

RECEIVED

MAY 17 2016

SC SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Spartanburg County

R. Scott Sprouse, Circuit Court Judge

CHADWICK D. ANDERSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001936

A P P E N D I X

SUSAN B. HACKETT
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

ALICIA OLIVE
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
GUILTY PLEA TRANSCRIPT DATED JULY 15, 2011	1
NOTICE OF APPEAL	53
EXPLANATION OF APPEAL PURSUANT TO RULE 203(D)(1)(B), SCACR	55
LETTER FROM PETITIONER FILED OCTOBER 3, 2011 WITH THE SOUTH CAROLINA COURT OF APPEALS	57
ORDER DISMISSING THE NOTICE OF APPEAL	58
REMITTITUR	59
APPLICATION FOR POST-CONVICTION RELIEF	60
AMENDED APPLICATION FOR POST-CONVICTION RELIEF	68
RETURN	73
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED JUNE 8, 2015	82
APPLICANT'S EXHIBIT # 1 (MEDICAL RECORDS)	136
ORDER OF DISMISSAL	139
INDICTMENTS AND SENTENCE SHEETS	154

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) COURT OF GENERAL SESSIONS

3
4 STATE OF SOUTH CAROLINA,) TRANSCRIPT
5 PLAINTIFF,) OF
6 VS.) RECORD
7 CHADWICK DEAN ANDERSON AND) 2011-GS-42-1763, 3055, 3057
8 XAVIER LALORD PERRY,) 2011-GS-42-3059, 3061, 3063
9 DEFENDANT.) 2011-GS-42-3067, 3066, 4356

10
11 July 15th, 2011
12 Spartanburg, South Carolina

13 B E F O R E:

14 THE HONORABLE ROGER L. COUCH, Judge.
15

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

17 MICHAEL MORIN
18 ASSISTANT SOLICITOR
Attorney for the State

19
20 JAMES CHEEK
21 ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant

22
23
24 PAMELA E. GREEN
25 Circuit Court Reporter
Seventh Judicial Circuit

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

E X H I B I T S

<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
	<u>Court's Exhibit</u>		
C-1	List of Indictments	51	

P R O C E E D I N G S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Are you ready to call the roll, Ms. Jordan?

SOLICITOR JORDAN: Yes, sir, I believe we have one walk-in.

THE COURT: All right. Let's be sure she's ready. You ready, Pam?

COURT REPORTER: Yes, sir.

THE COURT: All right. I'm gonna ask the solicitor to call the roll of the individuals who are present to offer guilty pleas today. If you're in the box, your name is called, please stand up, remain standing until we've completed the process.

If you're in the gallery and your name is called, come forward to the box and remain standing in the jury box.

You may proceed.

SOLICITOR JORDAN: Thank you, Your Honor.

Chadwick Anderson.

(Defendant stands.)

SOLICITOR JORDAN: Jerome Brandon.

(Defendant stands.)

SOLICITOR JORDAN: Jeffrey Brockman.

(Defendant stands.)

SOLICITOR JORDAN: Candice Fowler.

(Defendant stands.)

1 SOLICITOR JORDAN: Armondo Gonzalez.
2 (Defendant stands.)
3 SOLICITOR JORDAN: Shinadore Harris.
4 (Defendant stands.)
5 SOLICITOR JORDAN: Kenneth Johnson.
6 (Defendant stands.)
7 SOLICITOR JORDAN: Johnny Jones.
8 (Defendant stands.)
9 SOLICITOR JORDAN: Xavier Perry.
10 (Defendant stands.)
11 SOLICITOR JORDAN: And then joining us from the gallery
12 is Rachel Childs.
13 THE COURT: Come forward please, ma'am.
14 All right, Madam Clerk. If you would, please swear the
15 defendants that are standing.
16 (WHEREUPON, all defendants were placed under oath at
17 this time.)
18 THE COURT: All right. Be seated please.
19 (Defendants comply.)
20 THE COURT: All right. If there were any of you who
21 failed or refused to take the oath that was just
22 administered by the clerk, please stand.
23 (No response.)
24 THE COURT: All right. The record will reflect then
25 that all defendants whose names have been called have been

1 sworn for purposes of my discussion at this time.

2 I'm going to go over some matters at this time that
3 would be common or the same in all of your cases should you
4 later decide to offer a guilty plea. I've been informed
5 that you're here for that purpose.

6 Later on we're going to call your name individually,
7 and you'll be coming in front of me, and, at that time, I'll
8 go over your specific case and the issues that are involved
9 in that case, in the case.

10 Now, at that time I will be asking for your plea. At
11 this time I am not asking for your plea. Again, I'm
12 determining factors that would qualify you or put you in a
13 position to offer a plea should you decide to do that later
14 on.

15 Now, your attorney is present in the courtroom at this
16 time. If, at anytime, if you're represented, and if, at
17 anytime during our discussion you feel that you need to
18 discuss any matter with your lawyer, please let me know.
19 I'll be more than happy to stop and let you consult with
20 your attorney. You have every right, at every stage of the
21 proceeding, to consult with your lawyer should you wish to
22 do so.

23 Now, the first thing I'm going to mention to you is you
24 have a Constitutional right to have your case considered by
25 a Grand Jury before it is presented to this Court for either

1 a trial or a plea.

2 Now, the Grand Jury does not determine the question of
3 guilt or innocence. They decide whether the State has
4 enough evidence to justify the case coming forward to this
5 Court for a trial. If they determine that this, that the
6 State does not have sufficient evidence to justify the case
7 moving forward, they write true bill or stamp it on there
8 with a stamp, and sign it, and send it here for this Court
9 to dispose of the case.

10 Now, I don't have jurisdiction -- I can't take up your
11 case until the Grand Jury has issued a true bill in your
12 case or you are willing to sign a document or initial a
13 document indicating that you're willing to waive or give up
14 that right. So, when you come in front of me a little later
15 on I'll take a look at your indictment.

16 If the Grand Jury has acted on it, and issued a true
17 bill, we'll go forward. It's properly before the Court. If
18 the case is not yet gone to the Grand Jury, then I'll be
19 asking you as to whether or not you wish to waive that step
20 of the proceeding and go forward today.

21 Now, also, when you come in front of me individually,
22 I'll be going over your relationship with your lawyer to be
23 sure that you're satisfied with your representation.

24 Now, I'm going to go over some matters, as I said, that
25 would be common to your cases, all of your cases should you

1 later on decide to plead guilty. If you have a response to
2 my inquiries I'll be asking that you stand, and I will need
3 to get your name on the record before we discuss those
4 inquiries with you.

5 The first question I have of you today is do any of you
6 currently, today, suffer from any mental, physical, nervous
7 conditions, drug problems, any other conditions that would
8 affect your ability to reason, make good decisions, or
9 handle a plea today, if that's true, please stand.

10 (No response.)

11 THE COURT: If any of you have taken any drugs or other
12 substances that would have that same effect, in other words,
13 affect your ability to make good decisions, reason, or
14 handle a plea today, please stand.

15 (No response.)

16 THE COURT: Now, if anyone has threatened you, coerced
17 you, put pressure on you, tried to intimidate you, in other
18 words, done anything to you to try to force you or get you
19 to offer a plea in your case, please stand.

20 (No response.)

21 THE COURT: Now, your plea must be offered freely and
22 voluntarily by you. That means it's something you've
23 thought about, and, of your own free will, you've decided to
24 go forward with a plea. You believe it's in the best
25 interest and best way to handle your case. It's in your

1 best interest and it's the best way to handle your case.

2 Now, if any of you were to be brought in front of me
3 later on to offer a plea, if it's your belief somehow that
4 that would be something that you didn't want to do or
5 something that would be done against your wishes, please
6 stand.

7 (No response.)

8 THE COURT: If any of you feel that you haven't had
9 enough time in which to consider your case or prepare a
10 defense to the charges, please stand.

11 (No response.)

12 THE COURT: If anyone has made any promises,
13 guarantees, or assurances to you about any matters
14 whatsoever in connection with your plea, in other words, in
15 an effort to get you to plead, please stand.

16 (No response.)

17 THE COURT: Specifically, if anyone has made any
18 promises, guarantees, or assurances to you about such
19 matters as pardon, parole, probation, early release, or
20 length of sentence in an effort to get you to offer a plea,
21 please stand.

22 (No response.)

23 THE COURT: Now, if you later on decide to plead guilty
24 and I decide to accept the plea you will be giving up most
25 of your Constitutional rights as they relate to the charges

1 that are before the Court. I have to be sure that you do
2 that knowingly and intelligently.

3 In other words, that you understand your rights, you
4 understand what you're giving up and you've made a conscious
5 decision to proceed with a plea in spite of the fact or even
6 though you're giving up those Constitutional rights. I want
7 to be sure, therefore, that you understand them. So, I'm
8 going to explain them, and, when I finish, if you have any
9 questions whatsoever, let me know. I'll be glad to go back
10 over these matters with you.

11 First of all, I've told you you have a right to have
12 your case considered by a Grand Jury. We'll discuss that
13 when I see your indictment and I see the status of it. You
14 have a right to your lawyer, and I've already told you your
15 lawyer's available to you at any stage of this proceeding.

16 You have a right to request or demand a jury trial. At
17 the jury trial you would be presumed to be innocent until
18 the State prove your guilt beyond a reasonable doubt. You
19 see, the State has the only burden of proof in criminal
20 trials. That's because you're presumed to be innocent.

21 At the trial and under the Constitution, they're
22 several things you can do. You can have subpoenas issued to
23 witnesses to require that they attend the trial and possibly
24 testify. You would have the right to confront or question
25 anyone who might testify against you. You would have the

1 right to present all the evidence that you have at the
2 trial, any defenses that you might have to the charges, and
3 you'd be given the opportunity to try to suppress any and
4 all evidence the State may have against you. That includes
5 statements that you might have made prior to the time of the
6 trial.

7 You, at all stages of a criminal proceeding, have the
8 Constitutional right to remain silent, and, at a trial, if
9 you chose to remain silent, the judge would instruct the
10 jury that your silence could not be used against you in any
11 manner whatsoever. Those are your rights under the
12 Constitution.

13 If you have any questions about any of them, please
14 stand.

15 (No response.)

16 THE COURT: If you would like for me to explain them
17 any further, please stand.

18 (No response.)

19 THE COURT: Now, if you decide to plead guilty and I
20 decide to accept you'll be waiving or giving up all of those
21 Constitutional rights with the exception of the right of
22 having your lawyer represent you until your plea is
23 completed.

24 Now, if there's any of those rights that you do not
25 wish to give up in connection with a guilty plea today,

1 please stand.

2 (No response.)

3 THE COURT: I will advise each of you that you have ten
4 days from the date that you enter a guilty plea and receive
5 your sentence in which to appeal the plea if you wish to do
6 so.

7 I'll declare that these defendants are qualified to
8 proceed with a plea should they decide to do that.

9 (WHEREUPON, other guilty pleas were completed at this
10 time.)

11 SOLICITOR MORIN: Please the Court, Your Honor?

12 THE COURT: Yes, sir.

13 SOLICITOR MORIN: Before you is Xavier Perry, he's
14 closest to me, and next to him is Chadwick Anderson.
15 They're each pleading guilty to eight indictments. They all
16 stem out of eight separate incidents. They're both
17 represented by Mr. Cheek.

18 Mr. Perry is pleading guilty to eight armed robberies.
19 They are 2011-3069, 3044, 3070, 2353, 3072, 3075, 3076, and
20 2011-2354.

21 Mr. Anderson is pleading to I believe it's six armed
22 robberies and two accessory after the fact of a felony. His
23 indictments are 2011-3063, 4356. Your Honor, he's pleading
24 no contest to that, and he's waiving presentment on that
25 one. I have a chart I'm gonna hand up as well, Your Honor.

1 Mr. Cheek has a copy of it already.

2 3061 is armed robbery.

3 3066 is accessory after the fact.

4 3059 is armed robbery.

5 3057 is armed robbery.

6 3055 is armed robbery.

7 3067 is accessory after the fact.

8 Your Honor, they're representatives from Li'L Cricket
9 as along, as well as some victims in the courtroom who may
10 wish to speak. The chart that I'm handing up, as I stated,
11 I handed to Mr. Cheek as well. There is a separate charge
12 on there that I've marked out that Mr. Cheek has convinced
13 me needs to be dismissed as a part of this plea, and I
14 agree.

15 THE COURT: All right. Any objection to my seeing the
16 chart, Mr. Cheek?

17 MR. CHEEK: No objection, Your Honor. We ask that be
18 made a part of the record, Your Honor.

19 THE COURT: I will have that done.

20 All right. You are Mr. Perry?

21 DEFENDANT PERRY: Yes, sir.

22 THE COURT: And you are Mr. Anderson?

23 DEFENDANT ANDERSON: Yes, sir.

24 THE COURT: Mr. Perry, I'm reminding you that you
25 remain under oath for purposes of my discussion with you at

1 this time.

2 Do you understand that, sir?

3 DEFENDANT PERRY: Yes, sir.

4 THE COURT: Mr. Anderson, I'll remind you of that same
5 fact. You're also still under oath at this time.

6 Are you aware of that fact?

7 DEFENDANT ANDERSON: Yes, sir.

8 THE COURT: All right. Now, Mr. Perry, you're here
9 before me on several charges. I'm going to go over the
10 charges with you. I'll also be going over the maximum
11 sentences that are involved in these cases so that you will
12 understand what the total penalty might be for these cases.

13 All right. Mr. Perry, the first case I'm gonna discuss
14 with you is 2011-3069. That is an armed robbery case. It
15 has been indicted by the Grand Jury. It's properly before
16 the Court.

17 It is classified as a violent and most serious offense.
18 As such, it would constitute a strike against you under the
19 law, and, in the future, if you were to be found guilty of
20 or plead guilty to other such similarly classified crimes as
21 violent, serious, or most serious offenses, the plea in this
22 case could be used in connection with those future cases to
23 make the penalties more severe. In those future cases it
24 could result in a sentence of life imprisonment without the
25 possibility of ever being paroled.

1 Do you understand that, Mr. Perry?

2 DEFENDANT PERRY: Yes, sir.

3 THE COURT: Now, armed robbery, excuse me, carries a
4 sentence of at least ten years, up to thirty years. You
5 would not be eligible for parole for seven years, and there
6 can be no suspended sentences issued for armed robbery.

7 Do you understand the charge?

8 DEFENDANT PERRY: Yes, sir.

9 THE COURT: Do you understand the penalty?

10 DEFENDANT PERRY: Yes, sir.

11 THE COURT: The next case is Case Number 2011-3044,
12 also an armed robbery. It is a, again, a violent and most
13 serious offense and I've explained what that means.

14 Do you understand that?

15 DEFENDANT PERRY: Yes, sir.

16 THE COURT: It has been indicted by the Grand Jury. It
17 carries the same potential sentence. Again, ten years
18 minimum, up to thirty, ineligible -- you're not eligible for
19 parole for seven years, and there's no suspended sentence.

20 You understand that about that charge?

21 DEFENDANT PERRY: Yes, sir.

22 THE COURT: The next case is 2011-3070, again, an armed
23 robbery. Same circumstances as before. Serious and -- most
24 serious and a violent offense, constitutes a strike, has
25 been indicted by the Grand Jury, carries the same potential

1 sentence.

2 You understand that, Mr. Perry?

3 DEFENDANT PERRY: Yes, sir.

4 THE COURT: Next is Case Number 2011-2353. Same thing.
5 It's an armed robbery. Same potential sentence. Classified
6 again as a violent and most serious offense, and has been
7 indicted by the Grand Jury.

8 Are you aware of that, sir?

9 DEFENDANT PERRY: Yes, sir.

10 THE COURT: Next is Case Number 2011-3072. Again, an
11 armed robbery. That is, again, classified as a violent and
12 most serious offense. It has been indicted by the Grand
13 Jury. Carries the same potential sentence. Again, that is
14 a ten years up to thirty, not eligible for parole for seven.
15 No suspended sentences.

16 Next is Case Number 2011-3075. Again an armed robbery.
17 Classified the same, as a violent and most serious offense.
18 Has been indicted by the Grand Jury, and carries the same
19 potential sentence.

20 Are you aware of that charge?

21 DEFENDANT PERRY: Yes, sir.

22 THE COURT: Next is Case Number 2011-3076. Again, an
23 armed robbery. Same potential sentence, ten to thirty. Not
24 eligible for parole for seven. No suspended sentences,
25 classified as violent and most serious, and has been

1 indicted by the Grand Jury.

2 Finally, for you is Case Number 2011-2354. Again, an
3 armed robbery. Violent and most serious is the
4 classification of the crime. Has been indicted by the Grand
5 Jury. It carries the same potential sentence as I indicated
6 earlier.

7 I have eight armed robberies, is that right, for you?

8 SOLICITOR MORIN: That's correct, Your Honor.

9 THE COURT: That means the maximum sentence that you're
10 facing is 240 years in prison.

11 Do you understand that, sir?

12 DEFENDANT PERRY: Yes, sir, I do.

13 THE COURT: Now, on all of these charges I will tell
14 you the eligibility for parole is also restricted on these
15 cases.

16 Do you understand that?

17 DEFENDANT PERRY: Yes, sir.

18 THE COURT: In other words, you have to serve most of
19 the sentence before you would ever be eligible for parole.

20 Do you understand that as well?

21 DEFENDANT PERRY: Yes, sir.

22 THE COURT: You discussed that with your lawyer?

23 DEFENDANT PERRY: I did.

24 THE COURT: Now, Mr. Anderson, let me go over your
25 charges with you.

1 In your case I have 2011-3063. It's an armed. It
2 has -- it is a violent and most serious offense.

3 Do you understand that classification?

4 DEFENDANT ANDERSON: Yes, sir.

5 THE COURT: Do you understand that would constitute a
6 strike against you under the law?

7 DEFENDANT ANDERSON: Yes, sir.

8 THE COURT: It has been indicted by the Grand Jury.
9 All of the armed robberies I will talk with you about carry
10 the same potential sentence. That is ten years minimum up
11 to thirty years, not eligible for parole for seven. No
12 suspended sentences are allowed.

13 Do you understand all of that?

14 DEFENDANT ANDERSON: Yes, sir.

15 THE COURT: The next one is Case Number 2011-4356. It
16 is an armed robbery as well. It has not been indicted by
17 the Grand Jury. It appears that you are waiving presentment
18 at this time.

19 Is that correct?

20 DEFENDANT ANDERSON: Yes, sir.

21 THE COURT: You're asking the Court to go forward today
22 in this case?

23 DEFENDANT ANDERSON: Yes, sir.

24 THE COURT: I explained to you earlier about that.

25 Do you remember me explaining to you about Grand Jury

1 presentment. You act like you're a little confused. I want
2 to be sure you understand.

3 DEFENDANT ANDERSON: Yes, sir.

4 THE COURT: So, you are giving up presentment on this
5 case, is that correct?

6 DEFENDANT ANDERSON: Yes, sir.

7 THE COURT: All right. It carries that same
8 designation as the other cases. It is considered violent
9 and serious and also carries the same sentence.

10 The next case is 2011-3061, an armed robbery. It is
11 also classified violent and most serious, has been indicted
12 by the Grand Jury. It carries the same potential sentence.

13 Are you aware of that charge and penalty?

14 DEFENDANT ANDERSON: Yes, sir.

15 THE COURT: Next is an armed robbery, Case Number
16 2011-3059. That is a violent and most serious offense. It
17 has been indicted by the Grand Jury. It carries the same
18 potential sentence.

19 Next is 2011-3057, an armed robbery. It's classified
20 as violent and most serious, has been indicted by the Grand
21 Jury, came, carries the same potential sentences as I've
22 told you earlier.

23 Are you aware of that charge?

24 DEFENDANT ANDERSON: Yes, sir.

25 THE COURT: Next is 2011-3055, another armed robbery.

1 It's classified as violent and most serious, has been
2 indicted by the Grand Jury, carries the same potential
3 sentence.

4 Do you understand that, sir?

5 DEFENDANT ANDERSON: Yes, sir.

6 THE COURT: Next are two accessory after the fact of a
7 Felony A, B, or C, or murder. They each carry up to 15
8 years in prison. Those are cases 11-30, 3066, 11-3067.
9 They were indicted by the Grand Jury.

10 Do you understand those charges, sir?

11 DEFENDANT ANDERSON: Yes, sir.

12 THE COURT: For you I have, let's see, one, two, three,
13 four, five, six armed robberies. That would carry 180 years
14 in prison, and two accessories after the fact. They would
15 each carry 15 years potentially. So, you're facing a
16 potential 210 years in prison on these charges.

17 Do you understand that, sir?

18 DEFENDANT ANDERSON: Yes, sir.

19 THE COURT: On the armed robberies are you aware that
20 those particular charges, again, have a limited possibility
21 of ever receiving a parole.

22 Do you understand that, sir?

23 DEFENDANT ANDERSON: Yes, sir.

24 THE COURT: Now, Mr. Perry, you are represented by
25 Mr. Cheeks on all these charges, is that right?

1 DEFENDANT PERRY: Yes, sir.

2 THE COURT: Have you discussed them fully with Mr.
3 Cheek?

4 DEFENDANT PERRY: I have.

5 THE COURT: Are you satisfied with what he's done?

6 DEFENDANT PERRY: Yes, sir.

7 THE COURT: Is there anything else you need to discuss
8 with him at this time?

9 DEFENDANT PERRY: No, sir.

10 THE COURT: And is there anything else that you feel
11 that he ought to do for you at this time?

12 DEFENDANT PERRY: No, sir.

13 THE COURT: Mr. Anderson, you also are represented by
14 Mr. Cheek on these charges, is that correct?

15 DEFENDANT ANDERSON: Yes, sir.

16 THE COURT: And have you consulted with him?

17 DEFENDANT ANDERSON: Yes, sir.

18 THE COURT: Are you satisfied with what he's done?

19 DEFENDANT ANDERSON: Yes, sir.

20 THE COURT: Is there anything else that you want him to
21 do for you?

22 DEFENDANT ANDERSON: No, sir.

23 THE COURT: Is there anything else that you feel that
24 you need to discuss with him before we go forward?

25 DEFENDANT ANDERSON: No, sir.

1 THE COURT: All right. Now, Mr. Perry, I have here the
2 sheet given to me by the solicitor --

3 DEFENDANT PERRY: Yes, sir.

4 THE COURT: -- that describes the various events.

5 DEFENDANT PERRY: Yes, sir.

6 THE COURT: Have you seen that?

7 DEFENDANT PERRY: I have.

8 THE COURT: And have you reviewed it?

9 DEFENDANT PERRY: Yes, sir.

10 THE COURT: Is there any need in me reading all of the
11 charges to you?

12 DEFENDANT PERRY: No, sir.

13 THE COURT: You have the right to plead either guilty
14 or not guilty to those charges.

15 How do you plead?

16 DEFENDANT PERRY: I plead guilty.

17 THE COURT: To all of them?

18 DEFENDANT PERRY: Yes, sir.

19 THE COURT: Now, Mr. Anderson, again I've gone over the
20 sheets here and I've gone over your cases. There is an
21 indication on one of these charges, that is Case Number
22 2011-4356, that on that case you're pleading no contest.

23 Is that correct?

24 DEFENDANT ANDERSON: Yes, sir.

25 THE COURT: Now, as to the other charges, it appears

1 that you are here to offer a plea of guilty.

