

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Appeal from Orangeburg County

Benjamin H. Culbertson, Circuit Court Judge

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AMY RENEE LANE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-002403

---

APPENDIX

---

WANDA H. CARTER  
Deputy Chief Appellate Defender

ALAN WILSON  
Attorney General

South Carolina Commission on Indigent  
Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

RUSTON NEELY  
Assistant Attorney General  
Attorney General Office  
P. O. Box 11549  
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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State of South Carolina ) In the Court of General Sessions  
 ) First Judicial Circuit  
 County of Richland ) 2014-GS-38-00714

State of South Carolina, )  
 )  
 Plaintiff, )  
 )  
 vs. ) Transcript of Record  
 )  
 Amy Renee Lane, )  
 )  
 Defendant. )  
 )  
 \_\_\_\_\_ )

November 20, 2014  
 Orangeburg, South Carolina

B e f o r e:

The Honorable Edgar W. Dickson, Judge

A p p e a r a n c e s:

Ashley Cornwell, Esquire  
 Attorney for the Plaintiff/Appellant

Michael Culler, Esquire  
 Attorney for the Defendant

Bonnie H. Kelly, CVR  
 Circuit Court Reporter

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EV.</u>
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-- NO EXHIBITS ENTERED --

1 MS. CORNWELL: The State calls Amy Lane.

2 (Brief pause.)

3 THE COURT: All right. This is ---

4 MS. CORNWELL: May it please the Court, Your Honor.

5 THE COURT: Yes, ma'am.

6 MS. CORNWELL: Before you is Amy Lane with her  
7 attorney Mr. Culler. She is here to plead guilty under  
8 indictment 2014-GS-38-0714, and that is a true-billed  
9 indictment for armed robbery.

10 THE COURT: Okay.

11 MS. CORNWELL: The State is recommending a cap of 15  
12 years.

13 AMY LANE, having been first duly  
14 sworn, testifies as follows:

15 THE COURT: Okay. Mr. Culler, you represent Ms. Lane?

16 MR. CULLER: I do, Your Honor.

17 THE COURT: Okay. And she has a true-billed  
18 indictment for armed robbery. And you have had an  
19 opportunity to meet with her, review the evidence that the  
20 State has against her regarding this charge?

21 MR. CULLER: Done that. We've gone through the "most  
22 serious" and "serious" strikes. We've gone through the  
23 violent/non-violent, and the fact that this is a "most  
24 serious" and a strike; that if she has another one of  
25 those, would put her in prison for life. She understands

1 that quite well. I gave her copies of that the other day.

2 THE COURT: Okay. All right. And you also explained  
3 to her her constitutional rights?

4 MR. CULLER: Yes, Your Honor.

5 THE COURT: Okay. And -- and I -- she actively took  
6 part in your -- in -- in -- in -- in talking with you; is  
7 that correct? I mean, you really believe she understands  
8 what she's doing.

9 MR. CULLER: Oh. There's clearly -- she  
10 intellectually embraces and understands all of this.

11 THE COURT: Okay. Okay. She has told you that she  
12 wanted you to pursue plea options with the State?

13 MR. CULLER: Yes, Your Honor.

14 THE COURT: Okay. And -- and this is the offer that  
15 the State has made?

16 MR. CULLER: It is.

17 THE COURT: Okay. And the -- the maximum sentence on  
18 armed robbery is what, Ms. Cornwell?

19 MS. CORNWELL: Thirty years, Your Honor.

20 THE COURT: Thirty years? And the State is just  
21 recommending a cap of 15; is that your understanding?

22 MR. CULLER: That is my understanding.

23 THE COURT: Okay. And obviously, you're going to  
24 argue for less than that, I'm assuming.

25 MR. CULLER: One would -- would think, Your Honor.

1 THE COURT: Yeah. All right. But you do believe it's  
2 in her best interest to plead guilty, knowing what the cap  
3 is and like that ---

4 MR. CULLER: Yes, Your Honor.

5 THE COURT: --- is that correct? Okay. All right.

6 DIRECT EXAMINATION BY THE COURT:

7 Q Ms. Lane, you're 24?

8 A Yes, sir.

9 Q And Ms. Lane, you need to speak up, please, ma'am.

10 A Yes, sir.

11 Q Okay. And Ms. Lane, how far did you go in school?

12 A Tenth grade.

13 Q And where were you going to school?

14 A Edisto High School.

15 Q And why did you stop in the tenth grade?

16 A I had my first one.

17 Q Okay. How many children do you have?

18 A Four.

19 Q Four? And their ages are ...

20 A One's 7 weeks; one's 1; a two-year-old and a seven-  
21 year-old.

22 Q Okay. And Ms. Lane, are you working now?

23 A No.

24 Q Where's the last place you worked?

25 A The Waffle House.

1 Q Okay. How long -- how long ago was that?

2 A Maybe a year ago.

3 Q Okay. And how long did you -- did you work there?

4 A About six months.

5 Q Okay. Why did that job end?

6 A 'Cause I got pregnant and I was -- I'm a high-risk  
7 pregnancy.

8 Q Okay. Okay. All right. Have you ever been treated  
9 for any mental health issues?

10 A No, sir.

11 Q Have you ever been treated for any drug dependency,  
12 alcohol dependency, anything like that?

13 A No, sir.

14 Q Okay. Are you presently taking any kind of  
15 medication?

16 A No, sir.

17 Q Okay. So today you are thinking clearly.

18 A Yes, sir.

19 Q You know exactly what you're doing; is that correct?

20 A Yes, sir.

21 Q Okay. Now, your attorney has told me that he has met  
22 with you and reviewed with you the evidence that the State  
23 has against you regarding this charge of armed robbery; is  
24 that correct?

25 A Yes, sir.

1 Q Okay. And he has also met with you and explained to  
2 you the law that applies to the facts in this case; is that  
3 correct?

4 A Yes, sir.

5 Q Okay. And you are aware that, with this charge,  
6 you're facing up to 30 years in jail.

7 A Yes, sir.

8 Q You're aware that it is violent and a most serious  
9 offense?

10 A Yes, sir.

11 Q You're aware that -- as your attorney told me, that if  
12 you get charged with another most serious offense, you're  
13 facing life without the possibility of parole. You do  
14 understand that.

15 A Yes, sir.

16 Q Okay. All right. You understand you have the right  
17 to make the State prove their case and not plead guilty  
18 here today; you understand that?

19 A Yes, sir.

20 Q You can go to a trial. Okay. And you can question  
21 them and require them to prove their case here. You  
22 understand that?

23 A Yes, sir.

24 Q Okay. And you got the right to cross-examine the  
25 witnesses and contest every allegation they make. You do

1 understand that?

2 A Yes, sir.

3 Q Okay. You know you give up that right if you plead  
4 guilty.

5 A Yes, sir.

6 Q 'Cause you got to admit to me that you are guilty as  
7 charged. You understand that?

8 A Yes, sir.

9 Q Are you guilty?

10 A I'm guilty of the hands of one/the hands of all. Not  
11 guilty of what they're trying to say that -- they're trying  
12 to indict me on armed robbery, like I had a gun and I meant  
13 to hurt somebody. And I just -- I -- I was just a  
14 distraction. But I understand that the hands of one is the  
15 hands of all. I do understand that.

16 Q Okay. And you understand you were part of a group  
17 that robbed somebody.

18 A Yeah.

19 Q And you took part in it.

20 A Yeah.

21 Q Okay. And you understand if -- you know, once you do  
22 that, just like -- obviously Mr. Culler's gone over that  
23 phrase with you, that you do understand -- you can't say  
24 that you were just there and didn't know anything about it  
25 'cause you knew what was going down, didn't you?

1 A Yes, sir.

2 Q Okay. All right. But now, do you want a jury trial  
3 on this?

4 A No, sir.

5 Q You want to go forward with a guilty plea.

6 A Yes, sir.

7 Q Have you understood everything Mr. Culler's told you?

8 A Yes, sir.

9 Q Are you satisfied with his services as your attorney?

10 A Yes, sir.

11 Q Do you need any more time to talk with him?

12 A No, sir.

13 Q All right. Now, other than the recommendation that  
14 the State has made to you, has anybody promised you  
15 anything to get you to plead guilty here today?

