

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Orangeburg County

Honorable Diane Schafer Goodstein, Circuit Court Judge

RECEIVED

AUG 10 2017

S.C. SUPREME COURT

JESSICA LEIGH RUDD,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-000191

APPENDIX

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Appellate Defender

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ATTORNEYS FOR RESPONDENT

ATTORNEY FOR PETITIONER

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF ORANGEBURG) FIRST JUDICIAL CIRCUIT

2014-GS-38-00717

STATE OF SOUTH CAROLINA,)	
)	
Plaintiff,)	
)	
v.)	Transcript of Record
)	
JESSICA RUDD,)	
)	
Defendant.)	
)	
)	
)	

December 10, 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
Attorneys for the State

Gerald Davis, Esquire
Attorneys for the Defendant

Hilda M. Jordan, CVR-M
Circuit Court Reporter

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WITNESS/DESCRIPTION

PAGE NO.

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EXHIBITS:

There were no exhibits marked to this proceeding.

Certificate of Court Reporter 19

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1

MS. CORNWELL: Jessica Rudd.

2

THE COURT: All right, Ms. Cornwell. I'm sorry.

3

MS. CORNWELL: Please the Court.

4

THE COURT: Yes, ma'am.

5

MS. CORNWELL: Before you is Jessica Rudd with her attorney, Mr. Davis. She's here to plead guilty under True Billed Indictment 2014-GS-38-0717. That is a True Bill, Indictment for armed robbery. State is allowing her to plead to the lesser included, attempted armed robbery. There are no recommendations or negotiations from the state.

10

11

CLERK: Please raise your right hand.

12

(WHEREUPON, Jessica Rudd was sworn to tell the truth.)

13

CLERK: Thank you.

14

15

THE COURT: Ms. Cornwell is this the one where there are two other co-defendants?

16

17

MS. CORNWELL: There are, Your Honor. She is the last to plea.

18

19

THE COURT: Will you explain that to me and bring me back up today.

20

Mr. Davis, you represent Ms. Rudd?

21

MR. DAVIS: I do, Your Honor.

22

23

THE COURT: Okay, and you have had an opportunity to meet with her and go over the evidence from this event that occurred on January 10, 2014, here in Orangeburg County?

24

25

MR. DAVIS: I have, Your Honor.

1 THE COURT: I note she was originally -- True Bill
2 Indictment is for armed robbery, but the State is allowing
3 her to plead to attempted armed robbery; is that correct?

4 MR. DAVIS: That is correct, Your Honor.

5 THE COURT: All right. You have explained the law of
6 both armed robbery and attempted armed robbery to her?

7 MR. DAVIS: I have, Your Honor.

8 THE COURT: And advised her of her constitutional
9 rights.

10 MR. DAVIS: I have, Your Honor.

11 THE COURT: After talking with her, she suggested to
12 you that she wishes, she wanted you to proceed with plea
13 negotiations?

14 MR. DAVIS: She did, Your Honor.

15 THE COURT: And you believe it's in her best interest
16 to go forward with this plea that has been presented here in
17 Court?

18 MR. DAVIS: Based upon all the evidence I've examined,
19 Your Honor, I believe it is.

20 THE COURT: Okay. All right. Ms. Rudd, you are 24
21 years old?

22 MS. RUDD: Yes, sir.

23 THE COURT: And Ms. Rudd, you've been in front of me
24 before, haven't you?

25 MS. RUDD: Yes, sir.

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1 THE COURT: Okay. And I need to be updated -- How far
2 did you go in school?

3 MS. RUDD: I got my GED.

4 THE COURT: Okay. Where were you going to school?

5 MS. RUDD: The last school I attended was in Bamberg.

6 THE COURT: Okay. What grade was that?

7 MS. RUDD: I completed the tenth grade.

8 THE COURT: Huh?

9 MS. RUDD: I completed the tenth grade.

10 THE COURT: Why did you stop in the tenth grade?

11 MS. RUDD: I don't know. I just stopped.

12 THE COURT: Okay. Before you were arrested were you
13 working somewhere?

14 MS. RUDD: No.

15 THE COURT: Have you ever worked?

16 MS. RUDD: Yes, sir.

17 THE COURT: Where was the last place you worked?

18 MS. RUDD: Jersey Mike's.

19 THE COURT: What?

20 MS. RUDD: Jersey Mike's.

21 THE COURT: What did you do there?

22 MS. RUDD: I just made sandwiches.

23 THE COURT: How long did you work at that job?

24 MS. RUDD: Six months.

25 THE COURT: Why'd you stop?

1 MS. RUDD: I left -- I started running from parole.

2 THE COURT: You ran away from home?

3 MS. RUDD: I ran from parole.

4 THE COURT: Oh, you ran from parole?

5 MS. RUDD: Yes, sir.

6 THE COURT: Okay. All right. Ms. Rudd, have you ever
7 been treated for any mental health issues?

8 MS. RUDD: Yes, sir.

9 THE COURT: How long ago was that?

10 MS. RUDD: My whole life.

11 THE COURT: You're taking medication now?

12 MS. RUDD: Yes, sir.

13 THE COURT: What -- have you ever taken medication?

14 DEFENDANT: No, sir.

15 THE COURT: Okay. What were you taking?

16 MS. RUDD: Buspar, Effexor, Stratera.

17 THE COURT: What was that for?

18 MS. RUDD: Bipolar, borderline personality disorder,
19 depression, anxiety and ADHD.

20 THE COURT: Okay. Now, you're not taking any
21 medication now?

22 MS. RUDD: No, sir.

23 THE COURT: Shouldn't you be on medication?

24 MS. RUDD: Yes, sir, they are in the process of doing
25 it. They -- the doctor at SCDC, she quit. And so when I

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1 was getting in trouble and stuff I just stopped going to all
2 my appointments and I just stopped taking it. Then, part of
3 my parole, she come back and put me on the list to see the
4 doctor again, but I just haven't.

5 THE COURT: All right. Have you been treated for any
6 drug or alcohol dependencies?

7 MS. RUDD: Yes, sir.

8 THE COURT: How long was that?

9 MS. RUDD: Well, I just graduated the ATU program
10 yesterday. Before that I was in rehab in Abbeville.

11 THE COURT: Do you think those treatments or programs
12 helped?

13 MS. RUDD: The first one, it helped for a while, but I
14 went back to the same places and stuff, but this one was a
15 little bit more instensive.

16 THE COURT: Okay, and you think that helped?

17 MS. RUDD: Yes, sir.

18 THE COURT: Okay. Today, are you under the influence of
19 any alcohol or illegal drugs?

20 MS. RUDD: No, sir.

21 THE COURT: Ms. Rudd, the fact that you should be on
22 medication, does that effect your ability to understand what
23 you're doing here?

24 MS. RUDD: No, sir.

25 THE COURT: You think you're thinking clearly today?

1 MS. RUDD: Yes, sir.

2 THE COURT: You think you know what you're doing today?

3 MS. RUDD: Yes, sir.

4 THE COURT: Mr. Davis, you've been meeting with her,
5 you know, the conditions for which she told me she needed
6 medications for generally require medications. You've been
7 meeting with her. You believe she knows what she's doing
8 here today?

9 MR. DAVIS: I believe she does, Your Honor.

10 THE COURT: Okay. All right. Ms. Rudd, tell me what
11 we're doing here today, just so I'll be comfortable that you
12 understand what we're doing?

13 MS. RUDD: I'm -- do you want to know what happened or
14 --

15 THE COURT: No, ma'am. Tell me what are you doing
16 today, why are you here in Court?

17 MS. RUDD: To plead guilty to attempted armed robbery.

18 THE COURT: Right. And what is going to be the result
19 of that, you believe?

20 MS. RUDD: Well, I know I'm going to do some time.

21 THE COURT: Okay. I just want to make sure you
22 understand that you're going to plead guilty and you expect
23 to do some time as a result?

24 MS. RUDD: Yes, sir.

25 THE COURT: All right. Now, has anybody promised you

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1 anything to get you to plead guilty here today?

2 MS. RUDD: No, sir.

3 THE COURT: Has anyone threatened you or forced you in
4 any way to get you to plead guilty?

5 MS. RUDD: No, sir.

6 THE COURT: You're doing this freely and voluntarily?

7 MS. RUDD: Yes, sir.

8 THE COURT: Now, I know Mr. Davis has met with you and
9 gone over all the evidence with you; is that correct?

10 MS. RUDD: Yes, sir.

11 THE COURT: He explained to you the law that applies to
12 this situation?

13 MS. RUDD: Yes, sir.

14 THE COURT: Explained to you the possible sentence
15 you're facing?

16 MS. RUDD: Yes, sir.

17 THE COURT: He advised you of your constitutional
18 rights?

19 MS. RUDD: Yes, sir.

20 THE COURT: Did you understand everything he told you?

21 MS. RUDD: Yes, sir.

22 THE COURT: Are you satisfied with his services as your
23 attorney?

24 MS. RUDD: Yes, sir.

25 THE COURT: Do you need any more time to talk with him?

1 MS. RUDD: No, sir.

2 THE COURT: Okay. Ms. Rudd, you understand you have a
3 right to have a jury trial and confront your witnesses; you
4 understand that?

5 MS. RUDD: Yes, sir.

6 THE COURT: Put up any defenses you have to these
7 charges?

8 MS. RUDD: Yes, sir.

9 THE COURT: Okay. Do you want a jury trial on this
10 charge?

11 MS. RUDD: No, sir.

12 THE COURT: You want to go forward with your guilty
13 plea?

14 MS. RUDD: Yes, sir.

15 THE COURT: Okay. All right.

16 Ms. Cornwell.

17 MS. CORNWELL: Thank Your Honor.

18 For purposes of the record, attempted armed robbery is
19 classified as a most serious and violent offense.

20 THE COURT: Okay. Thank you for reminding me of that.

21 Mr. Davis, I know you explained to her that this is a
22 violent and most serious offense?

23 MR. DAVIS: I have, Your Honor.

24 THE COURT: And advised her that if she has another
25 most serious offense she'd be up for life without the

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1 possibility of parole?

2 MR. DAVIS: That is correct, Your Honor. I have.

3 THE COURT: All right. And Ms. Rudd, he did so advise
4 you?

5 MS. RUDD: Yes, sir.

6 THE COURT: You understand if you get another most
7 serious it's life without the possibility of parole?

8 MS. RUDD: Yes, sir.

9 THE COURT: You understand, that's standard. Ma'am?

10 MS. RUDD: Yes, sir.

11 THE COURT: All right.

12 Ms. Cornwell.

13 MS. CORNWELL: Thank Your Honor. Please the Court.

14 On January 10, 2014, officers responded to the
15 Orangeburg area of Orangeburg County in reference to an
16 armed robbery. This occurred at the Waters Edge Rentals.
17 Officers met with the victim who stated while he was
18 speaking with a customer about a chain saw a white male
19 subject entered the store through the carport wearing a gray
20 bandana over his face. He pulled a silver hand gun and
21 demanded the female customer to get on the floor and for the
22 victim to give him all the money in the store. The male
23 suspect struck the victim in the back of the head with his
24 pistol which caused the pistol to go off and fire a shot to
25 the floor. That subject took the cash drawer, which

1 contained \$324.72 and left the scene by an unknown means of
2 travel. The female customer also advised that the subject
3 stole her black wallet from the vehicle that was parked in
4 front of the business. The register drawer was recovered at
5 the corner of [REDACTED]. Investigator Carson got a
6 written statement from Amy Lane, who was considered a
7 witness at the time and not a suspect. Ms. Lane, through
8 further investigation it was determined was involved in the
9 planning and the execution of this robbery. She was
10 eventually charged as a co-defendant in this case.

