement that it would not make a sentence recommendation.
 - b. Failed to object to the State's misleading statements concerning the facts of the case.
 - c. Induced the Applicant's guilty plea with false information.
 - d. Failed to "properly object to prosecutor's statement that 'he viewed Applicants plea to attempted murder as a plea to murder.'"
3. "Due process violated."
4. "Plea agreement breached."
 - a. "Applicant pled guilty on the basis of promises by the State which were not fulfilled."
5. "Prosecutorial misconduct."
 - a. "The prosecutor stated to the court concerning Applicants guilty plea to attempted murder, that he viewed the charge as murder since Officer Ticknor could have been killed."

In an "Amendment to Application for Post Convict Relief" filed March 31, 2015, the Applicant made the following allegations:

1. Ineffective assistance of counsel:
 - a. Failed to properly object to the statement made by the Sheriff during the guilty plea hearing.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony

accordingly. Further, this Court reviewed the Clerk of Court records regarding the subject guilty pleas, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, the transcripts and documents from the prior proceedings, and the legal arguments of counsel. Pursuant to S.C. Code Ann. §17-27-80 (2015), this Court makes the following findings of fact and conclusions of law based upon all of the probative evidence presented.

Ineffective Assistance of Counsel

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 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." Id. at 117-18, 386 S.E.2d at 625. Because Applicant pled guilty, he 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).

Plea Agreement

Applicant first argued counsel was ineffective failing to object when the solicitor allegedly violated the terms of his plea agreement by recommending a forty (40) year sentence. This Court finds he has failed to meet his burden.

In the context of a guilty plea, a defense attorney may be deficient in failing to object when a solicitor makes a sentencing recommendation in violation of a plea agreement. Thompson v. State, 340 S.C. 112, 531 S.E.2d 294 (2000). The record and testimony in this case, however, indicate that there was never an actual agreement that the solicitor would not make a recommendation. Counsel testified that he told Applicant it was a straight up plea, and that they could ask the judge for the sentence they thought was right. He said he did not remember telling Applicant whether the solicitor would make a recommendation. Counsel clarified that he may have told Applicant the solicitor would not give a favorable recommendation, but that he never told Applicant the State would not ask for a specific amount of time. Compare Smith v. State, 407 S.C. 270, 277, 754 S.E.2d 900, 904 (Ct. App. 2014) (finding counsel deficient where she told defendant the solicitor was not going to make a sentencing recommendation, and admitted she made a mistake in failing to put all of the terms of the plea agreement on the record and failing to object when the solicitor requested the maximum sentence), aff'd, 413 S.C. 194,

775 S.E.2d 696 (2015).² This Court finds counsel's testimony credible. Applicant's contrary testimony is not credible.

Even assuming, however, that Applicant was telling the truth at the evidentiary hearing, there is nothing in the record to indicate counsel knew or should have known Applicant misunderstood the terms of the agreement with the solicitor and believed there would not be a recommendation. See Strickland at 690, 104 S.Ct. at 2066 (reviewing courts are required to make every effort to "eliminate the distorting effects of hindsight," and "to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time.") (emphasis added). Counsel was not required to make objections based on information that was not available to him at the time. See, e.g., Lee v. State, 396 S.C. 314, 322, 721 S.E.2d 442, 447 (Ct. App. 2011) (holding counsel could not be deficient for failing to request competency hearing or evaluation if she had no indication of client's mental status); Thornes v. State, 310 S.C. 306, 426 S.E.2d 764 (1993) ("This Court has never required an attorney to anticipate or discover changes in the law, or facts which did not exist, at the time of the trial."). Further, Applicant had the opportunity to speak up to either the judge or counsel during his plea hearing. The solicitor made the sentencing recommendation immediately following his recitation of the facts. Plea Tr., p. 12, l. 22-23. Thereafter, rather than express his misunderstanding – which would have given counsel the opportunity to stand down or make an objection – Applicant said that the solicitor's statement of the facts was true and accurate. Plea Tr., p. 13, l. 3-5. Given the record and testimony presented at the evidentiary hearing, this Court

² The Supreme Court issued a published opinion affirming the court of appeals' reasoning in Smith, but clarifying that the appropriate remedy for ineffective assistance of counsel in this context was a new trial rather than a new sentence. 413 S.C. at 195, 775 S.E.2d at 696. However, because neither party appealed the court of appeals' ruling remanding the matter for resentencing, the Supreme Court affirmed *in toto*. *Id.* at 196, 775 S.E.2d at 697.

finds counsel's performance was objectively reasonable. Moreover, any misunderstanding on Applicant's part was unreasonable in light of counsel's credible testimony.