2 Have you reviewed the sheet the solicitor provided
3 concerning the facts in this matter?

4 DEFENDANT ANDERSON: Yes, sir.

5 THE COURT: And are you familiar with the charges that
6 they've made against you?

7 DEFENDANT ANDERSON: Yes, sir.

8 THE COURT: As to the cases other than the one that I
9 just mentioned, that's Case 2011-4356, how do you plead?

10 DEFENDANT ANDERSON: Guilty.

11 THE COURT: And as to Case Number 2011-4356, it's my
12 understanding that you are going to offer a plea of no
13 contest.

14 Is that true?

15 DEFENDANT ANDERSON: Yes, sir.

16 THE COURT: Do you understand that a no contest plea
17 carries the same effect, as far as sentencing, as a guilty
18 plea.

19 Do you understand that?

20 DEFENDANT ANDERSON: Yes, sir.

21 THE COURT: Now, sir, what that means to me is that, on
22 that case, you and your lawyer have reviewed the facts that
23 are, the evidence that's in the possession of the State, and
24 after a review of that evidence, it's your belief that if
25 that evidence were presented to a jury at a trial that you

1 would more than likely be found guilty of the offense, and,
2 therefore, you have chosen to, while not admitting guilt,
3 guilt, not to contest those charges.

4 Is that true?

5 DEFENDANT ANDERSON: Yes, sir.

6 THE COURT: So, are you pleading no contest?

7 DEFENDANT ANDERSON: Yes, sir.

8 THE COURT: Now, Mr. Cheek, as to Mr. Perry and Mr.
9 Anderson, have you been able to consult with both of them?

10 MR. CHEEK: I have, with both of these gentlemen, Your
11 Honor.

12 THE COURT: And have, excuse me, have they been able
13 to, you think, understand the discussions you've had with
14 them?

15 MR. CHEEK: Yes, sir, Your Honor.

16 THE COURT: I would think, that among the many things
17 you would of discussed with them, you would of discussed the
18 statutes under which they've been charged, the elements that
19 were required to be proven in order for these charges to be,
20 for them to be convicted of the charges, any defenses they
21 may of had to the charges, any possible lesser included
22 offenses that might be available to them, their rights under
23 the Constitution, as well as the fact that most of these
24 charges carry with them a limited possibility of ever
25 receiving parole.

1 Have you discussed all of those matters with them?

2 MR. CHEEK: I have, Your Honor.

3 THE COURT: And are you satisfied that Mr. Perry and
4 Mr. Anderson understood your advice on those points?

5 MR. CHEEK: Yes, Your Honor, both Mr. Perry and Mr.
6 Anderson.

7 THE COURT: And have they both been able to assist you
8 in their defense as this case went along?

9 MR. CHEEK: Yes, sir, Your Honor.

10 THE COURT: Now, Mr. Perry, do you agree that Mr. Cheek
11 discussed the things I just went over with him---

12 DEFENDANT PERRY: He did.

13 THE COURT: ---with you?

14 And is that the advice that you're satisfied with?

15 DEFENDANT PERRY: Yes, sir.

16 THE COURT: And, Mr. Anderson, do you agree that
17 Mr. Cheek has gone over the things I just discussed with him
18 with you?

19 DEFENDANT ANDERSON: Yes, sir.

20 THE COURT: And is that the advice that you're
21 satisfied with?

22 DEFENDANT ANDERSON: Yes, sir.

23 THE COURT: Now, Mr. Perry, you are 22 years of age?

24 DEFENDANT PERRY: Correct.

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

1 DEFENDANT PERRY: I didn't finish, but I have my GED.

2 THE COURT: Are you married?

3 DEFENDANT PERRY: No, sir.

4 THE COURT: Do you have any children?

5 DEFENDANT PERRY: I have one on the way.

6 THE COURT: And do -- were you working before you got
7 arrested?

8 DEFENDANT PERRY: Yes, sir.

9 THE COURT: And where did you work?

10 DEFENDANT PERRY: Southeast Gold Exchange.

11 THE COURT: And what were you doing there?

12 DEFENDANT PERRY: They buy gold and sell it to gold
13 refineries, jewelry stores, and things like that.

14 THE COURT: All right. Mr. Anderson, you're 24?

15 DEFENDANT ANDERSON: Yes, sir.

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

17 DEFENDANT ANDERSON: I went to the 12th.

18 THE COURT: Did you ever get your GED?

19 DEFENDANT ANDERSON: Yes, sir.

20 THE COURT: Are you married?

21 DEFENDANT ANDERSON: Yes, sir.

22 THE COURT: Do you have children?

23 DEFENDANT ANDERSON: I have two.

24 THE COURT: And what ages are they?

25 DEFENDANT ANDERSON: Three.

1 THE COURT: Both -- so, it's twins?

2 DEFENDANT ANDERSON: No, sir.

3 THE COURT: Oh, you had two children the same year?

4 DEFENDANT ANDERSON: Yes, sir.

5 THE COURT: All right. Now, sir, did you have a job
6 before you got arrested?

7 DEFENDANT ANDERSON: Yes, sir.

8 THE COURT: And what kind of job did you have?

9 DEFENDANT ANDERSON: I was working at Magnolia Manor as
10 in laundry.

11 THE COURT: Okay, sir. Now, I'm going to ask the
12 solicitor to go over the facts in this case.

13 Are you gonna do these separately for the defendants or
14 are they all intertwined?

15 SOLICITOR MORIN: They're all -- they're intertwined,
16 Your Honor, and, and I'll explain that when I go over the
17 facts.

18 THE COURT: Okay. Then I'll ask you to go over the
19 facts.

20 Mr. Perry, Mr. Anderson, if you'll listen to the facts
21 as the solicitor goes over these. I'm going to ask you
22 about these facts in just a few minutes.

23 Mr. Morin.

24 SOLICITOR MORIN: Thank you, Your Honor.

25 Your Honor, all of these incidents occurred between

1 August 31st, 2010, and January 30th, 2011. The State's
2 position and understanding and evidence that we have is that
3 Mr. Perry entered all of the stores with intent to rob. For
4 the most part Mr. Anderson was the driver. There were
5 occasions when Mr. Anderson also entered the store. That's
6 why I knew that Mr. Perry was closest to me. The witnesses
7 described a tall and then the few times is a shorter fellow
8 that they described, which I knew must be Mr. Anderson.

9 Nonetheless, the first incident occurred on
10 August 31st, 2010, at the Kangaroo Express at 1245 Asheville
11 Highway. The defendant entered the store wearing a bandanna
12 on his face, pointed a gun at the victim, demanded money.
13 He got \$49.53.

14 THE COURT: Yes, sir.

15 SOLICITOR MORIN: Then on September 3rd, 2010, that
16 occurred at the Li'L Cricket on 2053 Southport Road in
17 Spartanburg County. The defendant entered the store,
18 pointed a gun at the victim, demanded money. Because the
19 deposit had already been made, he basically got ones and
20 fives. There was a witness at the scene who described a van
21 that was there that he saw someone come in and they drove
22 away. That van was consistent in other places along the
23 way.

24 On September 30th, 2010, at 9075 Fairforest Road
25 another Li'L Cricket in Spartanburg County, the defendant

1 entered the store wearing a black ski mask, pointed a gun at
2 the victim, and said give me all your money, you think I'm
3 playing, want to die. At this store, Your Honor, he took
4 money and he also demanded Newport cigarettes, cartons of
5 them. The amount of money was not really ascertained, but,
6 once again, it was a small amount.

7 On November 1st, 2010, at the Li'L Cricket, back at
8 Southport Road, again, 2053, Spartanburg, dark ski mask
9 semiautomatic handgun this time, taken money from the
10 register and nine cartons of cigarettes. Getaway was made
11 in a van. That victim, Latasha Robinson, quit her job after
12 that. Mr. Chad -- Mr. Anderson is charged with an accessory
13 after the fact in that case.

14 On November 9th, 2010, the Li'L Cricket at 370---

15 THE COURT: Now, when you say an accessory after the
16 fact, does that mean you think that he or you have evidence
17 to believe that he did something?

18 SOLICITOR MORIN: Officers seem to indicate that he may
19 have given Mr. Perry a ride, but didn't realize that was
20 gonna happen at that time. But, obviously, when he came
21 back out, he had it and drove away.

22 THE COURT: Okay. Go ahead.

23 SOLICITOR MORIN: November 9th, 2010, was at 370
24 Bryant Road in Spartanburg, a Li'L Cricket, the defendant
25 wearing a ski mask, pointed the victim, pointed a gun at the

1 victim, demanded money and Newport cigarettes. He didn't
2 get any cigarettes because some sort of case had been locked
3 and he abandoned that. He got between fifty and a hundred
4 dollars.

5 November 12th, 2010, at 1997 Nazareth Road, the Li'L
6 Cricket there, here in Spartanburg County, wearing a ski
7 mask, pointed a gun at the victim and said give me all of
8 the money, baby girl. Also demanded Newport cigarettes.
9 She couldn't retrieve them, probably for a similar reason.
10 Fled in a van. Got about \$50 at that one.

11 November 16th, 2010, the Li'L Cricket at 250 Garner
12 Road in Spartanburg County. Ski mask, pointed a pistol,
13 demanded money, defendant also asked for Newport cigarettes
14 there. However, in that case the victim, Choe Vang, said
15 that when that demand was made a car drove up in the parking
16 lot and he fled. It looks like he got \$82 at that one.

17 And then, finally, the last one occurred at the Li'L
18 Cricket at 2053 Southport Road in Spartanburg. He entered
19 with his face covered by a yellow and black mask at that
20 time, give me all the money. Carmittis Herst, I probably
21 mispronounced her first name, was the victim in that case.
22 She's present in the courtroom. He got \$34 on that
23 occasion, and, Mr. Anderson, that is the other charge that
24 Mr. Anderson is charged with accessory after the fact.

25 Your Honor, as -- while officers were investigating

1 this case Mr. Perry was developed as a suspect. They went
2 to his house at . They spoke to his
3 mother or at least a Barbara Perry who I believe is his
4 mother.

5 She stated that he had, she had seen Mr. Perry around
6 Christmas with several cartons of Newport cigarettes. They
7 were able to ascertain at that time that Mr. Perry also had
8 a Mercury Villager van consistent with what had been seen at
9 several of the locations. It had been sold. This was in
10 March of 2011.

11 They got a search warrant for the residence. They
12 recovered masks consistent with what was seen on the
13 videotapes at the various stores along with both pellet
14 guns, toy guns, and various types of implements that were
15 consistent with the different guns that were seen at the
16 different residence, different robberies.

17 The State agreed to run, to recommend concurrent
18 sentences in that. These clearly are one course of conduct.
19 I know that there's a representative from the district
20 office at Li'l Cricket who may wish to speak at the
21 appropriate time.

22 THE COURT: Mr. Perry, did you hear the solicitor go
23 over the facts in your case?

24 DEFENDANT PERRY: I did.

25 THE COURT: Did you understand what he said?

1 DEFENDANT PERRY: I did.

2 THE COURT: Do you agree that those facts are the
3 truth?

4 DEFENDANT PERRY: Somewhat. Except for the dialogue I
5 agree. I agree.

6 THE COURT: I'm sorry?

7 MR. CHEEK: He said he agreed with everything except
8 for the supposed dialogue, Your Honor.

9 THE COURT: Oh, so, you don't agree with what was
10 necessarily said or reported that you said?

11 DEFENDANT PERRY: No, sir.

12 THE COURT: Okay.

13 DEFENDANT PERRY: But I think that's irrelevant.

14 THE COURT: Well, it is relatively not important in
15 this matter, but I understand that you want to be truthful
16 and I'm asking you to do that.

17 But as to the other facts you agree that they're true?

18 DEFENDANT PERRY: Yes, sir.

19 THE COURT: Now, Mr. Anderson, as to the facts in all
20 of the cases except Case Number 2011-GS-42-4356, do you
21 agree that those facts are true?

22 DEFENDANT ANDERSON: Yes, sir.

23 THE COURT: Now, as to that case, it's your position
24 apparently that you're pleading no contest.

25 Are those the facts upon which you and your attorney

1 have based the decision not to contest the charges?

2 DEFENDANT ANDERSON: Yes, sir.

3 THE COURT: All right. Now, Mr. Perry, have you told
4 me the truth today?

5 DEFENDANT PERRY: I have.

6 THE COURT: Did anyone tell you how to answer the
7 questions I've asked?

8 DEFENDANT PERRY: No, sir.

9 THE COURT: So, if I were to ask all the same questions
10 I asked earlier again, would I get the same answers verbally
11 this time?

12 DEFENDANT PERRY: Yes, sir.

13 THE COURT: Are you, in fact, waiving your
14 Constitutional rights as they relate to these charges?

15 DEFENDANT PERRY: Yes, sir.

16 THE COURT: Are you pleading guilty to these charges
17 because you are guilty of the charges?

18 DEFENDANT PERRY: I am.

19 THE COURT: And, Mr. Anderson, have you told me the
20 truth today?

21 DEFENDANT ANDERSON: Yes, sir.

22 THE COURT: Did anyone tell you how to answer my
23 questions that I asked?

24 DEFENDANT ANDERSON: No, sir.

25 THE COURT: So, the answers I've received, those were

1 all your own answers, is that right?

2 DEFENDANT ANDERSON: Yes, sir.

3 THE COURT: Now, is there any part of what we've
4 discussed today that you'd like to go back and change
5 anything you've told me?

6 DEFENDANT ANDERSON: No, sir.

7 THE COURT: If I were to ask those same questions
8 again, would I get the same answers verbally at this time?

9 DEFENDANT ANDERSON: Yes, sir.

10 THE COURT: Are you, in fact, waiving the
11 Constitutional rights that I've explained to you in
12 connection with these pleas?

13 DEFENDANT ANDERSON: Yes, sir.

14 THE COURT: And as to the charges you're pleading
15 guilty of, are you pleading guilty because you are guilty?

16 DEFENDANT ANDERSON: Yes, sir.

17 THE COURT: And as to the one that you're pleading no
18 contest on, do you continue to plead no contest?

19 DEFENDANT ANDERSON: Yes, sir.

20 THE COURT: Mr. Perry, the answers that I've gotten
21 today, were those all your own answers?

22 DEFENDANT PERRY: Yes, sir.

23 THE COURT: Did anyone tell you how to answer my
24 questions?

25 DEFENDANT PERRY: No, sir.

1 THE COURT: All right. In both cases it appears to the
2 Court and I find that the pleas are freely and voluntarily
3 given. The defendants are aware of the charges. They're
4 aware of the facts that have been related and have agreed
5 that they are, are true with the exception of the one that
6 pled no contest. It's my finding that they've had legal
7 advice and they're satisfied with their legal advice. It's
8 my further findings that there's a factual basis or reason
9 for these pleas to be entered.

10 Mr. Cheek, it's your opportunity to speak on behalf of
11 either Mr. Perry or Mr. Anderson or both of them.

12 MR. CHEEK: Your Honor, I will speak to both of them
13 probably intermittently, but I would just ask the Court to
14 consider that a number of family and friends are present in
15 the courtroom. Most everyone left in the courtroom is, in
16 some way, connected in this matter either as the victim and
17 the companies that was involved or the family members seated
18 to the, to the judge's left in the gallery, Your Honor.

19 Your Honor, we ask the Court to consider that at least
20 one or two of the members present in the community would
21 like to come forward to speak on behalf of these young men.

22 Your Honor, I would tell the Court that some things in
23 life are just baffling. When you talk to these young men
24 and you have questioned them earlier in their preparation
25 for entering the plea and just now in going over the facts,

1 in my entire time of speaking with Mr. Xavier Perry I never
2 used the term irrelevant, Your Honor. That is something he
3 understood himself. He was alert. He was responsive. The
4 vocabulary's astounding. The vision that is one that I wish
5 many of our young people in the community had when it comes
6 to being gifted.

7 I'm a, I'm a child of the 60's, and one of the songs
8 that we and poems we all recited was to be young, gifted,
9 and black, and what that meant as far as our futures were
10 concerned.

11 Your Honor, before you are two young men who are young,
12 gifted, regardless of race. These young men have grown-up
13 in a society where things have been much different for them,
14 and yet they still have the ability to make something of
15 their lives. It depends on the sentence today, what length
16 of time they would have left in their lives to make
17 something more positive than what they've done and
18 demonstrated thus far, Your Honor.

19 I hope that in my comments I do not give the impression
20 that I think that it's all over for them. I've told them I
21 think this is just the beginning for them. We would hope
22 that the Court, after listening to everything involved and
23 reviewing everything involved and listening to all the
24 persons concerned in this, that the Court might impose a
25 concurrent sentence as has been suggested by the solicitor's

1 office, by the State in this matter, and the Court might be
2 lenient and merciful on them to sentence near the lower
3 range as opposed to what is allowed in the discretion of the
4 Court, Your Honor.

5 Your Honor, we just beg mercy for them. A number of
6 stores and victims and property have been violated, and
7 these young men are both young and they're both gifted.
8 They are talented young men. Both of them have the skill --
9 they're skilled artists. They sing. They write. Their
10 poetry, their song lyrics are excellent. They had, in this
11 community prior to this, made appearances at festivals, made
12 appearances at a club that's one block from here across from
13 the Marriott, Ferguson's. These young men were in with
14 managers who had great plans for them.

15 Your Honor, they were diligent. They were artistic.
16 They were able. They were hard working. Each of them had
17 jobs in the community. The one thing they did not have,
18 Your Honor, was patience. They were not willing to wait and
19 continue to apply and live at a low level income and then
20 keep plowing away until they could achieve the success that
21 each of them are capable of making in the entertainment
22 industry.

23 And, so, Your Honor, because of that, they chose other
24 routes to meet their immediate needs that were not and are
25 not condoned in community. We plead mercy. I won't belabor

1 it, Your Honor, as to say that the main question that each
2 of them had was Mr. Cheek, what do you think of me, and I
3 explained to them it doesn't matter what I think of you at
4 this point on. It's what you think of yourselves because if
5 you still value yourselves, value who you are, value your
6 families, value your future, value your experience you're
7 about to go through, and then you can overcome that.

8 We would just ask the Court for mercy on their behalf.

9 They'll be at least two people who would like to speak
10 on their behalf I believe.

11 THE COURT: All right. If they want to come -- the
12 first one can come forward. Someone who wants to speak on
13 behalf of the defendants, come forward please, sir.

14 DEFENDANT PERRY: Your Honor?

15 THE COURT: Just one second. I'm gonna give you a
16 chance to talk once I've heard from everybody else.

17 MR. JEFFERSON: Good morning, Your Honor.

18 THE COURT: Good -- well, it's gotten to the afternoon.
19 But that's okay.

20 MR. JEFFERSON: Well, good afternoon.

21 THE COURT: What's your name, sir?

22 MR. JEFFERSON: My name is Mr. Jeffery Jefferson,
23 Senior, Your Honor.

24 THE COURT: Yes, sir.

25 MR. JEFFERSON: I've been in the court system many

1 times, but I've changed my life. I like to say, Your Honor,
2 my son was in the system when he came home last year. He
3 did a whole ten years because of some problems. He went
4 down when he was 17, about their age.

5 Also have been the victim of robbery at gunpoint, shot
6 at. So, I know what the victims are feeling in this case.
7 I can, I can relate with all of them.

8 Also, though, I know that these two young men, given
9 the chance, they can do many things. One thing is that one
10 of them's about to have a baby. The other one has two
11 children. So, the family and us, we come here today and we
12 put ourself in the mercy of the Court. At the same time
13 these two young men offered to those victims in these crimes
14 their humble apologies to please forgive them for what they
15 have done.

16 In our society, Your Honor, as you know, we have a low
17 scale, a medium scale, and an upper scale, you know, and
18 then also there's always that mention of that word. well,
19 some get some, some get none, some get a few. But some get
20 a whole lot when they apply their self, and I think that's
21 what we have here.

22 With a minium sentence, Your Honor, I think these two
23 young men can come out and be productive citizens, and they
24 can take care of their families. Their babies won't be too
25 old for them to handle, and their babies will be able to use

1 them as a what not to do because they'll be able to tell
2 their babies about the experiences that they've had, and
3 that's why I'm here, Your Honor, and that's why these
4 families are here. And like we said, we do offer our humble
5 apologies to anyone and the people for anything that has
6 transpired.

7 THE COURT: Thank you, sir.

8 MR. JEFFERSON: You welcome.

9 THE COURT: I believe someone else wanted to speak on
10 their behalf.

11 MR. CHEEK: Your Honor, I think that they all agreed
12 that Mr., that Jeffery would speak on behalf of everybody
13 involved.

14 THE COURT: All right. Mr. Perry, I told you I'd give
15 you an opportunity to speak. This is your chance to do so.

16 DEFENDANT PERRY: Yes, sir, I know that I'm, I'm here
17 today because of my own mistakes, and I'm not denying any of
18 them. I didn't even deny the facts when they arrested me.
19 I just came.

20 I'm a young man who made extreme mistakes like
21 countless other young men. But at the time that I committed
22 these crimes I was without a job. I was staying with my
23 mother. It made me feel like less of a man in not being
24 able to, to give my mother money, which she needs.

25 So, I committed these robberies for these petty

1 dollars. They help me put food in my mama's house and help
2 her with bills she had. And, so, I just ask you to show
3 mercy on me because the next portion of my life will be
4 dictated by you, and I ask you to have mercy.

5 THE COURT: Mr. Anderson, anything you want to tell me?

6 DEFENDANT ANDERSON: Yes, sir, Your Honor. Just have
7 mercy on me, you know. Like I said, I'm, you know, if -- I
8 went by, I went by everything the right way. I lost my job
9 in '08. I got unemployment in '09. Brick mason job, you
10 know, they, they just, they just, just fell apart. The
11 economy got bad. I had my own detailing business. You
12 know, we had, we had problems with the economy, and we had
13 the water drought. So, you know, when I go to people house,
14 I use they water.

15 I asked them, you know. They people like, you know, we
16 can't, we can't afford to pay you no more because, you know,
17 I done lost my job and my employment, you know, they was,
18 they was unemployed at the time too, you know. And, so, I
19 just -- so, I asked them, I said, could you go down on the
20 prices. They said no, because we feel like that's highway,
21 highway robbery against you.

22 So, at the, at the time, you know, my family, my mama,
23 you know, she was struggling. She always struggling. Till
24 today she's struggling, and I always been her backbone. I
25 always told my mama, since I was young, I told her, mama,

1 I'm gonna take care of you no matter what, you know, no
2 matter what I got to go through I want to take care of you.

3 Then, you know, I got, I got married, you know, and I
4 feel, you know, I went by, I went by everything the right
5 way. My kids, they ran out of diapers, had bills and stuff
6 to pay. My wife, she got a job. But, you know, work,
7 working here and there, they don't pay much, you know. They
8 pay minimum wage, and, you know, I feel like, you know, and
9 my, my little girl mama, you know, she, she work too, you
10 know.

11 They still, they still -- I commend them, you know,
12 cause they still give me that authority as being a father.
13 They don't take that from me because I always took care of
14 them. I always took care of them and my kids. If I don't
15 take care of my kids, who's gonna take care of my kids, and
16 I went by it the right way.

17 I went to Total Ministries. I went to all these
18 churches, and they said that they couldn't help me. You
19 know, they said you got to apply, you got to be approved.
20 My kids got to be approved in this world, you know, for
21 somebody to take care of them.