11 On January 16, 2014, officers spoke with the owner who
12 stated that he received a phone call from Amy Lane inquiring
13 whether or not certain employees were working that day
14 before she hung up the phone.

15 On March 14, 2014, officers were contacted by witness,
16 Tina Stone, who stated that on that morning she was advised
17 that defendant Amy Lane was responsible for the planning and
18 execution of the armed robbery that occurred at the Water's
19 Edge Rentals. Officers met with Ms. Lane on March 21, 2014.
20 Ms. Lane gave a full confession implicating Michael Gleaton
21 as the gun man and also indicating the defendant Rudd as the
22 person who drove the get-a-way car. She stated that the
23 plan was that Ms. Rudd would actually go inside the building
24 and act as the victim and that Ms. Lane would drive the car
25 to and from the robbery, as Mr. Gleaton made the robbery.

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1 They stated that during the planning of the robbery, Ms.
2 Rudd got a little nervous and at that point Ms. Lane
3 determined that she would be the actress, the witness inside
4 the building and that Ms. Rudd would then drive the
5 get-a-way car to and from Water's Edge Rentals.

6 On March 24, officers met with defendant Rudd who also
7 confessed to participating in the robbery with defendants
8 Lane and Gleaton. Defendant Rudd confessed to driving the
9 get-a-way car. Defendant Lane staged and set up the
10 robbery. Defendant Rudd stated that as she and defendant
11 Gleaton were fleeing the scene defendant Gleaton did state
12 that he hit the victim in the back of the head with the gun
13 and it had accidentally discharged almost hitting defendant
14 Lane. It's my understanding that the money was to be split
15 between the three of them.

16 Mr. Gleaton pled in front of Your Honor earlier this
17 year. He received 13 years on an armed robbery charge.

18 Ms. Lane pled guilty last month in front of Your Honor.
19 She received a 10 year sentence on an armed robbery charge.

20 While the State has allowed Ms. Rudd to plead to the
21 lesser included we do believe that her sentence should be in
22 the same that defendants Gleaton and defendant Lane
23 sentences were. This defendant did have the worst or most
24 significant prior record of all three of them.

25 Her prior record, Your Honor, she had juvenile

1 convictions in 2006. In 2008 she was charged with three
2 counts of forgery and a possession of marijuana. She
3 appeared before Judge Williams on that and got two years
4 suspended to two years probation. She has a 2010
5 shoplifting, as well as a burglary third, and a burglary
6 second in which she appeared in front of Your Honor. Your
7 Honor sentenced her to five years suspended to five years
8 probation. She got an obtaining property by false pretenses
9 in 2011 for time served. Another shoplifting in 2011 for
10 time served and then a receiving stolen goods in 2011 for
11 time served. In 2012, she had a forgery, three counts of
12 forgery and an assault and battery second. She appeared in
13 front of Judge Benjamin on that who sentenced her to a YOA.
14 She was also revoked on her parole on March 28 of this year.

15
16 THE COURT: All right, Ms. Rudd, does that sound like
17 your prior record?

18 MS. RUDD: Yes, sir.

19 THE COURT: And Ms. Rudd, you've heard what the
20 Solicitor told me about your involvement in this armed
21 robbery that occurred on January 10, 2014?

22 MS. RUDD: Yes, sir.

23 THE COURT: Is what she told me true?

24 MS. RUDD: Yes, sir.

25 THE COURT: All right. How do you plead to this charge

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1 of armed robbery?

2 MS. RUDD: Guilty.

3 THE COURT: Okay, Ms. Rudd, you understand if I accept
4 your guilty plea it will be a conviction on your record?

5 MS. RUDD: Yes, sir.

6 THE COURT: You understand the State is not making any
7 recommendation but they are asking for a sentence similar to
8 the ones I gave your other co-defendants?

9 MS. RUDD: Yes, sir.

10 THE COURT: You understand that?

11 MS. RUDD: Yes, sir.

12 THE COURT: All right. Do you want me to accept your
13 guilty plea?

14 MS. RUDD: Yes, sir.

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

21 Mr. Davis.

22 MR. DAVIS: Thank you, Your Honor. She stands here
23 with her mother today, who wishes to address the Court. Her
24 name is Angela Campbell.

25 THE COURT: Ms. Campbell.

1 MS. CAMPBELL: How are you doing, Your Honor.

2 THE COURT: I'm going all right. I know she
3 appreciates you coming in here and speaking on her behalf. I
4 know you'd rather be somewhere else.

5 Yes, ma'am, what would you like to tell me?

6 MS. CAMPBELL: Well, you know she's had some problems
7 in the past with drugs and alcohol. I wasn't the best role
8 model for her, you know. So, you know, I'm really -- I'm
9 sorry -- I understand that, you know, actually I came before
10 you, I had some charges before you together. We used to get
11 high together. I'm not proud of that, but I did that and
12 you sentenced me to two years and I got my life together.

13 THE COURT: I'm glad of that.

14 MS. CAMPBELL: It's was God's help that I got my life
15 together. She was doing good and then she got off her
16 medication and started self-medicating and -- I just really
17 wish you'd have some mercy on her and let her come home.

18 THE COURT: Okay. Thank you, Ms. Campbell. I
19 appreciate it.

20 MR. DAVIS: Thank you.

21 THE COURT: Mr. Davis.

22 MR. DAVIS: Thank Your Honor. If it pleases the Court.
23 We certainly are acutely aware that the hand of one is the
24 hand of all, Your Honor. Certainly in this case she would
25 be the least culpable, in my opinion. I would submit that to

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1 the Court.

2 Your Honor, she is 24 years old. She has a GED
3 education. She's married, has a child. Your Honor, we
4 would certainly ask the Court to give her credit for any
5 time she may have served towards the sentence Your Honor is
6 going to give her.

7 Your Honor, she is one of nine children. She's been
8 involved with drugs and alcohol for probably half of her
9 life, Your Honor. That's no excuse. I offer that to the
10 Court for mitigating factors involving this case, Your
11 Honor.

12 Your Honor, I'd ask the Court to see fit to give her
13 five years. I understand it's violent. I understand it is a
14 most serious crime, Your Honor. I would further submit to
15 this Court that once she got off of her medication and
16 started self-medicating that led to her life in the judicial
17 system as it stands today, Your Honor. Again, not offering
18 any excuse, merely for mitigating factors, I would submit to
19 Your Honor that five years would be appropriate in this
20 particular incident, Your Honor.

21 THE COURT: All right, Ms. Rudd, I'm aware of the facts
22 or it seems to me that drugs have been a problem for you.
23 Unfortunately, there is no way for me to correct that, you
24 know. I can't -- all I can do is punish you when you do
25 things wrong. That's all I can do. But I do hope that you

1 can get over your drug issues, I really do.

2 Sentence of this Court, Ms. Rudd, is that you are
3 committed to the State Department of Corrections for a
4 period of eight years. Good luck to you.

5 MR. DAVIS: Thank you, Your Honor.

6 MS. CORNWELL: Thank Your Honor.

7 (This proceeding was concluded.)

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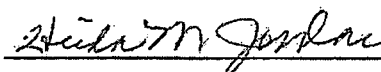
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C-E-R-T-I-F-I-C-A-T-E

I, THE UNDERSIGNED HILDA M. JORDAN, CVR-M, OFFICIAL COURT REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE PLEA IN THE CAPTIONED CAUSE, IN THE COURT OF GENERAL SESSIONS FOR ORANGEBURG COUNTY, SOUTH CAROLINA, ON THE 10 DAY OF DECEMBER, 2014.

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



Hilda M. Jordan, CVR-M

November 29, 2015

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

IN THE COURT OF (Select one.)

COMMON PLEAS FAMILY COURT
JUDICIAL CIRCUIT

Jessica Leigh Rudd #350144,)

CASE NO.:

Plaintiff(s),)

APPOINTMENT OF COUNSEL OR GAL

-vs-)

(Select one.)

State of South Carolina,)

ORDER

Defendant(s).)

AMENDED ORDER

FILED FOR RECORD
WINNIE B. CLARK
2015 NOV - 2 P 4:15
CLERK OF COURT
ORANGEBURG COUNTY, SC

TYPE OF CASE/PROCEEDING: (Check one.)

- Post-Conviction Relief (PCR)/habeas case
- SVP case
- Minor Name Change
- Adoption
- Custody and/or Visitation
- Other:
- Juvenile
- Abuse and Neglect

It appears that Jessica Leigh Rudd, who is a litigant in this case, is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: (Select only one.)

- counsel/guardian ad litem has not yet been appointed by the court; therefore, an appointment for counsel/guardian ad litem is necessary.
- counsel or a guardian ad litem was previously appointed by the court but has indicated either a possible conflict of interest, an entitlement to exemption, or other good cause warranting the appointment of new counsel or guardian ad litem based on: _____
- counsel was previously appointed by the court but has not indicated that the litigant has retained private counsel and is no longer entitled to appointed counsel.
- court appointed counsel has obtained _____, Esquire as substitute counsel pursuant to Rule 608(h)(2); provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.
- Other:

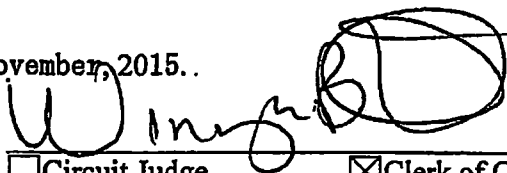
Therefore, it is ordered that Jonathan Waller, hereby is appointed as (Select one.)

counsel lead counsel (if capital PCR case) guardian ad litem
for the above-named person. Any counsel or GAL previously appointed is/are hereby relieved.

(If Death Penalty PCR Case) It is further ordered that _____, Esquire, is hereby appointed as second counsel in this capital PCR case.

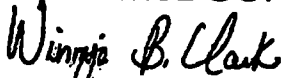
The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED THIS 2nd DAY OF November, 2015.


 Circuit Judge Clerk of Court 11/2/15

NOTICE: SC Supreme Court Order of September 29, 2006, requires appointed counsel entitled to payment from the Office of Indigent Defense (OID) to register the case online with OID within fifteen (15) days of this appointment at www.sccid.sc.gov, and further directs that reimbursement vouchers be submitted directly to SCCID and not to the trial judge or clerk of court. See SCCID website for further details.