16 A No, sir.

17 Q Okay. Has anybody threatened you in any way to get  
18 you to plead guilty?

19 A No, sir.

20 Q Okay. You are doing this freely and voluntarily.

21 A Yes, sir.

22 Q Okay. You're thinking clearly today.

23 A Yes, sir.

24 Q You know exactly what you're doing.

25 A Yes, sir.

1 Q Okay. And you want to go forward with a guilty plea.

2 A Yes, sir.

3 Q You do not want a jury trial.

4 A No, sir.

5 Q Okay. Ms. Cornwell.

6 MS. CORNWELL: Thank you, Your Honor. May it please  
7 the Court.

8 THE COURT: Yes, ma'am.

9 MS. CORNWELL: On January 10 of 2014, officers  
10 responded to the Orangeburg area of Orangeburg County, in  
11 reference to an armed robbery. The officers met with the  
12 victim who was Allen Keith. He was working at Water's Edge  
13 Rentals at the time.

14 The victim said that while he was speaking with a  
15 customer -- who at the time was known to be Ms. Lane --  
16 about a chainsaw, a white male subject entered the store  
17 through the carport, wearing a green bandana over his face.

18 He pulled a silver handgun and demanded that the  
19 female customer get on the floor and for the victim to give  
20 him all his money.

21 The subject at the time struck the victim in the back  
22 of the head with the gun, which caused the gun to go off  
23 and shot -- shoot into the floor.

24 The subject then took the cash drawer, which contained  
25 \$324.72, and left the scene my unknown means of travel.

1           The female customer, who was Ms. Lane at the time,  
2           also stated that the subject stole her black wallet from  
3           her vehicle, and that it was parked in front of the  
4           business. She claimed that the wallet contained \$300 in  
5           cash.

6           The register drawer was recovered at the corner of  
7           Columbia and Countryside Road.

8           Investigator Carson got a written statement from this  
9           defendant, who was not a suspect at the time. This  
10          defendant also handed investigators the spent shell casing,  
11          that she had picked up off the floor, after the suspect had  
12          fired the weapon.

13          On January 16, officers spoke with the owner of  
14          Water's Edge Rentals. He stated that he had received a  
15          phone call on the day of the armed robbery from this  
16          defendant, and this defendant was asking whether or not  
17          certain employees were working on that day before she hung  
18          up.

19          On March 14 of 2014, officers were contacted by a  
20          witness, Tina Stone, who stated on the morning -- on that  
21          particular morning, the defendant was assaulted and  
22          transported to the -- the Regional Medical Center. While  
23          in route to the Regional Medical Center, the -- one of the  
24          defendant's children's father confided in Stone that  
25          Defendant Lane was responsible for the planning and

1 execution of the armed robbery that occurred at Water's  
2 Edge Rentals. He said that this defendant, along with a  
3 defendant named Michael Gleaton, committed the armed  
4 robbery. Defendant Gleaton is the brother of Amy's oldest  
5 child's father.

6 On March 21 of 2014, Defendant Lane was taken into  
7 custody for an unrelated larceny charge. The officers met  
8 with Defendant Lane who gave a full confession, implicating  
9 Defendant Gleaton as the gunman, and also implicating  
10 Jessica Rudd as the person who drove the get-away car.

11 Defendant Lane confirmed the plan and that she was to  
12 act as the victim at the time of the robbery, and the three  
13 of them would split the money that they got from the  
14 robbery.

15 On March 24, officers also met with the co-defendants.  
16 Co-defendant Jessica Rudd also confessed to participating  
17 in the robbery and -- as well as Defendant Gleaton.

18 Defendant Gleaton has pled before Your Honor already.  
19 In his recitation of what happened, he did state that  
20 Defendant Lane is the person that gave him the gun, that  
21 was kind of the mastermind behind the armed robbery and  
22 setting the plan in motion. Your Honor gave him 13 years  
23 in the Department of Corrections.

24 The State is asking for a cap of 15. Her prior record  
25 is a 2010 shoplifting and a fraudulent check charge. The

1 State would -- I -- I believe that within that cap of 15 --  
2 the State does not feel that the minimum sentence will be  
3 appropriate, given the fact that she was the one that is  
4 allegedly the mastermind of this plan. She also provided  
5 the weapon that was used during the commission of this, and  
6 she was inside the store at the time that it -- the robbery  
7 occurred.

8 THE COURT: Ms. Cornwell, is there a minimum --  
9 minimum sentence?

10 MS. CORNWELL: There is. It's armed robbery, so it's  
11 ---

12 THE COURT: So it's 10 years?

13 MS. CORNWELL: -- 10 -- 10-year minimum up to 30  
14 years, Your Honor.

15 THE COURT: Okay. Okay. Thank you, ma'am. And did  
16 Mr. Gleaton have a prior record, or do you know?

17 MS. CORNWELL: Mr. Gleaton had a juvenile record, Your  
18 Honor.

19 THE COURT: Okay.

20 MS. CORNWELL: But -- but I do believe that it was a  
21 substantial juvenile record. He had ---

22 MR. CULLER: It was. I represented him.

23 MS. CORNWELL: --- an armed robbery and a burglary, I  
24 believe, in that juvenile record.

25 THE COURT: Okay. So substantial ---

DIRECT EXAMINATION BY THE COURT - AMY RENEE LANE 15

1 MS. CORNWELL: And -- and I will say, for the Court's  
2 consideration, out of three co-defendants, while Ms. Lane -  
3 - it's the State's position that she was the mastermind  
4 behind all of this and provided the weapon, her prior  
5 record is the least of all three co-defendants. Again, her  
6 prior record is only a shoplifting and a fraudulent check.

7 THE COURT: Okay. All right. Okay.

8 DIRECT EXAMINATION BY THE COURT:

9 Q Ms. Lane, you've heard what the solicitor told me  
10 about the circumstances that led to your arrest?

11 A Yes, sir.

12 Q Okay. You agree, generally, with what I was told? I  
13 know you said you didn't have the gun or anything like  
14 that, but you participated in the robbery.

15 A Yeah. But I didn't give nobody no gun. I've never  
16 had a gun in my life.

17 Q Okay.

18 A And that's the first time I ever heard of -- of that.

19 Q Okay. All right.

20 A And I wasn't the mastermind of it. Actually,  
21 Jessica's brother's girlfriend used to work there, and they  
22 was discussing it; and they come to me and ask me if I  
23 would go there and ask for a application.

24 And I -- at the time I -- I was strung out on drugs  
25 real bad, you know. I mean, I'm -- I -- I'm not saying

1 that was an excuse for doing it because I knew what I --  
2 what I was doing was wrong. But I wasn't thinking bout my  
3 consequences whenever I did it or who I was hurting or my  
4 family or my kids or any of this.

5 Q Okay.

6 A But what she's saying over there, that's not true.  
7 It's not. But I did participate, and I was wrong. And I  
8 would -- I will take responsibility for that ---

9 Q Okay.

10 A But that is not true.

11 Q Well, that's what -- that's what I'm getting -- here  
12 in Orangeburg County, on January the 10, 2014, you took  
13 part in an armed robbery at Water's Edge Rental; is that  
14 correct?

15 A Yes, sir.

16 Q Okay. And you knew what was going down when you  
17 walked in the store.

18 A I didn't know he had a gun. No. I just thought that  
19 he -- I -- I was supposed to go in and -- and distract him  
20 while he went in and -- and took the box.

21 Because Jessica -- like I said, her brother's  
22 girlfriend worked there, and she knew everything and told  
23 her everything about it. So he was just supposed to go in  
24 and -- and get the box. And it --

25 Q Okay.

1 A -- it wasn't supposed to happen like that.

2 Q Okay. But let -- let me just ask -- you can just  
3 answer my questions just to make sure ---

4 A Okay.

5 Q --- I got them right.

6 A Okay.

7 Q Okay. You knew that there was a robbery going to go  
8 on. Okay.

9 A Yes, sir.

10 Q And Mr. Gleaton had a gun.

11 A Yes, sir.

12 Q Okay. And he robbed those people, and he hit him  
13 while he was there; is that correct?

14 A And the gun even shot -- it even grazed my leg.

15 Q Okay.

16 A The bullet was picked up because it was in -- in the  
17 top of my shoe.

18 Q Okay.

19 A It was never picked up off the floor.

20 Q All right. And all that's true.

21 A All that's true.

22 Q Okay. How do you plead to this charge of armed  
23 robbery?

24 A Guilty.

25 Q Okay. Ms. Lane, do you understand, if I accept your

1 guilty plea, this is a conviction on your record. I'm  
2 reminding you of that.

3 A Yes, sir.

4 Q Okay. You got 10 days to appeal my decision. You  
5 understand.

6 A Yes, sir.

7 Q Okay. And you understand the State's recommending a  
8 cap of 15. Other than that, it's in my discretion to  
9 decide what you're going to be sentenced to. You  
10 understand that.