22 You know, me and, me and Xavier, we came down here. We
23 always went on, went on the computers looking for jobs,
24 filled out applications. We go to the job. We got to wait.
25 You know, we go to another job, they want to know your

1 whole, your whole background from when you was an infant,
2 and you give it to them, and, you know, it's just like you
3 know, you just basically, you know, when you signed it, you
4 sign it, you probably signing your life away to them. You
5 know, it didn't matter, it didn't matter to me at the time,
6 and, you know, we couldn't, we couldn't, we couldn't find no
7 jobs.

8 So, I told my kids, you know, hey I'm always, I'm
9 always gonna take care of y'all. I'm always gonna take care
10 of y'all. My kids, they very intelligent. They very smart
11 to be their age, but they look up, they look up to they
12 daddy, you know.

13 And they physically, physically, about the whole
14 situation, I feel bad. But spiritually I feel good, you
15 know, cause they got -- that gave me a chance to get closer
16 with the Lord, you know. I always been close, but I never
17 really just read the Bible like that, you know.

18 But, you know, physically, you know, all this, they
19 want to work, you know, want to work for my kids. But, you
20 know, they always -- you know, spiritually, spiritually, you
21 know, I feel like, you know, I just said now, now that I
22 know I'm gonna be incarcerated, I was like how can you be a
23 father if you don't know the Father?

24 How can you be a good husband if you not a good wife on
25 to God?

1 How can I ask my wife to submit herself onto me if I
2 can't submit myself onto God?

3 You know, I -- that's, that's, that's what I learned,
4 you know. I feel like everything happened for a reason, you
5 know, for His good and for His glory.

6 And as far as the victims, you know, I'll just, I'll
7 just -- you know, I'm sorry. I'm sorry for what they had,
8 they had to go through. You know, but the whole intention
9 was not to hurt nobody. The whole intention was to take
10 care of your family.

11 If you go to the family also, you ain't got your
12 father, that's just history, that's just history repeating
13 each other, repeating itself, you know. That's a generation
14 curse. I'm trying, I'm trying to break that curse. We
15 both.

16 If you see your mother, your mother crying every night
17 because she can't pay your bills, she out there struggling,
18 about to get put out, you feel like, you feel, you feel less
19 of a man cause you feel like you got to take, you got to
20 step up to the plate and take care of your mother, take care
21 of your wife, take care of your kids by any means necessary.
22 That's how, that's how I felt, you know.

23 All these robberies occurred at, at a certain time when
24 we didn't have no job. But, you know, after all, after all
25 this occurred, we felt like hey, you know, I got to quit

1 this. My life, my life gonna go down the wrong path, you
2 know.

3 So, after that we, we was, we was -- we quit. We
4 started, we started doing music. We got, we got our
5 computer and our studio equipment. So, we start doing
6 music, you know, start putting our music out there. One man
7 ran across us that I knew, he said y'all sound good, you
8 know. How can I be y'all's manager.

9 So, we looked over, we looked over the management
10 situation, and, you know, so we -- and by the time, you
11 know, we had, we had time to show we was doing it. By the
12 time we was gonna go to Columbia and get a record, record
13 deal, you know, everything blew up in our face. But, you
14 know, by any means necessary though, you know, I'll take, I
15 take care of my kids, you know.

16 I just went by -- I went by, I went by it the wrong
17 way, you know, by being impatient, you know, at the time,
18 and then, and then---

19 THE COURT: Does---

20 DEFENDANT ANDERSON: ---we not no threat to society.
21 We're not no threat to the community. If you ask anybody
22 about us, they'll tell you they had nothing but good things
23 to say about us. Anybody, you know. They got nothing but
24 good things, good things to say about us --

25 THE COURT: Okay.

1 DEFENDANT ANDERSON: -- even as little, even as kids
2 cause the Lord say he'll take the foolish things of the
3 world to desire the mind.

4 But, you know, our situation that we going through, if
5 you just have mercy on us, on us, Your Honor, you know,
6 we'll come out, we'll come out a better man. We probably
7 can take -- I know, I know, through our music and through
8 our education, that what we have learned since we been at
9 Spartanburg County, you know, we can take that, apply it to
10 the people, other young people off the street because young
11 kids respect us, you know.

12 When I saw myself in the paper, we saw ourself in the
13 paper, we just like wow, you know. That's not us, you know.
14 I started crying, you know, because I know what the world,
15 what the world gonna, what the world gone think about me.
16 But, you know, in the Bible Paul prosecuted the churches,
17 but God didn't punish him. God saw through his faults, and
18 now Paul worked through -- Paul worked two, two-third of the
19 New Testament, and now he -- Paul was the apostle that
20 worked overtime for the Lord.

21 Lord, have mercy on him. You know---

22 THE COURT: Thank you, sir.

23 DEFENDANT ANDERSON: I just ask that you have mercy on
24 us.

25 THE COURT: All right. Mr. Cheek, anything further

1 from the defense?

2 MR. CHEEK: Just plead mercy, Your Honor.

3 DEFENDANT PERRY: Your Honor?

4 THE COURT: Sir?

5 DEFENDANT PERRY: I think, all in all, we just made an
6 irrational decision to try to compensate for our financial
7 peril trying to help our family. I just beg you to have
8 mercy on us.

9 THE COURT: Thank you, sir.

10 Yes, sir, Mr. Morin.

11 SOLICITOR MORIN: I think -- I know that the -- I'm not
12 sure. I was told that I had at least the district manager
13 of Li'L Cricket.

14 THE COURT: All right. If you'd come forward, please.
15 Your name is please, ma'am?

16 MS. RINGLE: Sam Ringle.

17 THE COURT: And your position?

18 MS. RINGLE: District manager of Li'L Cricket.

19 THE COURT: I'll be happy to hear from you.

20 MS. RINGLE: I would just like to let everybody know
21 that we, our policy is to lock them up. We would like to
22 have them locked up. We have other -- I mean I understand
23 their claim as victims, but what about the victims that were
24 there. They had families.

25 One of them, she quit because she's got six kids, a gun

1 drew in her face. I mean she's terrified of ever coming in
2 a convenience store anymore. I mean we -- there's more
3 victim that's out here that wouldn't there, but, you know,
4 when you talk about it, it scares them, and I, I just like
5 for you, you know, to give them the maximum for robbery.

6 THE COURT: Thank you, ma'am.

7 Your name is?

8 MS. WHITEMIRE: Marquisha Whitemire.

9 THE COURT: Yes, ma'am, your, your position.

10 MS. WHITEMIRE: I'm location manager of 1997 Nazareth
11 Road, Wellford, South Carolina.

12 THE COURT: Yes, ma'am.

13 MS. WHITEMIRE: Again, personally, I wanted to let you
14 and the Court know as well, as victims, I have an employee,
15 mother of six kids, came in to work to provide for her kids
16 as well. Come at gunpoint, get robbed at gunpoint. You're
17 terrified. You quit your job. You can't provide for your
18 kids.

19 The, the victims that continue to come to work every
20 day go through, what is it, post-stress syndrome?

21 You got to be scared every time somebody walks through
22 that door. You're uncomfortable at work. That's no way to
23 live your life and try to make a living.

24 I understand these guys and I know these two guys
25 personally. They been thinking, been doing this, and I'm

1 not gonna say they're bad people. They've been good people.
2 But to come in and beg for mercy for something, robberies
3 you committed over months, over numerous of victims, not
4 including the customers that was in the store who scared to
5 come to the store, the businesses that are losing money
6 because people don't want to come in there and getting
7 robbed.

8 I, I, I ask for the maximum on that, and I'm sure that
9 everyone that I speak for speaks the same thing cause we
10 have kids and families to provide for as well, but we do it
11 honestly.

12 THE COURT: I understand.

13 Now, ma'am, the -- let me ask you a question -- I'll
14 ask -- or the district manager can speak.

15 The State's made a recommendation that I run the
16 sentences concurrently.

17 Any comment on that?

18 MS. RINGLE: I wouldn't. I wouldn't run it
19 concurrently. I mean -- they did it separate jobs. I mean
20 it's separate -- it's separate different cases over a period
21 of time. I mean if it was a every, an hour, next door, next
22 door, I would say yes, but it was over a months period of
23 time.

24 THE COURT: Thank you.

25 Prior record for these gentlemen.

1 SOLICITOR MORIN: Mr. Perry has an unlawful pistol in
2 2009.

3 Unlawful pistol from 2009.

4 Mr. Anderson has a CDV and DUS from 2008.

5 Habitual traffic offender from 2010.

6 THE COURT: All right. It will take a minute for me to
7 write sentences in the case. I'm gonna take a short recess.

8 Thank you very much.

9 (WHEREUPON, a short recess was taken in this case at
10 this time.)

11 THE COURT: Bring Mr. Perry and Mr. Anderson back
12 before the Court.

13 (Parties comply.)

14 THE COURT: All right. Before I announce the sentences
15 in this case, I realize that there's some strong feelings in
16 the courtroom. If anybody has any problem in controlling
17 their emotions concerning matters like this, I'd advise you
18 to leave the courtroom at this time because the Court won't
19 tolerate any outbursts.

20 There are no winners in these cases. There are no
21 losers in these cases. This is a tragic situation.

22 Mr. Perry, Mr. Anderson, you've articulated to me
23 various reasons for your conduct and why you conducted
24 yourself in that fashion, and while, to a certain degree
25 those reasons are somewhat understandable, that to embark on

1 a series of eight armed robberies over a month, several
2 months period of time, can't be explained simply by need to
3 do well by your families.

4 People come to this country, some of them come here
5 illegally, and are able to find employment or able to, to
6 support their families. So, for you to say that it, that
7 over that period of time there was a need to continue to
8 conduct yourself in that fashion, is beyond belief by this
9 Court.

10 The course of action that you embarked on not only
11 terrorized a community, it terrorized a company. To have
12 eight different -- well, eight different occasions where
13 their stores were subject to armed robberies is difficult
14 for this Court to comprehend what affect that might have on
15 a company, on its employees, and on the people who use and
16 frequent those locations.

17 So, there's really no excuse for what happened, and
18 there wasn't really an excuse advanced of the -- but the
19 sentence of this Court is to indicate that that type of
20 behavior can not be tolerated in this community or any other
21 community. It's not tolerated by civilized society. Let's
22 put it that way.

23 All right. Mr. Perry, in your case, the Sentence on
24 Case Number 2011-2354 is an armed robbery, it's ten years.
25 That one is run consecutively to other sentences given in

1 this case.

2 On all other charges before this Court, which are armed
3 robberies, the Sentence is 30 years run concurrently.

4 Mr. Anderson, in your case, Case Number
5 2011-GS-42-3055, armed robbery, the Sentence is ten years
6 run consecutively.

7 On all other armed robberies, the Sentence is 30 years
8 run concurrently. On the two accessory charges, the
9 Sentence is 15 years run concurrently.

10 Good luck to you gentlemen.

11 MR. CHEEK: Thank you, Your Honor.

12 THE COURT: Thank you.

13 (WHEREUPON, the list of indictments was marked as
14 Court's Exhibit No. 1 for identification purposes only at
15 this time.)

16

17

18 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

19

20

21

22

23

24

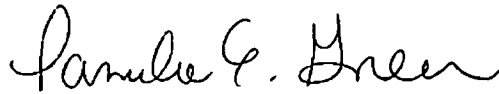
25

C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh 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 proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 15th day of July, 2011.

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

September 25th, 2012



PAMELA E. GREEN, Court Reporter

2011196547

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

Roger L. Couch , Circuit Court Judge

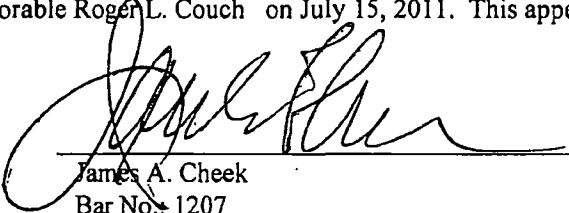
Case No(s): 2011-GS-42-03055, 2011-GS-42-03057, 2011-GS-42-03059, 2011-GS-42-03061,
2011-GS-42-03063, 2011-GS-42-03066, 2011-GS-42-03067, 2011-GS-42-04356

The State Respondent,
v.
Chadwick Deon Anderson. Appellant.
.....

NOTICE OF APPEAL

Chadwick Deon Anderson appeals his/her conviction and sentence in this case. The sentence was imposed by by the Honorable Roger L. Couch on July 15, 2011. This appeal is taken from this conviction and sentence.

July 25, 2011


James A. Cheek
Bar No. 1207

Seventh Judicial Circuit Public Defender Office
366 N Church Street, Suite 3000
Spartanburg, South Carolina 29303
(864) 596-2561
Attorney for Appellant

Other Counsel of Record:

Michael Morin, Esq.
Seventh Judicial Circuit Solicitor's Office
180 Magnolia Street
Spartanburg, South Carolina 29306
Attorney for Respondent

RECEIVED

JUL 27 2011

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SPARTANBURG COUNTY
Court of General Sessions

Roger L. Couch , Circuit Court Judge

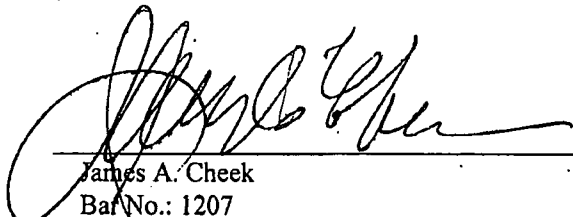
Case No(s): 2011-GS-42-03055, 2011-GS-42-03057, 2011-GS-42-03059, 2011-GS-42-03061,
2011-GS-42-03063, 2011-GS-42-03066, 2011-GS-42-03067, 2011-GS-42-04356

The State Respondent,
v.
Chadwick Deon Anderson. Appellant.
.....

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on July 25, 2011, addressed to its attorney of record, Michael Morin, Esq., Assistant Solicitor, 180 Magnolia Street, Spartanburg, South Carolina 29306.

July 25, 2011


James A. Cheek
Bar No.: 1207
Seventh Judicial Circuit Public Defender Office
366 N Church Street, Suite 3000
Spartanburg, South Carolina 29303
(864) 596-2561
Attorney for Appellant

RECEIVED

JUL 27 2011

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SPARTANBURG COUNTY
Court of General Sessions

Roger L. Couch, Circuit Court Judge

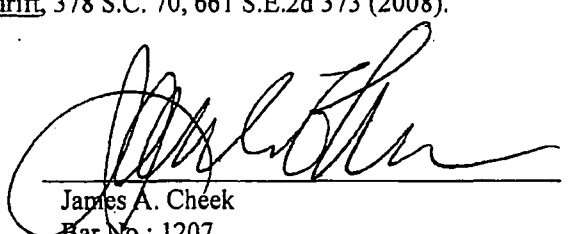
Case No(s): 2011-GS-42-03055, 2011-GS-42-03057, 2011-GS-42-03059, 2011-GS-42-03061,
2011-GS-42-03063, 2011-GS-42-03066, 2011-GS-42-03067, 2011-GS-42-04356

The State Respondent,
v.
Chadwick Deon Anderson Appellant.
.....

EXPLANATION OF APPEAL PURSUANT TO RULE 203(D)(1)(B), SCACR

Pursuant to Rule 203(d)(1)(B), SCACR, Chadwick Deon Anderson files this explanation of his appeal of his guilty plea, conviction and sentence in this case. The sentence was imposed by the Honorable Roger L. Couch on July 15, 2011. No issues were raised during the guilty plea; however, the client insisted upon an appeal; therefore, this appeal was filed pursuant to Weathers v. State, 319 S.C. 59, 459 S.E.2d 838 (1995), and State v. Thrift, 378 S.C. 70, 661 S.E.2d 373 (2008).

July 25, 2011


James A. Cheek
Bar No.: 1207

Seventh Judicial Circuit Public Defender Office
366 N Church Street, Suite 3000
Spartanburg, South Carolina 29303
(864) 596-2561
Attorney for Appellant

Other Counsel of Record:

Michael Morin, Esq.
Seventh Judicial Circuit Solicitor's Office
180 Magnolia Street
Spartanburg, South Carolina 29306
Attorney for Respondent

RECEIVED

JUL 27 2011

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SPARTANBURG COUNTY
Court of General Sessions

Roger L. Couch, Circuit Court Judge

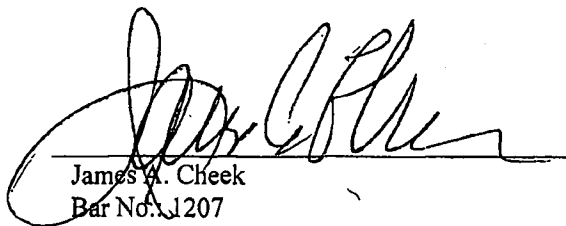
Case No(s): 2011-GS-42-03055, 2011-GS-42-03057, 2011-GS-42-03059, 2011-GS-42-03061,
2011-GS-42-03063, 2011-GS-42-03066, 2011-GS-42-03067, 2011-GS-42-04356

The State Respondent,
v.
Chadwick Deon Anderson Appellant.
.....

PROOF OF SERVICE

I certify that I served the Explanation of Appeal Pursuant to Rule 203(d)(1)(B), SCACR, on the State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on July 25, 2011 addressed to its attorney of record, Michael Morin, Esq., Assistant Circuit Solicitor, 180 Magnolia Street, Spartanburg, S.C. 29306.

July 25, 2011



James A. Cheek
Bar No. 1207
Seventh Judicial Circuit Public Defender Office
366 N Church Street, Suite 3000
Spartanburg, South Carolina 29303
(864) 596-2561
Attorney for Appellant

RECEIVED
JUL 27 2011
SC Court of Appeals

RECEIVED

OCT 03 2011

To Esq. the South Carolina Court of Appeal

9-29-2011

SC Court of Appeals

Dear South Carolina Court of Appeal

I am writing on Behalf of My case and the Arguable Basis ground that I am filling on is (Inconsistent Counsel) conflict of entrance, neglect of delayed do process of paper work of law. I feel that I didn't have A Fair trial. And that I was Rushed into court. I was unprepared I had no Motions of discovery to go by. I was told by the detention official that I was going for A Bond Hearing. Come to find out I was there for A Plea!

I Set in the county Jail for three month with no Bond or A Bond hearing I Requested for one But never did I Receive the Hearing. And the fact that I Requested A Probono lawyer I never Received one. I Also Requested for me and My codefendant case to Be Separated. See I never Received An Answer to None of the things I Requested, I feel that I was Railroaded By the lawyers, Solicitors, Judges, And the law Enforcement official. But these are some ground that I know was Violated on My Behalf. Sincerely

Chadwick D Anderson

P.S. Do to It that I just Received My letter of Appeal on the date of 9-26-2011 I hope My deadline is not at the Limit. I only get ENvelope once A Month

The South Carolina Court of Appeals

The State,

Respondent,

v.

Chadwick Deon Anderson,

Appellant.

The Honorable Roger L. Couch
Spartanburg County
Trial Court Case No. 2011-GS-42-03055
2011-GS-42-03057
2011-GS-42-03059

ORDER

Appellant is attempting to appeal from a guilty plea. Pursuant to Rule 203(d)(1)(B)(iv), SCACR, Appellant is required to identify the issues and make a showing of how the issues can be reviewed on appeal. In this case, Appellant filed a letter regarding his appeal, but Appellant has not made a showing that any issue was raised to or ruled upon by the circuit court judge. Furthermore, Appellant's counsel has asserted that no issue was raised during the guilty plea. Accordingly, this appeal is dismissed.

IT IS SO ORDERED.

Jasper M. Curston 45.

Columbia, South Carolina

cc: Chief Appellant Defender Robert M. Dudek
James A. Cheek, Esquire
Assistant Deputy Attorney General Salley W. Elliott

FILED

10/21/11

The South Carolina Court of Appeals

The State,

Respondent,

v.

Chadwick Deon Anderson,

Appellant.

The Honorable Roger L. Couch
Spartanburg County
Trial Court Case No. 2011-GS-42-03055
2011-GS-42-03057
2011-GS-42-03059

REMITTITUR

No Petition for Reinstatement having been filed in the above matter since issuance of this Court's Order dated October 21, 2011,

IT IS SO ORDERED that the above appeal be and hereby is remitted.

V. Claire Allen, Deputy CLERK
For the Court

Columbia, South Carolina

Original to: The Honorable Hope Blackey

cc: Chief Appellant Defender Robert M. Dudek
James A. Cheek, Esquire
Assistant Deputy Attorney General Salley W. Elliott

FILED

11.30.11 DW

FORM 5

2012-CP-42-2096

(12)

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

County of SpartanburgChadwick Dean Anderson 34881

Full name and prison number (if any) of Applicant

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Spartanburg County Jail / Perry Correctional

2. Name and location of Court which imposed sentence Spartanburg County

Court House 180 Magnolia Street P.O. box 3488 Spartanburg S.C. 29304

3. Name(s) of co-defendant(s) (if any) Xavier L. Perry

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) 2011-GS-42-4856, 2011-GS-42-3067, 2011-GS-42-3068, 2011-GS-42-3069

(b) 2011-GS-42-3067, 2011-GS-42-3068, 2011-GS-42-3069, 2011-GS-42-3061

FILED
CLERK OF COURT
2012 MAY 17 AM 11:16
M. HOPE BLACKLEY

- (c) Sentence of 40 years for ARM Robbery And Accessory After fact
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) July 15 2011 85%
- (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?
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeal
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Dismissal
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. 10/21/2011
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____

FILED
2012 MAY 17 AM 11:16
M. HOPE BLACKLEY

CLERK OF COURT

2012-CP-42-2096

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) 6th Ineffective Counsel / 6th Conflict of Interest / 5th Due Process
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) The failure of Counsel to present Brady vs. Maryland (Rule 5) in a timely manner
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? _____
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. _____
- iii. _____
- iv. _____

FILED
CLERK OF COURT
2012 MAY 17 AM 11:16
M. HOPE BLACKLEY

①② 5th/6th Ineffective Counsel / Conflict of Interest / Due Process

①② The failure of counsel to present Brady v. Maryland in a timely manner. This affected the Defendant's right to prepare a defense. A violation of Defendant's right to address evidence rather than physical or mitigating before sentencing.

Both the Defendant and his co-defendant were both represented by the same attorney. In spite of the fact that his co-defendant (Mr. Perry) wrote a statement against him for the state.

The violation of both physical or documentation failed the Defendant due to conflict of interest and ineffective counsel and due process in preparing the Defendant case.

FILED
CLERK OF COURT
2012 MAY 17 AM 11:16
M. HOPE-BLACKLEY

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

N/A

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

(a) which grounds have been presented:

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

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

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

2012-CP-42-2006

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

(a) N/A

(b) _____

(c) _____

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

(a) your arraignment and plea? YES JAMES CHECKS

(b) your trial, if any? _____

(c) your sentencing? YES

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

- i. TONYA R. JONES? 7th Judicial Circuit Public Defender Office
366 N. Church St. Ste. 3000 Spartanburg S.C. 29303
- ii. JAMES A. CHECKS? 7th Judicial Circuit Public Defender Office
366 N. Church St. Ste. 3000 Spartanburg S.C. 29303
- iii. _____

(b) the proceedings at which each such attorney represented you:

- i. Appointed Attorney?
- ii. Sentencing Attorney?
- iii. _____

2012 MAY 17 AM 11:16
M. HOPE BLACKLEY
CLERK OF COURT
FILED
Revised 3/2003

2012-CP-42-2096

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

I am seeking a new trial / AND A MAJOR time Reducing
of my sentence. / Furthermore due to Petitioner's Indigent
to Ask that I be appointed Counsel to help with P.C.R

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

No

STATE OF SOUTH CAROLINA)

VERIFICATION

County of _____)

I, CHADWICK DEUN ANDERSON, 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.