Applicant has also failed to show prejudice, or that but for counsel's allegedly deficient performance he would have refused to plead guilty and insisted on proceeding to trial. There is no serious indication that Applicant wanted a trial. Compare, Smith, 407 S.C. at 277, 754 S.E.2d at 904 (court concluded that both plea counsel and defendant intended to go to trial on the charge, and it was only when the solicitor offered to reduce the charge and remain silent on sentencing in exchange for his cooperation that Smith changed his mind about going to trial and pled guilty). Counsel testified that based on the state's evidence, this was not a case he would have wanted to take to trial.³ This Court agrees that the evidence against Applicant was substantial. The record indicates that Deputy Ticknor and at least two bystanders witnessed the event and were involved in detaining Applicant at the scene. Plea Tr., p. 10, l. 8-21. Further, as Applicant testified at the evidentiary hearing, he was truly remorseful for the incident, to the point that he wrote Deputy Ticknor a letter apologizing against the advice of his attorney. Plea Tr., p. 20, l. 11-17. Accordingly, in light of counsel's credible testimony, the strength of the State's evidence, and Applicant's apparent remorse to the potential detriment of his case, this Court finds his current testimony that he would have proceeded to trial had he known the solicitor was going to make a sentencing recommendation is not credible. As Applicant has failed to meet his burden with respect to this allegation, it is denied and dismissed.

Factual Recitation at Plea Hearing

Applicant further alleged counsel was ineffective for failing to inform him that the solicitor could recite the facts of his offense at the plea hearing, and failing to object when the

³ Counsel said that had the case gone to trial, Applicant's defense would have been that he was trying to kill himself rather than Deputy Ticknor.

solicitor misstated the facts during that recitation. This Court finds Applicant has failed to meet his burden. First, counsel credibly testified that he told Applicant the solicitor could state his version of the facts at the hearing. He further testified that he did not object because of the serious nature of the other offenses. This Court finds both explanations are objectively reasonable.

Regardless, Applicant has failed to show that but for counsel's alleged deficiencies, he would have refused to plead guilty and proceeded to trial. Specifically, even if both allegations are factually true, Applicant admitted to the facts as recited by the solicitor at the plea hearing and pled guilty anyway. Plea Tr., 13, l. 3-5. As a result, his contrary testimony at the evidentiary hearing is not credible. This allegation is therefore denied and dismissed.

Statement by Law Enforcement

Applicant next alleges counsel was ineffective for failing to object to the statement by Sheriff Clark at his guilty plea hearing. This is also without merit. Counsel testified that he anticipated multiple law enforcement officers speaking at Applicant's guilty plea hearing because they also spoke during the bond hearing. Counsel said he would have objected if anything objectionable had occurred, and Applicant has failed to raise anything Sheriff Clark said that was factually or legally objectionable. Sheriff Clark spoke after Applicant pled guilty, and during sentencing. In determining what sentence to impose, a judge may appropriately conduct an inquiry broad in scope, largely unlimited either as to the kind of information he may consider or the source from which it may come. State v. Franklin, 267 S.C. 240, 246, 226 S.E.2d 896, 898 (1976). This allegation is therefore denied and dismissed.

ALL OTHER ALLEGATIONS

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

[Signature follows]

CONCLUSION

Based on the foregoing, this Court finds that the Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of intent to appeal within thirty (30) days from receipt of this Order to secure the appropriate appellate review. See Rule 203, SCACR. Rule 71.1(g), SCRCP; Bray v. State, 336 S.C. 137, 620 S.E.2d 743 (2005), for the obligation of Applicant's counsel to file and serve notice of appeal. The Applicant's attention is also directed to South Carolina Appellate Court Rule 243 for appropriate procedures after notice has been timely filed.

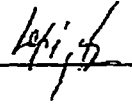
IT IS THEREFORE ORDERED

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 29 day of July, 2016.