ATTEST: TRUE COPY


CLERK OF COURT
ORANGEBURG COUNTY, SC

FORM 5

STATE OF SOUTH CAROLINA)

County of Orangeburg)

Jessica Leigh Rudd 350144)
Full name and prison number (if any) of Applicant)

^{v.}
Jessica Leigh Rudd 350144)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2015-CP-38-01172

APPLICATION FOR
POST-CONVICTION RELIEF

FILED FOR RECORD
WINNIFRA B. CLARK
2015 SEP 25 A 11:56
CLERK OF COURT
ORANGEBURG, SC

تیب

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 Camille Griffin Graham Correctional Institute 4450 Broad River Road Columbia SC 29210
2. Name and location of Court which imposed sentence Orangeburg Court of General Sessions, Orangeburg SC
3. Name(s) of co-defendant(s) (if any) Amy Renee Lane, Mikel Lee Gileaton
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Accessory before and after the fact of a felony
 - (b) Armed Robbery

- (c) _____
- 5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) December 10, 2014, 8yr most serious
 - (b) _____
 - (c) _____
- 6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty ✓
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere _____
- 7. Did you appeal from the judgment of conviction or the imposition of sentence?
NA
- 8. If you answered "yes" to (7), list:
 - (a) the name of each Court to which you appealed:
 - i. NA
 - ii. NA
 - iii. NA
 - (b) the result in each such Court to which you appealed:
 - i. NA
 - ii. NA
 - iii. NA
 - (c) the date of each such result:
 - i. NA
 - ii. NA
 - iii. NA
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. NA
 - ii. NA
 - iii. NA
- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) Attorney did not file appeal
 - (b) i did not know i could have appealed it

(c) After discovered evidence

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

(a) subject matter jurisdiction

(b) 4th Amend. U.S.C.A

(c) miranda rights 5th Amendment

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

(a) delayed- defect of indictment held w/out bail 120 before indictment under and for the crime hands of one hands of AU. 18. U.S.C.A

(b) Illegally held as a hostage to give a statement about the crime.

(c) miranda rights were violated, forced to confess absent of Attorney

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

(a) any petition in a State Court under South Carolina Law? NA

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NA

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NA

(d) any other petitions, motions or applications in this or any other Court? NA

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. NA

ii. NA

iii. NA

iv. NA

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

i. NA

ii. NA

iii. NA

iv. NA

(c) the disposition thereof:

- i. NA
- ii. NA
- iii. NA
- iv. NA

(d) the date of each such disposition:

- i. NA
- ii. NA
- iii. NA
- iv. NA

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

- i. NA
- ii. NA
- iii. NA
- iv. NA

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?

NA

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

(a) which grounds have been presented:

- i. NA
- ii. NA
- iii. NA

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

- i. NA
- ii. NA
- iii. NA

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) Subject matter Jurisdiction - Attorney did not argue this issue
- (b) 4th Amendment USCA Illegally obtained evidence - Attorney failed to argue issue
- (c) Miranda rights USCA forced to give statement, absent Attorney failed to argue issue

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

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

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. Douglas Mellard (public defender) p.o Box 9000 orangeburg SC 29117
 - ii. General Davis
The Davis law firm
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. General Sessions Court
 - ii. N/A
 - iii. N/A

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

Sentenced vacated For Armed Robbery - ABWIK,
Modification for ~~assault~~ accessory after the fact, for
failure to report the crime. Under the Common law of

20.

S.C. WADE and law, Statutory Provision, fast and speedy trial.
Are you now under sentence from any other court that you have not challenged?

N/A
N/A

STATE OF SOUTH CAROLINA)
County of ORANGEBURG)

VERIFICATION

I, Jessica Leigh Rudel, 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.

Jessica Rudel

SWORN to and subscribed before me this 23 day of September, 2015.

[Signature] (L.S.)
Notary Public

My Commission Expires: 8-23-21

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

I, Jessica Ruddel, 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.

Jessica Ruddel
Applicant

SWORN or affirmed to and subscribed before me this
23 day of September, 2015.

Justin P. Byatt
Notary Public

My Commission Expires: 8-23-21

EXHIBIT (A)

A
1

State of South Carolina	Court of Common Pleas
County of Orangeburg	2015-CP-
Jessica Leigh Rudd	MOTION TO ALTER THE ORDER OF JUDGEMENT. S.C.RCP RULE 29(E)
<u>vs.</u>	
The State of South Carolina	AFFIDAVIT OF SERVICE

THE ABOVE CAPTIONED (APPLICANT) HEREBY MOVES UPON THE COURT IN A MOTION TO ALTER THE ORDER OF JUDGEMENT PURSUANT TO S.C.RCP RULE 29(E) F.R.C.P 59(E). THE SENTENCE IS IN VIOLATION OF THE STATE OF FEDERAL CONSTITUTIONAL LAW. THERE IS A MULTIPLE MASS AMOUNT OF LEGAL AND TECHNICAL ERRORS IN VIOLATION WITH THE 4th 5th & 14th AMENDMENT U.S.C.A FOLLOWED BY THE 18 U.S.C.A 3161(H)(8)(E) STATUTORY PROVISION WAS VIOLATED BY SELECTOR. DELAYED DEFECT OF INDICTMENT. 18 U.S.C.A. 1505, 1506 MODEL PENAL CODE 224.2

FILED FOR RECORD
 WANDA B. CLARK
 2015 SEP 25 A 11:56
 CLERK OF COURT
 ORANGEBURG, SC

Jessica Leigh Rudd

SWORN TO AND SUBSCRIBE: BEFORE ME,
 ON THIS 23 DAY OF SEPTEMBER 2015,
 NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA
 [Signature]
 MY COMMISSION EXPIRES 8-23-21

MAILED

EXHIBIT (B)

STATE OF SOUTH CAROLINA

THE COURT OF COMMON PLEAS

COUNTY OF ORANGEBURG

2015 - CP -

Jessica Leigh Rudd

MOTION FOR A WRIT OF MANDAMUS

VS.

AFFIDAVIT OF

FILED FOR RECORDS
MINNIE A. B. CLARKE
CLERK OF COURTS
ORANGEBURG, S.C.
SEP 25 A 11:56
2015

THE STATE OF SOUTH CAROLINA

THE ABOVE CAPTIONED APPLICANT HEREBY MOVES THE COURT TO ORDER (THE ATTORNEY GENERAL) INACTING OVER THE CASE TO DISCLOSED THE STATE'S EVIDENCE IN CONNECTION WITH THE GUILT (GUILT PLEA CONTRACT AGREEMENT). PURSUANT TO TOAL "ET'AL. APPELLATE PRACTICE IN SOUTH CAROLINA P. 281 CITING, WEBER-V-LONG, 262 S.C. 430, 205 S.C. 2d. 174 (1976) QUOTING- STATE - V - ANGEL, 76 S.C. 395. 414 57 S.E. 185. (1906). A MANDAMUS IS NEEDED IN THIS CASE AT BAR TO SHOW THAT THE STATE PROSECUTED THIS APPLICANT IN VIOLATION OF A STATE AND FEDERAL STATUTE. DELAYED DEFECT OF INDICTMENT. 18 U.S.C.A. 3162 (A), 18 U.S.C.A; 18 U.S.C.A. 3161 (H)(B)(C). 18 U.S.C.A. 1505, 1506 MODEL PENAL CODE 224.2

Jessica Rudd

9/23/15

SWORN TO AND SUBSCRIBED BEFORE ME

ON THIS DAY 23 OF SEPTEMBER 2015

Judith P. Hyatt

NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA

MY COMMISSION EXPIRES 8-23-21

MAILED

EXHIBIT C

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Jessica Leigh Radd

VS.

THE COURT OF COMMON PLEAS

2015 - CP -

MOTION FOR A FAST AND SPEEDY TRIAL, 18 U.S.C.A. 3161 B, 6th AMEND U.S. CONSTITUTIONAL AMENDMENT

THE STATE OF SOUTH CAROLINA

AFFIDAVIT OF SERVICE

THE ABOVE CAPTIONED (APPLICANT) HEREBY MOVES UPON THE COURT TO ENTER AN ORDER GRANTING HER MOTION, FOR A FAST AND SPEEDY TRIAL, WITHIN 60 DAYS NOT TO EXCEED 120 DAYS. PURSUANT TO 18 U.S.C.A 3161 B, 6th AND 14th AMENDMENT U.S.C.A. THE APPLICANT FURTHER STATES THAT, THE COURT SHOULD ORDER HER RELEASE, IF THE ATTY. GEN. FAILS TO CALL THIS CASE WITHIN 120 DAYS OF RECEIPT OF THIS MOTION.

RESPECTFULLY

SUBMITTED

Jessica Radd

9/23/15

SWORN TO AND SUBSCRIBED BEFORE ME

ON THIS DAY 23 OF SEPTEMBER 2015.

NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA

Judith P. Hyatt

MY COMMISSION EXPIRES 8-23-21

FILED FOR RECORD WINNIE B. CLARK 2015 SEP 25 11:56 CLERK OF COURT ORANGEBURG, SC

MAILED

EXHIBIT D

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF ORANGEBURG

2015-CP-

Jessica Leigh Rudd
vs.

THE APPLICANT SUBMITS THIS BRIEF PURSUANT TO THE RULES OF COURT OF COMMON PLEAS, ORANGEBURG COUNTY, SOUTH CAROLINA.

THE STATE OF SOUTH CAROLINA

OF THE MERITS OF P.C.R. CLAIM.

THE APPLICANT SUBMITS THIS BRIEF IN SUPPORT OF THE P.C.R. CLAIM. THIS BRIEF IS AS FOLLOWS:

GROUND 1: 18 U.S.C.A 1505, 1506. MODEL PENAL CODE 224.2, FRAUD: THE SOLECTOR FAILED TO PRESENT A DIRECT PRESENTMENT INDICTMENT BY THE STATE GRAND JURY WITHIN 30 DAYS OF HER ARREST AND 6 MONTHS AFTER HER ARREST, WHERE AS THE APPLICANT WAS HELD IN DETENTION WITHOUT BOND, IN VIOLATION OF 18 U.S.C.A 3161(B). CHIEF SOLICITOR FAILED TO FILE A MOTION AND NOTICE FOR A CONTINUANCE PURSUANT TO S.C. CODE ANN LAWS CONSENTANT WITH 18 U.S.C.A 3161(H)(8)(C). CHIEF SOLICITOR FAILED TO FILE (EX-PART). GROUND 2: CHIEF ADMINISTRATIVE JUDGE OF THE COURT OF GENERAL SESSIONS IMPOSED SENTENCE UPON THE APPLICANT IN VIOLATION OF A STATUTE THAT IS UNCONSTITUTIONAL. (QUOTING -> EX-PARTE - V-HOLLIMAN, 60 S.E. 19 (1908) THE SUPREMS COURT, HELD THAT, A JUDGE CAN NOT IMPOSE A SENTENCE UNDER STATUTE THAT IS UNCONSTITUTIONAL. HOLDING AN UNCONSTITUTIONAL STATUTE IS VOID AND NOT LAW. HENCE JUDGE IS WITHOUT JURISDICTION TO IMPOSE SENTENCE.