Chadwick D. Anderson

SWORN to and subscribed before me this 11th
 day of May, 2012.

Steven T. Milotky (L.S.)
 Notary Public

My Commission Expires: November 7, 2016

FILED
 U.S. DISTRICT COURT
 2012 MAY 17 AM 11:16
 M. HOPE BLACKLEY

Revised 12/2003

2012-CP-42-2096

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

I, Charles D. Anderson, 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.

Charles D. Anderson
Applicant

SWORN or affirmed to and subscribed before me this

11th day of May, 2012.

Sam T. Milantly
Notary Public

My Commission Expires: January 7, 2016

FILED
CLOCK OF COURT
2012 MAY 17 AM 11:16
M. HOPE-BLACKLEY

752e
JMC

State of South Carolina

Court of Common Pleas.

County of ~~Spokane~~
Applicant

C/A 2012-CA-42-2096

v.

Amended P.C.R. Application

State of South Carolina
Respondent

Applicant Chadwick D. Anderson, moving for leave to file a Petition, hereby Amends

as follows:

Argument I

Applicant Argues that his 5th & 14th Amendment Right to due process was violated by Counsel Applicant Counsel failed to conduct an Adequate Pretrial investigation by not interviewing witnesses or Petitioning the Court for additional funds for private investigation and expert witnesses. Applicant was denied fair and equal treatment which is constitutionally guaranteed for all. Neither did Counsel present Applicant with Brady v. Maryland (Rule 6) motions not being able to view his Brady v. Maryland (Rule 6) Applicant was not able to learn of all if any evidence in his favor or brought against him. Applicant also would have been able to discover the fraudulent indictment prior to pleading guilty. Had the Applicant been aware of the invalid indictment he would have not plead guilty.

Argument II

Applicant Argues that his plea was made involuntarily. The Applicant had not met with Counsel James A. Chick prior to July 16, 2011 the day that the Applicant and his girlfriend entered into a guilty plea. Thus failing to Adequately ^{consult} with Applicant on the day of the plea. The Applicant met with Counsel one time only for fifteen minutes prior to the plea proceeding. During this meeting Counsel assured the Applicant he would receive no more than (ten years) for all of his crimes combined. The Applicant placed particular emphasis on Counsel's advice that he would receive no more than (ten years). Applicant also would have been able to become aware that there was no evidence against him except for suppressable statements. Had Applicant chosen to go to trial his

2012 JUL 16 AM 10:20
MORRIS B. CHICKLEY
CLERK OF COURT

codefendant would not have testified against him. (See Attached Affidavit of Xavier Perry) therefore there was no substantial evidence & warranting direct verdict. Counsel was unprepared to go to trial & applicant knew this & fear that if he proceeded to trial with an unprepared counsel he would have receive a life sentence. Argument III

Applicant argues that a conflict of interest existed between counsel, applicant's codefendants, and himself, which prejudiced applicant. counsel James A. Cheek represented both the applicant & his codefendant during the pretrial period and the plea proceedings. applicant's codefendant had given statements that were unfavorable to the applicant. counsel was aware of these statements and the conflict of interest & did not remove himself as counsel from neither the applicant or his codefendant, where his loyalty was in question which defendant he was to be loyal to. Had applicant chosen to go to trial counsel would have had to pit one defendant against the other. Argument IV

Applicant argues that he was not given the effective assistance of counsel by (James A. Cheek of Tanya H. Jones) of the Spartanburg County Public Defender Office. counsel did not consult & communicate with applicant prior to him pleading guilty. therefore counsel did not develop strategies for applicant's defense. counsel did not discuss the evidence against the applicant. Neither did counsel petition the court for funds for a private investigator or expert witnesses. counsel had only spoken with applicant codefendant and no witnesses involved with applicant case. Applicant argues counsel was also ineffective by allowing applicant to plea guilty to an indictment that was not presented to the grand jury of Spartanburg County. the indictment (11-GS-42-436) was of no value being that it was not signed by a grand jury member. also was the indictment stamped true bill or no bill. JAMES A. Cheek directed applicant to waive presentment to grand jury. applicant was indicted in all cases except for one in the something happen to his codefendant & this warranted suspicion for counsel to investigate the grand jury proceedings. subsequently the applicant was sentenced to thirty years in the South Carolina Department of Correction for the waived indictment. Applicant was not made aware by counsel that the indictment was questionable. Applicant had been made aware by counsel that indictment was questionable but he signed the sentencing sheet & plead guilty for all his charges. Applicant argues that prior to the plea proceeding did counsel consult with applicant or make sure applicant

2012 JUL 15 PM 10:25
M. ROPEBLACKLEY
CLERK OF COURT
FILED
CLERK OF COURT

understand the ramifications of the plea proceeding applicant was sentence to fourty years •
 applicant not knowing or understanding the ramification of the plea agreement applicant was
 not able to make an intelligent decision

conclusion

~~WHEREFORE~~ applicant prays that Post conviction relief is granted on the charges and
 sentence be vacated with prejudice •

I Chadwick D Anderson the Pca Se applicant hereby Affirm under
 Penalty of perjury 28 USC § 1746 & 18 USC § 1621 that everything in this Amended P.C.R. Application
 is true & correct •

7/11/2012 s.c.
 dated

x Chadwick Anderson
 Chadwick D Anderson
 #0991 02020 P.R.7
 430 Oaklawn Rd
 Pelzer SC 29664

Sworn to before me this

11 th day of July, 2012

Dennis M. Blackley (s)

my commission expires 7/2016

FILED
 CLERK OF COURT
 HANCOCK COUNTY
 2012 JUL 16 AM 10:25
 M. HOPE BLACKLEY

Spartanburg Co./Clerk

P.O. box 2189

Spartanburg Sc. 29304-9483

Re: Amended PCR Application

MB. Blackley)

Enclosed For you Filing is A Notice of motion - and motion for
leave of court to Amend; Summons, and Amended PCR Application.

Please Return to me a Stamp/Failed copy of same, and place the case Number on it

Thank You

7/11/2012 sc.
dated

x Chadwick Anderson
Chadwick D Anderson
346881 and 223
430 oaklawn rd
Pelzer S.C. 29669

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 JUL 16 AM 10:25
M. HOPE BLACKLEY

JM

State of South Carolina
 County of ~~Spartanburg~~
 Applicant

Court of Common Pleas

C/A ~~202-CR-92-2096~~

Notice of motion - and - motion
 For leave of court to Amend

V.

State of South Carolina
 Respondent

Applicant Chadwick D. Anderson moving PCE as pursuant to Rule 15, SCRPC,
 hereby moves this court for leave to Amend and state as follows:

Under Rule governing that leave to Amend pleadings shall be freely
 given when justice so requires and does not prejudice any other party,
 prejudice in question lack of notice that new issue is going to be
 tried and lack of opportunity to Refute it. (See Rule 15 (A) SCRPC).
 (Also see Shah v. Richland Memorial Hosp. 564 S.E2d 681 (S.C. App 2002).

2) WHEREFORE, Applicant prays leave is granted.

7/11/2012 sc.
 dated

Chadwick Anderson
 Chadwick D. Anderson
 430 Oaklawn Rd
 Pelzer, S.C. 29669

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 2012 JUL 16 AM 10:25
 M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	
Chadwick Deon Anderson, #346881,	)	2012-CP-42-2096
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

The Respondent, making its Return to the application for post conviction relief (PCR) filed May 17, 2012, and amended application filed July 20, 2012, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted at the June 2011 term of the Spartanburg County Grand Jury for five (5) counts of armed robbery (11-GS-42-3055, -3057, -3059, -3061, and 3063), two counts of accessory after the fact of armed robbery (11-GS-42-3066, -3067), and accessory before the act of felony (11-GS-42-3064)¹. The Applicant also waived presentment to an additional count of armed robbery (11-GS-42-4356). He was represented by James Cheek, Esquire. On July 15th, 2011, the Applicant pled guilty to all charges as indicted, with the exception of one count of armed robbery (11-GS-42-4356), to which he pled no contest. He was sentenced by the Honorable Roger L. Couch to confinement for concurrent terms of thirty (30) years for five (5) counts of armed robbery, concurrent terms of fifteen (15) years for each count of accessory after the fact of armed robbery, and a consecutive term of ten (10) years

¹ This charge was nolle prossed in accordance with Applicant's agreement to plead guilty.

for the remaining armed robbery charge (11-GS-42-3055). The Applicant did not appeal his guilty plea or sentence.

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

II.

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

1. Ineffective assistance of counsel, in that;
 - a. Counsel failed to conduct an adequate pretrial investigation by not spending adequate time with Applicant before plea hearing, and by failing to interview potential witnesses, or make a motion to request funding for investigator or expert witness.
 - b. Counsel failed to provide Applicant with discovery pursuant to Brady v. Maryland in advance of plea hearing or sentencing.
 - c. Counsel failed to resolve a conflict of interest created by Counsel's representation of Applicant and his co-defendant where the co-defendant made statements adverse to Applicant.
 - d. Counsel failed to inform Applicant that indictment (11-GS-42-4356) was invalid because it was not true billed.
 - e. Counsel failed to make Applicant aware of ramifications of plea agreement.
2. Involuntary guilty plea, in that;
 - a. Counsel assured Applicant that he would receive no more than ten (10) years for all charges combined and the Applicant relied on this promise in pleading.

III.

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

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he

would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

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

IV.

Respondent submits that Applicant's allegation that plea counsel did not conduct an adequate pre-trial investigation is without merit. The "brevity of time spent in consultation, without more, does not establish that counsel was ineffective." Easter v. Estelle, 609 F.2d 756, 759 (5th Cir. 1980).

To establish counsel was inadequately prepared, an Applicant must present evidence of what counsel could have discovered or what other defenses could have been pursued had counsel been more fully prepared. Jackson v. State, 329 S.C. 345, 495 S.E.2d 768 (1998); Skeen v. State, 325 S.C. 210, 481 S.E.2d 129 (1997) (applicant not entitled to relief where no evidence presented at PCR hearing to show how additional preparation would have had any possible effect on the result at trial).

When claims of ineffective assistance of counsel are based on lack of preparation time, an Applicant challenging his conviction must also show specific prejudice resulting from counsel's alleged lack of time to prepare. United States v. Cronin, 466 U.S. 648, 104 S.Ct. 2039 (1984); United States v. LaRouche, 896 F.2d 815 (4th Cir. 1990).

Here, the Applicant failed to identify any specific matters counsel failed to discover, or any defenses that could have been pursued had counsel been more fully prepared, such that he would have proceeded with a jury trial instead of pleading guilty.

V.

The Applicant further alleges that counsel failed to resolve a conflict of interest. However, the mere possibility of a conflict of interest is insufficient to challenge a criminal conviction. Langford v. State, 310 S.C. 357, 426 S.E.2d 793 (1993). "In order to establish a violation of the Sixth Amendment, a defendant who raised no objection at trial must demonstrate that an actual conflict of interest adversely affected his lawyer's performance." Duncan v. State, 281 S.C. 435, 438, 315 S.E.2d 809 (1984). The Applicant must show that his attorney actually owed duties to a party whose interests were adverse to the Applicant. Id.; Thomas v. State, 346 S.C. 140, 551 S.E.2d 254 (2001). The Respondent submits that the Applicant cannot establish that a conflict of interest existed. However, the allegation of a conflict of interest probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

VI.

The Applicant also claims that one of the indictments for armed robbery was invalid. Respondent submits that this allegation is without merit. "The primary purpose of an indictment is to put the defendant on notice of what he is called upon to answer, by apprising him of the elements of the offense, and to allow him to decide whether to plead guilty or stand trial, and to enable the circuit court to know what judgment to pronounce if the defendant is convicted. S.C. Code Ann. § 17-19-20; State v. Gentry, 363 S.C. 93, 102-03, 610 S.E.2d 494, 500; Evans v. State, 363 S.C. 495, 508, 611 S.E.2d 510, 517 (2005) (noting that all of the surrounding circumstances must be weighed to make an accurate determination of whether the defendant was prejudiced by a lack of notice and an insufficient indictment). An indictment "passes legal muster when it charges the crime substantially in the language of the statute prohibiting the crime or so plainly that the nature of the offense charged

may be easily understood.” S.C. Code Ann. §17-19-20. State v. Reddick, 348 S.C. 631, 635, 560 S.E.2d 441, 443 (Ct. App. 2002); State v. Adams, 354 S.C. 361, 374, 580 S.E.2d 785, 792 (Ct. App. 2004);

Furthermore, a defendant may waive presentment by signing a sentencing sheet that indicates the crime charged. State v. Smalls, 364 S.C. 343, 348, 613 S.E.2d 754, 756 (2005). A defendant who chooses to plead guilty has ample opportunity to be fully notified of the charges to which he is pleading guilty. Id. at 347, 613 S.E.2d at 756. The defendant 1) may check a box on the sentencing sheet to indicate a waiver of presentment of the indictment to the grand jury, 2) may check a box to indicate that he wishes to plead guilty, and 3) may sign the sentencing sheet, indicating that he is informed of the choices and has selected the box corresponding to the action he chose to take in his case. Id. Here, the Applicant checked the appropriate boxes indicating that he made an informed choice to waive presentment on that particular indictment.

Moreover, a defendant must raise challenges to the sufficiency of the indictment before the plea is entered, sentence rendered, and court adjourned. S.C. Code Ann. § 17-19-90; State v. Phillips, 215 S.C. 314, 54 S.E.2d 901 (1949). When determining whether a waiver or amendment of an indictment is necessary, the court should examine the totality of the circumstances to determine if a defendant in a criminal case was cognizant of the crimes for which he was charged. In this case, the Applicant checked the appropriate boxes on the sentencing sheet and signed it. Additionally, Applicant testified at the plea hearing that he waived presentment on that indictment. Further, the five (5) remaining counts of armed robbery against the Applicant were true billed; therefore, Applicant makes no showing that he lacked full information and understanding of the charges against him. Accordingly, Applicant fails to show that the waiver of presentment on the sixth indictment prejudiced him.

VII.

Respondent submits that the Applicant's allegation that his guilty plea was involuntary is without merit. In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Respondent submits that the record fully supports the knowing and voluntary nature of the Applicant's plea and that Applicant has failed to point to any evidence to the contrary. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper v. State, 305 S.E.2d 247.

VIII.

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

IX.

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

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Attorney General

By: *Suzanne White*
ATTORNEYS FOR RESPONDENT

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

March 26, 2013.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

) IN THE COURT OF COMMON PLEAS
) SEVENTH JUDICIAL CIRCUIT

Chadwick Deon Anderson,

2012-CP-42-2096

Applicant,

v.

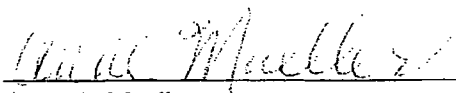
CERTIFICATE OF SERVICE BY MAIL

State of South Carolina,

Respondent.

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

Kenneth P. Shabel, Esquire
Campbell & Shabel, LLC
P.O. Box 1793
Spartanburg, South Carolina 29306



Anne A. Mueller
Legal Assistant for the Respondent

DATED this 26th day of March, 2013.

1 State of South Carolina
2 County of Spartanburg

In the Court of Common Pleas

3
4 Chadwick D. Anderson,

5 Applicant,

6 -vs-

7 State of South Carolina,

8 Respondent.

)
)
) 2012-CP-42-02096

) June 8, 2015

)
)
) Transcript of Record
9

10

11

B E F O R E:

12

The Honorable R. Scott Sprouse, Judge

13

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

15 Suzanne H. White, Esquire
Attorney for the Respondent

16

17 John Brandt Rucker, Esquire
Attorney for Applicant

18

19

20

21

Diane L. Marcengill, RPR, CRR
Circuit Court Reporter

22

23

24

25

I N D E XWitnessesPage

CHAD DEON ANDERSON

Direct Examination By Mr. Rucker

5

Cross-Examination By Ms. White

22

JAMES A. CHEEK

Direct Examination By Ms. White

29

Cross-Examination By Mr. Rucker

42

Reporter's Certificate

54

E x h i b i t s

For the Applicant:

Marked	Description	I.D.	Admitted
1	Medical records	20	21

For the Respondent:

Marked	Description	I.D.	Admitted
	None offered.		

1 (WHEREUPON, court convened with all parties
2 present and the following proceedings were had
3 commencing at approximately 3:32 p.m.)

4 MS. WHITE: Thank you, your Honor. This is the
5 case of Chadwick Deon Anderson versus the State. It's
6 case number 2012-CP-42-2096. Mr. Anderson is
7 represented today by Mr. Brandt Rucker. He filed an
8 application following his indictment in June of 2011
9 for five counts of armed robbery, two counts of
10 accessory after the fact to armed robbery, and one
11 count of accessory before the fact. He also waived
12 presentment at that time to an additional count of
13 armed robbery, represented by Mr. James Cheek. On
14 July 15th, 2011, he pled guilty to all charges as
15 indicted, except for one count of armed robbery. He
16 pled no context.

17 He received sentences, concurrent sentences, of
18 30 years for five of the counts of armed robbery,
19 concurrent terms of 15 for each count of accessory
20 after the fact, and a consecutive term of ten for the
21 remaining armed robbery charge. He did not appeal but
22 has filed this application alleging ineffective
23 assistance of counsel and involuntary guilty plea.
24 Your Honor, specifically alleging that counsel failed
25 to conduct an adequate pretrial investigation, didn't

1 spend enough time with him, failed to interview
2 witnesses or make a motion to request funding for an
3 investigator or expert, failed to provide applicant
4 with his discovery materials, failed to resolve a
5 conflict of interest when counsel represented both
6 applicant and his codefendant, failed to inform the
7 applicant that one of the indictments was invalid
8 because it was not true billed, failed to make him
9 aware of ramifications of the plea agreement, and that
10 he was -- he pled guilty involuntarily based on the
11 assurances that he would receive no more than ten years
12 for all charges combined.

13 At this point I'll turn it over to Mr. Brandt
14 Rucker.

15 MR. RUCKER: Your honor, at this time I call my
16 client, Chad Anderson, to the stand.

17 CHADWICK DEON ANDERSON,

18 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

19 THE CLERK: Please state your full name for the
20 record.

21 THE WITNESS: Chadwick Deon Anderson.

22 THE COURT: Mr. Anderson, have a seat.

23 Mr. Rucker.

24 MR. RUCKER: Thank you, your Honor. May it please
25 the Court.

DIRECT EXAMINATION

1
2 BY MR. RUCKER:

3 Q Chad, make sure you speak up so the court reporter
4 can hear as we're going through our testimony. Okay?

5 You heard the recitation or the sentence that was
6 announced by the attorney general's office. What is
7 your actual sentence that you're serving right now?

8 A The sentence I'm serving is a 40-year sentence.

9 Q Is it true that there were 30 years concurrent and
10 one ten-year consecutive armed robbery?

11 A Yes, sir.

12 Q When did you first get -- when did you first get
13 appointed Mr. Cheek in your case?

14 A I never got appointment Mr. Cheek in my case.

15 Q How did you have Mr. Cheek in your case, then?

16 A I don't -- I got documentation right here that
17 say -- that shows on March 17th I was confined in the
18 Spartanburg County Detention Center without bond on a
19 charge of armed robbery. They appointed me Attorney
20 Jones of the public defender's office.

21 Q We're going to work through the testimony. How
22 did Mr. Cheek get involved in your case?

23 A Mr. Cheek get involved?

24 Q Right.

25 A I don't know how he got involved in my case.

1 Q Did he come to represent you at some point,
2 though?

3 A Yes, sir.

4 Q Did Ms. Jones leave, is that why she no longer was
5 your attorney?

6 A That's what he told me.

7 Q Okay. And so how many times did you meet with
8 Mr. Cheek in preparation for your guilty plea or trial?

9 A 15 minutes before going into the courtroom.

10 Q So that's the only time you met with him?

11 A Uh-huh.

12 Q And you have to say "yes" or "no" so the court
13 reporter can take it down. Okay?

14 A Okay.

15 Q How long have you been in custody or how long
16 since you were arrested did you go and plead guilty?

17 A Three months.

18 Q Okay. And only three months?

19 A Uh-huh.

20 Q All right. Did you intend to plead guilty? Did
21 you and Mr. Cheek talk about pleading guilty, or did
22 y'all talk about trial during those three months?

23 A We didn't talk about anything.

24 Q Okay. So you simply met with him 15 minutes
25 before you went in?

1 A Yes, sir.

2 Q Why did he tell you that you needed to plead
3 guilty?

4 A Because he said that he -- if I went to trial, if
5 I went to trial, I would receive a life sentence. And
6 he assured me Mr. Perry would testify against me. He
7 told me if I didn't plead guilty that day, then I would
8 have to face trial by the following Wednesday. Then he
9 told me that I will get no credit of ten years for all
10 my charges combined if I pled guilty that day.

11 Q Was it your belief that you needed more time to
12 discuss -- well, first of all, did you get discovery,
13 the paperwork, from the solicitor's office?

14 A I didn't receive no paperwork.

15 Q All right. Did you know any of the evidence that
16 was going to be used against you?

17 A No, sir.

18 Q Were you depending on his word that one of your
19 codefendants was going to testify against you?

20 A Yes, sir.

21 Q And what was the name of that codefendant?

22 A Mr. Perry.

23 Q All right. What's Mr. Perry's first name, do you
24 know that?

25 A Xavier.

1 Q Was Xavier Perry also represented by Mr. Cheek?

2 A Yes, sir.

3 Q Did you know at that time that he was represented
4 by him?

5 A No, sir.

6 Q All right. What happened? How did you come to be
7 represented by him and a codefendant be represented by
8 him?

9 A I don't -- I don't -- I don't know how I came to
10 be represented by him, you know, because I got a
11 statement here from Clay Allen, a statement I had wrote
12 him asking -- giving documentation showing that who --
13 paperwork showing that Mr. Cheek -- I mean Tanya Jones
14 removed from my case. It states right here that there
15 is no such documentation which removes Ms. Jones from
16 your case, signed Mr. Cheek. Because the longer my
17 case was pending in Spartanburg County, she was still
18 my attorney.

19 Q What is the date of that letter?

20 A October 23, 2013.

21 Q And when did you plead guilty?

22 A July 15, 2011.

23 Q Okay. Well, in this case you pled in 2011?

24 A Yeah.

25 Q All right. But when is your letter dated?

1 A My letter is October 23rd, 2013.

2 Q All right. So that's a letter you wrote to the
3 public defender's office to see --

4 A Yeah. He wrote me back.

5 Q All right. As far as you knew, when you went into
6 the guilty plea before you met with Mr. Cheek that
7 Ms. Jones was going to be your attorney?