R. Knox McMahon
Presiding Judge
Thirteenth Judicial Circuit

, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF Pickens
STATE VS.Trenton James Black

AKA:

Race: WHITE Sex: M Age: 30DOB: 1984 SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Easley, SC 29640DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Resisting / Assault, beat, or wound police officer serving process or while resisting arrest

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS3901809A/W#: 2012A3910500050Date of Offense: 9/10/2012S.C. Code § : 16-09-0320(B)CDR Code #: 0256

SENTENCE SHEET

0-10☐ CONVICTED OF or ☒ PLEADSin violation of § 16-09-0320(B) of the S.C. Code of Laws, bearing CDR Code # 0256☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Takeer, Sam7899
SC Bar#Trenton Black
DefendantAttorney for Defendant71164
SC Bar#WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 019 DMS☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(I) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

Clerk of Court/ Deputy Clerk

Court Reporter: Diana Hudson

SCCA/217 (03/2011)

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge 201 W. W. R.Judge Code: 2130Sentence Date: 5/22/14

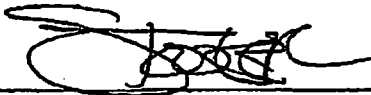
STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
RESISTING ARREST WITH ASSAULT

At a Court of General Sessions, convened on **JUN 18 2013** the Grand Jurors of Pickens
County present upon their oath:

That TRENTON JAMES BLACK did in Pickens County, on or about the 10th day of September, 2012, knowingly and willfully and unlawfully assault, beat or wound Deputy Scott A. Ticknor with the Pickens County Sheriff's Office while resisting an arrest by one whom he knew or reasonably should have known was a law enforcement officer. This is in violation of §16-9-320(B) of the South Carolina 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.



SOLICITOR

WITNESSES

Benjamin Dow

Pickens County Sheriff's Office

9/12/2012

ARREST WARRANT NUMBER
2012A3910500050

ACTION OF GRAND JURY

TRUE DATE
Data JUN 18 2013

Steven Richardson
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2013-GS-39-1809
SBT

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

JUN 18 2013 TERM 2013

THE STATE

vs.

TRENTON JAMES BLACK

Indictment for

0256

RESISTING ARREST WITH ASSAULT

VIOLATION § 16-09-0320(B)

ARREST WARRANT

2012A3910500050

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
Pickens

THE STATE 2012-21784
against

Trenton James Black

Address: **Easley, SC 29640-**

Phone: **SSN:**

Sex: **M** Race: **W** Height: **6** **6** Weight: **170**

DL State: **SC** DL #: **DOB:** **984** Agency ORI #: **SC0390000**

Prosecuting Agency: **Pickens County Sheriff**

Prosecuting Officer: **Benjamin Dow - 0093**

Offense: **Resisting / Assault, beat, or wound police officer serving process or while resisting arrest**

Offense Code: **0256**

Code/Ordinance Sec: **16-09-0320(B)**

This warrant is **CERTIFIED FOR SERVICE** in the
☐ County/ ☐ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant **Trenton Black**
on **7/12/12**

[Signature]
Signature of Constable/Deputy Constable Officer

RETURN WARRANT TO:
General Session
P.O. Box 215
Pickens, SC 29671

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA)
☒ County/ ☐ Municipality of)
Pickens)

AFFIDAVIT

ORIGINAL Form Approved by
S.C. Attorney General
April 24, 2003
SCCA 518

Personally appeared before me the affiant **Benjamin Dow** who
being duly sworn deposes and says that defendant **Trenton James Black**
did within this county and state on or about **9/10/2012** violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of **Pickens**)
in the following particulars:

DESCRIPTION OF OFFENSE: Resisting / Assault, beat, or wound police officer serving process or while resisting arrest

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

That on September 10, 2012, in the county of Pickens, one Trenton James Black did knowingly and willfully assault, beat and/or
wound a law enforcement officer who was engaged in serving, executing and/or attempting service of legal process. The defendant
was advised he was under arrest by the victim, Deputy Scott A. Ticknor at which time a physical altercation ensued. During the
altercation the defendant struck the victim with a motorcycle helmet, gas hose, and then proceeded to bite the victim. The defendant
also removed from his pocket a Ruger handgun which he used to shoot at the victim twice and at one point had pointed at the
victim's head. The defendant was disarmed and subdued by bystanders. This offense occurred within Pickens County SC. Probable
cause based upon: 1) PCSO incident report 12-21784, 2) Witness statement's

Signature of Affiant *[Signature]*

STATE OF SOUTH CAROLINA)
☒ County/ ☐ Municipality of)
Pickens)

Affiant's Address **216 Lec Road**
Pickens, SC 29671-

Affiant's Telephone **(864)898-5500**

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about **9/10/2012** defendant **Trenton James Black**
did violate the criminal laws of the State of South Carolina (or ordinance of
☒ County/ ☐ Municipality of **Pickens**) as set forth below.