FILED FOR RECORD
CLERK
B. CLARK
M.
2015 SEP 25 A 11:05
CLERK OF COURT
ORANGEBURG COUNTY
SOUTH CAROLINA

EXHIBIT D

STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS

COUNTY OF ORANGEBURG 2015-CP-

VS JESSICA LEIGH RIDDLE

APPLICANT'S Petition
AFFIDAVIT

FILED FOR RECORD
WINIFRED B. CLARK
2015 SEP 25 A 11:56
CLERK OF COURT
ORANGEBURG, SC

THE STATE OF SOUTH CAROLINA SERVICE

FALSELY REPRESENTED THE APPLICANT.

FINAL CONCLUSION

THE APPLICANT WAS DEPRIVED DUE PROCESS OF LAW
AND MODIFICATION OF SENTENCE IS NECESSARY IN
THIS CASE AT BAR.

RESPECTFULLY
SUBMITTED

Jessica Riddle
9/23/15

SWORN TO AND SUBSCRIBED BEFORE ME,

ON THIS DAY OF 23 SEPTEMBER 2015,

NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA

[Signature]

MY COMMISSION EXPIRES 8-23-21

MAILED

EXHIBIT E

STATE OF SOUTH CAROLINA

THE COURT OF COMMON PLEAS

COUNTY OF ORANGEBURG

2015 - CP -

Jessica Leigh Rudd
VS

DESTINATION OF MATTER

AFFIDAVIT OF

THE STATE OF SOUTH CAROLINA

SERVICE

FILED FOR RECORD
WINNIE B. CLARK
2015 SEP 25 4 15 PM
CLERK OF COURT
ORANGEBURG, SC

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOLLOWING DOCUMENTS ARE ENCLOSED AND DEPOSITED IN THE U.S. MAIL, THROUGHOUT C.G.C.I.S. POSTAL SERVICE WORKER MRS. MARTIN ON THIS DAY OF SEPTEMBER 2015.

SERVED UPON THE CLERK OF COURTS. (MS. WANDA B. CLARK) OF ORANGEBURG COUNTY. 1. MOTION TO ALTER ORDER OF JUDGMENT, 1. P.C.R. APPLICATION, 1. MOTION FOR A WRIT OF HABEAS, 1. MOTION FOR A FAST AND SPEEDY TRIAL, 1. APPLICANTS BRIEF ON THE MERITS OF P.C.R. CLAIM. EXHIBITS A, B, C, D AND E.

Jessica Rudd
9/23/15

SWORN TO SUBSCRIBE BEFORE ME

ON THIS DAY 23 OF SEPTEMBER 2015

NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA.

Jewel P. Holt

MY COMMISSION EXPIRES 8-23-21

MAILED

WARDEN'S DECISION AND REASON:

FILED FOR RECORD
MINNIFA B. CLARK
2015 SEP 25 A 11: 56
CLERK OF COURT
ORANGEBURG, SC

Warden Signature

Date

- I accept the Warden's decision and consider the matter closed.
- I do not accept the Warden's decision and wish to appeal.

Grievant Signature

Date

IGC Signature

Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form or Kiosk reference number to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form by placing it in the Grievance Box at your institution within eight (8) working days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) working days of the hearing/review. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, by placing your Step 2 appeal form in the Grievance Box at your institution.

MAILED

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Jessica Rudd, #350144,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

2015-CP-38-1172

**RETURN AND PARTIAL
MOTION TO DISMISS**

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed September 25, 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 Clerk of Court for Orangeburg County. Applicant was indicted at the May 2014 term of the Court of General Sessions for Orangeburg County for armed robbery (2014-GS-38-0717). Applicant was represented by Douglas Mellard, Esq. On December 10, 2014, Applicant pled guilty to a lesser included offense of attempted armed robbery. The Honorable Edgar W. Dickson, sentenced Applicant to eight (8) years' imprisonment. Applicant did not appeal her plea or sentence.

Attached herewith and incorporated herein by reference are the records of the Orangeburg County Clerk of Court regarding the subject conviction(s), the transcript from Applicant's plea hearing, and Applicant's records for the Department of Corrections. Respondent reserves the right to amend its return upon the receipt of other relevant records.

II.

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

1. Lack of Subject Matter Jurisdiction
 - a. Defect in indictment and held without bail for 120 [days] before indictment
2. 4th Amendment Violation
 - a. Illegally held as a hostage in order to give a statement about the crime
3. Miranda Rights Violation (5th Amendment)
 - a. Forced to confess in the absence of an attorney

III.

Applicant's allegation regarding subject matter jurisdiction is without merit. Subject matter jurisdiction is the power of a court to hear a particular class of cases. State v. Gentry, 363 S.C. 93, 100, 610 S.E.2d 494, 498 (2005). An applicant may challenge the subject matter jurisdiction of the trial court at any time. Id. However, "[c]ircuit courts obviously have subject matter jurisdiction to try criminal matters." Id. at 101, 610 S.E.2d at 499. Thus, an applicant challenging subject matter jurisdiction must present evidence that his case is of some class over which the circuit court does not have the authority to preside. Furthermore, "subject matter jurisdiction of the circuit court and the sufficiency of the indictment are two distinct concepts[.] Id. at 101, 610 S.E.2d at 499. An indictment is a notice document and any insufficiency in the indictment does not deprive the circuit court of jurisdiction. Id. at 102, 610 S.E.2d at 500. Rather, challenges to the indictment must be raised prior to the swearing of the jury or they are waived. Id. (citing S.C. Code Ann. § 17-19-90). Thus, a PCR applicant may only raise challenges to the sufficiency of an indictment by alleging ineffective assistance of counsel for failing to properly move to quash the indictment in accordance with section 17-19-90. Because Applicant has failed to do so, and because Applicant's attempted robbery plea involved criminal

charges in the Court of General Sessions, Respondent contends this subject matter jurisdiction allegation should be dismissed pursuant to Rule 12(b)(6), SCRCP.

IV.

Respondent interprets Applicant's additional claims as those of ineffective assistance of plea counsel. Respondent contends that Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. Where ineffective assistance of counsel is alleged 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. 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 courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80 L.Ed.2d 674. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove trial 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, trial 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.

Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that 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, 305 S.E.2d 247 (1983).

V.

Applicant must specify any claims she intends to raise at the PCR trial. 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; SCRCF 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. SCRCF Rule 11. Filings by inmates will not be considered at the PCR hearing.

VI.

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

VII.

WHEREFORE, having made its Return, Respondent requests that a hearing be held solely on the claims of ineffective assistance of counsel.

(signatures on following page)

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Assistant Deputy Attorney General

J. CLAYTON MITCHELL
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

3/28, 2016

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>PAGE NO.</u>
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NO EXHIBITS INTRODUCED

1 (The proceeding began at 1:12 p.m.)

2 MR. NEELY: Thank you, Your Honor. This is the case of
3 Jessica Rudd versus State of South Carolina, case number
4 2015-CP-38-1172.

5 THE COURT: Yes, sir.

6 MR. WALLER: Your Honor, I don't think my client knows
7 exactly what she wants to do.

8 THE COURT: Okay.

9 MR. WALLER: So, unfortunately, I think I need to ask
10 for a continuance to the next term, I guess, to let her
11 decide whether she was to go forward or not.

12 THE COURT: What's the State's position?

13 MR. NEELY: Your Honor, we're here now. This is the
14 time to decide.

15 THE COURT: Let me ask you this question, and I'll ask
16 it this way: Do you believe, Mr. Waller, that you have --
17 do you think you have all the issues?

18 MR. WALLER: I do, Your Honor.

19 THE COURT: Okay. And do you believe that you have
20 been able to investigate the issues?

21 MR. WALLER: Yes, Your Honor.

22 THE COURT: Okay. And the matter has been pending.
23 This is a 2015 case. It's been pending for a while.

24 MR. WALLER: Your Honor, not -- I think it was
25 November 2015, so about a year. Yes, ma'am.

1 THE COURT: Okay. Well, one of the concerns, of
2 course, that I have is I just note that Mr. Davis has been
3 here all day. It's now ten minutes after one. And if
4 there's something I thought you could share with me that
5 would make a difference, I'm certainly happy to hear from
6 you on that. But the mere fact that she can't make up her
7 mind about whether or not she wishes to go forward in the
8 case that she obviously wanted to go forward with in 2015 --
9 I mean, it seems to me that her intention at that point was
10 to go forward. She has appointed counsel. You're ready to
11 go. The witnesses are here. And, you know, the case has
12 been called. It's been on the docket for quite some time.
13 There's absolutely nothing that requires her to withdraw.
14 And it seems to me that the time has really come. I don't
15 know what will change between now and the next term. I
16 don't know; I don't. You are here. You are prepared.
17 Witnesses are here ready to go. And it just seems to me
18 that it is appropriate for us to proceed. I am concerned,
19 however, it is time now for court personnel to have our
20 lunch. And I know we have a matter before us this
21 afternoon. And, Mr. Davis, I apologize for the additional
22 time that you'll need to be here. But it will be my
23 intention to call this after lunch. So with that in mind,
24 we will take our lunch break and be back at 2:15.

25 MR. WALLER: Thank you, Your Honor.

1 MR. NEELY: Thank you, Your Honor.

2 THE COURT: All right. And at that point, we will
3 start with this matter.

4 MR. WALLER: Certainly.

5 THE COURT: And, again, I'm so sorry to cause Mr. Davis
6 to come back, but we will try the case at 2:15.

7 MR. WALLER: Yes, ma'am. Thank you.

8 THE COURT: Thank you all.

9 (The proceeding recessed at 1:16 p.m. and resumed at
10 2:38 p.m.)

11 MR. NEELY: Thank you, Your Honor. This is the case of
12 Jessica Rudd versus the State of South Carolina, case number
13 2015-CP-38-1172. The applicant is presently confined in
14 South Carolina Department of Corrections pursuant to an
15 order to commit by the Court of Orangeburg County. She was
16 indicted in the May 2014 term of court in General Sessions,
17 Orangeburg County for armed robbery. Applicant was
18 represented by ---

19 THE COURT: Mr. Davis?

20 MR. NEELY: Mr. Davis. The wrong attorney is on the
21 return, Your Honor.

22 THE COURT: Okay.

23 MR. NEELY: Sorry about that. She was sentenced to
24 eight years in prison by the Honorable Edgar Dickson.

25 THE COURT: And I'm so sorry. It was a plea or a

Direct Examination of Ms. Rudd by Mr. Waller

6

1 trial?