11 A Yes, sir.

12 Q Do you want me to accept your guilty plea?

13 A Yes, sir.

14 THE COURT: Ms. Lane, I find your decision to plead  
15 guilty is freely, voluntarily, intelligently made. I find  
16 you have had the advice and counsel of a competent lawyer.  
17 I find that you're satisfied with the services of your  
18 lawyer. I find that there is a factual basis for you to  
19 plead guilty to this charge of armed robbery, and I am  
20 going to accept your plea to that charge.

21 Mr. Culler.

22 MR. CULLER: Your Honor, I've had the benefit of being  
23 here for almost two hours and watching as the State, in the  
24 other matters before the Court, has been quite conspicuous  
25 -- the last, I believe, with Ms. Ford -- looking to see

1 that a gentleman, who was a witness, had a record for  
2 ABHAN. They were very concerned that there was someone who  
3 had a DUS and a trespassing going through those things.

4 THE COURT: Uh-huh.

5 MR. CULLER: But the State's willing to rely on Mr.  
6 Gleaton who had a substantial juvenile record, and the  
7 person that gave the statement that led to all this  
8 breaking ---

9 THE COURT: Uh-huh.

10 MR. CULLER: --- is Ms. Lane. Her mother, Ms. Stone,  
11 is the one that called the police about that.

12 THE COURT: Uh-huh.

13 MR. CULLER: So her reward is 15 year cap.

14 One of the things that bothered her, and I'll share  
15 this with the Court, is that Ms. Rudd, who I suppose is  
16 also a victim in this, is -- I don't know -- I withdraw  
17 that. I -- I'm sorry -- that Ms. Rudd had the deal now  
18 because the solicitor -- the assistant solicitor -- offer a  
19 different charge.

20 That was something Ms. Lane was hooked up on, that she  
21 wanted a reduction as well. And I explained that's not  
22 something I can do. That's the world of politics and  
23 that's where we are. You're going to be found guilty if  
24 you go to trial. We reviewed this. She knows that.

25 THE COURT: Uh-huh.

1           MR. CULLER: My concern is the word "mastermind" keeps  
2 getting thrown around. The people who said that she was  
3 the mastermind are co-defendants, to which I would submit,  
4 if the shoe were on the other foot, the State would object  
5 and -- and be looking through computers to find out if  
6 there were other things that -- that, you know, they had  
7 records for. But they're quite willing to attribute that  
8 in this case, for what reason I don't know.

9           Ms. Lane has really no prior record. She did start  
10 with a bang. This is a bad case. I understand that; Ms.  
11 Lane understands that.

12           But I would ask the Court to take into consideration  
13 that her mother is the one, that once this became known to  
14 her, called police; that Ms. Lane, when confronted, told  
15 the police what had happened and who was involved.

16           That -- that really is all I have for the Court, Your  
17 Honor. I would ask the Court to consider all that and  
18 sentence according to the facts.

19           THE COURT: Thank you, sir. (Indicating) And -- and  
20 that's Ms. Stone? That's her mother who called the police  
21 right behind her?

22           MR. CULLER: Yes, Your Honor.

23           THE COURT: Okay. Okay.

24           MS. STONE: I just want to say my daughter wasn't  
25 raised like that. And from the time she was 16, when she

1 got pregnant with her first child, she's been in abusive  
2 relationships over and over and over. And I feel that she  
3 just turned to the drugs and the alcohol to relieve the  
4 pain of what these -- these men was doing to her.

5 And if you -- please be lenient.

6 THE COURT: Yes, ma'am. Okay. You -- anything else,  
7 Mr. Culler?

8 MR. CULLER: No, Your Honor.

9 (Brief pause.)

10 THE COURT: All right. Ms. Lane, the sentence of this  
11 Court is you're committed to the State Department of  
12 Corrections for a period of 10 years. I give you credit  
13 for the time you served. Okay.

14 MR. CULLER: Thank you, Your Honor.

15 THE COURT: Thank you. Appreciate it.

16 MS. CORNWELL: Thank you, Your Honor.

17 THE COURT: Thank you.

18

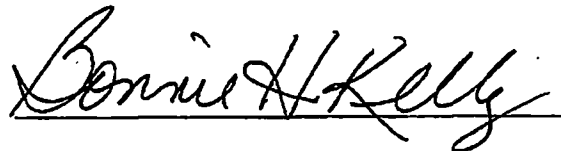
19

-- END OF TRANSCRIPT RECORD --

**CERTIFICATE**

1  
2 I, the undersigned Bonnie H. Kelly, Official  
3 Court Reporter for the Fifth Judicial Circuit of the  
4 State of South Carolina, do hereby certify that the  
5 foregoing is a true, accurate, and complete transcript  
6 of record of all the proceedings had and evidence  
7 introduced in the hearing of the captioned cause,  
8 relative to appeal, in the First Circuit Court for  
9 Orangeburg County, South Carolina, on the 20th day of  
10 November, 2014.

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

13  
14   
15

16 Bonnie H. Kelly, CVR

17 Official Court Reporter

18  
19 Columbia, South Carolina

20 August 26, 2015  
21  
22  
23  
24  
25

FORM 5

STATE OF SOUTH CAROLINA )

COUNTY OF )

Orangeburg )

Full name and prison number (if any) of Applicant. )

Amy Renee Lane 302247 )  
v. )

State of South Carolina )

IN THE COURT OF COMMON PLEAS

2015CP3800708

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Leath Correctional Institution
2. Name and location of Court which imposed sentence Orangeburg County General Session
3. Name(s) of co-defendant(s) (if any) Jessica Ruid Mikel Gleaton
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2014 GS 38-0714
  - (b) \_\_\_\_\_
  - (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) 11-20-14 10 years State Department of Corrections
  - (b) \_\_\_\_\_

ATTEST: TRUE COPY

*Winniford E. Clark*

CLERK OF COURT  
ORANGEBURG COUNTY, SC

*AW*

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

6. Check whether a finding of guilty was made:

(a) after a plea of guilty

(b) after a plea of not guilty \_\_\_\_\_

(c) after a plea of nolo contendere \_\_\_\_\_

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

yes

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

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

i. The South Carolina Court of Appeals

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

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

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

i. Dismissed

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

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

(c) the date of each such result:

i. February 25, 2015

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

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

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

i. was remitted to a lower court on March 13, 2015

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

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

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

(a) \_\_\_\_\_

(b) \_\_\_\_\_

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

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

- (a) ineffective assistance of counsel
- (b) coerced into a plea
- (c) lack of knowledge about criminal law
- (d) lack of evidence

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

- (a) My attorney failed to comply with 4 rules of the Court
- (b) I was told if I took the plea I'd get accessory before and after instead of Armed Robbery
- (c) I could of plead to lesser charge received lesser time.
- (d) no evidence was presented.

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) Because my appeal was dismissed and this is the next step.

(b) \_\_\_\_\_

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

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

- (a) your arraignment and plea? yes
- (b) your trial, if any? N/A
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or 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. Michael Culler - Orangeburg South Carolina
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
- (b) the proceedings at which each such attorney represented you:
  - i. plea and sentencing - appeal
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

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

Charged with a lesser charge and a sentence reduction or modification

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

NO

2015CP3800708

STATE OF SOUTH CAROLINA )  
 )  
County of )

VERIFICATION

I, <sup>Antle</sup> ~~Carle~~, 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.

X Amy Jones

SWORN to and subscribed before me this 2<sup>nd</sup>  
day of June, 2015

Sandra B. Hill (L.S.)  
Notary Public

My Commission Expires: Jan. 8, 2023

ATTEST: TRUE COPY  
Winnija B. Clark  
CLERK OF COURT  
ORANGEBURG COUNTY, SC

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

I, <sup>Amy</sup> ~~Carne~~, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Amy Stone  
Applicant

SWORN or affirmed to and subscribed before me this  
2nd day of June, 2015.

Sandra G. Hill  
Notary Public

My Commission Expires: Jan. 4, 2023

ATTEST: TRUE COPY  
Winnifred Clark  
CLERK OF COURT  
ORANGEBURG COUNTY, SC

STATE OF SOUTH CAROLINA  
COUNTY OF ORANGEBURG

Amy Renee Lane, #362247,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
FOR THE FIRST JUDICIAL CIRCUIT

Case No. 2015-CP-38-0708

**RETURN AND PARTIAL  
MOTION TO DISMISS**

Respondent, making its Return to the Application for Post-Conviction Relief filed June 5, 2015, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Orangeburg County Clerk of Court. In May 2014, the Orangeburg County Grand Jury indicted Applicant for armed robbery (2014-GS-38-0714). Michael Culler, Esquire, represented Applicant. On November 20, 2014, Applicant pled guilty as indicted. The Honorable Edgar W. Dickson sentenced Applicant to ten (10) years' imprisonment.