DESCRIPTION OF OFFENSE: Resisting / Assault, beat, or wound police officer serving process or while resisting arrest

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable

Sworn to and subscribed before me
on **9/12/2012**

[Signature] (L.S.)
Signature of Issuing Judge
Michael Baker
Judge Code: **7257**

Judge's Address **West End Hall** **SEP 18 2012**
Easley, SC 29640-2901

Judge's Telephone **(864)850-7076**

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

COUNT OF
STATE

Pickens

VS.

Trenton James Black

AKA:

Race: WHITE Sex: M Age: 30

DOB: 1984 SS#

Address:

City, State, Zip: Easley, SC 29640

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Resisting / Resisting arrest with a deadly weapon - 1st offense

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS3901810

A/W#: 2012A3910500046

Date of Offense: 9/10/2012

S.C. Code § : 16-03-0625

CDR Code #: 2352

SENTENCE SHEET

2-10 YEARS

☐ CONVICTED OF of ☒ PLEADS

in violation of § 16-03-0625 of the S.C. Code of Laws, bearing CDR Code # 2352

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Tooker, Sam

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

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

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

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 618 DKS☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2130

Sentence Date: 5/22/14

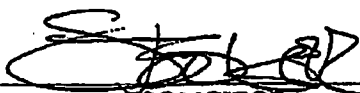
STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
RESISTING ARREST WITH A DEADLY WEAPON

At a Court of General Sessions, convened on **JUN 18 2013** the Grand Jurors of Pickens
County present upon their oath:

That TRENTON JAMES BLACK did in Pickens County, on or about the 10th day of September, 2012, knowingly and willfully resist the efforts of Deputy Scott Ticknor with the Pickens County Sheriff's Office to arrest him or another, and did so with the use or threat of use of a deadly weapon against Deputy Scott Ticknor and he was in possession or claimed to be in possession of a deadly weapon. This is in violation of §16-3-625 of the South Carolina 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.


SOLICITOR

WITNESSES

Benjamin Dow

Pickens County Sheriff's Office

9/12/2012

ARREST WARRANT NUMBER
2012A3910500046

ACTION OF GRAND JURY
TRUE BILL
Date: JUN 18 2013

Steven Richardson
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2013-GS-39-^{SBT} 1810
The State of South Carolina
County of Pickens

COURT OF GENERAL SESSIONS

JUN 18 2013 **TERM 2013**

THE STATE

vs.

TRENTON JAMES BLACK

Indictment for

2352

RESISTING ARREST WITH A DEADLY WEAPON

VIOLATION § 16-03-0625

ARREST WARRANT

2012A3910500046

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Pickens

THE STATE
against

2012-21784

Trenton James Black

Address:

Easley, SC 29640-

Phone: SSN:

Sex: M Race: W Height: 6 6 Weight: 170

DL State: SC DL #:

DOB: 1984 Agency ORI #: SC0390000

Prosecuting Agency: Pickens County Sheriff

Prosecuting Officer: Benjamin Dow - 0093

Offense: Resisting / Resisting arrest with a deadly weapon -
1st offense

Offense Code: 2352

Code/Ordinance Sec: 16-03-0625

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant

Trenton Black

on

9/12/12

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Session

P O Box 215

Pickens, SC 29671

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Pickens

Personally appeared before me the affiant Benjamin Dow

who

being duly sworn deposes and says that defendant Trenton James Black

did within this county and state on or about 9/10/2012

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

Pickens

in the following particulars:

DESCRIPTION OF OFFENSE: Resisting / Resisting arrest with a deadly weapon - 1st offense