8 A Yes, sir.

9 Q Had you and Ms. Jones talked about your case?

10 A Ms. Jones met with me one time, I believe around
11 May or June, and she said -- she told me that when she
12 came to see me, she says she was not initially there to
13 see me. She was in the area visiting with another
14 client. But because -- but she had wanted to meet with
15 me as a lawyer of respect to my case, and that she
16 hadn't received any documentation or forms in my case
17 at that time. At that meeting I told Ms. Jones, she
18 says was there anything else, you know what I'm saying,
19 that she could do for me at that time. I said I hadn't
20 had a bond, and I wanted a bond. She said, "Okay.
21 I'll get you a bond hearing and you should be at home
22 with your family until you receive the court date."
23 That's the last time I seen or spoke with Ms. Jones.
24 Q So going to court the day of the guilty plea, it
25 was your thought that Ms. Jones was going to be your

1 attorney there?

2 A Yes, sir.

3 Q And y'all were going to get to talk again?

4 A Yes, sir.

5 Q Did Mr. Cheek inform you he had taken over the
6 case?

7 A He had informed me he had taken over the case.

8 Q Did he tell you what -- first of all, you
9 testified earlier that he told you you would get ten
10 years on all this?

11 A Yes, sir.

12 Q What was your prior record at that time?

13 A My prior criminal record?

14 Q Right.

15 A I had a CDV. I have habitual driving offense, and
16 I think that's about it.

17 Q Did he tell you that other codefendants had
18 already pled guilty and gotten ten-year sentences?

19 A Yes, sir.

20 Q Who did he say had already pled guilty?

21 A He said other people that was in there with us,
22 not codefendants to me, though.

23 Q Was Mr. Perry one of those codefendants or did he
24 plead guilty later?

25 A No. We pled guilty together, you know what I'm

1 saying. We were both represented by him.

2 Q Did Mr. Cheek on the record ask the judge to take
3 into account the conflict, and were you asked to waive
4 that conflict?

5 A Say that again.

6 Q Were you -- did Mr. Cheek inform the judge he was
7 representing both of y'all as codefendants, and were
8 you given a chance to withdraw the plea at that time?

9 A Not -- I can't recall.

10 Q Did you know about the conflict of interest rules
11 at that time?

12 A Huh-uh.

13 Q Were you depending on Mr. Cheek's judgment,
14 professionalism to inform you about those issues?

15 A Yes, sir.

16 Q And what you're saying today is he never informed
17 you of that?

18 A Never informed me of none of that.

19 Q All right. Do you think that affected your
20 ability to get fair representation in this case?

21 A Yes, sir.

22 Q All right. Do you think that if you would have
23 gone over discovery with another attorney, you may have
24 gotten better advice based on that?

25 A Yes, sir.

1 Q All right. Do you believe that your guilty plea
2 was voluntary, then?

3 A It wasn't voluntarily entered.

4 Q Why was it not voluntarily entered?

5 A Because he had promised -- he promised me ten
6 years, and I didn't get the ten years, you know what
7 I'm saying. And on top of that, he failed -- he failed
8 to investigate my mental health issues.

9 Q What mental health issues do you have?

10 A Mental health issues? I have a learning
11 disability.

12 Q Okay. Did you inform him of that learning
13 disability?

14 A Yes, sir.

15 Q Did you really have time to go in depth on that
16 issue with him in the 15 minutes before you went to
17 court?

18 A Huh-uh.

19 Q You have to say "yes" or "no" so the court
20 reporter can get it down.

21 A No, sir.

22 Q Was it your belief -- I believe you testified
23 earlier that if you did not plead guilty that day, you
24 were going to trial the following Wednesday; is that
25 right?

1 A Yes, sir.

2 Q Had you at that point reviewed any discovery or
3 gone over anything with him?

4 A I hadn't seen no discovery.

5 Q To your knowledge, had he filed discovery on your
6 behalf?

7 A No, sir.

8 Q Did he talk to you about what Mr. Perry was going
9 to do in his case?

10 A No, sir.

11 Q Why did you not just object at that point or try
12 to get out of the plea to go forward to trial?

13 A I was scared.

14 Q Why were you scared?

15 A I didn't know what to do. I couldn't comprehend
16 what was going on.

17 Q How far did you go in school?

18 A How far did I go in school?

19 Q Right.

20 A Ninth grade.

21 Q Okay. I don't mean to embarrass you, but do you
22 have trouble reading and writing?

23 A Yes, sir.

24 Q Does your learning disability affect that?

25 A Yes, sir.

1 Q Did you understand when you were signing the
2 sentencing sheet that you were being exposed to all
3 this time?

4 A No, sir.

5 Q All right. Were you present in the courtroom when
6 the judge went over your rights?

7 A Yes, sir.

8 Q Did you have trouble understanding that as well?

9 A Yes, sir.

10 Q Did Mr. Cheek ever go over those rights with you
11 before you got into court?

12 A No, sir.

13 Q All right. So the grand total -- your total
14 meeting with him was 15 minutes before court, no other
15 time that you can recall?

16 A No other time that I can recall.

17 Q Are there other issues that you want the judge to
18 be able to address that we haven't gone over?

19 A Yes, sir.

20 Q What is that issue or what are those issues?

21 A The issue would be due to the judge told me I had
22 a right to appeal, appeal my guilty plea at that time,
23 you know what I'm saying, and Mr. Cheek didn't say
24 anything about it. You know, it's impermissible for me
25 to, you know what I'm saying, to preserve

1 constitutional issues by entertaining the guilty plea.

2 Q So you're saying if you would have known of your
3 right to appeal, you would have appealed?

4 A Yeah.

5 Q At least for a reduction in sentence, an attempted
6 reduction in sentence?

7 A Yes, sir.

8 Q All right. In addition, are you familiar with
9 motions to reconsider sentencing?

10 A Now I am.

11 Q All right. To your knowledge -- well, at the time
12 did you know what a motion to reconsider sentence was?

13 A No, sir.

14 Q And so you missed that deadline and the notice of
15 appeal because Mr. Cheek didn't file either of those
16 motions?

17 A Yes, sir.

18 Q Or notice?

19 A Yes, sir.

20 Q All right. Did you meet with him at all after
21 your guilty plea?

22 A No, sir.

23 Q Are there any other problems you have with
24 Mr. Cheek's representation of you?

25 A Mr. Cheek's representation? Yes. For the *Brady*

1 material, you know, like I say, that affected my right
2 to prepare for a defense.

3 Q All right. What *Brady* material? First of all,
4 what is *Brady* material, to your understanding?

5 A *Brady* material?

6 Q Right.

7 A That's the paperwork that the solicitor gives for
8 me that shows all my everything that they have against
9 me.

10 Q All right. So you're calling *Brady* material is
11 your discovery, all the paperwork to show what
12 witnesses are going to testify, all that?

13 A Yeah.

14 Q Did you believe there was favorable evidence out
15 there that you never got to look at?

16 A Yes, sir.

17 Q What is that favorable evidence?

18 A That favorable evidence that shows that, you know
19 what I'm saying, was the videotape that showed that I
20 wasn't the person that robbed the store or --

21 Q Had you gotten a chance to look at the videotape
22 with Mr. Cheek before you entered your guilty plea?

23 A No, sir.

24 Q So it's your testimony y'all went over none of
25 this evidence before you went forward?

1 A None.

2 Q Did you ever ask him why you were having to go to
3 trial so fast?

4 A No, sir.

5 Q Did you ask him to move for a continuance, though,
6 because you thought it was too fast because you hadn't
7 gotten to go over the material with him?

8 A No. I didn't ask because I didn't know at the
9 time. I was scared. I didn't know what was going on.

10 Q Based on your understanding of what happened to
11 you, do you think a continuance was absolutely
12 necessary, a motion for continuance was absolutely
13 necessary in that case?

14 A Yes, sir.

15 Q Do you have any other issues you want to discuss
16 before the judge?

17 A I would like to tell the judge that July 15, 2011,
18 I was under the impression I was going to a bond
19 hearing, you know. But like I say, when I got there, I
20 was placed in the cell with everyone that was going to
21 a bond hearing, you know. Then they called me
22 downstairs. But then when I had to speak with
23 Mr. Cheek, you know, like I say, upon meeting with him,
24 that's when he told me I had to plead guilty. At that
25 time, like I say, I was confused. I didn't know what

1 was going on. I'm still confused.

2 Q Sure. Had you -- you had a criminal record, but
3 had you ever gone through guilty plea hearings like
4 this? Had you gone before a circuit court judge in a
5 guilty plea hearing before?

6 A Huh-uh. Not that I recall.

7 Q Are there any other issues you want to address to
8 the judge?

9 A Any other issues? No. No.

10 MR. RUCKER: No further questions.

11 THE DEFENDANT: I got my records if you would like
12 to see it.

13 MR. RUCKER: Your Honor, I do need to ask a few
14 more questions on that. I apologize.

15 Q Did you ever provide those mental health records
16 to Mr. Cheek to talk to him about your mental health
17 history?

18 A I just received them, you know what I'm saying.

19 Q But nothing in your mental health says that you
20 wouldn't understand what you were doing as far as a
21 criminal act. This is simply because you needed more
22 time to be able to go over what you were looking at as
23 far as a guilty plea and the sentence?

24 A Like I said, my comprehension level is really low.
25 I didn't really comprehend my constitutional rights or

1 the consequences of my guilty plea.

2 Q And what mental health records do you have with
3 you?

4 A I have mental health records from Spartanburg
5 Mental Health, and I have mental health records from
6 Catawba Mental Health Clinic, and I have mental health
7 records from SCDC.

8 Q All right. And what do those records show as far
9 as your mental capacity?

10 A It shows that -- y'all come up if you want to see
11 them.

12 MR. RUCKER: Your Honor, may I approach the
13 witness?

14 THE COURT: Yes, sir.

15 MS. WHITE: Is that all of it?

16 THE DEFENDANT: Yeah. That's all of them I have.

17 BY MR. RUCKER:

18 Q Chad, in reviewing your documents, these are
19 documents you requested and received from the mental
20 health providers; is that right?

21 A Uh-huh. Yes, sir.

22 Q All right. There is an SCDC offender management
23 system including your prescriptions. Are you taking
24 prescriptions or the medication that's indicated on
25 this sheet?

1 A Yes, sir.

2 Q And that would be benztropine and Geodon, I
3 believe; is that right?

4 A Yes, sir.

5 Q What are those for?

6 A I hear voices.

7 Q All right. At the bottom it says in handwriting
8 10/18/12 OX or DX schizophrenia.

9 A Schizophrenia.

10 Q Do you have any formal diagnosis paperwork showing
11 you have schizophrenia?

12 A From before I got incarcerated?

13 Q From any time where a doctor says you have
14 schizophrenia.

15 A SCDC.

16 Q Okay.

17 MR. RUCKER: Your Honor, I'm going to ask -- May I
18 approach the court reporter?

19 THE COURT: Yes, sir.

20 (WHEREUPON, Applicant's Exhibit Number 1 was.
21 marked for identification.)

22 BY MR. RUCKER:

23 Q Chad, I'm going to show you what's been marked
24 Applicant's Exhibit 1. It's three documents. Are
25 those your medical records?

1 A Yes, sir.

2 Q All right. And you don't have access to any
3 medical records going back beyond ten years; is that
4 right?

5 A Huh-uh.

6 Q Make sure you say "yes" or "no" for the court
7 reporter. Okay?

8 A Yes, sir.

9 Q All right. And those are your accurate records
10 showing that you have attention deficit disorder?

11 A Yes, sir.

12 MR. RUCKER: I will ask that Applicant's Number 1
13 be introduced into evidence, three pages.

14 MS. WHITE: No objection.

15 THE COURT: Admitted without objection.

16 (WHEREUPON, Applicant's Exhibit Number 1 was
17 admitted into evidence.)

18 BY MR. RUCKER:

19 Q Specifically, what are the medications that you're
20 taking? What are those for, just to get back to that?

21 A I hear voices, you know what I'm saying, and it
22 helps me sleep.

23 Q Are you under the care of a doctor within SCDC?

24 A Yes, sir.

25 Q What is that doctor's name?

1 A Delane.

2 Q What's her last name?

3 A That's her last name.

4 Q Elaine is her last name?

5 A Delane.

6 Q Do you believe that your mental issues affected
7 your ability to understand in the 15 minutes you met
8 with Mr. Cheek exactly what was happening to you?

9 A Yes, sir.

10 Q And based on that, you believe your plea was
11 involuntary?

12 A Yes, sir.

13 MR. RUCKER: No further questions.

14 MS. WHITE: Thank you, your Honor.

15 CROSS-EXAMINATION

16 BY MS. WHITE:

17 Q Mr. Anderson, you were advised by the Court that
18 you had a right to appeal your sentence within ten days
19 after your conviction; is that right?

20 A Yeah.

21 Q Okay. So you don't dispute the fact that the
22 judge told you you had the right to appeal?

23 A Say that again.

24 Q You don't question the fact -- you agree with me
25 that the judge told you you could appeal your case?

1 A Yeah, he told me I had a right to appeal my case.

2 Q Did you tell Mr. Cheek that you wanted him to file
3 an appeal on your behalf?

4 A Did I tell him? I told him when we left the
5 courtroom.

6 Q So your testimony is after you left the courtroom
7 after your guilty plea, you asked Mr. Cheek to file an
8 appeal on your behalf?

9 A When Mr. Perry left, Mr. Perry asked for one
10 walking out. And I told him, you know what I'm saying,
11 he was in a hurry to leave. I asked him, Mr. Perry, to
12 tell him to do the same for me.

13 Q Okay. But you didn't specifically ask --

14 A Not me specifically.

15 Q Okay. So you told Mr. Perry, but you don't know
16 if Mr. Perry actually asked Mr. Cheek to appeal on your
17 behalf?

18 A He asked him right there.

19 Q So you heard him ask?

20 A Yeah.

21 Q But you didn't have the ability to specifically
22 ask Mr. Cheek?

23 A He told me he was in a hurry to leave, you know
24 what I'm saying. He was in a hurry to leave.

25 Mr. Perry was already talking to him.

1 Q Now, you testified earlier, did you not, that you
2 you had only completed the ninth grade?

3 A Uh-huh.

4 Q Did you not tell the Court when you pled guilty
5 that you had completed the 12th grade and received a
6 GED?

7 A At the time, you know what I'm saying, I thought I
8 completed. That's what they told me in school. When I
9 was in the Rock Hill Boys Home, they told me when I was
10 in school, you know what I'm saying, that I had
11 graduated.

12 Q So at the time you pled guilty, you believed you
13 had completed the 12th grade?

14 A Yeah.

15 Q But you're saying today now that you found out you
16 had only completed the ninth grade?

17 A Yes, ma'am.

18 Q Okay. In regards to Mr. Cheek representing you,
19 the judge went over with you the fact that he
20 represented both you and Mr. Perry. He asked you if
21 were you aware of that, didn't he?

22 A I can't remember.

23 Q Okay. To start off with, the solicitor informed
24 the Court that both you and Mr. Perry were being
25 represented by Mr. Cheek. Would you agree with me that

1 the solicitor told the Court that?

2 A I don't -- I don't remember.

3 Q Okay. If it's in the transcript on page 11, would
4 you agree with me, then, that that's probably what he
5 said?

6 A Yeah.

7 Q Okay. And the judge went over with you the
8 sentences, did he not?

9 A What do you mean?

10 Q The possible sentences that you could receive?

11 A Yeah.

12 Q Okay. And, in fact, the judge said that there was
13 a ten-year minimum, but it went up to 30 years; is that
14 right?

15 A I believe so.

16 Q Okay. And, in fact, he said if he ran all of them
17 consecutive, you faced a potential 210 years in prison,
18 and he asked you if you understood that, and you said
19 you did?

20 A Yeah. Yeah. I mean, I didn't understand at the
21 time. I was so scared to really say I didn't
22 understand.

23 Q Okay. So when the Court asked you on page 20 of
24 the transcript, asked Mr. Perry first and then asked
25 you if you were represented by Mr. Cheek, if you had

1 consulted with him, and if you were satisfied with what
2 he had done and didn't have anything else you wanted
3 him to do on your behalf, you're saying now that that
4 was not true, that you did want him to do some other
5 things?

6 A At that time I was just doing what Mr. Perry was
7 doing.

8 Q Okay.

9 A I didn't understand nothing that was going on.

10 Q And, in fact, that was on the chance to receive a
11 lesser sentence maybe than if you went to trial on all
12 these charges?

13 A Say that again.

14 Q Did you plead guilty in the hope that you would
15 receive a lesser sentence than if you went to trial on
16 all these charges?

17 A Yeah. He told me if I pled guilty that day, I
18 would receive no greater than ten years.

19 Q All right. And your testimony is Mr. Cheek
20 promised you you would only receive ten years on all of
21 these charges?

22 A Yes, ma'am.

23 Q Okay. You and Mr. Perry both pled guilty at the
24 same time and provided statements. You never disputed
25 the fact that you were involved in these robberies

1 except for one that you pled no contest to; is that
2 right?

3 A Yes, ma'am.

4 Q And you tried to explain to the Court and to the
5 victims, I think, the reasons, financial reasons, and
6 reasons maybe that y'all had gotten involved in this?

7 A I was doing what Mr. Cheek told me to do. He said
8 don't be afraid to beg because understand they got you,
9 you know you know what I'm saying. I didn't do -- I
10 got the affidavit right here that Mr. Perry wrote me
11 from whatever institution he's at that states, you know
12 what I'm saying, I didn't have nothing to do with the
13 crime if you would like to see that.

14 Q That's okay.

15 A Mr. Rucker.

16 Q You agreed, though, at the time of the plea that
17 you were pleading guilty because you were guilty, did
18 you not?

19 A No. I didn't know what else to do.

20 Q But you would agree with me you told the Court you
21 were guilty?

22 A Yeah.

23 Q Okay. And you also told the Court that Mr. Cheek
24 had gone over all the things that the Court had
25 discussed with you about the elements of the charge and

1 any defenses, the statutes and other consequences of
2 the plea, and you told the Court that Mr. Cheek had
3 gone over all those things with you and that you were
4 satisfied with that?

5 A Yeah. Like I say, I did. I was following
6 Mr. Perry. I didn't understand what was going on.

7 Q Okay.

8 MS. WHITE: Your Honor, that's all I have at this
9 time.

10 MR. RUCKER: Your Honor, no redirect. I do
11 reserve my right to call him in rebuttal.

12 THE COURT: Yes, sir.

13 Thank you. You can step down.

14 Mr. Rucker, any further witnesses?

15 MR. RUCKER: No, sir.

16 MS. WHITE: Your Honor, the State would call James
17 Cheek.

18 JAMES A. CHEEK,

19 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

20 THE COURT: Please state your name for the record.

21 THE WITNESS: James A. Cheek.

22 THE COURT: Thank you, Mr. Cheek. You can have a
23 seat.

24 Ms. White, your witness.

25 MS. WHITE: Thank you, your Honor.

DIRECT EXAMINATION

1
2 BY MS. WHITE:

3 Q Mr. Cheek, do you recall representing Mr. Anderson
4 at his plea?

5 A I do.

6 Q If you would, explain a little bit about your role
7 in the public defender's office for me.

8 A I'm employed with the Spartanburg County Public
9 Defender's Office in order to assist the other public
10 defenders in bond hearings occasionally, and then at
11 other times in order to -- may I have just a moment,
12 your Honor.

13 Also I help strictly in the coordination and
14 presentation of guilty pleas out of the jail as well as
15 the Department of Corrections for our clients. The
16 cases are not assigned to me for trial purposes.
17 Another attorney will be assigned for trial purposes.
18 And in this case, Mr. Anderson would have had Ms. Tanya
19 Jones as his trial attorney, and Mr. Perry would have
20 another attorney for trial purposes.

21 Q And in regards to you working, how do you
22 generally get the clients that you end up working with
23 on your plea?

24 A Oh, there's several ways. There is posted in each
25 of the pods, areas where the inmates are housed, a list

1 that they can sign on to see me if they're interested
2 in investigating either a bond hearing or a guilty
3 plea, otherwise, my name will not be associated with
4 them. Also they can communicate with their attorneys.
5 There is the inmate request form system, also, where
6 they fill out a form requesting information direct from
7 their attorneys. Many times those are sent by copy to
8 me if there's any mention at all of a plea or an offer
9 made in a case that the attorney wants to have
10 communicated to the clients. Those are the many ways.

11 There is a new system now but I don't think it was
12 in effect when Mr. Anderson and Mr. Perry were in the
13 jail. More of a computerized system now.

14 Q So when he testified that he had no awareness, I
15 guess, that you were handling anything having to do
16 with his case until 15 minutes before the plea, is that
17 a common situation or would that have happened?

18 A That would not have happened, especially in
19 something like this. Mr. Anderson spoke with me about
20 four times prior to the plea at the jail. Mr. Perry
21 did likewise. Especially since there was going to be
22 the issue of a conflict, if there would be any kind of
23 conflict, I discussed that with both of them. I
24 explained to both of them that I thought it was in
25 their best interest, given the situation, that they

1 enter the plea together, that the State was making an
2 offer of concurrent sentencing in the case. At the
3 time Mr. Moore had informed me that he was
4 communicating with the employees of Little Cricket
5 Stores, and they would be present for the plea, but
6 they would not be, to his knowledge, saying anything on
7 the record or speaking towards sentencing. They wanted
8 to be present to see what was going on.

9 I had talked with Mr. Anderson as well as
10 Mr. Perry many times prior to the pleas. I
11 communicated with their families and their friends and
12 community. I had reached out to -- I think it was
13 Mr. Perry's minister over at Messiah Baptist Church and
14 his wife. They were going to be present for the plea.

15 Mr. Jeffrey Jefferson, who worked in the
16 community, had been in prison himself, had a son who
17 had been to prison, and those comments are reflected in
18 the transcript, had met with Mr. Jefferson in order to
19 prep him on coming to court and speaking on behalf of
20 both these young men. He said he knew both of them.

21 Both Mr. Anderson and Mr. Perry had had prior
22 involvement with the system. There had been a previous
23 CDV case that both of their names came up in involving
24 a different victim. But once they were approached by
25 law enforcement, they both gave statements. They were

1 both Mirandized. They gave consistent statements about
2 their involvement in all of this.

3 I worked with Mr. Michael Moore who was the
4 assistant solicitor in the case who would have been
5 trying the case, and we went back and forth about what
6 Mr. Anderson particularly would be pleading to because
7 he denied knowledge of what Mr. Perry was going to do
8 initially at the first robbery. And then there was
9 some question about what he was willing to admit his
10 involvement was on some other robberies. That's how we
11 wound up with the pleas to the accessories as opposed
12 to directly pleading straight out to the armed
13 robberies.

14 An offer had been made at the status for pleas in
15 both the cases. The only offer in the case was
16 concurrent sentencing. Ms. Jones had asked me to
17 communicate with Mr. Anderson after she spoke with him
18 to make sure that he understood that he might want to
19 investigate a negotiated sentence. My involvement was
20 to see if we can work out a negotiated sentence for
21 both of the young men. Neither of them expressed any
22 interest in negotiating a sentence. I explained to
23 both of them I thought they needed an offer, a sentence
24 of at least 18 years up to 20 years in these cases. I
25 did not see them either getting anything less than 18 to

1 20 years, and they would be lucky if they got the
2 20 years. And they both indicated that they would
3 rather go forward with a plea, as they say, an open
4 plea on the concurrent issue alone.

5 Q Okay. So, obviously, based on that testimony, you
6 never promised the applicant he would receive ten
7 years?

8 A Never. There was not any way with that number of
9 armed robberies being involved that I felt a judge
10 would even consider a negotiated sentence of ten years.
11 We're not even talking about a negotiated sentence of
12 ten years, period.