Applicant filed a notice of appeal on December 04, 2014. The South Carolina Court of Appeals dismissed Applicant's appeal on February 25, 2015. The remittitur was returned to the circuit court on March 13, 2015.

II.

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

1. "Ineffective Assistance of Trial Counsel"
  - a. "attorney failed to comply with 4 rules of the court"
2. "Coerced into a plea"

- a. "I was told if I took the plea I'd get accessory before and after instead of armed robbery [sic]"
- 3. "Lack of knowledge about criminal law"
  - a. "I could plead to lesser charge received lesser time [sic]"
- 4. "Lack of Evidence"
  - a. "no evidence was presented"

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

### III.

Respondent submits Applicant's allegation of ineffective assistance of plea counsel is without merit. In a post-conviction relief action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of plea counsel as a ground for relief, the applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process" that the plea proceedings "cannot be relied upon as having produced a just result." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The court strongly presumes plea counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland,

466 U.S. at 690). The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. Id. at 117, 386 S.E.2d at 625. First, the Applicant must prove plea counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, plea counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

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

#### IV.

Respondent submits Applicant's allegation her guilty plea was "coerced," and thus involuntary, is without merit. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (2000) (citing Drayton v. Evatt, 312 S.C. 4, 430 S.E.2d 517 (1993); Hyman v. State, 278 S.C. 501, 299 S.E.2d 330 (1983); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993)). An applicant who pleads guilty on

the advice of counsel may collaterally attack the plea only by showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citing Hill v. Lockhart, 474 U.S. 52; Jackson v. State, 342 S.C. 95, 535 S.E.2d 926 (2000); Thompson v. State, 340 S.C. 112, 531 S.E.2d 294 (2000); Rayford v. State, 314 S.C. 46, 443 S.E.2d 805 (1994)). An applicant alleging her guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. at 56. Furthermore, "[a] guilty plea is a solemn, judicial admission of the truth of the charges" against the applicant. Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Admissions "made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements." Id. at 137-38, 654 S.E.2d at 874 (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)).

Respondent submits the record fully supports the knowing and voluntary nature of Applicant's plea. However, allegations regarding the voluntariness of the plea may raise questions of fact the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper, 279 S.C. 264, 305 S.E.2d 247.

#### V.

Applicant alleges a "lack of knowledge" and "lack of evidence" in claims 3 and 4. Respondent asserts that the claims are not cognizable under the Post-Conviction Procedure Act, S.C. Code Ann. § 17-27-10 to -160 (2003). An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy; may institute, without paying a filing fee, a proceeding under this chapter to secure relief. *Provided, however,* that this section shall not be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction.

[Emphasis in original.] S.C. Code Ann. § 17-27-20 (1976). This allegation should be dismissed with prejudice.

#### VI.

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

#### VII.

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

the inmate, is the only one authorized to file amendments. SCRCP Rule 11. Filings by inmates will not be considered at the PCR hearing.

VIII.

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

IX.

WHEREFORE, having made its return, Respondent requests an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON  
Attorney General

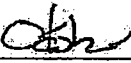
JOHN W. McINTOSH  
Chief Deputy Attorney General

KAREN C. RATIGAN  
Senior Assistant Deputy Attorney General

J. CLAYTON MITCHELL  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

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

 29, 2015





I N D E X

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Witness/Description Page No.

Amy Lane

Direct Examination by Mr. Waller . . . . . 8

Cross-examination by Mr. Mitchell. . . . . 16

Michael R. Culler, Jr.

Direct Examination by Mr. Mitchell . . . . . 21

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Ruling of the Court . . . . . 29

Certificate Page. . . . . 31

E X H I B I T S

No. Description Page No.

No Exhibits Introduced.

1 THE COURT: All right, this is case 2015-CP-38-0708,  
2 *Amy Renee Lane vs. State of South Carolina*. Matter is  
3 before the court an on application seeking post-conviction  
4 relief. All right, and I see this is from a guilty plea  
5 for armed robbery. Is that correct?

6 MR. MITCHELL: That's correct, Your Honor.

7 THE COURT: All right. Please give the court reporter  
8 your names and who you represent.

9 MR. MITCHELL: Clay Mitchell on behalf of the state.

10 MR. WALLER: Jonathan Waller on behalf of the  
11 applicant.

12 THE COURT: All right. Now, were there any reduction  
13 of charges or any dismissal of charges as a result of this  
14 guilty plea?

15 MR. WALLER: There was not, Your Honor.

16 THE COURT: Okay. So, nothing was dismissed? Nothing  
17 was reduced? She just pled to armed robbery as that was  
18 the indicted charge she pled guilty to?

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

20 THE COURT: Okay.

21 All right, Ms. Lane, if I could get you to stand and  
22 raise your right hand way, please?

23 CLERK OF COURT: Please state your full name for the  
24 record.

25 APPLICANT: Amy Renee Lane.



1 request for post-conviction relief, I will vacate your  
2 conviction and/or your sentence, and your case will be sent  
3 back for further proceedings. The case will start all  
4 over; it will begin from the very beginning of the  
5 proceedings against you. If any charges against you were  
6 reduced, dropped, dismissed, or nolle prossed, they could  
7 be brought back against you, and you could be facing the  
8 original charges again. Now, I understand that this was  
9 the original charge. Is that correct?

10 APPLICANT: Yes, sir.

11 THE COURT: All right. There are no other charges  
12 against you. However, the case would be remanded if I set  
13 aside the conviction. You could go to trial. Now, for  
14 armed robbery it carries a mandatory minimum sentence of  
15 ten years in prison. You understand that?

16 APPLICANT: Yes, sir.

17 THE COURT: It also carries up to thirty years in  
18 prison. Do you understand that?

19 APPLICANT: Yes, sir.

20 THE COURT: All right. So, I could set aside your  
21 guilty plea and grant you a trial on this case. If you're  
22 convicted, you could receive up to thirty years in prison.  
23 So, you could possibly wind up with more time than you are  
24 actually serving now. You understand that?

25 APPLICANT: Yes, sir, I understand.

1 THE COURT: All right. Now, have you had an ample  
2 opportunity to discuss this matter with your attorney?

3 APPLICANT: I have.

4 THE COURT: All right, and do you want to proceed with  
5 your application for post-conviction relief?

6 APPLICANT: I do.

7 THE COURT: All right. Anything further you want  
8 placed on the record in that regard, Mr. Waller?

9 MR. WALLER: Nothing with regard to that, Your Honor.  
10 One thing, it's, I guess, kind of contained in her  
11 application. It's not probably in the correct spot. I've  
12 spoken with Mr. Mitchell about it.

13 There was an issue with the appeal that we intend to  
14 raise, the appeal from the guilty plea. I did not file a  
15 formal amendment with the clerk of court, but I spoke with  
16 Mr. Mitchell about it, and he's aware of it. It is  
17 actually in the, in the application, just probably not in  
18 the correct spot, Your Honor.

19 THE COURT: Well, I mean, is the application for  
20 post-conviction relief seeking, seeking to set aside her  
21 guilty plea or seeking to permit her a belated appeal?

22 MR. WALLER: Both, Your Honor.

23 THE COURT: Both.

24 MR. WALLER: Yes, sir.

25 THE COURT: Okay. So -- but I see where she appealed

1 it and the appeal was dismissed by the Court of Appeals.

2 MR. WALLER: That's correct.

3 THE COURT: Okay, and why was it dismissed by the  
4 Court of Appeals?

5 MR. WALLER: It was filed late and it was never, as  
6 far as I'm aware, it was never served on the appropriate  
7 people. It was filed fourteen days after the guilty plea,  
8 and that's in the order, Your Honor.

9 THE COURT: All right. Who, who represented her on  
10 the appeal? I mean, is it the same attorney?

11 MR. WALLER: They would have filed the notice of  
12 appeal, yes, sir, Your Honor.

13 THE COURT: Okay. All right, thank you.

14 Anything further from the state in that regard?

15 MR. MITCHELL: No, Your Honor.

16 THE COURT: All right, anything, Mr. Waller, before  
17 you call your first witness?

18 MR. WALLER: Nothing, Your Honor.

19 THE COURT: All right. You may be seated. You can  
20 call your first witness.

21 MR. WALLER: I would Amy Lane.

22 THE COURT: All right, if you'd come forward.

23 (A PAUSE.)