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

That on September 10, 2012 in the county of Pickens, one Trenton James Black, being seventeen years of age or older, did resist the lawful efforts of a Law Enforcement Officer, Deputy Scott A. Ticknor, to arrest him or another person with the use or threat of use of a shotgun, rifle or pistol against the officer. The defendant, while fighting with the Deputy upon being told he was under arrest, removed a Ruger handgun from his pocket and shot at the Deputy twice. At one point during the struggle the defendant had the handgun pointed at the Deputy's head. The defendant was disarmed and subdued by bystander's. This offense occurred within Pickens County SC. Probable cause based upon: 1) PCSO incident report #12-21784, 2) Witness statement's.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Pickens

Affiant's Address 216 Lec Road

Pickens, SC 29671-

Affiant's Telephone (864)898-5500

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/10/2012

defendant Trenton James Black

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Pickens

) as set forth below:

DESCRIPTION OF OFFENSE: Resisting / Resisting arrest with a deadly weapon - 1st offense

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 9/12/2012

Signature of Issuing Judge

Michael Baker

Judge Code: 7257

(L.S.)

Judge's Address West End Hall

Easley, SC 29640-2901

Judge's Telephone (864)830-7076

Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

SEP 18 2012

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Pickens

VS.

Trenton James Black

AKA:

Race: WHITE Sex: M Age: 30

DOB: 1984 SS#: [REDACTED]

Address:

City, State, Zip: Easley, SC 29640

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Weapons / Possession of weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Tooker, Sam

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

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

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

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 619 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS3901811

A/W#: 2012A3910500047

Date of Offense: 9/10/2012

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

5 YEARS

NON-SUSPENSIBLE

☐ CONVICTED OF or ☒ PLEADS

SPECIAL CONDITIONS:

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

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

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge

Judge Code:

Sentence Date:

2130

5/22/14

STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

**INDICTMENT FOR
POSSESSION OF A WEAPON DURING THE COMMISSION OF A
CRIME**

At a Court of General Sessions, convened on **JUN 18 2013** the Grand Jurors of Pickens
County present upon their oath:

That TRENTON JAMES BLACK did in Pickens County, on or about the 10th day of September, 2012, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: Attempted Murder. This is in violation of §16-23-490 of the South Carolina 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.


SOLICITOR

WITNESSES

Benjamin Dow

Pickens County Sheriff's Office

9/12/2012

ARREST WARRANT NUMBER
2012A3910500047

ACTION OF GRAND JURY

TRUE BILL
Date JUN 18 2013

Steven Richardson
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2013-GS-39-^{SBT} 1811

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

JUN 18 2013 TERM 2013

THE STATE

vs.

TRENTON JAMES BLACK

Indictment for

0549

**POSSESSION OF A WEAPON DURING THE
COMMISSION OF A CRIME**

VIOLATION § 16-23-0490

ARREST WARRANT

2012A3910500047

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
Pickens

THE STATE **2012-21784**
against

Trenton James Black

Address: **Easley, SC 29640-**

Phone: **SSN: 6 6 Weight: 170**

Sex: **M** Race: **W** Height: **6 6** Weight: **170**

DL State: **SC** DL #: **DOB: 1984** Agency ORI #: **SC0390000**

Prosecuting Agency: **Pickens County Sheriff**

Prosecuting Officer: **Benjamin Dow - 0093**

Offense: **Weapons / Possession of weapon during violent crime, if not also sentenced to life without parole**

Offense Code: **0549**

Code/Ordinance Sec: **16-23-0490**

This warrant is **CERTIFIED FOR SERVICE** in the
☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant **Trenton Black** on **9/12/12**

[Signature]
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
General Session
P O Box 215
Pickens, SC 29671

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA)
☒ County/ ☐ Municipality of)
Pickens)

AFFIDAVIT

ORIGINAL Form Approved by S.C. Attorney General April 21, 2005 SCCA 516

Personally appeared before me the affiant **Benjamin Dow** who being duly sworn deposes and says that defendant **Trenton James Black** did within this county and state on or about **9/10/2012** violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of **Pickens**) in the following particulars:

DESCRIPTION OF OFFENSE: Weapons / Possession of weapon during violent crime, if not also sentenced to life without parole or death

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on September 10, 2012 in the county of Pickens, one Trenton James Black did knowingly and willfully possess and display what appeared to be a firearm during the commission of a violent crime. Defendant was has been convicted of a violent crime. The defendant, upon being advised he was under arrest by the victim, Deputy Scott A. Ticknor, did resist the lawful arrest by fighting the victim; during which time the defendant removed a Ruger handgun from his pocket and shot at the victim twice. The defendant was subdued and disarmed by bystanders. This offense occurred within Pickens County SC. Probable cause based upon: 1) PCSO incident report# 12-21784, 2) Witness statement's

Signature of Affiant *Benjamin Dow*

STATE OF SOUTH CAROLINA)
☒ County/ ☐ Municipality of)
Pickens)

Affiant's Address **216 Lec Road**
Pickens, SC 29671-

Affiant's Telephone **(864)898-5500**

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about **9/10/2012** defendant **Trenton James Black** did violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of **Pickens**) as set forth below.