13 Q And in regard to the conflict of interest, were
14 the statements that they gave, were they essentially
15 pointing the finger at either one, were they
16 conflicting?

17 A They were not -- they were not -- they were not
18 conflicting in the sense that they both acknowledged
19 that they were involved. They both -- Mr. Anderson
20 initially tried to point the finger at Mr. Perry and
21 say he didn't understand what was going on, but further
22 on in his conversation with law enforcement, he kept
23 talking himself into more and more knowledge as they
24 interviewed him. So he essentially could have argued
25 again at trial he was an accessory before or an

1 accessory after, but given the hand of one being the
2 hand of all and him having to go into the first store
3 and case the joint and then Mr. Perry went in and
4 actually conducted the physical approach and demand for
5 the money, but he had knowledge of the whole scheme of
6 things from the very beginning all the way to the end
7 in every robbery and he acknowledges participation. He
8 tried to paint himself as just the driver, but he still
9 knew what was going on.

10 Q And this involved six or seven armed robberies all
11 of Little Cricket stores over a short period of time;
12 is that right?

13 A A short period of time, within a month period of
14 time. And one of the stores was robbed twice on
15 Southport Road.

16 Q And going to that point, you mentioned earlier
17 that at the time you were under the impression that
18 Little Cricket employees were going to be there but
19 were not going to speak. That changed at some point
20 because they -- one of the victims ended up speaking,
21 did they not?

22 A Yes. Actually, the victims were employed by the
23 store. They were not people who were actually robbed
24 themselves. One of them was the store manager. The
25 other one was a district manager. And, in fact, the

1 pleas were taken in this very courtroom. And it was
2 very unusual because usually the prosecutor's office is
3 where you're standing now and the victims are seated on
4 the bench behind. The only people in the courtroom at
5 the time of the plea were people directly involved with
6 this plea.

7 In this case the victim sat on the last two pews
8 because they were not going to be involved. They were
9 not going to say anything. I had counseled both
10 Mr. Perry as well as Mr. Anderson -- in fact, I brought
11 them in the room together prior to us coming into the
12 courtroom to make sure they all understood their
13 rights. I generally go over the rights in addition
14 with the clients and individually as I interview them
15 at the jail. When I bring them over I talk to them
16 downstairs at the jail, the holding jail, that morning.
17 Then I bring them up to the jail room. If I'm doing
18 more than one plea, I put them all in a room together
19 and I go over colloquy with them all together to make
20 sure there's no question. I talk about what their
21 rights are, their right to remain silent, all of that,
22 and then I talk to them about their rights to appeal.
23 I tell them they have ten days from the date of
24 sentencing, regardless whether it's a trial or a plea,
25 that they have ten days from the date of sentencing to

1 enter an appeal notice. I tell them don't wait for the
2 ten days, of course, because a lot of paperwork has got
3 to be done and be filed in a timely manner in order to
4 preserve the appeal.

5 So when I talked with them, I explained, both of
6 them together again, I said, Look, the prosecutor is
7 saying there is no opportunity for a negotiated
8 sentence at this point because you waited too late, but
9 would you please give me the authority, both of you --
10 they argued some numbers right now y'all can agree on.
11 Because if that did not go, they're not going to go
12 back and forth. They have people here from Little
13 Cricket stores. I can go talk to the prosecutor one
14 more time and see if they will allow you a negotiated
15 sentence in this case. And both of them said, No,
16 we're not interested in a negotiated sentence for the
17 number of years I was suggesting to them because I felt
18 like if we offered 15, 18, 20 years, that maybe the
19 State might agree to 15 because 15 is half of 30. But
20 they said no, they wanted to plea straight up.

21 They had their families here because I
22 communicated with the families prior to the date of the
23 plea. That's the only way the families would have
24 known they were going to be here.

25 Q And in regards to the appeal, did Mr. Anderson

1 ever ask following the plea that you appeal his
2 conviction or sentence?

3 A He did not. But I have here a copy of the appeal.

4 MS. WHITE: May I approach, your Honor?

5 THE COURT: Yes, ma'am.

6 THE WITNESS: Mr. Perry and he were both facing
7 the same number of years for conviction. I filed an
8 appeal for both of them.

9 BY MS. WHITE:

10 Q And I'm going to ask you to explain for me. This
11 is the notice of appeal for Chadwick Anderson and
12 something called an explanation of appeal. What is the
13 explanation of appeal?

14 A The explanation of appeal is required by the rules
15 in order for me to put down anything I see as potential
16 grounds or appealable issues. And I filed this on July
17 the 25th, 2011. My explanation of appeal pursuant to
18 Rule 203(d)(1)(b) of the South Carolina Appellate Rules
19 of Civil Procedure, I said on the State versus Chadwick
20 Anderson that pursuant to the rules, Chadwick Anderson
21 files his explanation of his appeal of his guilty plea,
22 conviction and sentence in this case. The sentence was
23 imposed by the Honorable Roger L. Couch on July 15,
24 2011. No issues were raised during the guilty plea;
25 however, the client insisted upon an appeal, therefore

1 this appeal was filed pursuant to -- I reference
2 *Weathers vs. State* and *State vs. Thrift*. I filed it on
3 January 21st, 2011. I had not spoken personally with
4 Mr. Anderson, but based upon my conversations with
5 Mr. Perry as well as communications from Mr. Anderson's
6 family, I went ahead and filed the appeal.

7 Q And based on your understanding of the law, when
8 there has been no specific ruling by the judge, is
9 there anything that the Court could overturn on appeal?

10 A No, but I always rely upon the attorneys that are
11 appointed through the indigent defense to handle all of
12 that with the client.

13 Q Okay. Was there ever any concern about his mental
14 health on your behalf?

15 A No. No. No concern because at the time of his
16 interview with our investigator on March the 22nd of
17 2011, he reported that he did have some treatment in
18 the past through Spartanburg Mental Health when he was
19 nine or ten years of age, but everything he described
20 to me when I interviewed him and talked with him was
21 that he had ADHD. Now keep in mind that these two
22 young men as reflected in the transcript were very
23 gifted artists. Mr. Anderson was the writer. He and
24 Mr. Perry were winners of several competitions in the
25 community for their musical renditions, their writings,

1 their skills with getting to the people in the
2 community. And even one of the victims indicated that
3 she was aware of them and that she knew them
4 personally, and that they were the kind of people who
5 could communicate in their writings. The letters that
6 we have from Mr. Anderson all are well written,
7 communicative, and there's no problem at all with any
8 of that. So not having heard until today about any
9 kind of schizophrenia or anything like that, I didn't
10 know anything about that. And his family never
11 reported this to me. Even if he had gone in for
12 attention deficit disorder, I think those kind of
13 things, but he received medication for that, and he
14 could communicate and do well in the community, as well
15 he did.

16 He was in jail before. He was mentioned in a CDV
17 case when Mr. Perry got into a fight with his
18 girlfriend or maybe Mr. Anderson's girlfriend, I don't
19 remember. But it happened at an apartment complex.
20 And I recall the facts of the case was that
21 Mr. Anderson had tried to back over Ms. Hall, who was
22 his girlfriend at the time. So this wasn't the first
23 time I had some kind of communication with
24 Mr. Anderson. I had talked to him previously when he
25 was in jail on a CDV case.

1 Q And do you think that his statements to the Court
2 ultimately resulted in an effect of the sentence
3 because the victim ended up testifying, asking for
4 consecutive, did they not?

5 A Yes, they did. Mr. Perry, I think, made every
6 effort to be cautious as I suggested he be when he go
7 before the Court, that he be remorseful, that he be
8 direct, and that he make it very clear that he was
9 sorry for his actions. And he did that the first time
10 he spoke to the Court.

11 Mr. Anderson, on the other hand, when he got
12 before the court, he went 180 degrees different from
13 what I had suggested to him. I can't tell the client
14 what to say to the Court, but I suggested remorse and
15 humility. Mr. Anderson got before the Court, and it
16 was though he was performing at a rap concert. He went
17 on and on and on. He indicated even one time, to use a
18 phrase from the '60s, that he, by any means necessary,
19 he was going to take care of his family. And he went
20 on and on about how the society beats down certain
21 people and that kind of thing. And I just stood there
22 and I tried to get his attention. The more I tried to
23 get his attention, the more I tried to shut him up, the
24 worse he got.

25 At that point in time there was a rustling in the

1 back of the courtroom, and the women from the Little
2 Cricket stores got the attention of Mr. Morin, and they
3 indicated at that time they wanted to speak. And speak
4 they did. They spoke to the judge. The young lady,
5 young African-American woman who was the store manager,
6 was very concerned. She spoke after the district
7 manager spoke. The district manager's comments were
8 not as harmful as they could have been. She just asked
9 for, I believe, a maximum sentence. And, of course,
10 the maximum sentence would have been 180-some-odd
11 years.

12 The other young lady came forward, and she spoke
13 and said some glowing things about both of these
14 individuals, about their abilities. But she then said
15 what she said, and after that the Court inquired of the
16 district manager if she had anything that she wanted to
17 say, and at that time she disagreed with the other
18 young lady. She said not just the maximum sentence,
19 consecutive. Not just the max on one charge but
20 consecutive sentencing, and the judge imposed
21 consecutive ten-year sentences to follow a 30-year
22 concurrent sentence on the other charge.

23 Q Thank you, Mr. Cheek.

24 MS. WHITE: That's all I have.

25 THE COURT: Mr. Rucker.

1 MR. RUCKER: May it please the Court.

2 CROSS-EXAMINATION

3 BY MR. RUCKER:

4 Q Mr. Cheek, I don't understand the first part of
5 it. At the time, your job with the public defender's
6 office was to basically go down to the jail, and if
7 people wanted to plead guilty, you would work them
8 through that process? And I may have misunderstood
9 what you said.

10 A No, sir. Not basically go down to the jail if
11 people want to plead guilty. If they communicate with
12 their attorney and they indicate that, or if there is
13 an offer made by the prosecutor's office. As you're
14 aware, if the prosecutor's office makes an offer in the
15 case, we try to communicate to our client as soon as
16 possible.

17 In fact, the reason I have this employment is
18 because many, many years ago, prior to my being
19 employed there, there were a number of offers for pleas
20 made in cases, opportunities for clients to get some
21 benefit from the attention of their attorney early on
22 in the case, and those communications were sometimes
23 not made in a timely fashion. A lot of offers went off
24 the table. So that's why I was employed, in order to
25 try to assist the public defender's attorneys because

1 the caseload that they have is, many times, difficult
2 for them to be preparing for trial session after
3 session after session, term after term after term and
4 still get to the jail to see the clients as often as
5 the clients would like to see them.

6 So once the prosecutor's office in this particular
7 case suggested to Ms. Jones and the other attorney in
8 the case that he would at least consider concurrent
9 sentencing, then the only thing left then was to
10 communicate that back to the client. And since
11 Mr. Anderson got Ms. Jones' attention at the jail, she
12 made certain that I go over there and let them know
13 about this particular offer of concurrent sentencing.

14 Q So your job was to be an attorney to go over the
15 pleas, the offers, with the clients in the jail?

16 A Yes.

17 Q So that the other public defenders can focus more
18 on their trial work or other cases that did not have
19 offers?

20 A Correct.

21 Q So, in effect, in this case Mr. Anderson had both
22 Ms. Jones and you as an attorney? I mean Ms. Jones had
23 represented him at some point?

24 A No. Ms. Jones still had the responsibility of
25 representing him and preparing for trial, had he

1 decided to go trial.

2 Q But once he got to you, the idea was you were
3 working towards a plea, so you handled that portion of
4 representation, the plea portion?

5 A I did.

6 Q All right. If he changes his mind, does he then
7 go back to Ms. Jones?

8 A Back to Ms. Jones.

9 Q How did the conflict -- I'm sure you have had this
10 situation before. Did you explain the conflict issue
11 that there could be -- I mean, you're saying Mr. Perry
12 was pointing at Mr. Anderson, or at least Mr. Anderson
13 was pointing at Mr. Perry. Did you discuss that part
14 of the case with him, with Mr. Anderson?

15 A With both defendants.

16 Q Did you have access to the full discovery file?

17 A Yes, I did. In fact, I had Mr. Morin's file when
18 I went to see Mr. Anderson and Mr. Perry. I actually
19 took the solicitor's file itself because it's easier
20 for me to procure their file than it is for me to get
21 to my car, go to the solicitor's office, talk to the
22 solicitor, get back in my car, go to our office in
23 order to make sure I have complete discovery. I just
24 tell them, "Look, give me your file. I'm not going to
25 steal anything out of your file. You can trust me with

1 your file. I'll bring your file back." And that's
2 what I routinely do.

3 Q All right. Did you go over any potential trial
4 defenses then with my client or just simply looking
5 towards the plea?

6 A Well, the trial defense would have been something
7 that would have been handled at pretrial motions. And
8 I talked with him about his understanding of the
9 administering of the Miranda warnings, his
10 understanding of his rights at that time, his mental
11 status at that time, whether or not he was
12 overemotional, had he been promised anything that
13 encouraged him to give a statement and all of that.

14 In fact, in this case, Mr. Anderson gave his
15 statement prior to Mr. Perry giving his statement.
16 Mr. Anderson placed Mr. Perry inside of the stores, and
17 he presented himself as someone who was just the
18 driver.

19 Q Do you recall from -- and I know -- I mean, is it
20 fair to say that you had roughly during that time
21 period, March to July of 2011, 268 clients, 300
22 clients; is that fair?

23 A Did I have that many clients?

24 Q Actual clients that went forward with a plea, not
25 total clients.

1 A Probably. But when you break it down, in that
2 period of time, considering I work seven days a week,
3 12 hours a day, sometimes 15 hours a day, I would say
4 that's probably a good calculation.

5 Q Okay. Do you recall from this case if there were
6 some I.D. issues in addition to the Miranda, potential
7 confession issues? I mean on these armed robberies.
8 So did you go over the identification issues regarding
9 my client allegedly having committed these?

10 A Well, I do recall in one of the cases there would
11 have been an I.D. issue with Mr. Anderson. That would
12 have been the one case. And it may have been the
13 second robbery at the Southport location. I think
14 there was someone at the car wash next door to that
15 location, and Mr. Anderson was alleged to have waited
16 outside the store while the robbery was being conducted
17 by Mr. Perry. I think there was one person who said
18 that Mr. Perry went inside the store. The guy thought
19 it was odd. He saw a car parked there at the car wash
20 not using the facility at the car wash, and that Mr. --
21 I think he I.D.'d or gave some kind of statement that
22 probably would have I.D.'d Mr. Anderson, but I don't
23 know how much an I.D. issue that would be when a person
24 has given a confession and placed themselves at these
25 scenes. And Mr. Anderson did just that when the

1 officers interviewed him.

2 Q Well, what I'm getting at is why did Mr. Anderson
3 confess in the first place? What evidence was shown to
4 him that they had against him?

5 A Mr. Perry beat his girlfriend, and she went
6 directly to -- I shouldn't say directly. Sorry. I
7 shouldn't say that because I don't know what prompted
8 her. But at some point she had contact with the victim
9 advocate for the city of Spartanburg where the case
10 would have been tried. And in talking with
11 Ms. McCullough, Sonya McCullough, the victim advocate,
12 she then gave information that she was aware of the
13 robberies, a number of robberies that her boyfriend and
14 that a young man that he relates to and calls his
15 brother. They're not really -- as she told the police,
16 they're not really biologically brothers. And I think
17 based on that information, law enforcement secured a
18 search warrant for Xavier Perry's home. And in line
19 with that, they then located Mr. Anderson. Because at
20 some point, it's my belief that a phone call was
21 probably made to Mr. Perry's mother from one or the
22 other of them because his mother attempted to -- could
23 have been perceived to have attempting to hide the gun
24 that was involved in this. But once the police went
25 there, they interviewed Mr. Perry's mother, and then

1 they interviewed Mr. Perry's either little brother or
2 cousin or some juvenile that was there, and the
3 juvenile revealed the location of the BB gun that was
4 used in the robberies. And they also located the
5 masks, the other items of clothing that were consistent
6 with what was shown on the videos.

7 Q All right. Did you explain to both Mr. Perry,
8 and, I mean, if they're identifying each other,
9 confessing against each other, did you explain to them
10 that if they went to trial, they would have separate
11 attorneys at that point?

12 A Oh, yes, sir. They know that. Mr. Anderson knew
13 who his attorney was, and she was never removed from
14 his case. He spoke with her at the jail, as he
15 testified earlier. She told him that she was there to
16 see someone else, but she would get back to him. And
17 her getting back with him was James Cheek.

18 Q Did you analyze this case separately from
19 Ms. Jones or do you depend on her notes or her
20 information she gave to you about the confession issue,
21 the identification? I know you've said you had
22 Mr. Morin's file. I'm asking did you rely on Ms. Jones
23 in any way in making your determination in talking to
24 them about the police? I can rephrase, if necessary.

25 A I'm going to have to actually ask you to do that

1 because if you can break it down a little bit for me,
2 I'd appreciate it.

3 Q Sure. Were you relying on Ms. Jones' professional
4 opinion of the case based on her view of the evidence,
5 or did you independently review the evidence with my
6 client?

7 A I independently reviewed the evidence with
8 Mr. Anderson as well as with Mr. Perry.

9 Q Okay. And based on your testimony, it's your
10 belief that there could have been a lesser sentence if
11 he wouldn't have gone on and on during his allocution
12 or his statement?

13 A That, and although Mr. Morin has said that he
14 would not entertain a negotiated offer, I felt that,
15 once I saw those victims in the hallway and I saw that
16 young woman from the store, store manager, that if
17 Mr. Morin had allowed me to have a conversation with
18 them and give them just an absolute negotiated sentence
19 without them having to remain here or whatever, I
20 thought I would have that opportunity. But when you
21 read Mr. -- I cannot describe to you the emotion in the
22 courtroom, and to the point of the statement that was
23 said by the store manager as well as the -- they just
24 responded directly primarily to what Mr. Anderson said.

25 Now, Mr. Jeffrey Jefferson, who was a friend of

1 theirs, spoke, had some concerns. But what he said, I
2 don't think it prompted the rustling that happened in
3 the back of that courtroom once Mr. Anderson started
4 talking. It went downhill from there.

5 Q Was it your belief when you went into the
6 courtroom that the offer was for concurrent sentences
7 on all this?

8 A It was.

9 Q Okay. And did the offer actually -- Mr. Morin's
10 offer come directly to you or Ms. Jones?

11 A It went to -- it went first to Ms. Jones, and then
12 I had a conversation with him a couple days before I
13 actually went back to the jail. These gentlemen signed
14 their sentencing sheets at the jail. I wasn't even
15 going to bring them over until they already signed
16 their sentencing sheets because there is too much to be
17 done in 15 minutes. That just never happened.

18 Q All right. So when they entered the courtroom, it
19 was their belief that they were going to get a
20 recommendation of concurrent sentences on these cases?

21 A Yes, sir. And they were explained that a
22 recommendation is a recommendation, that the judge
23 would consider it, but he's not required to go with it,
24 which is why I talk with them about the recommendation
25 and a negotiated sentence. And I encouraged both of

1 them to authorize me with a specific number that they
2 feel that they could convey to the solicitor's office
3 even as late as that morning for a negotiated sentence.

4 Q It was conveyed to the judge there was a
5 recommendation; is that right?

6 A Correct.

7 Q Is it reasonable, in your view with your
8 experience, for younger, maybe mentally -- not
9 deficient, but learning problems, is it understandable
10 to misunderstand recommendation versus negotiated as
11 far as when it's announced to a judge?

12 You know my client, Mr. Anderson. You met with
13 him, you testified, at least four times, and you
14 testified that he had some artistic ability or some
15 music ability as far as writing; is that right?

16 A Correct.

17 Q Did you know that he had some educational
18 problems, including the ADHD?

19 A I knew he had gone to see mental health when he
20 was ten, nine or ten years old. And from what he told
21 me, what he described was ADHD, attention deficit
22 disorder. But he certainly went a long way to overcome
23 that with developing the kind of skills that helps a
24 person to do that.

25 You know, the more you use the mind and the more

1 you become fluent in developing certain skills,
2 particularly those kind of skills that are used in
3 music and used in communicating and also engaging in
4 the use of a cavalier and development of a cavalier,
5 when you read the comments that he made that day, it
6 also indicates he had some knowledge of history. He
7 certainly did some reading or had some exposure to
8 people like Malcolm X and those people, because when
9 you use a comment like, "By any means necessary," you
10 know something about what's going on in society. He
11 also had been previously involved in a CDV case and he
12 fully comprehended and understood what was going on
13 then when he went to court. So it was not his first
14 time having been informed of his rights as well as the
15 difference between having an offer for sentencing, not
16 having an offer for sentencing, having a recommendation
17 made in a case as opposed to a negotiation. And he
18 certainly understood when I went back to him and
19 explained the difference between a negotiation and
20 recommendation because he summarily dismissed that
21 opportunity.

22 MR. RUCKER: All right. No further questions.

23 MS. WHITE: Nothing further from the State, your
24 Honor.

25 THE COURT: Any reply?

1 MR. RUCKER: Your Honor, one second, please.

2 THE COURT: Thank you, Mr. Cheek.

3 THE WITNESS: Thank you, your Honor.

4 MR. RUCKER: Your Honor, I'm not calling him
5 again.

6 THE COURT: I have reviewed the transcript of the
7 guilty plea. I have reviewed the applicant's
8 application and return from the solicitor or from the
9 attorney general, sentencing sheet -- sentencing
10 sheets, the multiple sentencing sheets, I find the
11 defendant has failed to meet his burden showing
12 ineffective assistance of counsel, therefore deny his
13 application. If the attorney general could prepare me
14 an order within 30 days.

15 MS. WHITE: Certainly, your Honor. Thank you.

16 (WHEREUPON, the hearing ended at 4:36 p.m.)

17 ***END OF REQUESTED TRANSCRIPT OF RECORD***
18
19
20
21
22
23
24
25

1 Certificate of Reporter
2

3 I, Diane L. Marcengill, Official Court Reporter
4 for the Tenth Judicial Circuit of the State of South
5 Carolina, do hereby certify that the foregoing is a
6 true, accurate, and complete transcript of record of a
7 portion of the proceedings had and evidence introduced
8 in the trial of the captioned case, relative to appeal,
9 in the Circuit Court for Spartanburg County, South
10 Carolina, on the 8th day of June 2015.