24 THE COURT: All right, Mr. Waller.

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

A. LANE - DIRECT EXAMINATION BY MR. WALLER

8

1 court?

2 DIRECT EXAMINATION BY MR. WALLER:

3 Q. Good morning, Ms. Lane. How are you? Or, excuse me,  
4 good afternoon, Ms. Lane. How are you?

5 A. Fine.

6 Q. Ms. Lane, I want to kind of ask you a few questions  
7 about your charges and how you ended up where we are today.

8 A. Okay.

9 Q. Where are you from, Ms. Lane?

10 A. Orangeburg, South Carolina.

11 Q. Have you lived here your whole life?

12 A. I have.

13 Q. Okay. Back several years ago, did you get arrested?  
14 Did you get arrested on an armed robbery charge?

15 A. On this charge?

16 Q. Yes, ma'am.

17 A. Yes, sir.

18 Q. Okay, and who was your attorney?

19 A. Michael Culler.

20 Q. Okay. How did, how did he come to be your attorney?

21 A. The state appointed him to me.

22 THE COURT: Excuse me for interrupting. Can you speak  
23 up a little bit louder so everybody can hear?

24 BY MR. WALLER:

25 A. The state appointed him to me.

A. LANE - DIRECT EXAMINATION BY MR. WALLER

9

- 1 Q. There you go.
- 2 A. Okay.
- 3 Q. The reason we need you to speak up, the court ---
- 4 A. Okay.
- 5 Q. --- the judge needs to hear you and, and this court
- 6 reporter right here ---
- 7 A. Okay.
- 8 Q. --- needs to take down everything you say.
- 9 Did you have any other attorneys, or was it just Mr.
- 10 Culler?
- 11 A. I think it went through, like, three before I actually
- 12 got him.
- 13 Q. Okay. He was the one that was with you at the plea,
- 14 though. Is that right?
- 15 A. Yes, sir.
- 16 Q. Okay. Did you -- you had two co-defendants. Is that
- 17 right?
- 18 A. Yes, sir.
- 19 Q. Okay. How many times do you think you and Mr. Culler
- 20 met before you -- not counting the day you pled guilty?
- 21 A. Three.
- 22 Q. Okay. In those three meetings, do you remember what
- 23 y'all talked about?
- 24 A. Just stating I was going to get ten years and that if
- 25 I took it to trial, I'd get thirty.

A. LANE - DIRECT EXAMINATION BY MR. WALLER

10

1 Q. Okay. Did y'all talk about your constitutional rights  
2 when you first met?

3 A. As in?

4 Q. And is in your right -- did you talk about your right  
5 to a jury trial that you had?

6 A. Not that I recall.

7 Q. Okay. Did y'all talk about the charge of armed  
8 robbery and the potential penalties that it carried?

9 A. We did.

10 Q. Okay. Did you understand that, that conversation?

11 A. I understood that the hands of one is the hands of  
12 all. That's what I kept being told.

13 Q. Okay.

14 A. That's what I understood.

15 Q. Okay. What did y'all talk about when you say hand of  
16 one hand, hand of all? What did y'all talk about?

17 A. That in South Carolina, I was there. I was involved  
18 even though I didn't have the gun and I didn't provide a  
19 gun and any of that, but I was there. So, hands of one is  
20 the hands of all in South Carolina, and that's what I was  
21 getting charged under.

22 Q. Okay. Now, you didn't have a gun. Is that right?

23 A. That's correct.

24 Q. Okay, and were you aware that there was going to be a  
25 gun involved at all?

A. LANE - DIRECT EXAMINATION BY MR. WALLER

11

- 1 A. I wasn't.
- 2 Q. Okay. Did you tell Mr. Culler that?
- 3 A. I did.
- 4 Q. Okay. Did y'all talk about that?
- 5 A. Not really.
- 6 Q. Okay. Well, when you told him, what did he say?
- 7 A. The hands of one is the hands of all.
- 8 Q. Okay. Did you and Mr. Culler discuss the statement
- 9 that you gave?
- 10 A. I think we went over it one time, yeah.
- 11 Q. Okay. What -- do you remember what, what you were --
- 12 your physical condition was when you gave that statement?
- 13 A. I was high.
- 14 Q. Okay. When you say high, what do you mean?
- 15 A. I was under the influence of drugs.
- 16 Q. Okay. What drugs?
- 17 A. Cocaine and crack cocaine.
- 18 Q. For how long?
- 19 A. I was up for probably a period of about four or five
- 20 days of the day that I got arrested and got interrogated
- 21 for nine hours when I gave that statement.
- 22 Q. Okay. Did you and Mr. -- did you tell Mr. Culler
- 23 that?
- 24 A. I did.
- 25 Q. Okay. What did y'all talk about your statement?

A. LANE - DIRECT EXAMINATION BY MR. WALLER

12

1 A. That it was still a statement and that -- that's what  
2 I gave to them.

3 Q. Okay. Did, to the best of your knowledge, did any of  
4 your co-defendants give statements?

5 A. I can't really remember.

6 Q. Okay. Did y'all talk about the evidence that the  
7 state had against you?

8 A. No.

9 Q. Okay. Ms. Lane, let me ask you this. How did you  
10 make the decision then to plead guilty?

11 A. Because he just kept telling me that if I took it to  
12 trial, which I wanted to, that I was going to get thirty  
13 years, and I got four small kids at home and I just -- ten  
14 years is better than thirty to me.

15 Q. Okay. Well, what changed from you saying you wanted  
16 to go to trial to pleading guilty?

17 A. My momma asked me to take the ten years.

18 Q. Okay. Even at your plea, the actual hearing in --  
19 November 20, 2014, you told the court that you did not have  
20 a gun and did not know there was going to be a gun at all?

21 A. Mm-hmm.

22 THE COURT: Excuse me. Is that a yes?

23 BY MR. WALLER:

24 A. What was the question?

25 Q. During your plea hearing ---

A. LANE - DIRECT EXAMINATION BY MR. WALLER

13

1 Q. Mm-hmm.

2 Q. --- you told the court that there -- that you didn't  
3 have a gun and that you didn't know there was going to be a  
4 gun?

5 A. That's correct.

6 Q. Okay. When you and Mr. Culler discussed the charge of  
7 armed robbery and the theory of hand of one, hand of all  
8 and going to trial, was what said, what was said between  
9 the two of y'all convinced you to take a -- take the plea?

10 A. He didn't really convince me to take the plea. My  
11 momma convinced me to take the plea.

12 Q. Okay. Were you aware that the state was saying that  
13 you provided the gun?

14 A. I was not until -- when I heard the solicitor say it.  
15 I never had heard that before.

16 Q. Okay. To the best of your knowledge, was your  
17 attorney aware of that?

18 A. If he was, he didn't tell me that.

19 Q. Okay. Would that have changed your version of what  
20 happened?

21 A. Yes.

22 Q. Would that have changed your opinion on whether to  
23 take the plea or to go to trial?

24 A. Yes.

25 Q. Okay. Had you and Mr. Culler done any going over of

1 the evidence to, to prepare for a trial?

2 A. No.

3 Q. Okay. Had y'all talked about any potential defenses  
4 that you might have?

5 A. No.

6 Q. Okay, and you just -- excuse me if I'm wrong, but you  
7 just testified that if you had known that the state said  
8 that you provided the gun, that you would have not pled  
9 guilty but that you would have gone to trial? Is that  
10 correct?

11 A. That's correct.

12 Q. Okay. When your plea was over, did you discuss with  
13 Mr. Culler about filing an appeal from your plea?

14 A. I did.

15 Q. Okay. What did, what did you tell him?

16 A. I told him that I wanted to appeal, and then I  
17 discussed it with my mom, and she had discussed it with him  
18 the next day.

19 Q. Okay. So, the next day after your plea hearing?

20 A. Uh-huh.

21 Q. Okay. When did you tell him? The same day?

22 A. Yeah.

23 Q. Okay. Ms. Lane, I've asked all the questions that I  
24 have for you. Is there anything that you think I have left  
25 out or, or neglected to mention that you think the judge

A. LANE - DIRECT EXAMINATION BY MR. WALLER

15

1 needs to be aware of, of your representation by Mr. Culler?

2 A. I just wanted to say that I would have took it to  
3 trial if I would have known the circumstances. That when  
4 they were saying that I was the mastermind and that I  
5 provided the gun and I'd planned it and all of that, I was  
6 never aware of any of that until the day when I was  
7 standing in front of the judge and I had already made the  
8 decision and signed the paper to take the ten years.