DESCRIPTION OF OFFENSE: Weapons / Possession of weapon during violent crime, if not also sentenced to life without parole or death

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on **9/12/2012**

[Signature] (L.S.)

Signature of Issuing Judge
Michael Baker

Judge Code: **7257**

SEP 18 2012

Judge's Address **West End Hall**
Easley, SC 29640-2901

Judge's Telephone **(864)850-7076**

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Pickens

VS.

Trenton James Black

AKA:

Race: WHITE Sex: M Age: 30

DOB: 1984 SS#

Address:

City, State, Zip: Easley, SC 29640

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder / Attempted Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS3901812

A/W#: 2012A3910500049

Date of Offense: 9/10/2012

S.C. Code § : 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

0-30 [NO 3-SP. SENT. - NO PROB. NO PIVALE]

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Tucker, Sam

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 619 Days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

PTUP _____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

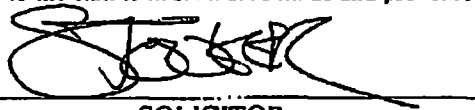
INDICTMENT FOR
ATTEMPTED MURDER

At a Court of General Sessions, convened on **JUN 18 2013** the Grand Jurors of Pickens
County present upon their oath:

That TRENTON JAMES BLACK did in Pickens County on or about the 10th day of September 2012,
unlawfully with malice aforethought and with the intent to kill, attempt to kill Deputy Scott A. Ticknor.

This is in violation of § 16-03-0029 of the South Carolina 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.


SOLICITOR

WITNESSES

Benjamin Dow

Pickens County Sheriff's Office

9/12/2012

ARREST WARRANT NUMBER

2012A3910500049

ACTION OF GRAND JURY

TRUE DATE
Date JUN 18 2013

Steven Richardson
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2013-GS-39-

SBT

1812

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

JUN 18 2013

TERM 2013

THE STATE

vs.

TRENTON JAMES BLACK

Indictment for

3410

ATTEMPTED MURDER

VIOLATION § 16-03-0029

ARREST WARRANT

2012A3910500049

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Pickens

THE STATE

2012-21784

against

Trenton James Black

Address:

Easley, SC 29640-

Phone:

SSN:

Sex: M

Race: W

Height: 6

6

Weight: 170

DL State: SC

DL #: 1984

DOB: 1984

Agency ORI #: SC0390000

Prosecuting Agency: Pickens County Sheriff

Prosecuting Officer: Benjamin Dow - 0093

Offense: Murder / Attempted Murder

Offense Code:

3410

Code/Ordinance Sec:

16-03-0029

This warrant is CERTIFIED FOR SERVICE in the

☐ County/☐ Municipality of

The accused

is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant

on

Trenton Black

9/12/12

CHIT # JLE

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Session

P O Box 215

Pickens, SC 29671

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Pickens

Personally appeared before me the affiant Benjamin Dow

who

being duly sworn deposes and says that defendant Trenton James Black

did within this county and state on or about 9/10/2012

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Pickens)

In the following particulars:

DESCRIPTION OF OFFENSE: Murder / Attempted Murder

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

That on September 10, 2012 in the county of Pickens, one Trenton James Black did attempt to murder the victim, Deputy Scott A. Ticknor with malice aforethought. The victim, while operating in his official capacity as Deputy Sheriff, attempted to place the defendant under lawful arrest, at which time a physical altercation ensued. During the altercation, the defendant removed from his pocket a Ruger handgun and shot at the victim twice. At one point the defendant had the handgun pointed at the victim's head. The defendant was subdued and disarmed by bystanders. This offense occurred within Pickens County SC. Probable cause based upon 1) PCSO incident report #12-21784, 2) Witness statement's

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Pickens

Affiant's Address 216 Lec Road

Pickens, SC 29671-

Affiant's Telephone (864)898-5500

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/10/2012 defendant Trenton James Black

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Pickens

) as set forth below:

DESCRIPTION OF OFFENSE: Murder / Attempted Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 9/12/2012

Signature of Issuing Judge

Michael Baker

Judge Code: 7257

(L.S.)