2 MR. NEELY: It was a plea, Your Honor.

3 THE COURT: It was a plea. Okay. And she pled to?

4 MR. NEELY: Strong-arm robbery.

5 THE COURT: Strong-arm. Got it.

6 MR. WALLER: Your Honor, she pled to attempted armed
7 robbery -- or armed robbery. Excuse me.

8 THE COURT: Attempted armed robbery or attempted
9 strong-arm robbery?

10 MR. WALLER: Attempted armed robbery.

11 THE COURT: Okay. Got it. (Brief pause.) All right.
12 Very well. Call your first witness.

13 MR. WALLER: Thank you, Your Honor. I will call
14 Jessica Rudd.

15 JESSICA LEIGH RUDD, after being duly sworn, testified
16 as follows:

17 THE COURT: All right. Your witness.

18 MR. WALLER: Thank you, Your Honor. May it please the
19 Court?

20 THE COURT: Yes.

21 DIRECT EXAMINATION

22 BY MR. WALLER:

23 Q. Good afternoon, Ms. Rudd. How are you today?

24 A. I'm fine. How are you?

25 Q. I'm doing well. Are you a little bit nervous today?

1 A. Yes.

2 Q. Okay. Well, we're going to be all right. Ms. Rudd,
3 you were originally arrested for what charge?

4 A. Accessory before and after the fact, armed robbery.

5 Q. Two separate charges?

6 THE COURT: I need you to keep your voice up for me a
7 little bit more. Would you do that?

8 A. Yes, sir. It was on the same indictment. It was
9 before and after.

10 Q. Okay. And when you were ultimately indicted, do you
11 remember what that was for?

12 A. Armed robbery.

13 Q. Okay. How did you get an attorney?

14 A. Well, I originally had a public defender and then I
15 didn't feel like he was representing me to his full
16 capabilities. So then I retained Gerald Davis and went from
17 there.

18 Q. Okay. How long before you ended up pleading guilty did
19 you represent Mr. Davis?

20 A. He was only my attorney for like 40-something days.

21 Q. Okay. After you retained him, how soon after that did
22 you meet with him?

23 A. Well, he came and seen me once in the SCDC for the
24 initial consultation or whatever. And then I seen him one
25 time before I went to court.

Direct Examination of Ms. Rudd by Mr. Waller

8

1 Q. Okay. Why were you in SCDC?

2 A. For violation on probation.

3 Q. Okay. So you met with him once for an initial
4 consultation and then once after you retained him?

5 A. Yes, sir.

6 Q. Okay. During the initial consultation, did y'all talk
7 about these charges specifically?

8 A. Yes, sir.

9 Q. Okay. So you met with him twice?

10 A. Yes, sir.

11 Q. Do you remember what y'all talked about during your two
12 meetings?

13 A. Just about the case, what happened.

14 Q. Okay. Did you understand -- at that time when you met
15 with him, had you been indicted yet?

16 A. Yes, sir.

17 Q. Okay. So it was only the armed robbery at that point?

18 A. Yes, sir.

19 Q. Okay. Did y'all talk about the potential penalties
20 that armed robbery carries?

21 A. Yes, sir.

22 Q. Did y'all talk about the elements of armed robbery and
23 what the State would have to prove to find you guilty?

24 A. Yeah; kind of, I guess.

25 Q. Okay. Did y'all talk about the evidence that the State

- 1 had or said they had?
- 2 A. Just mine and one of my codefendants' statements.
- 3 Q. Okay. So you gave a statement. Is that right?
- 4 A. Yes, sir.
- 5 Q. And let me back up a little bit. There were two other
- 6 codefendants. So three people total were charged with this?
- 7 A. Yes, sir.
- 8 Q. Okay. And only one of the other two gave a statement?
- 9 A. Yes, sir.
- 10 Q. And then you gave a statement?
- 11 A. Yes, sir.
- 12 Q. Okay. Did you and Mr. Davis discuss the circumstances
- 13 surrounding your statement?
- 14 A. Yes, sir.
- 15 Q. Okay. How did you give your statement? Who did you
- 16 give it to?
- 17 A. It was a detective. I think his name was Samuel
- 18 Dornton (ph) with the Orangeburg County Sheriff's
- 19 Department.
- 20 Q. Okay. Were you in custody when you gave the statement?
- 21 A. Yes, sir.
- 22 Q. Okay. Where did you -- physically, where were you when
- 23 you gave it?
- 24 A. It's the investigating office on -- it wasn't the
- 25 Sheriff's Department but it was the other place. I don't

1 remember the name of it.

2 Q. It was something controlled by law enforcement though?

3 A. Oh, yes, sir.

4 Q. Okay. And you had been arrested?

5 A. Uh-huh.

6 THE COURT: That's a yes?

7 THE WITNESS: Yes, ma'am.

8 Q. Had you been read your rights at that point?

9 A. Not when I gave my statement. Like, I gave my
10 statement because my codefendant had already went in there
11 and she wrote her statement and basically lied and tried to
12 place it all on me. So then I told the officer, I said, you
13 know, I'll let you know what happened since she was trying
14 to lie on me. And then after I gave him my statement, he
15 was just like, well, you know, since -- 'cause I guess he'd
16 already investigated or whatever and they kind of knew she
17 was lying. And he said I'll make sure you get charged with
18 accessory after the fact and then he read me my rights and
19 then he charged me with accessory. And then like a month
20 and a half later, that's when I got indicted with armed
21 robbery.

22 Q. Okay. So just to, I guess, back up just a little bit
23 about your statement. It's your testimony that you gave
24 your statement and then you and the investigator talked
25 about a couple of other things and then he read you your

1 rights?

2 A. Yes, sir.

3 Q. Okay. Did you tell Mr. Davis about that?

4 A. I don't know. We talked about a lot of stuff.

5 Q. Did y'all talk about your statement in particular?

6 A. Yes, sir.

7 Q. Okay. Did he ask you how? If you had been read your
8 rights.

9 A. I don't remember.

10 Q. Okay. Let me ask you this: Did you provide him with
11 any information or any witnesses you wanted him to talk to?

12 A. Well, the guy that actually committed it, he had told
13 my mom and my other family members that he would testify for
14 me saying that I didn't know. Because when I wrote my
15 statement, I was kind of under the influence and I didn't
16 fully understand all of the questions they were asking me.
17 So -- and I tried to explain that to Gerald; that, you know,
18 some of the questions they asked, I said one thing but it
19 kind of meant another because of the way they asked them to
20 me. And, like, the victim, they really -- they were going
21 to testify too because they never seen me. They didn't even
22 know who I was.

23 Q. Okay. And just to, I guess, to clarify so Judge
24 Goodstein understands what's going on. There was never any
25 allegation that you were in the store that -- robbed. Is

1 that right?

2 A. Yes, sir.

3 Q. The allegation was that you were the driver?

4 A. Yes, sir.

5 Q. To the best of your knowledge, did Mr. Davis follow up
6 on any of those witnesses that you asked him to talk to?

7 A. No. I'm currently incarcerated with my codefendant.
8 And she said he never come to talk to her. My other
9 codefendant said he never talked to her. And my family
10 hired an attorney to go talk to the victims, and they said
11 he never came and talked to them.

12 Q. Okay. One of your codefendants was arrested first. Is
13 that right?

14 A. Yes, sir.

15 Q. Okay. And she gave a statement implicating you and the
16 other codefendant. Was there -- other than codefendants'
17 testimony, was there ever anything else linking you? Was
18 there video or pictures or anything identifying you at the
19 scene?

20 A. No, sir.

21 Q. Okay. Did you ever think there was?

22 A. No, sir. I knew there wasn't because I wasn't there.

23 Q. At some point, you were offered a plea deal to plead to
24 attempted armed robbery.

25 A. Uh-huh.

1 Q. And that's what you ultimately pled to?

2 A. Uh-huh.

3 Q. And it was without negotiations or recommendations?

4 A. Yes, sir.

5 Q. What was your understanding of the amount of time you
6 would have to serve from an attempted armed robbery charge?

7 A. Well, Mr. Davis told me that it was violent, but that I
8 would be eligible for parole because I was originally on the
9 trial docket because I was gonna take it to trial. And then
10 the day of court, he came to me, and my mom and my brother
11 were there, and I was still gonna take it to trial. And he
12 kind of went and talked to my mom, and my mom and them come
13 in; they were scared.

14 Q. Okay. Did you think you would be eligible for parole?

15 A. Yes, sir.

16 Q. Okay. What was your understanding of how long after
17 you would be eligible for parole?

18 A. Well, mr. Davis told me after I did a third of my time
19 that I would be eligible for parole, and then, like, I would
20 be eligible for work release. But none of that -- it never
21 happened.

22 Q. Okay. So you've learned since you've been in the
23 Department of Corrections that you are not eligible?

24 A. Yes, sir.

25 Q. Okay. Did you understand that the charge you were

1 pleading guilty to is considered a most serious offense and
2 a strike?

3 A. No, sir. I knew it was violent, but I didn't even know
4 it was most serious until you came and talked to me.

5 Q. Okay. Did you understand what having a strike means at
6 the time?

7 A. Well, Mr. Davis explained -- he explained it to me that
8 it was a violent charge and that if I got two more of them
9 then I could be facing life.

10 Q. Okay. You were told that if you got two more things
11 after this conviction?

12 A. Yes, sir. He said that it was -- I think he said it
13 was considered when you get a violent charge that three of
14 them consists of, I'm guessing, depending on the judge and
15 everything, that you could get life without parole.

16 Q. Okay. You testified a minute ago that you were on the
17 trial list.

18 A. Uh-huh.

19 Q. What had y'all done to prepare for trial at that point?

20 A. Well, like I said, he had just come and talked to me
21 those couple of times. And I told him that -- because he
22 came -- when he came the second time to visit me at SCDC, he
23 told me that he had been talking to the solicitor and he
24 told me that, you know, he was -- the best he could do was
25 the eighth years. And I told him that I didn't want to

1 plead. I mean, I wrote him a letter saying it too, that I
2 didn't want to plead to anything violent because I didn't
3 have anything to do with the violent part of it, you know,
4 and I wasn't aware of the situation of him being armed.

5 Q. Okay. You just mentioned that you were told eight
6 years?

7 A. Uh-huh.

8 Q. But what you pled guilty to was without negation or a
9 recommendation. Where did the eight years come from?

10 A. Well, he just told me that he had kind of talked to the
11 solicitor, and he just said that my other codefendant was
12 most likely going to get ten, and I wasn't going to get too
13 much less than her because I participated in it and it would
14 -- he said that he was gonna try to get me around six, but
15 he wouldn't be surprised if I got like eight. And then I
16 ended up with eight.