11 This transcript may contain quoted material. Such
12 material is reproduced as read by the speaker.

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

15 December 29, 2015

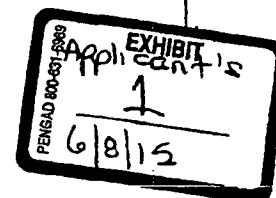
16
17 
18 Diane L. Marcengill, RPR, CRR
19 Circuit Court Reporter
20
21
22
23
24
25

Patient Info			
CID: 9725226	FAC: 3C	OFC: 122	LOC: 110 CC: 3CB30
Name: CHADWICK ANDERSON		Admission Date: 11/16/2000 Discharge Date: 11/07/2001	
Maiden:	Alias:		
Resident Address:	Mailing Address:		
ROCK HILL, SC 29730		ROCK HILL, SC 29730	
Home Phone:	Work Phone: 000-000-0003	SSN:	
Cell Phone:	Other Phone:		
County (Res): SPARTANBURG	(Adm): SPARTANBURG	EDC: GRADE 9	
Date of Birth:	Age: 26	Sex: Male	Race: BLACK/AFRICAN AMERICAN
How well does client speak english: VERY WELL		Language Preference: ENGLISH	
Marital Status: Never Married	Children in family: 1	Family Size: 1	
Employment Type: Part Time	Annual Income: 0.00		
Next of kin: THE BOYS HOME	Address:	Home Phone:	
Other Contact: X	ROCK HILL, SC 29730	Work Phone:	
School:		Cell Phone:	

*Records
Older than
10 years
destroyed*

Clinical Info			
Last Psych Svc: 3C	Date: 11/17/1998	For: Outpatient	
Referral:	UPIN#:	Problem(s): PSYCHIATRIC	
Referring MD:			
Living Arrangement:			
Household: LIVES WITH FAMILY/RELATIVES			
Admission Type: VOLUNTARY	Date: 11/16/2000		
Spec Popn: NONE	Program: OUTPATIENT	Family Case:	
Legacy Spec Popn: OTHER			
GAF Code: 50	GAF Date: 11/20/2000		
Employment Status: STUDENT UNDER 18 YEARS OLD	Employment Level: NOT EMPLOYED		
Employed Date:	Termination Date:	Wages: \$0.00	
Job Classification:	Doctor Assigned: ()		
Case Manager: HAROLD WILSON	Intake Staff: TIM NEWTON		
DSM-IV Psych Diagnoses:	Handicaps:	Vision:	Hearing: N
314.9-ATTENTION-DEFICIT/HYPERACTIVITY DISORDER NOS	Speech:	Ambulatory:	
Limited Contact: N	Chart Loc: SPARTANBURG MAIN CENTER	Printed: 12/17/2013	By Staff: ttp99

Financial Info			
Financial Review Date: 02/04/2004			
HMO:	Eff Dates:	Thru	Limits: Updated By:
Medicare: Name:			
MDCR #:	Effective Dates:	Thru	
ABNS Date:	ABNS Expire:	ABNS Option:	
Medicaid: Name: CHADWICK ANDERSON			
MDCD #: PMADU5503	Effective Dates: 05/01/1997	Thru 05/05/2003	
Tricare: Sponsor:			
CHMP #:	Effective Dates:	Thru	
Private Insurance:	Effective Dates:	Thru	



Patient Info	
CID: 9725226	FAC: 3C OFC: 122 LOC: 110 CC: 3CBAE
Name: CHADWICK ANDERSON	
Maiden:	Admission Date: 02/12/1998 Discharge Date: 11/17/1998
Resident Address:	Alias: Mailing Address:
ROCK HILL, SC 29730	
Home Phone:	Work Phone: 000-000-0003 SSN:
Cell Phone:	Other Phone:
County (Res): SPARTANBURG	(Adm): SPARTANBURG EDC: GRADE 9
Date of Birth:	Age: 26 Sex: Male Race: BLACK/AFRICAN AMERICAN
How well does client speak english: VERY WELL	Language Preference: ENGLISH
Marital Status: Never Married	Children in family: 1 Family Size: 1
Employment Type: Part Time	Annual Income: 0.00
Next of kin: THE BOYS HOME	Address: Home Phone:
Other Contact: X	Work Phone:
	Call Phone:
School:	

Records
older than
10 years
destroyed

Clinical Info	
Last Psych Svc:	Date: For: Outpatient
Referral: SCHOOL/SPECIAL CLASS	Problem(s): PSYCHIATRIC
Referring MD:	UPIN#:
Living Arrangement:	
Household: LIVES WITH FAMILY/RELATIVES	
Admission Type: VOLUNTARY	Date: 02/12/1998
Spec Popn: NONE	Program: OUTPATIENT Family Case: N
Legacy Spec Popn: NONE	
GAF Code:	GAF Date:
Employment Status: UNEMPLOYED, ADULT	Employment Level: NOT EMPLOYED
Employed Date:	Termination Date: Wages: \$0.00
Job Classification:	Doctor Assigned: WILLIAM POWELL (0027)
Case Manager: CELESTA FRUM	Intake Staff: CELESTA FRUM
DSM-IV Psych Diagnoses:	
314.9-ATTENTION-DEFICIT/HYPERACTIVITY DISORDER NOS	Handicaps: Vision: Hearing: N
	Speech: Ambulatory:
Limited Contact: N	Chart Loc: SPARTANBURG MAIN CENTER
	Printed: 12/17/2013 By Staff: ttp99

Financial Info	
Financial Review Date: 02/04/2004	
HMO:	Eff Dates: Thru Limits: Updated By:
Medicare: Name:	
MDCR #:	Effective Dates: Thru
ABNS Date:	ABNS Option:
Medicaid: Name: CHADWICK ANDERSON	
MDCD #: PMADU5503	Effective Dates: 06/01/1997 Thru 05/05/2003
Tricare: Sponsor:	
CHMP #:	Effective Dates: Thru
Private Insurance:	Effective Dates: Thru

Patient Info			
CID: 9725226	FAC: 3C	OFC: 122	LOC: 110 CC:
Name: CHADWICK ANDERSON		Admission Date: 03/14/1997 Discharge Date: 06/12/1997	
Maiden:	Alias:		
Resident Address:	Mailing Address:		
ROCK HILL, SC 29730		ROCK HILL, SC 29730	
Home Phone:	Work Phone: 000-000-0003	SSN:	
Cell Phone:	Other Phone:		
County (Res): SPARTANBURG	(Adm): SPARTANBURG	EDC: GRADE 9	
Date of Birth:	Age: 26	Sex: Male	Race: BLACK/AFRICAN AMERICAN
How well does client speak english: VERY WELL		Language Preference: ENGLISH	
Marital Status: Never Married	Children in family: 1	Family Size: 1	
Employment Type: Part Time	Annual Income: 0.00		
Next of kin: THE BOYS HOME	Address:	Home Phone:	
Other Contact: X	ROCK HILL, SC 29730	Work Phone:	
		Cell Phone:	
School:			

*Records
older than
10 years
destroyed*

Clinical Info			
Last Psych Svc:	Date:	For: Outpatient	
Referral: SCHOOL/SPECIAL CLASS	Problem(s): PSYCHIATRIC		
Referring MD:	UPIN#:		
Living Arrangement:			
Household: LIVES WITH FAMILY/RELATIVES			
Admission Type: VOLUNTARY	Date: 03/14/1997		
Spec Popn: NONE	Program: OUTPATIENT	Family Case: Y	
Legacy Spec Popn: EMOTIONALLY DISTURBED			
GAF Code:	GAF Date:		
Employment Status:	Employment Level: NOT APPLICABLE OR UNKNOWN		
Employed Date:	Termination Date:	Wages: \$0.00	
Job Classification:	Doctor Assigned: WILLIAM POWELL (0027)		
Case Manager: JAMES SCOGGIN	Intake Staff: JAMES SCOGGIN		
DSM-IV Psych Diagnoses:	Handicaps:	Vision:	Hearing: N
315.8-LEARNING DISORDER NOS		Speech:	Ambulatory:
Limited Contact: N	Chart Loc: SPARTANBURG MAIN CENTER	Printed: 12/17/2013	By Staff: .mp89

Financial Info			
----- Financial Review Date: 02/04/2004 -----			
HMO:	Eff Dates:	Thru	Limits: Updated By:
Medicare: Name:	Effective Dates:	Thru	
MDCR #:	ABNS Expire:	ABNS Option:	
ABNS Date:			
Medicaid: Name: CHADWICK ANDERSON			
MDCD #: PMADU5503	Effective Dates: 06/01/1997	Thru 05/05/2003	
Tricare: Sponsor:	Effective Dates:	Thru	
CHMP #:			
Private Insurance:	Effective Dates:	Thru	

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Chadwick Deon Anderson, #346881

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

2012-CP-42-2096

ORDER OF DISMISSAL

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on May 17, 2012. Respondent made its return on March 26, 2013. An evidentiary hearing into the matter was convened on July 8, 2015, at the Spartanburg County Courthouse. Applicant was present at the hearing and was represented by J. Brandt Rucker, Esquire. Respondent was represented by Assistant Attorney General Suzanne White of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

The records before this Court indicate that Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted at the June 2011 term of the Spartanburg County Grand Jury for five (5) counts of armed robbery (11-GS-42-3055, -3057, -3059, -3061, and -3063), two counts of accessory after the fact of armed robbery (11-GS-42-3066, -3067), and accessory before the act of felony (11-GS-42-3064)¹. The Applicant also waived presentment to additional count of armed robbery (11-GS-42-4356). He was represented by James Cheek, Esquire. On July 15, 2011, the Applicant pled guilty to all charges as indicted, with the exception

¹ This charge was nolle prossed in accordance with Applicant's agreement to plead guilty.

SCANNED

RLS

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2015 JUL 6 - 6 AM 9:41
JAMES CHEEK
CLERK OF COURT

of one count of armed robbery (11-GS-42-4356), to which he pled no contest. He was sentenced by the Honorable Roger L. Couch to confinement for concurrent terms of thirty (30) years for five (5) counts of armed robbery, concurrent terms of fifteen (15) years for each count of accessory after the fact of armed robbery, and a consecutive term of ten (10) years for the remaining armed robbery charge (11-GS-42-3055).

Applicant filed a timely notice of appeal. The South Carolina Court of Appeals dismissed the appeal for failure to show any issue that was raised to or ruled upon by the circuit court judge on October 21, 2011. The remittitur was returned to the circuit court on November 11, 2011.

ALLEGATIONS

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

1. Ineffective assistance of counsel, in that;
 - a. Counsel failed to conduct an adequate pretrial investigation by not spending adequate time with Applicant before plea hearing, and by failing to interview potential witnesses, or make a motion to request funding for investigator or expert witness.
 - b. Counsel failed to provide Applicant with discovery pursuant to Brady v. Maryland in advance of plea hearing or sentencing.
 - c. Counsel failed to resolve a conflict of interest created by Counsel's representation of Applicant and his co-defendant where the co-defendant made statements adverse to Applicant.
 - d. Counsel failed to inform Applicant that indictment (11-GS-42-4356) was invalid because it was not true billed.
 - e. Counsel failed to make Applicant aware of ramifications of plea agreement.
2. Involuntary guilty plea, in that;
 - a. Counsel assured Applicant that he would receive no more than ten (10) years for all charges combined and the Applicant relied on this promise in pleading.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2015 AUG -6 AM 9:40
M. HOFF BLACKLEY

1255

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf. The State presented testimony from James Cheek, Esquire. (hereinafter "Plea Counsel"). This Court also had before it a copy of the plea transcript, the Spartanburg County Clerk of Court records, Applicant's South Carolina Department of Correction records, the PCR application, and return.

Applicant testified that he was indicted for armed robbery and accessory after the fact for armed robbery. Applicant claimed that he received ineffective assistance of counsel when counsel failed to investigate. Specifically, Applicant stated Plea Counsel failed to interview witnesses, failed to get an expert, and failed to provide him with a copy of his discovery. Applicant stated that he did not see any favorable evidence including a videotape. However, Applicant recalled telling the plea court that he was satisfied with counsel's services.

Applicant claimed Plea Counsel failed to investigate his mental health history. Specifically, Applicant referenced and introduced as exhibit #1 his health records showing he had A.D.D. The records revealed that Applicant had a low ability to comprehend. Applicant claimed that he was prescribed medication because he was hearing voices. The Applicant further claimed Plea Counsel labored under a conflict of interest because his co-defendant, Xavier Perry, was represented Plea Counsel. Applicant stated Co-Defendant Perry pled guilty at the same time. Applicant recalled the plea court going over Plea Counsel's dual representation. Applicant claimed that he was unaware of the conflict of interest rules prior to and during his plea. Applicant claimed the Plea Court lacked subject matter jurisdiction because the indictments were not properly billed. Applicant claimed that Plea Counsel told him he would receive a ten year sentence.

RLS

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2015 AUG -6 AM 9:48
MARIE BLACKLEY

Applicant stated that "Jones" represented him prior to Plea Counsel. Applicant stated that he met with Jones one time. Applicant stated that he wanted bond and thought that Jones would be present at the bond hearing. However, when Applicant arrived at his "bond hearing" he was met by Plea Counsel and told it was a guilty plea. Applicant stated that he only met with Plea Counsel fifteen minutes prior to entering his guilty plea. Applicant stated that he could not proceed to trial because he and Plea Counsel had not discussed his case. Applicant stated Plea Counsel told him that he would receive a life sentence if he went to trial because his co-defendant would be testifying against him at trial. However, Applicant recalled the plea court reviewing the sentences for each of his charges.

Applicant stated that he had prior convictions for criminal domestic violence and was a habitual traffic offender. Applicant claimed that his guilty plea was involuntary because he was promised ten years. Applicant stated that he continued with his plea because he was scared and did not know what was going on. Applicant stated that he has a ninth grade education. However, Applicant admitted that he told the plea judge that he went to the twelfth grade, graduated, and has his G.E.D. Applicant stated that he did not know about his right to file an appeal. However, Applicant stated that he requested his Co-Defendant, Xavier Perry, to tell Plea Counsel that he wanted to appeal his guilty plea. Applicant claimed that he wanted a continuance.

Applicant stated that he only disputed his involvement in one of the robberies. Applicant claimed that he only told the Plea Court he committed the robberies because of his financial circumstances because Plea Counsel advised him to do so. Again, Applicant stated that he admitted his guilt based upon the advice of Plea Counsel. Applicant further claimed that he was merely following Co-Defendant Perry's lead during the guilty plea.

FILED
CLERK OF COURT
SPRINGFIELD COUNTY
2015 AUG -6 AM 9:48
MAGISTRATE BLACKLEY

Following Applicant's testimony, Plea Counsel was called to testify. Plea Counsel stated that he has approximately 250 clients and works seven days a week. Plea Counsel stated that his role in the public defender's office is to assist other public defenders in guilty plea straight from jail. Plea Counsel stated Applicant and his Co-Defendant, Xavier Perry, both had other attorneys for trial purposes. Plea Counsel stated defendant's can request to see him if they want bonds or pleas. Plea Counsel stated that he spoke with Applicant at least four times prior to his plea. Plea Counsel stated that he advised Applicant and his Co-Defendant, Xavier Perry of any potential conflict of interest. Plea Counsel stated that each had separate trial attorneys and he was their plea attorney. Plea Counsel stated that he advised each of them that if they wanted to proceed to trial then they could have their trial attorneys represent them. Plea Counsel stated that he did not rely on Applicant's trial attorney, Tanya Jones, for information. Plea Counsel stated that he conducted his own examination into the evidence.

Plea Counsel stated that it was in the Applicant and his Co-Defendant's best interest to plead guilty because the State offered concurrent sentences. Plea Counsel stated both Applicant and Co-Defendant, Xavier Perry, had prior convictions. Plea Counsel stated both gave statements that were not conflicting.

Plea Counsel stated Applicant pled to accessory because he had accepted the responsibility of some of the armed robberies. Plea Counsel stated that the only offer was for a concurrent sentence. Plea Counsel stated that he advised them to attempt to work out a negotiated sentence between eighteen or twenty two years. However, Plea Counsel stated neither the Applicant nor his Co-Defendant wanted to work out a negotiated sentence. Plea Counsel stated that he never promised that Applicant would receive a ten year sentence. Plea Counsel further stated that he advised Applicant that a recommendation is not something that the Plea Court has to follow.

FILED
CLERK OF COURT
SPRINGFIELD COUNTY
2015 AUG -5 AM 9:48
M. BOPELAKLEY

255

Counsel opined that Applicant fully understood the difference between a recommendation and a negotiation.

Plea Counsel recalled that the Lil Cricket store employees were present, but he did not believe they were going to speak. Plea Counsel stated that despite his belief, the store manager and district manager both spoke at the plea. Plea Counsel recalled that the victims requested that the sentences run consecutively. Plea Counsel stated that he thought Applicant would receive less time until the victim's spoke and Applicant "showed out" in the court room. Plea Counsel opined that the plea went downhill quickly once Applicant spoke to the Plea Court. Plea Counsel stated it was as if Applicant was performing at a rap concert.

Plea Counsel stated that he advised Applicant of his ten day right to appeal the plea prior to entering the guilty plea and after the plea. Plea Counsel stated that he filed an appeal on January 25, 2011. Plea Counsel stated that there were no issues for an appeal, but Applicant insisted on an appeal. Plea Counsel noted that there were no specific issues by the judge so there was nothing to appeal.

Plea Counsel stated that he had no concerns about Applicant's mental health. Plea Counsel recalled Applicant advising him that he had received treatment when he was nine or ten years old for A.D.D. Plea Counsel noted that Applicant was very gifted and had won writing and music competitions within the community. Plea Counsel stated that he received various well written letters from Applicant. Plea Counsel stated that he had never heard anything about schizophrenia until the Applicant's testimony at the PCR hearing.

Plea Counsel stated that Tanya Jones was still Applicant's trial attorney and he was his guilty plea counsel. Plea Counsel stated that he actually took the solicitor's file to the judge and reviewed it with Applicant. Plea Counsel stated they may have been able to challenge the

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 AUG 6 AM 9:48
MICHAEL BLACKLEY

identification of the defendant by witnesses at one of the robbery locations. However, Plea Counsel noted that Applicant confessed to the crime. Plea Counsel stated that they reviewed Applicant's statement. Plea Counsel stated Applicant gave his statement prior to Co-Defendant Xavier Perry. Plea Counsel stated neither statement was conflicting.

Plea Counsel explained that Co-Defendant Xavier Perry beat his girlfriend. As a result, Co-Defendant Xavier Perry's girlfriend told the victim advocate about the various robberies. Plea Counsel stated this lead to a search warrant of Co-Defendant Xavier Perry's house. Plea Counsel stated that he interviewed Co-Defendant Xavier Perry's mother and brother. Plea Counsel stated that Co-Defendant Xavier Perry's brother revealed the gun and masks.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief 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 facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

INEFFECTIVE ASSISTANCE OF COUNSEL

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 464 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

R55

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2015 AUG -6 AM 9:48
HOPE BLACKLEY

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

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366 (1985).

ALLEGATIONS

1. Ineffective assistance of counsel for failing to conduct an adequate pretrial investigation.

Applicant alleges that he received ineffective assistance of counsel due to plea counsel's failure to investigate. Specifically, Applicant argued that Plea Counsel failed to interview witnesses, failed to retain an expert, and failed to provide him with discovery. This Court finds credible Plea Counsel's testimony that he met with Applicant four times prior to his plea. This Court notes Plea Counsel stated that he conducted his own independent investigation in the evidence against Applicant. This Court further notes Plea Counsel stated that he obtained a copy of the

FILED
CLERK OF COURT
SPARANBOUGH COUNTY
2015 AUG -6 AM 9:49
THOMAS BLACKLEY
RSS

of the solicitor's file and reviewed it with Applicant prior to his plea. Based off of the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test – that Plea Counsel failed to render reasonably effective assistance under prevailing professional norms.

Furthermore, this Court notes Applicant failed to provide this court with any credible evidence to support his claim. Specifically, Applicant failed to present any testimony from any witnesses. See Bannister v. State, 333 S.C. at 303, 509 S.E.2d at 809. Applicant failed to present any testimony from an expert witness. See Dempsey v. State, 363 S.C. 365, 370, 610 S.E.2d 812, 815 (2005) (finding that, as the applicant failed to have an expert testify at the evidentiary hearing, "any finding of prejudice is merely speculative"). Applicant failed to present the court with any documents or evidence Plea Counsel should have investigated on his behalf. See Palacio v. State, 333 S.C. 506, 513, 511 S.E.2d 62, 66 (1999) (holding that, since the contents of challenged documents were not presented at the PCR hearing, the Applicant could not demonstrate how the failure of counsel to obtain these documents prejudiced the defense). Overall, this Court finds Applicant failed to produce any credible evidence as to what Plea Counsel should have investigated on his behalf. See Skeen v. State, 325 S.C. 210, 481 S.E.2d 129 (1997) (holding applicant not entitled to relief where no evidence presented at PCR hearing to show how additional preparation would have had any possible effect on the result at trial). Based off of the foregoing, this Court finds Applicant has failed to present specific and compelling evidence that Plea Counsel committed either errors or omissions to prove the second prong of Strickland – that he was prejudiced by Plea Counsel's performance. This Court finds Applicant's allegation should be denied and dismissed with prejudice.

FILED
CLERK OF COURT
PARANORING COUNTY
2015 AUG -9 AM 9:48
MURPHY BLACKLEY

PSS

2. Ineffective Assistance of Counsel for failing to provide discovery to Applicant prior to his guilty plea.

Applicant argued that Plea Counsel failed to provide Applicant with a copy of his discovery material prior to his plea. This Court finds Applicant's allegation is wholly meritless. This Court finds credible Plea Counsel's testimony that he obtained a copy of the solicitor's file and reviewed it with Applicant prior to his plea. This Court finds the Applicant has failed to present any credible evidence that counsel did not review and discuss the discovery materials with him before he pled guilty. This Court finds the Applicant also failed to articulate what materials he did not view and how not viewing those materials affected the outcome of his case. See Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (holding that, in a post-conviction relief proceeding, the applicant bears the burden of proving the allegations in their application).

3. Ineffective assistance due to conflict of interest.

This Court notes Applicant argued that Plea Counsel labored under a conflict of interest due to his dual representation of the Applicant and the Applicant's Co-Defendant. This Court finds Applicant's allegation is meritless.

It is well established that the fact that counsel does not advise a defendant of a potential conflict of interest does not affect the constitutionality of a conviction. Jackson v. State, 328 S.C. 345, 354, 495 S.E.2d 768, 773 (1998). Furthermore, the mere possibility of a conflict of interest is insufficient to impugn a criminal conviction. State v. Gregory, 364 S.C. 150, 612 S.E.2d 449 (2005). Additionally, an applicant must show that his counsel actively represented conflicting interest to establish a claim of ineffective assistance of counsel. Duncan v. State, 281 S.C. 433, 315 S.E.2d 809 (1984). "To establish a violation of the Sixth Amendment right to effective counsel due to a conflict of interest arising from multiple representation, a defendant who did not

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2015 AUG -6 PM 9:48
KATHLEEN BLANCHLEY

255

object at trial must show an actual conflict of interest adversely affected his attorney's performance." Thomas v. State, 346 S.C. 140, 143, 551 S.E.2d 254, 256 (2001) (emphasis added).

This Court finds credible, Plea Counsel's testimony that he advised Applicant of the potential conflict of interest. Plea Counsel stated that Applicant and Co-Defendant Xavier Perry provided similar statements, admitted their guilt, and wanted to plead guilty. This Court finds no actual conflict of interest occurred. The Court notes that the mere possibility of a conflict is insufficient to impugn a criminal conviction. Gregory, 364 S.C at 152-53, 612 S.E.2d at 450 (2009). This Court finds Applicant failed to present any credible evidence that an actual conflict of interest occurred by the dual representation. Based off of the foregoing, this Court finds this allegation should be denied and dismissed with prejudice.

4. Ineffective assistance of counsel for failing to inform him that indictment (2011-GS-42-4356) was invalid because it was not true billed.