Judge's Address West End Hall

Easley, SC 29640-2901

Judge's Telephone (864)850-7076

Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Pickens

VS.

Trenton James Black

AKA:

Race: WHITE Sex: M Age: 30

DOB: 1-1984 SS#

Address:

City, State, Zip: Easley, SC 29640

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Weapons / Unlawful carrying of pistol

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS3901814

A/W#: 2012A3910500045

Date of Offense: 9/10/2012

S.C. Code §: 16-23-0020

CDR Code #: 0044

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-23-0020 of the S.C. Code of Laws, bearing CDR Code # 0044

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: 7264 73997 x 71164
Fooker, Sam SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 60 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 60 DAYS☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCJA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$ 13390

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

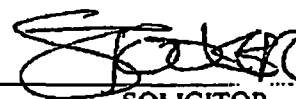
STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
UNLAWFUL CARRYING OF A HANDGUN

At a Court of General Sessions, convened on **JUN 18 2013** the Grand Jurors of Pickens
County present upon their oath:

That TRENTON JAMES BLACK did in Pickens County, on or about the 10th day of September, 2012, willfully
and unlawfully was in actual or constructive possession of a handgun. This is in violation of §16-23-0020 of the
South Carolina 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.


SOLICITOR

WITNESSES

Benjamin Dow

Pickens County Sheriff's Office

9/12/2012

ARREST WARRANT NUMBER

2012A3910500045

ACTION OF GRAND JURY

TRUE BILL JUN 18 2013
Date

Steven Richardson
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2013-GS-39-^{SBT} 1814

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

JUN 18 2013

TERM 2013

THE STATE

vs.

TRENTON JAMES BLACK

Indictment for

0044

UNLAWFUL CARRYING OF A HANDGUN

VIOLATION § 16-23-0020

ARREST WARRANT

2012A3910500045

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Pickens

THE STATE

2012-21784

against

Trenton James Black

Address:

Easley, SC 29640-

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: W Height: 6 6 Weight: 170

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] 1984 Agency ORI #: SC0390000

Prosecuting Agency: Pickens County Sheriff

Prosecuting Officer: Benjamin Dow - 0093

Offense: Weapons / Unlawful carrying of pistol

Offense Code: 0044

Code/Ordinance Sec: 16-23-0020

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date: [REDACTED]

RETURN

A copy of this arrest warrant was delivered to

defendant Trenton Blackon 9/12/12

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Session
P O Box 215
Pickens, SC 29671

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Pickens

Personally appeared before me the affiant Benjamin Dow whobeing duly sworn deposes and says that defendant Trenton James Blackdid within this county and state on or about 9/10/2012 violate the criminal laws of theState of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Pickens)

In the following particulars:

DESCRIPTION OF OFFENSE: Weapons / Unlawful carrying of pistol

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on September 10, 2012, in the county of Pickens, one Trenton James Black did carry about his person a handgun, not being authorized by law to do so. The defendant did attempt to murder the victim, Deputy Scott A. Ticknor, while in the line of duty. The victim attempted to arrest the defendant at which time an altercation ensued. During the altercation the defendant removed a Ruger handgun from his pocket and attempted to shoot the victim two times. The defendant was subdued by bystanders who removed the gun from the defendant's possession. This offense occurred within Pickens County SC. Probable cause based upon: 1) PCSO incident report #12-21784. 2) Witness statement's 3) Victim statement

Signature of Affiant

Benjamin Dow

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Pickens

Affiant's Address 216 Lec RoadPickens, SC 29671-Affiant's Telephone (864)898-5500

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/10/2012 defendant Trenton James Black

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Pickens) as set forth below.

DESCRIPTION OF OFFENSE: Weapons / Unlawful carrying of pistol

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 9/12/2012

Signature of Issuing Judge

Michael Baker

Judge Code: 7257

(L.S.)

Judge's Address West End HallEasley, SC 29640-2901Judge's Telephone (864)850-7076Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

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Form Approved by
U.S. Attorney General
April 21, 2003
SCCA 510

SEP 18 2012