17 Q. Okay. After you pled guilty, did you ask him to file
18 anything for you?

19 A. Actually, I was kind of in shock after the judge
20 sentenced me. So I really don't remember. I'm pretty sure
21 I told him to file like a reconsideration or something. But
22 I couldn't be a hundred percent sure about that because I
23 don't really remember.

24 Q. Okay. Did you ask him to file an appeal?

25 A. I think so.

1 Q. Okay. I might have already asked you this, but I'm
2 wrapping up. Do you recall what Mr. Davis told you about
3 your statement?

4 A. He just said it was incriminating. He said I basically
5 incriminated myself into it and that was it. But I tried to
6 explain to him that when I wrote my statement that I was
7 under the influence, you know, and I really didn't remember
8 all of the questions that they were asking me. And some of
9 the questions just got twisted around.

10 Q. Okay. Did y'all talk about potentially trying to
11 suppress your statement?

12 A. No, sir.

13 Q. Okay. Did that ever come up?

14 A. No, sir. I actually brought it up to him because I
15 thought that since I didn't really remember too much of it
16 and once I got my motion of discovery and was going through
17 it and I had seen the questions, I mean, it kind of looked
18 bad, you know. And I told him, I said, you know, I didn't
19 mean -- when I said a certain statement, you know, I was
20 like, that's not what I meant by it. And I told him that I
21 didn't remember writing it. And I asked them if we could --
22 if there was a way to get it thrown out because I was under
23 the influence. And, I mean, the detectives and everything,
24 you know, they asked me, all of them, before they took my
25 statement, and I told them.

1 Q. Okay. Did you ask him about possibly getting it
2 suppressed because you were not read your Miranda rights
3 until after you gave the statement?

4 A. No, sir.

5 Q. Okay. And just to clarify, you had been arrested at
6 that point?

7 A. Yes, sir.

8 Q. Okay. How were you taken to wherever you gave the
9 interview?

10 A. The Sheriff's Department came and got me.

11 Q. Okay. You were you in a police car or a van or ---

12 A. Uh-huh.

13 Q. Ms. Rudd, I don't have any further questions for you.
14 Is there anything that you think I left out or that the
15 Court needs to be aware of Mr. Davis's representation of
16 you?

17 A. No, sir. I mean, I don't think he's a bad lawyer. I
18 just think that he didn't have enough time to really
19 investigate my case, you know. Because, I mean, I chose him
20 as a lawyer myself. I just don't think it went exactly the
21 way I planned it too.

22 MR. WALLER: Please answer any questions Mr. Neely has?

23 THE COURT: Cross-examination?

24 MR. NEELY: Thank you, Your Honor.

25 CROSS-EXAMINATION

1 BY MR. NEELY:

2 Q. This is a question with that last statement you made.
3 You said you didn't think it went the way you thought it was
4 going to go?

5 A. Yeah. Like a lot of the stuff I asked him to do, he
6 didn't do, so.

7 Q. But the actual sentence, that's about what you
8 expected, right?

9 A. What do you mean?

10 Q. You got sentenced to eight years. And he told you that
11 he was gonna try for six, but that eight was a possibility.
12 That's what you testified to, right?

13 A. Yes. Yes, sir. But I was also under the impression
14 that I was gonna be eligible for parole, and I would be able
15 to go to work release and things like that, but . . .

16 Q. And you were actually on parole when you picked up this
17 charge, right?

18 A. Yes, sir.

19 Q. And did he kind of explain to why ---

20 A. That was a YOA parole.

21 Q. Right. But did he kind of explain why it was going to
22 be a problem?

23 A. No.

24 Q. No?

25 A. No, because I got violated for the charge.

1 Q. So you'd already been violated on that charge?

2 A. Yeah. When I got arrested, the parole, they violated
3 me.

4 Q. Okay. And just kind of going over the basic, do you
5 remember being sworn in whenever you took the guilty plea?

6 A. Yes, sir.

7 Q. Usually you put your hand on the Bible and make you
8 swear to the whole truth.

9 A. Yes, sir.

10 Q. So were you telling the truth at the guilty plea?

11 A. Yes, sir.

12 Q. Okay.

13 A. I didn't -- I pled guilty more on the basis because my
14 mom and them were really scared because I was guilty of
15 participating, but I wasn't guilty of what I was pleading
16 to.

17 Q. Well, in your statement you admitted that you were the
18 getaway driver, basically, right?

19 A. Uh-huh.

20 THE COURT: That's a yes?

21 THE WITNESS: Sorry.

22 A. Yes, sir.

23 Q. And when the judge actually asked you on page 8, line
24 15, it says, "Tell me what you're doing here today? Why are
25 you in court?" And you answered, "To plead guilty to

1 attempted armed robbery." The Court said, "Right. And what
2 is going to be the result of that you believe?" And you
3 replied, "Well, I know I'm going to do some time." The
4 Court said, "Okay. I just want to make sure you understand
5 what you're going to plead guilty and you expect to do some
6 time as a result." And you replied, "Yes, sir." So you
7 knew going in that you were gonna get some time?

8 A. Yes, sir. I mean, I didn't expect to walk away
9 unpunished because I know what I did was wrong. I just . . .

10 .

11 Q. And then on the next page when the Court asked you if
12 you're doing this freely and voluntarily, you said, "Yes,
13 sir," right?

14 A. Yes, sir.

15 Q. Was that the truth? Did anybody force you?

16 A. No, sir.

17 Q. So you were doing it freely and voluntarily?

18 A. Yes, sir.

19 Q. And you understood what the consequences ---

20 A. Yes, sir.

21 Q. --- the consequences of that day were going to be?

22 A. Yes, sir.

23 Q. And then when the solicitor read out kind of the facts
24 of the statement, I think that's all they accused you of is
25 being the getaway driver. I don't think they ever accused

1 you of anything more. Isn't that right?

2 A. No. They initially thought I was the mastermind behind
3 it. And I never admitted to the question in my life.

4 Q. But during the plea, the facts they read out, they told
5 the judge the other two people already pled, right?

6 A. Yes, sir.

7 Q. And they got 13 years and 10 years?

8 A. Yes, sir.

9 Q. And they said you're part wasn't as big, but they
10 wanted a sentence in the same range?

11 A. Yes, sir.

12 Q. And so after they finished reading out the facts, the
13 judge asked you if you agreed with the facts and you said,
14 "Yes, sir."

15 A. Yes, sir.

16 Q. And then on page 15 is when you said you wanted to
17 plead guilty. And when the judge asked you if you
18 understood the State's not making a recommendation, you
19 agreed that you understood that?

20 A. Yes, sir.

21 Q. And then on page 10, starting on line 23 or 21,
22 "Mr. Davis," this is speaking to your attorney, "I know you
23 explained to her that this is a violent and most serious
24 offense?" Which he replied, "I have, Your Honor." "And
25 advised her that if she has another most serious offense,

1 she'd be up for life without parole?" And he said, "That is
2 correct, Your Honor. I have." And the Court turned to you
3 and said, "All right. And Ms. Rudd, did he so advise you?"
4 And you said, "Yes, sir." And then the Court said, "You
5 understand if you get another most serious, it's life
6 without the possibility of parole?" You said, "Yes, sir."
7 So you did have that explained to you by the Court?

8 A. Yeah.

9 Q. And you would agree that your attorney explained that
10 to you, right?

11 A. Yes, sir.

12 Q. And then the judge even reiterated on the page 11, line
13 6, "You understand if you get another most serious, it's
14 life without parole?" And you said, "Yes, sir." And the
15 Court said, "You understand that standard, ma'am?" And you
16 said, "Yes, sir."

17 A. Yes, sir.

18 Q. So you were aware of that at the plea?

19 A. Yes, sir.

20 MR: NEELY: Beg the Court's indulgence.

21 (Brief pause.)

22 Q. And then just kind of going over the transcript again.
23 On page 9, line 22, the Court asks you if you were satisfied
24 with his services as an attorney. And you said that you
25 were, right?

1 A. Yes, sir.

2 Q. And it seems like y'all got along pretty well and you
3 were satisfied with his services, right?

4 A. Yes, sir. But then I realized that he didn't follow --
5 like I said, I didn't know that he didn't go question my
6 codefendants or anything until I got locked up with her.

7 Q. So I guess your only real gripe is that he didn't go
8 talk to your codefendants?

9 A. No. I mean, it's not that. Like I said, I understand
10 that I was guilty for participating. But I don't think I
11 was guilty of a violent crime. Like he didn't explain to me
12 that it was violent or that I was gonna be eligible for
13 parole, you know.

14 Q. Okay.

15 MR. NEELY: That's all the questions I have, Your
16 Honor.

17 THE COURT: All right. Redirect?

18 MR. WALLER: Briefly, Your Honor.

19 THE COURT: All right.

20 REDIRECT EXAMINATION

21 BY MR. WALLER:

22 Q. Ms. Rudd, when you testified that today and in the
23 transcript that you knew you were gonna get some time, that
24 was when you decided to plead guilty. Is that right?

25 A. Yes, sir.

1 Q. Okay. So when you were standing in front of the judge
2 pleading guilty, you know you're gonna get some time at that
3 point?

4 A. Yes, sir.

5 Q. Was that after you and Mr. Davis had discussed your
6 statement?

7 A. What do you mean?

8 Q. When you got into court, you had already discussed your
9 statement with Mr. Davis?

10 A. Yes, sir.

11 Q. You had already discussed that -- or he already
12 explained to you that you would be eligible for parole. Is
13 that right?

14 A. Yes, sir.

15 Q. And I believe you testified -- I just want to clarify
16 this. You testified you thought that it was one of three
17 strikes. Is that right?

18 A. Yeah.

19 Q. And Mr. Neely just asked you in the transcript it said
20 that it was one of two strikes. How was it explained to you
21 before you got into the courtroom?

22 A. I honestly don't know the difference between the two.
23 Like I said, I didn't know there was a difference between
24 violent and most serious until you explained it to me.

25 Q. Okay. Mr. Neely just asked you, pointed out in the

1 transcript where the judge asked you if you are satisfied
2 with Mr. Davis's services. Were you satisfied at the time?

3 A. Yes, sir.

4 Q. Okay. Have you learned some things since then that's
5 changed your mind?

6 A. Yes, sir.

7 Q. Okay.

8 MR. WALLER: No further questions, Your Honor.

9 THE COURT: Recross?

10 MR. NEELY: No recross.

11 THE COURT: All right. If you come back down to your
12 table. Call your next witness, please.

13 MR. WALLER: No further witnesses, Your Honor.

14 THE COURT: All right. Yes, sir, Mr. Neely?

15 MR. NEELY: Thank you, Your Honor. The State would
16 call Mr. Davis to the stand.

17 GERALD DAVIS, after being duly sworn, testified as
18 follows:

19 THE COURT: Your witness, Mr. Neely.

20 MR. NEELY: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MR. NEELY:

23 Q. Mr. Davis, just as way of background, when were you
24 admitted to the bar in South Carolina?

25 A. 1997.

1 Q. And since that date, how much of your practice has been
2 in the criminal sector?

3 A. Most all of it.

4 Q. So it's fair to say that you're experienced in criminal
5 matters?

6 A. Yes, sir.

7 Q. And how did you come to represent Ms. Rudd?

8 A. One of her friends or relatives that contacted me about
9 representing her and advised that she was held at the
10 Department of Corrections. I went there to speak with her.
11 And my notes tell me that I've been there twice to see her.
12 That's how initially I got introduced to her.