9 Q. Did you -- when that was going on, did you tell Mr.  
10 Culler that wasn't, that wasn't the case?

11 A. Whenever I signed that paper, he told me he was going  
12 to talk and I wasn't talking until the judge asked me  
13 questions.

14 Q. Okay. Did you tell him at any, any point during the  
15 actual plea hearing that it wasn't -- that what they were  
16 saying wasn't what actually happened?

17 A. I did tell the judge that.

18 Q. Okay. Did you ever ask to withdraw your plea?

19 A. I didn't.

20 Q. Okay. Did you -- would you have known how to do that?

21 A. No.

22 Q. Okay.

23 MR. WALLER: No further questions. Please answer any  
24 questions Mr. Mitchell has.

25 WITNESS: Okay.

A. LANE - CROSS-EXAMINATION BY MR. MITCHELL

16

1 THE COURT: Cross-examination.

2 CROSS-EXAMINATION BY MR. MITCHELL:

3 Q. Good afternoon, Ms. Lane.

4 A. Good afternoon.

5 Q. All right. So, you were charged with armed robbery,  
6 correct?

7 A. Yes.

8 Q. And there was a plea negotiation where you have a  
9 fifteen-year cap on that, right?

10 A. Yes.

11 Q. Okay. You couldn't be sentenced to more than fifteen,  
12 or that was what the state was recommending, right?

13 A. Yes.

14 Q. Okay, and you knew that going into the plea?

15 A. No. I just knew it was -- I was signing a paper for a  
16 ten-year plea.

17 Q. Okay. Well, it's a fifteen-year cap, though, right?  
18 You discussed that with Mr. Culler?

19 A. It was a possibility. I don't remember discussing the  
20 fifteen year -- I just remember him bringing the paper and  
21 telling me that I was going to get ten years, and that's  
22 what he just kept telling me every -- three times I visit  
23 him was I was going to get ten years.

24 Q. Okay, and you did get ten years, right?

25 A. That's correct.

A. LANE - CROSS-EXAMINATION BY MR. MITCHELL

17

1 Q. All right, and that is the minimum on armed robbery,  
2 right?

3 A. That's correct.

4 Q. Okay. Now, you knew you were facing up to thirty  
5 years at the time?

6 A. I did.

7 Q. Okay, and Mr. Culler reviewed these charges with you  
8 or these -- this charge with you?

9 A. He did.

10 Q. He went over the -- your statement, statements, and  
11 your co-defendants' statements, right?

12 A. Uh-huh.

13 Q. Now, your first statement you gave the day of the  
14 incident, you were a victim of the robbery, right?

15 A. Uh-huh.

16 Q. So, the state had a theory that you were the  
17 mastermind when you concocted this plan to go into this  
18 establishment, and then go in there and kind of distract  
19 the person behind the counter, and then your co-defendant  
20 would come in and then rob the place, right?

21 You have to answer yes or no. Is that correct?

22 A. That's correct.

23 Q. Okay. Now, the state had this theory, and you told  
24 Judge Dickson that you didn't agree with that theory,  
25 right, that you were the mastermind and you provided a gun,

A. LANE - CROSS-EXAMINATION BY MR. MITCHELL

18

1 right?

2 A. I didn't agree with that because I didn't.

3 Q. Right, but that -- and that got before Judge Dickson,  
4 too, right?

5 A. Uh-huh.

6 Q. I mean, you said that to him?

7 A. Uh-huh.

8 Q. Okay. So, this was fleshed out a good bit at the plea  
9 hearing?

10 A. Yeah.

11 Q. Okay, but you understood that the place was going to  
12 be robbed, and you had knowledge of that, though, right?

13 A. Yes, sir.

14 Q. Okay, and Mr. Culler, he advised you of the hand of  
15 one, hand of all theory of liability?

16 A. Yes, sir.

17 Q. Okay. So, you understood that even though you didn't  
18 fire that shot, that you could still be held responsible  
19 for your co-defendants' actions. Is that right?

20 A. Basically, yeah.

21 Q. Okay. Did you ask Mr. Culler to file an appeal to the  
22 plea?

23 A. I did.

24 Q. Okay, and you wanted to pursue an appeal?

25 A. I did.

A. LANE - CROSS-EXAMINATION BY MR. MITCHELL

19

1 Q. Is that because you were unhappy with the sentence  
2 itself?

3 A. I, I wasn't unhappy with the sentence itself. I was  
4 unhappy with the facts because like I said, I never knew  
5 that they said I was the mastermind and I provided the gun  
6 or any of that. Mr. Culler never told me or my mother any  
7 of that.

8 Q. Okay.

9 A. She was with me every visit.

10 Q. So, you were upset at the -- what you say the state  
11 mischaracterized as what happened, right?

12 A. Yeah, they're, they're -- I feel like they're saying I  
13 did something that I didn't do. I understand that I was  
14 wrong, what I did was wrong, and that I have to pay a part.  
15 You know, I, I have to be sentenced for the part that I  
16 played in it.

17 Q. And the state was going off your co-defendants'  
18 statements. So, they were taking what they said as true,  
19 right, and taking what you were saying maybe not so true.  
20 Is that fair? The co-defendants are probably -- are saying  
21 you were the mastermind, right?

22 A. And I also wanted my appeal based on Mr. Culler told  
23 me that I couldn't get my charges dropped down because my  
24 co-defendant couldn't get hers dropped and after I took my  
25 plea, hers got dropped.

A. LANE - CROSS-EXAMINATION BY MR. MITCHELL

20

1 Q. Okay. Well, let's go back to what we were talking  
2 about, though. Mr. Culler pointed out that the state is  
3 kind of being inconsistent in whose story they want to  
4 follow, isn't that right, at the plea hearing? Do you  
5 recall that?

6 A. I don't understand your question.

7 Q. At the plea hearing, Mr. Culler pointed out that the  
8 state was relying on these people, your co-defendants'  
9 statements, and then just totally disregarding your  
10 statement. Is that kind of how you remember it?

11 A. Well, I remember the state saying something that was  
12 never even discussed between me and my lawyer.

13 Q. And you did essentially confess to the crimes but just  
14 not the way the state interpreted exactly what happened,  
15 right?

16 A. I was involved, yes.

17 Q. Okay.

18 MR. MITCHELL: No further questions.

19 THE COURT: Redirect?

20 MR. WALLER: Nothing further.

21 THE COURT: You may step down.

22 (THE WITNESS EXITS THE STAND.)

23 THE COURT: Call your next witness.

24 MR. WALLER: No further witnesses.

25 THE COURT: Anything from the state?

M. CULLER - DIRECT EXAMINATION BY MR. MITCHELL

21

1 MR. MITCHELL: Your Honor, the state calls Mr. Michael  
2 Culler.

3 THE COURT: All right.

4 MICHAEL R. CULLER, JR., BEING DULY  
5 SWORN, TESTIFIES AS FOLLOWS:

6 DIRECT EXAMINATION BY MR. MITCHELL:

7 Q. Good afternoon, Mr. Culler.

8 A. Hello again.

9 Q. Let's see, can we start -- can you give us a brief  
10 background of your professional experience?

11 A. Well, I think I said, as I said earlier, I served as  
12 the chief public defender for Orangeburg County for  
13 seventeen and a half, eighteen years and have been in  
14 private practice now for another eight. So, most of that's  
15 just criminal. So, I've been doing -- a large majority of  
16 what I do is criminal, but obviously at that time it was  
17 all criminal. So, this was not an unusual case for me to  
18 handle. I'd done armed robberies before.

19 Q. And were you appointed on this case?

20 A. I was appointed.

21 Q. Okay. Now in your first meetings with Ms. Lane, did  
22 you review the charges set forth in the allegation -- set  
23 forth in the indictment?

24 A. I have no independent memory. I remember her, but  
25 what I will tell you is that my practice is in the initial

1 meeting to get as much information as I can, to go over the  
2 charges, to make sure that I get every single detail from a  
3 client. And I'll go back and see the client more than one  
4 time, but after some period of time passes, maybe a month,  
5 go back and have another very in-depth interview to make  
6 sure everything's matching, that I'm being told the truth.  
7 And my normal practice would be to review the law, as I  
8 think she articulated, the hand of one is the hand of all  
9 as part of her, her issue with how she was charged. So,  
10 yes, I would have done that. Do I have an independent  
11 memory of it? No.

12 Q. Do you remember her statement specifically?

13 A. I remember that she implicated herself in the  
14 statement.

15 Q. She testified that she was under the influence of  
16 drugs when she gave that statement. Did you ever give her  
17 any advice on how that statement could be suppressed at  
18 trial?

19 A. I don't remember that being something that I was told.

20 Q. If she did relay that to you, would you have ---

21 A. If she did, I'm sure we would have discussed it, but  
22 the likelihood of being able to get a statement suppressed,  
23 it's, it's very difficult. That was the problem, but even  
24 if she hadn't actually given a statement, if she was high  
25 on crack and they threw her statement out, you got two

1 co-defendants who, you know, nailed her and, and put her in  
2 there, and then physically she's there. So, even if all  
3 that's true, I, I, I don't know.

4 Q. Well, it seems to me her -- the main allegation that  
5 she's emphasized is that she's upset with the -- what she  
6 says is the mischaracterization of the state's factual  
7 recitation at the plea.

8 A. What she's upset with is this. She wanted a reduction  
9 in charge, and I thought she was entitled to that. She had  
10 no prior record. That's one thing the solicitor said on  
11 the record is of all the co-defendants, she has the least  
12 record. But the solicitor, for reasons unknown to me,  
13 decided to characterize her as the mastermind, and I think  
14 there was testimony that -- or statements she had made, by  
15 which I mean Ms. Lane had made, that, that implicated her  
16 and went along with what the co-defendants said. That the  
17 other girl -- I think the statement was she was not smart  
18 enough. She was too stupid to play the role of the victim,  
19 and so Amy was going to play the role of the victim. So,  
20 the solicitor, I don't think, liked that and decided to  
21 give her a fifteen-year offer and would not reduce the  
22 charge.

23 Amy could not get her head around the fact that I was  
24 powerless to make the charge be reduced, and what she says  
25 is true. Her co-defendant did get a reduction in charge,

1     which I did not care for. Made me quite -- I think I  
2     referred to it as something about the politics of things in  
3     the solicitor's office. And since the guy who had the gun  
4     got thirteen, I certainly thought ten, since we weren't  
5     going to get a charge reduction, was not -- I felt like  
6     with the circumstances, we had a very good chance to get  
7     the minimum.

8             But I think her -- the thrust of her problem was not  
9     that she didn't participate, not that she didn't give a  
10    statement, and that her co-defendants didn't give a  
11    statement. That she wanted a reduction in charge. That  
12    didn't happen.

13    Q.    And the solicitor just wasn't willing to do that?

14    A.    No. Solicitor was quite unpleasant about it.

15    Q.    Not for lack of effort on your part?

16    A.    No. I think I said in the record of the transcript  
17    that her mother is the one that basically made contact with  
18    law enforcement, and then her mother was rewarded by a  
19    seeing her daughter have a fifteen-year recommendation.

20    Q.    And this was discussed in your mitigation?

21    A.    Yes.

22    Q.    As far as the appeal, did she ask for you to file an  
23    appeal?

24    A.    I don't remember her asking. Her mother came to the  
25    office and asked for it, and we had a girl in the office

M. CULLER - DIRECT EXAMINATION / CROSS-EXAMINATION 25

1 that frankly just screwed it up, and there is no question  
2 that she should be granted a belated appeal. In my  
3 opinion, it's sort of an *Anders* briefs appeal. So, fine.

4 Q. You didn't make any objections in the plea hearing,  
5 did you? Did you?

6 A. I beg your pardon?

7 Q. Did you make any objections at the plea hearing?

8 A. No.

9 Q. So, there really wouldn't be anything preserved to ---

10 A. No.

11 Q. --- appeal in your opinion?

12 A. No.

13 Q. Okay.

14 MR. MITCHELL: All right, no further questions.

15 Please answer anything Mr. Waller has.

16 THE COURT: Cross-examination?

17 MR. WALLER: Just briefly.

18 WITNESS: Yeah.

19 CROSS-EXAMINATION BY MR. WALLER:

20 Q. Mr. Culler, there was a pretty significant amount of  
21 time between the incident taking place and anybody being  
22 arrested on this charge. Is that right?

23 A. I think that is correct.

24 Q. Okay. When the state presented their version of the  
25 events, that Ms. Lane was the mastermind and she had

1 supplied the gun, had you heard that prior?

2 A. I'm sure I had, I would have raised the issue. That  
3 would've been significant, but let me say this. Even if I  
4 hadn't heard that prior, I'm still stuck with a client  
5 who's participated in an armed robbery. So, the fact that  
6 I may want a different -- anyway, I don't remember. I, I  
7 don't remember.

8 Q. If you had known that from the outset of the case,  
9 would, would you have gone over that with Mr. Lane?

10 A. Yes.

11 Q. With Ms. Lane?

12 A. Yeah.

13 Q. Would that have changed the way you would have  
14 explained things to her?

15 A. It makes it worse.

16 Q. Okay. If -- what was -- do you recall specifically  
17 discussing that with her, particularly ---

18 A. No.

19 Q. --- the gun?

20 A. No.

21 Q. Okay. Okay. Do you have -- did you bring your case  
22 file with you today?

23 A. My case file was destroyed when the rain, the storm we  
24 had flooded our basement where all of our records were  
25 kept.

M. CULLER - CROSS-EXAMINATION BY MR. WALLER

27

1 Q. Okay. Do you recall whether you and Ms. Lane had any  
2 specific conversations regarding the ---

3 A. No.

4 Q. --- gun?

5 A. No.

6 Q. Okay. Do you ---

7 A. I don't remember. I can remember being upset, and I  
8 can answer this and we can go through the list again, but I  
9 just remember that she wanted a reduction in charge,  
10 couldn't get it, and that was the thrust of her problem.  
11 Did I not discuss the gun? I can't imagine that I didn't.

12 Q. Okay.

13 A. That I would have -- would not have.

14 Q. Okay.

15 A. Although with the -- it would be quite curious for  
16 something that was that significant in the case for me just  
17 to decide, no, I don't think I'm going to discuss that with  
18 my client. But, I mean, you know, nonetheless she still,  
19 unfortunately, was there.

20 Q. Well, obviously there, there was obviously a gun ---

21 A. Yes, it was.

22 Q. --- used. Do you specifically recall any indication  
23 that ---

24 A. I don't have any specific recall. You can ask me  
25 this, and I don't mean to be rude or difficult. I just

1 don't remember it.

2 Q. Okay. Well, indulge me for ---

3 A. Well, go ahead.

4 Q. --- for a couple of minutes.

5 A. I appreciate it.

6 Q. Do you specifically recall whether any discussion took  
7 place about Ms. Lane providing a gun?

8 A. No.

9 Q. Would there -- was there any discussion of if it was  
10 Ms. Lane's gun, why she wasn't the one that had the gun?

11 A. No.

12 Q. Okay.

13 A. Other than, I mean, I can -- I guess the circumstances  
14 implied that she was to be the distracter. She was to play  
15 a role. I do remember that, and as I said earlier, the  
16 other girl was not smart enough to play the role, or they  
17 didn't have confidence in her. So, if she were going to  
18 play the role of the person who's distracting, you wouldn't  
19 have the gun, too.

20 Q. Everybody gave statements in this.

21 A. They did.

22 Q. Okay, and everybody else's statement pointed to Ms.  
23 Lane?

24 A. Yes.

25 Q. Is that right? Ms. Lane's statement did not point to

1 Ms. Lane as the mastermind or ---

2 A. No.

3 Q. --- provided the gun?

4 A. No.

5 MR. WALLER: Beg the court's indulgence, please.

6 THE COURT: All right.

7 (A PAUSE.)

8 MR. WALLER: No further questions.

9 THE COURT: Redirect?

10 MR. MITCHELL: Nothing further, Judge.

11 THE COURT: All right, you can step down.

12 WITNESS: Thank you, Your Honor.

13 THE COURT: Thank you.

14 (THE WITNESS EXITS THE STAND.)

15 THE COURT: State can call your next witness.

16 MR. MITCHELL: State has no further witnesses, Judge.

17 We rest.

18 THE COURT: All right, anything in reply?

19 MR. WALLER: Nothing in reply, Your Honor.

20 THE COURT: All right.

21 RULING OF THE COURT:

22 THE COURT: All right, Mr. Mitchell, if you would  
23 prepare an order. I'm denying the applicant's request for  
24 post-conviction relief to the extent that she is seeking to  
25 set aside her conviction and sentence. I am granting her

1 an appeal, belated appeal based upon the -- her trial  
2 attorney's secretary's failure to file the notice of intent  
3 to appeal on a timely basis. I find the court is -- that  
4 there was no deficient representation. Further, that there  
5 would have been no likelihood that the outcome would have  
6 been different had she proceeded to trial. All right.