13 Q. And did you meet with her other than those two times?

14 A. Yes. I met with her later. And from the onset, her
15 intention was to plead guilty. She simply wanted me to get
16 her the lightest sentence that she possibly could get. She
17 never wanted a trial. I explained all of her options to
18 her. And, of course, again, she said she wanted to plead
19 guilty.

20 Q. And did she ever tell you that she was Mirandized after
21 she gave her statement?

22 A. Not to my knowledge.

23 Q. If she had told you that, what would you have advised
24 her?

25 A. Of course, let me just say this. I did advise her that

1 even though she had given a statement and she wanted to
2 plead guilty, you know, she could have a trial on it; we
3 could have a hearing on the voluntariness of the statement.
4 She elected not to do that.

5 Q. And you said from the outset that she wanted to plead
6 guilty?

7 A. That's correct.

8 Q. Did you go over the elements of the crime with her?

9 A. I did.

10 Q. And all the discovery?

11 A. I did.

12 Q. And did you explain -- when you were gearing up for a
13 plea, did you explain the consequences of pleading guilty to
14 attempted armed robbery?

15 A. I did.

16 Q. And did you explain to her what a most serious offense,
17 consequences ---

18 A. Yes, I did.

19 Q. Did you ever tell her that she was going to be able to
20 make parole on that charge?

21 A. No.

22 Q. And did she seem to understand all of your
23 conversations?

24 A. She did, in my opinion.

25 Q. Okay. And did you go over all of her constitutional

1 rights with her?

2 A. I did. I informed her that she could have a trial by
3 jury; that we could subpoena witnesses on her behalf; I
4 could cross examine; we would select a jury and go forward.
5 She did not want to do that.

6 Q. And speaking of witnesses, I know you can't ethically
7 talk to a codefendant that is represented by counsel, but
8 did you ever try to figure out what their testimony would be
9 if it went to trial?

10 A. I have the statements that were provided to me by the
11 solicitor's office.

12 Q. And so you relied on those statements as what the
13 solicitor's office would present in trial?

14 A. I relied on those statements and my conversation with
15 Ms. Rudd. You know, should had given a statement herself,
16 implicating herself that she was the driver of the car of
17 the young man that went in that robbed the place. One of
18 her codefendants stated also in her statement that Ms. Rudd
19 was the driver of the vehicle. All of the statements pretty
20 much coincided with the story that was told.

21 Q. And did you explain to Ms. Rudd the legal theory of the
22 hand of one is the hand of all?

23 A. I did.

24 Q. And she seemed to understand that conversation?

25 A. She indicated to me that she did. She didn't agree

1 with it. She simply said I shouldn't be charged with a
2 violent crime. And, of course, I instructed her that you
3 don't get to pick the charges you're charged with. You
4 simply fall within the boundaries of the hand of one is the
5 hand of all.

6 Q. And did you tell her what defenses you thought might be
7 applicable to her case?

8 A. Well, she drove the car according to her statement and
9 according to her codefendant's statement. And therefore,
10 the hand of one is the hand of all by simply driving the car
11 which facilitated the robbery by driving there and driving
12 away with the person that robbed the place.

13 Q. And so was your advice to her was that she plead
14 guilty?

15 A. I never give anyone advice to plead guilty. I simply
16 give them the facts and give them the options. She made
17 that choice herself.

18 MR. NEELY: Thank you. That's all the questions I
19 have, Your Honor.

20 THE COURT: All right. Very well. Cross-examination?

21 MR. WALLER: Just briefly.

22 CROSS-EXAMINATION

23 MR. WALLER:

24 Q. Mr. Davis, you testified that your notes say that you
25 met with her in the Department of Corrections twice?

1 A. That's correct.

2 Q. Okay. But you testified that you met with her other
3 times?

4 A. I met with her before we went in that day and talked
5 with her again. She still affirmed her assertion that she
6 wanted to plead guilty.

7 Q. Okay. Was that at the courthouse ---

8 A. It was.

9 Q. Okay. So other than the holding cell prior to her
10 going into the courtroom to plead guilty, did you meet with
11 her other than the two times at SCDC?

12 A. My record don't reflect that I did.

13 Q. Okay. Do you have notes from those meetings?

14 A. I do not.

15 Q. Okay. Do you recall what y'all talked about regarding
16 her statement?

17 A. Do you have a specific question?

18 Q. How she gave her statement? What her -- where she was
19 physically when she gave it? Her state of mind?
20 Circumstances surrounding her statement? Whether she was
21 Mirandized? Any information that you have regarding y'all's
22 conversations about the statement.

23 A. We did talk about her statement. But I emphasized to
24 her that she couldn't have the cake and eat it too. She
25 couldn't come in and plead guilty and then say that, you

1 know, I want the statement thrown out. But I call your
2 attention to the transcript of the plea. You know, it was
3 asked are those facts true; and the facts were given by the
4 solicitor handling the case. Ms. Rudd says it's true.

5 Q. Okay. Were y'all ever on the trialist?

6 A. If I recall, we were. I was the second attorney to get
7 on the case. The first one was a public defender. As I
8 recall, they kept her on the trialist simply because she was
9 never able to make up her mind as to what she wanted to do.
10 She tells me she wanted to plead guilty with the other
11 attorney. But she felt like that she was going to get too
12 much time with this attorney. She wanted to have a new
13 attorney to try to negotiate a better deal for her.

14 Q. Mr. Davis, how long did you represent Mr. Rudd --
15 Ms. Rudd? Excuse me.

16 A. Gosh, I don't remember the number of days.

17 Q. Can you ballpark it for me? How many months?

18 A. Probably a month and a half.

19 Q. Okay. You testified you met with her twice. Do you
20 recall where she was in the Department of Corrections?

21 A. Gosh, I don't remember.

22 Q. Was she in Columbia or was she ---

23 A. Columbia.

24 Q. Okay.

25 MR. WALLER: Beg the Court's indulgence.

1 THE COURT: All right.

2 (Brief pause.)

3 MR. WALLER: No further questions.

4 THE COURT: Redirect?

5 MR. NEELY: No redirect, Your Honor.

6 THE COURT: Is this witness free to leave?

7 MR. WALLER: Yes, Your Honor.

8 MR. NEELY: Yes, Your Honor.

9 THE COURT: Very well. You can go. Thank you,
10 Mr. Davis. Call your next witness.

11 MR. NEELY: The State rests, Your Honor.

12 THE COURT: All right. Will there be any reply?

13 MR. WALLER: Your Honor, I would ask to call a rebuttal
14 witness.

15 THE COURT: All right.

16 MR. WALLER: Angela Campbell.

17 THE COURT: All right.

18 MR. WALLER: And, Your Honor, just for the record, Ms.
19 Campbell is not under subpoena.

20 THE COURT: Okay.

21 MR. WALLER: Her presence was not made aware to the
22 Attorney General's Office, but she's not under subpoena.

23 THE COURT: I understand.

24 ANGELA CAMPBELL, after being duly sworn, testified as
25 follows:

1 THE COURT: Your witness.

2 MR. WALLER: Thank you, Your Honor. May it please the
3 Court?

4 DIRECT EXAMINATION

5 BY MR. WALLER:

6 Q. Good afternoon, Ms. Campbell. How are you today?

7 A. I'm fine. How are you doing?

8 Q. Good. Ms. Campbell, what's your relationship to Ms.
9 Rudd?

10 A. She's my daughter.

11 Q. Okay. And when all of this happened, was she living
12 with you?

13 A. No, not at the moment.

14 Q. Okay. Were y'all close those?

15 A. Oh, yes. Yes, very close.

16 Q. Okay. When she was arrested, was she in county for a
17 little while?

18 A. Yes.

19 Q. Okay. And then she was sent to the Department of
20 Corrections?

21 A. Yes.

22 Q. How often did you visit with her?

23 A. Just about every weekend.

24 Q. Okay. How often did you talk with her on the phone?

25 A. Two or three times a day.

1 Q. Okay. Did y'all discuss her charges?

2 A. Yes.

3 Q. Okay. Did she ever indicate that she intended to go to
4 trial at any point?

5 A. Yes, sir. We did talk about that in length. Like, she
6 was on the YOA violation of probation. She was supposed to
7 get out December 15th. They took her to trial December 9th.
8 We were going to go take it to trial. Because, you know, I
9 wanted her to come home is what it was, you know. But, you
10 know . . .

11 Q. Okay. Well, what changed?

12 A. I really don't remember. But I think they scared us
13 into 30 years, you know. Mr. Davis made a mention of that,
14 you know.

15 Q. Okay. Well, let me ask you this: Did you ever have
16 any conversations with Mr. Davis?

17 A. Yes.

18 Q. What did y'all talk about?

19 A. Actually, he called me into his office, and I went to
20 talk to him. He didn't want to take it to trial. He wanted
21 me to talk to Jessica into taking a plea deal because he
22 thought that was the best for her.

23 Q. Okay. Did you and Jessica ever talk about her
24 statement that she had given?

25 A. Yes. I was under the impression that they couldn't use

1 the statement against her.

2 Q. Okay. Did y'all ever talk about her being read her
3 rights?

4 A. No. I did not know that part.

5 Q. Okay. Why were you under the impression that they
6 couldn't use her statement against her?

7 A. Ignorance of the law, I guess.

8 Q. Okay. Did you and Mr. Davis ever have any
9 conversations about her being eligible for parole?

10 A. Yes.

11 Q. Okay. What was your understanding of her parole
12 eligibility?

13 A. Because that was one of the big things for her plea.
14 And, you know, I didn't personally want to have her violent
15 because she's still young. You know, she's got her whole
16 life ahead of her. And he said that she would be eligible
17 for parole if she did 30 percent.

18 Q. Okay. Have you spoken to Mr. Davis at all about the
19 trial and getting ready for trial?

20 A. I'm not really sure how to answer that because my
21 impression, he didn't want to take it to trial. He wanted
22 to take the deal. And even on the day of the sentencing,
23 you know, we had decided to take it to trial. And that was
24 the big thing. And he was just like, you know, just that I
25 don't think it's the best thing for you.

1 Q. To the best of your understanding, had Jessica told him
2 that she wanted to go to trial?

3 A. Yes. That was the whole reason we got the lawyer.

4 Q. Okay. How do you know that she told him that?

5 A. Oh, well, she said it in front of me.

6 Q. Okay. To Mr. Davis in front of you?

7 A. Yes. Yes. Because we all was in the room at the
8 courthouse.

9 Q. Okay.

10 MR. WALLER: I have no further questions. Thank you.

11 THE COURT: All right. Cross-examination?

12 MR. NEELY: Just briefly.

13 CROSS-EXAMINATION

14 BY MR. NEELY:

15 Q. So you're saying that she wanted a trial about an hour
16 before she pled guilty?

17 A. She was on the docket for trial. She was supposed to
18 be going like for roll call.

19 Q. Right.

20 A. Right.

21 Q. So what you're saying is that you were back in the
22 holding cell?

23 A. Not in the holding cell; where the lawyer talks to his
24 client or whatever. In the courtroom; it's got a mirror
25 thing in Orangeburg County with the officers with the prison

1 from SCDC.

2 Q. But that happened the same day that she pled guilty,
3 right?

4 A. Right. Right. I mean, but I went to his office and
5 talked to him too.

6 Q. But you're just saying that she wanted a trial, that
7 she pled guilty right there after. Because you said when
8 you were together, she wanted a trial.

9 A. Exactly. And, you know, he didn't even talk us into
10 it; he didn't think it was to her best interest that she
11 take it to trial.

12 Q. Okay. So, but that's what you're saying? The same day
13 that she wanted a trial ---

14 A. The same day, yes.

15 Q. Okay.

16 A. Because this was totally unexpected that she was gonna
17 get tried that day.

18 Q. And you said you wanted a trial in December but
19 something changed?

20 A. She was going to roll call in December. She was
21 supposed to be getting out on the YOA December 15th. And
22 they took her to court on roll call December 9th. I think
23 it's the 8th or the 9th. You know, but I'm thinking somehow
24 or another that March is coming in my mind that she was
25 supposed to be on trial -- to go to trial March.

1 Q. Okay. But she pled December 10th, right?

2 A. December 10th or the 9th. I don't know if it was the
3 9th; might have been the 10th.

4 Q. So she wasn't scheduled for trial until March?

5 A. I think so. I'm thinking. I could be confused about
6 that, but . . .

7 Q. Okay. Thank you.

8 MR. NEELY: That's all the questions I have, Your
9 Honor.

10 THE COURT: Okay. Redirect?

11 MR. WALLER: Nothing further, Your Honor.

12 THE COURT: All right. Thank you, ma'am. Yes, sir,
13 any other witnesses?

14 MR. WALLER: No additional witnesses. Your Honor.

15 THE COURT: All right. Okay. Very well. Thank you
16 all so much. I will take the matter under advisement.

17 MR. WALLER: Thank you, Your Honor.

18 MR. NEELY: Thank you, Your Honor.

19 THE COURT: I will let you all know of my decision.

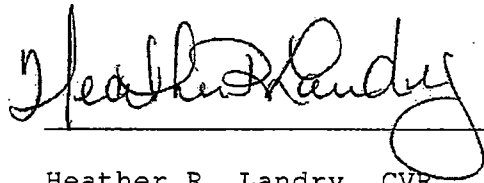
20 (The proceeding concluded at 3:19 p.m.)
21
22
23
24
25

STATE OF SOUTH CAROLINA)
) CERTIFICATE OF REPORTER
COUNTY OF CHARLESTON)

I, HEATHER R. LANDRY, Official Court Reporter for the
Judicial Department of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had in the
hearing of the captioned case, in the Court of Common Pleas
for Dorchester County, South Carolina, on the 27th day(s) of
October 2016.

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

April 12, 2017

A handwritten signature in cursive script, reading "Heather R. Landry", written over a horizontal line.

Heather R. Landry, CVR
Official Court Reporter

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Jessica Rudd, #350144)

2015-CP-38-1172

v.)

ORDER OF DISMISSAL

State of South Carolina,)

Respondent.)

FILED
2017
Ct

This Court convened an evidentiary hearing into the matter on October 25, 2016, at the Dorchester County Courthouse. Applicant was present at the hearing and represented by Jonathan D. Waller, Esquire. Ruston W. Neely, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

Applicant's plea counsel, Douglas Mellard, Esquire (hereinafter "plea counsel") was present and testified. This Court had the opportunity to listen to the testimony of Applicant and plea counsel. This Court had before it a copy of the plea transcript, the records of the Orangeburg County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, and the pleadings in this matter. This Court finds as follows:

ATTEST: TRUE COPY
Wingya B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SOUTH CAROLINA

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Orangeburg County. Applicant was indicted at the May 2014 term of the Court of General Sessions for Orangeburg County for armed robbery (2014-GS-38-0717). On December 10, 2014, Applicant pled guilty to a lesser included offense of attempted armed robbery. The Honorable Edgar W. Dickson sentenced Applicant to eight (8) years' imprisonment. Applicant did not appeal her plea or sentence.

II. ALLEGATIONS

Applicant alleged the following grounds in her application:

1. Lack of Subject Matter Jurisdiction
 - a. Defect in indictment and held without bail for 120 [days] before indictment
2. 4th Amendment Violation
 - a. Illegally held as a hostage in order to give a statement about the crime
3. Miranda Rights Violation (5th Amendment)
 - a. Forced to confess in the absence of an attorney

At the evidentiary hearing, Applicant presented no testimony or evidence concerning the allegations in her application. In light of the testimony presented, this Court will construe the allegations as being that Applicant's plea was not knowing and voluntarily and that plea counsel was ineffective.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court reviewed the record in its entirety, listened to the testimony given, and heard the arguments presented at the evidentiary hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

In this post-conviction relief action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of plea counsel as a ground for relief, Applicant must prove plea 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 Court uses 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 first prong, the proper measure of performance is whether counsel 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 counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). 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). 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. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." Strickland, 466 U.S. at 688.

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. 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. Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976). A defendant

who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993).

As an initial matter, this Court finds the record fully supports the knowing and voluntary nature of Applicant's guilty plea. See Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (holding defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "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."). In addition, Applicant has presented no evidence or valid reasons why she should be allowed to depart from the truth of her statements made at the plea. See Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) ("[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." (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975))). Therefore, this Court dismisses Applicant's application for the reasons set out below:

A. Ineffective Assistance of Counsel

At the evidentiary hearing, Applicant claimed she was not mirandized before she gave her statement to law enforcement. Applicant admitted she was not sure if she told plea counsel. Plea counsel testified he went over Applicant's statement thoroughly and told her he would challenge its admissibility at trial. Plea counsel also testified Applicant never told him she was not mirandized before the statement. Applicant testified she and plea counsel discussed her charges, elements, her statement, and the State's evidence against her. This Court finds plea

counsel's testimony credible.

This Court finds Applicant was adequately informed by plea counsel of all her rights and the nature of the proceeding. This Court finds that Applicant has failed to satisfy her burden of proving the alleged deficiency. Accordingly, Applicant has failed to satisfy her burden of proving ineffective assistance of counsel with regard to this allegation and it is therefore denied and dismissed.

B. Guilty Plea Was Not Voluntarily or Intelligently Made

Applicant claimed plea counsel told her the offense to which she was pleading was parole eligible. Applicant was on parole when she pled guilty to the attempted armed robbery charge. Plea counsel testified he was hired to get a better deal than the public defender. Plea counsel testified it was always Applicant's intention to plead guilty and she never wanted a trial. Plea counsel testified he never told Applicant the charge she was pleading to was parole eligible. This Court finds plea counsel's testimony credible.

This Court finds that Applicant's guilty plea was knowingly, voluntarily, and intelligently made. This Court finds that Applicant has failed to satisfy her burden of proving the alleged deficiency. Applicant also failed to prove the alleged deficiency of plea counsel caused her guilty plea to be unknowing or involuntary. Applicant admitted she wanted to plead guilty. Accordingly, Applicant has failed to satisfy his burden of proving ineffective assistance of counsel with regard to this allegation and it is therefore denied and dismissed.

C. All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this order, this Court finds Applicant failed to present

any evidence regarding such allegations. Accordingly, this Court finds Applicant has abandoned any such allegations.

IV. CONCLUSION

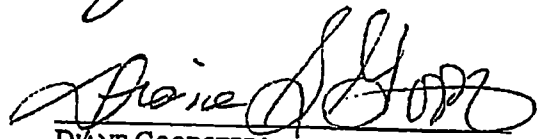
Based on the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant her application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

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

IT IS THEREFORE ORDERED THAT:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant must be remanded to the custody of the Department of Corrections to complete service of her sentence.

AND IT IS SO ORDERED this 9th day of January, 2016. ²⁰¹⁷ ₁₃



DIANE GOODSTEIN
 Presiding Judge
 1st Judicial Circuit

St George, South Carolina

WITNESSES

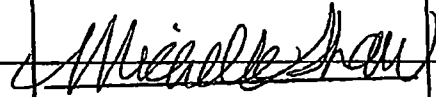
Sam Norton

Orangeburg County Sheriff

ARREST WARRANT NUMBER
2014ORB25

Arrested: March 26, 2014

ACTION OF GRAND JURY
TRUE BILL



MAY 07 2014

Date of Grand Jury
Date: May 7, 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014GS38-0717

The State of South Carolina
County of ORANGEBURG

COURT OF GENERAL SESSIONS

May 12, 2014 TERM

THE STATE
vs.

Jessica Rudd

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.

88

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 RECORD
WITHIN CLERK
CLEAN COURT
ORANGEBURG, SC

2014 MAY -7 AM 11:20

STATE OF SOUTH CAROLINA

90 COUNTY OF Orangeburg VS. STATE

Jessica Rudd

AKA:

Race: WHITE Sex: F Age: 24

DOB: SS#: DL#: SID#:

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Attempted Armed, or Allegedly Armed, Robbery

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS38-0717

A/W#: 2014ORB25

Date of Offense: 1/10/2014

S.C. Code §: 16-11-330(A)

CDR Code #: 0139

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-11-330(B) of the S.C. Code of Laws, bearing CDR Code # 0026

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.

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Ashley B. Cornwell, Ashley B. SC Bar# 76577 Jessica Rudd Defendant Garry Daws Attorney for Defendant 13534 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,

for a determinate term of 8 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.

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 PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms: Obtain GED

Set by SCDPPPS Attend Voc. Rehab. or Job Corp.

Recipient: May serve W/E beginning

*Fine: Substance Abuse Counseling

§ 14-1-206 (Assessments 107.5 %) Random Drug/Alcohol testing

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 Fine may be pd. in equal, consecutive weekly/monthly

§ 14-1-211(A)(2) (DUI Surcharge) \$100 pmts. of \$ beginning

§ 56-5-2995 (DUI Assessment) \$12 \$ paid to Public Defender Fund

§ 56-1-286 (DUI Breath Test) \$25 Other:

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 (SCCJA Surcharge) \$5

3% to County (if paid in installments) \$3.90

TOTAL \$133.90

Clerk of Court/ Deputy Clerk V. Glen

Court Reporter: Hilda Jordan

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2153

Sentence Date: 12/10/14