7 MR. MITCHELL: Thank you, Judge.

8 THE COURT: Thank you..

9 --- END OF TRANSCRIPT OF RECORD ---

**CERTIFICATE**

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH 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 HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR ORANGEBURG COUNTY, SOUTH CAROLINA, ON THE 16TH DAY OF MAY, 2016.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

*/S/ELIZABETH B. HARRIS, CVR-M-CM*

COLUMBIA, SOUTH CAROLINA

FEBRUARY 6TH, 2017

STATE OF SOUTH CAROLINA  
COUNTY OF ORANGEBURG

Amy Renee Lane, #362247,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL CIRCUIT

2015-CP-38-0708

**ORDER OF DISMISSAL**

FILED FOR RECORD  
WINNIFAB. CLARK  
2016 NOV - 7 P 11 57  
CLERK OF COURT  
ORANGEBURG, SC

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed June 5, 2015. Respondent filed a Return and Partial Motion to Dismiss on November 2, 2015, requesting an evidentiary hearing be convened on Applicant's ineffective assistance of counsel allegations. Jonathan D. Waller, Esquire, was appointed by the Orangeburg County Clerk of Court to represent Applicant. An evidentiary hearing was held on May 16, 2016, at the Dorchester County Courthouse. Applicant was present and represented by Counsel Waller. J. Clayton Mitchell of the South Carolina Attorney General's Office represented Respondent.

At the PCR hearing, Applicant testified on her own behalf. Also testifying was Applicant's plea counsel, Michael R. Culler, Jr., Esquire. This Court had before it the Orangeburg County Clerk of Court records, the appellate records, Applicant's South Carolina Department of Corrections records, the PCR application, the Return, and the guilty plea transcript.

**I. PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Orangeburg County Clerk of Court. In May 2014, the Orangeburg County Grand Jury indicted Applicant for armed robbery (2014-GS-38-0714).

CLERK OF COURT  
ORANGEBURG COUNTY

Counsel Culler represented Applicant. On November 20, 2014, Applicant pled guilty as indicted to a recommended cap of fifteen years. The Honorable Edgar W. Dickson sentenced Applicant to ten (10) years' imprisonment.

Applicant filed a notice of appeal on December 04, 2014. The South Carolina Court of Appeals dismissed Applicant's appeal on February 25, 2015. The remittitur was returned to the circuit court on March 13, 2015.

In this action, Applicant alleges that she is being held in custody unlawfully for the following reasons:

1. Involuntary and unintelligent guilty plea; and
2. Ineffective assistance of counsel in failing to recognize a conflict of interest.

### III. APPLICABLE LAW

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

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

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, Applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

#### IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

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

### **Failing to challenge the admissibility of Applicant's confession**

Applicant alleges Counsel was ineffective for failing to challenge the admissibility of her confession. She argued that she would have proceeded to trial if Counsel properly advised her that she could successfully suppress her confession. Applicant testified Counsel did not discuss the statement. She testified that she felt compelled to accept the State's plea offer because her mother thought it was in her best interests. Counsel testified that he advised Applicant that the chances of suppressing the statement not good. Counsel emphasized that two codefendants were cooperating with the State and would testify against her if she proceeded to trial. Counsel advised her to plead guilty.

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

Post-conviction relief “is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of direct review of the sentence or conviction.” S.C. Code Ann. § 17-27-20(b); see also Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1975) (“It is uniformly held that an application for post-conviction relief is not a substitute for an appeal.”). Applicant’s allegations regarding the charges against her are an inappropriate challenge to the sufficiency of the evidence. Simmons, 264 S.C. at 423, 215 S.E.2d at 885 (“[T]he Uniform Post-conviction Procedure Act ‘shall not be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction.’” (citing Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973))). “A guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights.” Jamison v. State, 410 S.C. 456, 467, 765 S.E.2d 123, 129 (2014) (citing State v. Rice, 401 S.C. 330, 331-32, 737 S.E.2d 485, 485-86 (2013); Hyman v. State, 397 S.C. 35, 44, 723 S.E.2d 375, 379 (2012)).

This Court finds these allegations are not proper for this forum. Applicant must have taken this case to trial and argued for suppression of the statement at that stage. Instead, she admitted to the truth of the allegations set forth in the indictments at the plea hearing. Applicant may not now challenge the sufficiency of the evidence.

It was reasonable for Counsel to advise Applicant to plead guilty to a plea arrangement where the sentence was capped at fifteen years. This Court finds Applicant took advantage of a favorable plea deal and by doing so waived any evidentiary challenges to the evidence. This Court also finds it is not likely Applicant’s statement would have been suppressed. “The fact that one is intoxicated at the time a confession is made does not necessarily render him incapable of comprehending the meaning and effect of his words.” State v. Saxon, 261 S.C. 523, 529, 201 S.E.2d 113, 117 (1973). “Therefore, proof that an accused was intoxicated at the time he made a

confession does not render the statement inadmissible as a matter of law, unless the accused's intoxication was such that he did not realize what he was saying." Id. Applicant has not shown that she did not have the mental capacity to freely give a voluntary statement due to her intoxication.

To the extent Applicant argued her plea was not entering freely, knowingly, and voluntarily, this Court finds the record fully supports the contrary. Applicant did not present any credible evidence to support this allegation. Applicant has failed to prove Counsel rendered deficient performance in any regard. She has also failed to present the Court with any credible evidence showing he was prejudiced by the alleged deficiencies.

#### **Failure to File a Notice of Appeal**

Applicant further alleges Counsel was ineffective in failing to perfect an appeal after she requested him to do so. Applicant testified that she wanted to appeal and that she asked Counsel to file a notice of appeal.

This Court further finds Applicant has met her burden to prove Counsel was ineffective in failing to perfect an appeal. "[C]ounsel has a constitutionally imposed duty to consult with the defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal), or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing." Roe v. Flores-Ortega, 528 U.S. 470, 480, 120 S. Ct. 1029, 1036, 145 L. Ed. 2d 985 (2000). While a notice of appeal was filed by Counsel, it was not perfected and was eventually dismissed by the court of appeals because of deficiencies in the filing. This Court grants Applicant's request for a belated appeal pursuant to White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974).

**All Other Allegations**

As to any and all allegations that were raised in the application 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.

**V. CONCLUSION**

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

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRPC, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED THAT:**

1. The application for Post-Conviction Relief is denied and dismissed with prejudice; ~~and~~ *except as to Applicant's right to a belated appeal; and* (AMC)
2. Applicant shall remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 27 day of October, 2016.

*Benjamin H. Culbertson*

BENJAMIN H. CULBERTSON  
Presiding Judge

Conway, South Carolina

**WITNESSES**

Sam Norton

Orangeburg County Sheriff

**ARREST WARRANT NUMBER**  
2014ORB22

Arrested: March 25, 2014

**ACTION OF GRAND JURY**  
**TRUE BILL**

*Michelle [Signature]*

Date **MAY 07 2014**

Foreperson of Grand Jury  
Date: May 7, 2014

**VERDICT**

Foreperson of Petit Jury  
Date:

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**DOCKET NO. 2014GS38-0714**

**The State of South Carolina**  
**County of ORANGEBURG**

**COURT OF GENERAL SESSIONS**

**May 12, 2014 TERM**

**THE STATE**  
**vs.**

Amy Renee Lane

**Indictment for**  
**ARMED ROBBERY**

SC Code: 16-11-330(A)

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED FOR  
CLERK OF COURT  
ORANGEBURG COUNTY, SC

2014 MAY - 7 PM 11: 26

ATTEST: TRUE COPY

*Wingja B. Clark*  
CLERK OF COURT  
ORANGEBURG COUNTY, SC

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ORANGEBURG )


INDICTMENT  
2014GS38-0714

At a Court of General Sessions, convened on May 12, 2014 the Grand Jurors of Orangeburg County present upon their oath:

**ARMED ROBBERY**

That on or about January 10, 2014, in Orangeburg County, the defendant, Amy Renee Lane did by use of force, threats or intimidation and while armed with a deadly weapon or while alleging either by words or action that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, take and carry away goods and/or monies from the person or presence of the victim, Allen Keefe, with the intent to permanently deprive the victim of possession of the goods or monies. Such weapon or alleged weapon described as a handgun. This offense in violation of Section 16-11-330 of the South Carolina Code of Laws, as amended.

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

  
Ashley B. Cornwell, Solicitor