This Court finds Applicant's allegation that he received ineffective assistance of counsel due to Plea Counsel's alleged failure to inform him that indictment (2011-GS-42-4356) was invalid because it was not true billed is meritless. This Court notes that the plea transcript clearly refutes this allegation. The plea court advised Applicant that he had the constitutional right to have indictment 2011-GS-42-4356 presented to the grand jury for its consideration prior to it being presented to the plea court for either a trial or plea. (Pl. p. 5 line 23—p. 6 line 1). The plea court further explained that the grand jury does not decide guilt or innocence, but instead decides whether the State has enough evidence to justify the case coming forward to trial. (Pl. p. 6 lines 2-5). The Court explained that he does not have jurisdiction to take up the case until it has been true bill indicted by the grand jury unless Applicant was willing to waive the grand jury procedure. (Pl. p. 6 lines 10-15). The record reveals that Applicant indicated to the court that he wished

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2015 AUG - 6 AM 9:48
M. HOUSTON BLACKLEY

1255

waive presentment on indictment 2011-GS-42-4356 and proceed with the guilty plea. (Pl. p. 17 line 15—p. 18 line 6). Based off of the foregoing, this Court finds this allegation should be denied and dismissed with prejudice.

5. Ineffective assistance of counsel for failing to make Applicant aware of the ramifications of the plea agreement.

This Court finds Applicant's allegation that Plea Counsel was ineffective for failing to make Applicant aware of the ramifications of the plea agreement is meritless. A defendant who pleads guilty on the advice of counsel may collaterally attack the voluntariness of his plea only by showing that (1) counsel was ineffective and that (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty. Wolfe v. State, 326 S.C. 158, 485 S.E.2d 367 (1997). When considering an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether information conveyed by the plea judge cured any possible error made by counsel. Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998).

This Court finds credible Plea Counsel's testimony that he advised Applicant of the difference between a negotiation and recommendation. Plea Counsel stated that he requested Applicant to consider working out a negotiated sentence between eighteen and twenty two years, however Applicant wanted to plead to a recommendation. Plea Counsel testified that he did not promise Applicant that he would receive a ten year sentence. This Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test – that Plea Counsel failed to render reasonably effective assistance under prevailing professional norms.

Furthermore, the record reveals that the Plea Court advised Applicant that his multiple armed robbery charges carries a minimum 10 year sentence up to thirty years (Pl. p. 17 lines 8 19 line 5). The Plea Court further advised Applicant that his accessory after the fact of a felony

1255

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2015 AUG - 5 AM 9:40
M. HOPE LACKEY

carried up to fifteen years. (Pl. p. 19 lines 6-11). The Plea Court further advised Applicant that he was facing a potential 210 years in prison. (Pl. p. 19 lines 12-18). Based off of the foregoing, this Court finds Applicant has failed to present specific and compelling evidence that Plea Counsel committed either errors or omissions to prove the second prong of Strickland – that he was prejudiced by Plea Counsel's performance. This Court finds Applicant's allegation should be denied and dismissed with prejudice.

6. Involuntary guilty plea due to Plea Counsel promising Applicant that he would receive a ten year sentence.

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

This Court finds that this allegation is without merit and the Applicant has failed to meet his burden of proving that his guilty plea was involuntarily made. Initially, this Court has

255

FILED
CLERK OF DISTRICT COURT
SPRING ARBOR COUNTY
2013 AUG -6 PM 9:48
MICHAEL BLACKLEY

credible Plea Counsel's testimony that he never promised Applicant that he would receive a ten year sentence. Further, this Court finds that the Applicant's testimony was entered freely and voluntarily. This Court finds further that the record reflects the Applicant was thoroughly advised of the waiver of his constitutional rights by both counsel and the plea judge (Pl. p. 8-11; p. 33). The record reflects the Applicant at his plea proceeding told the court that he wished to plead guilty. (Pl. p. 33). The record also reflects that the Applicant told the court that he had not been promised or threatened by anyone to get him to plead guilty. (Pl. p. 8). This Court finds that the Applicant had a full understanding of the consequences of his plea and the charges against him. This Court finds that the Plea Judge correctly found that the Applicant's plea was freely, voluntarily, and intelligently made. (Pl. p. 34)

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that plea counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by plea counsel's performance.

The Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. This Court also concludes the Applicant has failed to meet his burden of proving his guilty plea was not knowing and voluntary. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

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 the Applicant failed to present

FILED
CLERK OF DISTRICT COURT
SPARTANBURG COUNTY
AUG -6 AM 9:48
PHONE BLACKLEY

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

CONCLUSION

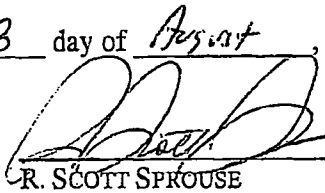
Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel 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 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 3 day of August, 2015


R. SCOTT SPROUSE
Presiding Judge
Seventh Judicial Circuit

CLERK OF COURT
SPARTANBURG COUNTY
2015 AUG -6 AM 9:48
MICHAEL BLAKEY

Waltham, South Carolina

WITNESSES

Spartanburg County Sheriff's Office

T. K. Tillotson

ARREST WARRANT NUMBER

M125625

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

1. SENTENCE MADE VERDICT ☒

2. REPORT ENDED

3. CARD PULLED ☒

4. INDEXED ☒

5. CHECKED WARRANTS ☒

6. CHECKED SIGNATURE ☒

15A Plate
7. ASSESSMENT AND
FINE CARD MADE

Computer

Computer

DOCKET NO.

11-GS-42-3055
The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUN 20 2011

TERM

THE STATE
VS.

Chadwick Deon Anderson

Indictment for

ARMED ROBBERY

SC Code: 16-11-330 (A)
CDR Code: 139
Class FEL/A

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 JUN 21 PM 4:55
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

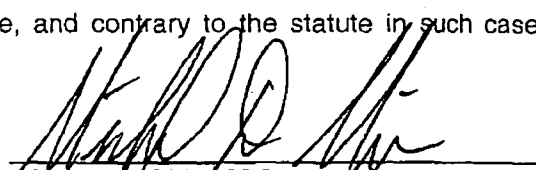
JUN 17 2011

At a Court of General Sessions, convened on _____, the Grand
Jurors of Spartanburg County present upon their oath:

ARMED ROBBERY

That the Defendant, Chadwick Anderson, did in Spartanburg County, on or about November 16, 2010, while armed with a pistol, dirk, slingshot, metal knuckles, razor, knife or other deadly weapon or while alleging, either by actions or word, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon feloniously take from the person or presence of Lil Cricket, by means of force or intimidation goods or monies of Lil Cricket, described as follows: US currency, with intent to deprive the owner permanently of such property, in violation of Section 16-11-330 (A), Code of Laws of South Carolina (1976, as amended).

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


DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE VS.

Chadwick Deon Anderson

AKA:

Race: B Sex: M Age: 24DOB: SS#:

Address:

City, State, Zip: Spartanburg, SC 29306DL#: SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weaponin violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.ATTEST: MORIN, MICHAEL D 65074 Chadwick Anderson 7/15/11 1202
SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; 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 ☐ OrderedTotal: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPTSRecipient:

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

Clerk of Court/ Deputy Clerk

Court Reporter: P. Allen

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS4203055A/W#: M125625Date of Offense: 11/16/2010S.C. Code §: 16-11-0330(A)CDR Code #: 0139

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSPTUP days/hours Public Service EmploymentObtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel.

§ 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 213Sentence Date: 7/15/11

WITNESSES

Spartanburg County Sheriff's Office

T. K. Tullerton

ARREST WARRANT NUMBER

M125622

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

SENTENCE MADE

VERDICT

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

Foreperson of Petit Jury

Date: FINE CARD MADE

7. TRAFFIC VIOLATIONS COPY

DOCKET NO.

11-GS-42-3057

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUN 20 2011

TERM

THE STATE

vs.

Chadwick Deon Anderson

Indictment for.

ARMED ROBBERY

SC Code: 16-11-330 (A)

CDR Code: 139

Class FEL/A

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2011 JUN 21 PM 4:55

M. HOPE BLACKLEY

Computer

Computer

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

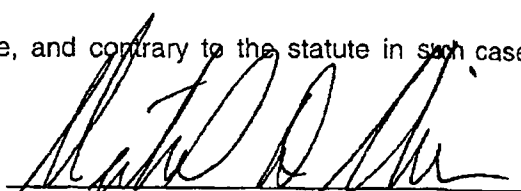
JUN 17 2011

At a Court of General Sessions, convened on _____, the Grand
Jurors of Spartanburg County present upon their oath:

ARMED ROBBERY

That the Defendant, Chadwick Anderson, did in Spartanburg County, on or about November 12, 2010, while armed with a pistol, dirk, slingshot, metal knuckles, razor, knife or other deadly weapon or while alleging, either by actions or word, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon feloniously take from the person or presence of Lil Cricket, by means of force or intimidation goods or monies of Lil Cricket, described as follows: US currency, with intent to deprive the owner permanently of such property, in violation of Section 16-11-330 (A), Code of Laws of South Carolina (1976, as amended).

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


DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.INDICTMENT/CASE#: 2011GS4203057Chadwick Deon AndersonA/W#: M125622AKA: BDate of Offense: 11/12/2010Race: B Sex: M Age: 24S.C. Code §: 16-11-0330(A)

DOB: _____

CDR Code #: 0139City, State, Zip: Spartanburg, SC 29306

DL#: _____ SID#: _____

SENTENCE SHEET

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

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

☐ CONVICTED OF or ☒ PLEADSTO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weaponin violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lower Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.ATTORNEY: MORIN, MICHAEL D 65094 Chadwick Anderson 1207
SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

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

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

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 7/15/11☒ 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

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$

§ 14-1-206 (Assessments 107.5 %) _____ \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114(BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

Proviso 90.5 (SCCA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 3.90TOTAL \$ 133.90

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

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

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

§ 47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge 2135Judge Code: 2135Sentence Date: 7/15/11Clerk of Court/ Deputy Clerk T. CampCourt Reporter: P. Green

SCCA/217 (03/2011)

WITNESSES

Spartanburg County Sheriff's Office

T. H. Tullerton

ARREST WARRANT NUMBER

M125616

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

SENTENCE MADE

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ARRESTED BY Grand Jury

8. FINE CARD MADE

9. TRAFFIC VIOLATIONS COPY

DOCKET NO.

11-GS-42-3059

The State of South Carolina

County of Spartanburg

Barry Barnette, *Solicitor*

COURT OF GENERAL SESSIONS

JUN 20 2011

TERM

THE STATE

vs.

Chadwick Deon Anderson

Indictment for

ARMED ROBBERY

SC Code: 16-11-330 (A)

CDR Code: 139

Class FEL/A

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2011 JUN 21 PM 4:55

M. HOPE BLACKLEY

Computer

Computer

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

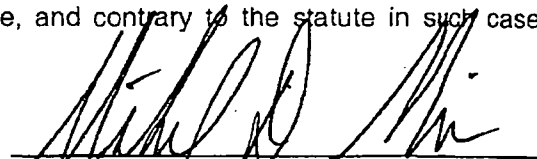
JUN 17 2011

At a Court of General Sessions, convened on _____, the Grand Jurors of Spartanburg County present upon their oath:

ARMED ROBBERY

That the Defendant, Chadwick Anderson, did in Spartanburg County, on or about November 9, 2010, while armed with a pistol, dirk, slingshot, metal knuckles, razor, knife or other deadly weapon or while alleging, either by actions or word, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon feloniously take from the person or presence of Lil Cricket, by means of force or intimidation goods or monies of Lil Cricket, described as follows: US currency, with intent to deprive the owner permanently of such property, in violation of Section 16-11-330 (A), Code of Laws of South Carolina (1976, as amended).

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


DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG

STATE VS.
Chadwick Deon Anderson

AKA:

Race: R Sex: M Age: 24DOB: 1 SS#

Address:

City, State, Zip: Spartanburg, SC 29306DL#: 1 SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☐ CONVICTED OF or ☒ PLEADSTO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weaponin violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC § 17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.ATTORNEY: MORIN, MICHAEL D 65094 Chadwick Anderson 1207
SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

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

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

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code 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

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.00
TOTAL	\$	\$ 133.00

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

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

\$ _____ paid to Public Defender Fund

Other: _____

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

Clerk of Court/ Deputy Clerk

Court Reporter: P. Green

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2135Sentence Date: 7/15/11

WITNESSES

Spartanburg County Sheriff's Office

J. K. Tillotson

ARREST WARRANT NUMBER

M125612

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

1. SENTENCE MADE

VERDICT

2. REPORT ENTERED

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

Foreperson of Petit Jury

7. ASSESSMENT AND
FINE CARD MADE

8. TRAFFIC VIOLATIONS COPY

DOCKET NO.

11-GS-42-3061

The State of South Carolina

County of Spartanburg

Barry Barnette, *Solicitor*

COURT OF GENERAL SESSIONS

JUN 20 2011

TERM

THE STATE

VS.

Chadwick Deon Anderson

Indictment for

ARMED ROBBERY

SC Code: 16-11-330 (A)

CDR Code: 139

Class FEL/A

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 JUN 21 PM 4:55
M. HOPE BLACKLEY

Computer

Computer

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

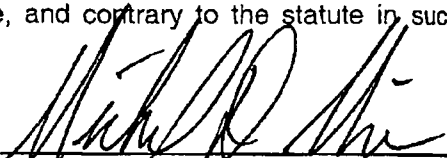
JUN 17 2011

At a Court of General Sessions, convened on _____, the Grand
 Jurors of Spartanburg County present upon their oath:

ARMED ROBBERY

That the Defendant, Chadwick Anderson, did in Spartanburg County, on or about September 30, 2010, while armed with a pistol, dirk, slingshot, metal knuckles, razor, knife or other deadly weapon or while alleging, either by actions or word, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon feloniously take from the person or presence of Lil Cricket, by means of force or intimidation goods or monies of Lil Cricket, described as follows: US currency, with intent to deprive the owner permanently of such property, in violation of Section 16-11-330 (A), Code of Laws of South Carolina (1976, as amended).

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


 DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG

STATE VS.

Chadwick Deon Anderson

AKA:

Race: B Sex: M Age: 24

DOB: SS#:

Address:

City, State, Zip: Spartanburg, SC 29306

DL#: SID#:

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

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

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

INDICTMENT/CASE#: 2011GS4203061

A/W#: M125612

Date of Offense: 9/30/2010

S.C. Code §: 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentation to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.ATTORNEY: MORIN, MICHAEL D 65094 Chad Anderson 1207
SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

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

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

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

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

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

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

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

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

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

\$ _____ paid to Public Defender Fund

Other: _____

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

Clerk of Court/ Deputy Clerk

Court Reporter: P. Camp

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2137Sentence Date: 7/15/11

WITNESSES

Spartanburg County Sheriff's Office

J. H. Tullotson

ARREST WARRANT NUMBER

M125606

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

1 SENTENCE MADE

VERDICT

2 REPORT ENDED

3 CARD PULLED

4 INDEXED

5 CHECKED WARRANTS

6 CHECKED SIGNATURE

Foreperson of Petit Jury

7 ASSESSMENT AND FINE CARD MADE

8 TRAFFIC VIOLATIONS

DOCKET NO.

11-GS-42-3063

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUN 20 2011

TERM

THE STATE

vs.

Chadwick Deon Anderson

Indictment for

ARMED ROBBERY

SC Code: 16-11-330 (A)

CDR Code: 139

Class FEL/A

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2011 JUN 21 PM 4:55

H. HOPE BLACKLEY

Computer

Computer

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

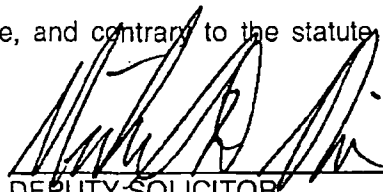
JUN 17 2011

At a Court of General Sessions, convened on _____, the Grand
Jurors of Spartanburg County present upon their oath:

ARMED ROBBERY

That the Defendant, Chadwick Anderson, did in Spartanburg County, on or about August 31, 2010, while armed with a pistol, dirk, slingshot, metal knuckles, razor, knife or other deadly weapon or while alleging, either by actions or word, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon feloniously take from the person or presence of Kangaroo Express, by means of force or intimidation goods or monies of Kangaroo Express, described as follows: US currency, with intent to deprive the owner permanently of such property, in violation of Section 16-11-330 (A), Code of Laws of South Carolina (1976, as amended).

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


DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.

Chadwick Deon Anderson

AKA:

Race: B Sex: M Age: 24DOB: SS#

Address:

City/State/Zip: Spartanburg, SC 29306DL#: SID#*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

INDICTMENT/CASE#: 2011GS4203063A/W# M125606Date of Offense: 8/31/2010S.C. Code § 16-11-0330(A)CDR Code #: 0139

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSin violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.ATTEST: MORIN, MICHAEL D SC Bar# 65094 Defendant Chadwick Anderson Attorney for Defendant 1207 SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

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

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

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ 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: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

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

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40-ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 390TOTAL \$ 133.90Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

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

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel.

§ 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: P. Green

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2135Sentence Date: 7/15/11

WITNESSES

Spartanburg Public Safety Department

ARREST WARRANT NUMBER

M752942

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

SENTENCE MADE

VERDICT

REPORT ENDED

CARD FILLED

INDEXED

CHECKED WARRANTS

CHECKED SIGNATURE

Date:

ASSESSMENT AND
FINE CARD MADE

DOCKET NO.

11-GS-42-3066

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUN 20 2011

TERM

THE STATE
vs.

Chadwick Deon Anderson

Indictment for

ACCESSORY AFTER THE FACT TO
FELONY A, B, C, OR MURDER

SC Code: 16-01-0055

CDR Code: 2413

Class FEL/D

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2011 JUN 21 PM 4:56

M. HOPE BLACKLEY

Computer

Computer

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

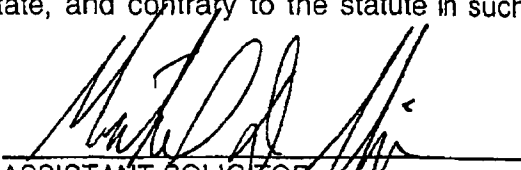
INDICTMENT

At a Court of General Sessions, convened on JUN 17 2011 the
Grand Jurors of Spartanburg County present upon their oath:

ACCESSORY AFTER THE FACT TO FELONY A, B, C, or MURDER

That, Chadwick Deon Anderson, did in the City/County of Spartanburg on or about November 1, 2010, knowing the commission and completion of the felony of armed robbery, did aid, harbor, and assist such felon to, escape detection, arrest or punishment or otherwise avoid the consequences of the crime, to wit: by driving the defendant, Xavier Perry from the incident location, in violation of §16-01-0055, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.

Chadwick Dean Anderson

INDICTMENT/CASE#: 2011GS4203066

A/W#: M752942

AKA:

Date of Offense: 11/1/2010

Race: B Sex: M Age: 24

S.C. Code § 16-01-0055

DOB: SS#:

CDR Code #: 2413

Address:

City/State/Zip: Spartanburg, SC 29306

DL#: SID#:

SENTENCE SHEET

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

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

☐ CONVICTED OF or ☒ PLEADS

TO: Accessory / Accessory after the fact to Felony A, B, C or Murder (0-15 years)

in violation of § 16-01-0055 of the S.C. Code of Laws, bearing CDR Code # 2413

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

ATTORNEY: MORIN/MICHAEL D SC Bar# 65094 Defendant Chad Anderson Attorney for Defendant SC Bar# 7207

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 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: 7/15/11
☒ 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

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

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

PTUP

days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

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

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel.

§ 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

WITNESSES

Spartanburg Public Safety Department

[Signature]

ARREST WARRANT NUMBER

M752943

ACTION OF GRAND JURY

JUN 21 2011

[Signature] True Bill

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET # **11-GS-42-3067**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUN 20 2011

TERM

THE STATE
vs.

Chadwick Deon Anderson

Indictment for

ACCESSORY AFTER THE FACT TO
FELONY A, B, C, OR MURDER

SC Code: 16-01-0055

CDR Code: 2413

Class FEL/D

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 JUN 21 PM 4:56
M. HOPE BLACKLEY

A CERTIFIED COPY
[Signature]
CLERK OF COURT
SPARTANBURG COUNTY
BY: *[Signature]*
DATED 4/1/13

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

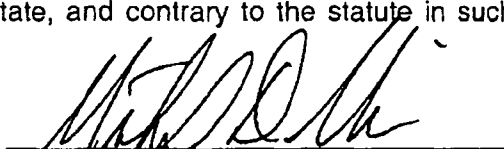
INDICTMENT

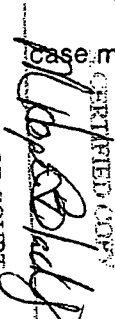
At a Court of General Sessions, convened on JUN 17 2011 the
Grand Jurors of Spartanburg County present upon their oath:

ACCESSORY AFTER THE FACT TO FELONY A, B, C, or MURDER

That, Chadwick Deon Anderson, did in the City/County of Spartanburg on or about January 30, 2011, knowing the commission and completion of the felony of armed robbery, did aid, harbor, and assist such felon to escape detection, arrest or punishment or otherwise avoid the consequences of the crime, to wit: by driving the defendant, Xavier Perry, away from the incident location, in violation of §16-01-0055, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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


ASSISTANT SOLICITOR

CLERK OF COURT
SPARTANBURG COUNTY
BY: 
DATED: 4/1/13

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE VS.

Chadwick Dean Anderson

AKA:

Race: B Sex: M Age: 24DOB: SS#:

Address:

City, State, Zip: Spartanburg, SC 29306DL#: SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Accessory / Accessory after the fact to Felony A, B, C or Murder (0-15 years)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS4203067A/W#: M752943Date of Offense: 1/30/2011S.C. Code §: 16-01-0055CDR Code #: 2413

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSin violation of § 16-01-0055 of the S.C. Code of Laws, bearing CDR Code # 2413☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.ATTORNEY: MORIN, MICHAEL D 65094 Chad Anderson SC Bar# Defendant Agency for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; 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 ☐ OrderedTotal: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$	
§ 14-1-206 (Assessments 107.5%)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-313 (Drug Court Surcharge)	\$150	\$
§ 56-24-114 (BLI Breath Test Fee)	\$50	\$
§ 56-5-2995 (Vehicle Assessment)	\$40/ea	\$
Proviso 30.5 (SC CJA Surcharge)	\$5	\$ <u>5.00</u>
3% County Fee (if paid in installments)	\$	\$ <u>133.40</u>

PTUP days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.Presiding Judge Judge Code: 2135Sentence Date: 7/15/11

SPARTANBURG COUNTY
CLERK OF COURT
D.C.
DATED: 7/13

Clerk of Court/Deputy Clerk P. Huen T. CampCourt Reporter:

SCCA/212 (03/2011)

175
1
WITNESSES

Spartanburg Public Safety Department

ARREST WARRANT NUMBER

M125647

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

1 SENTENCE MADE VERDICT

2 REPORT ENDED

3 CARD PULLED

4 INDEXED

5 CHECKED WARRANTS

6 CHECKED SIGNATURE
Foreperson of Petit Jury

7 REASSESSMENT AND
FINE CARD MADE

8 TO ADJUDICATE

Computer

Computer

DOCKET NO. **11-GS-42-4356**

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUN 20 2011

TERM

THE STATE

vs.

Chadwick Deon Anderson

Indictment for

ARMED ROBBERY

SC Code: 16-11-330 (A)

CDR Code: 139

Class FEL/A

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

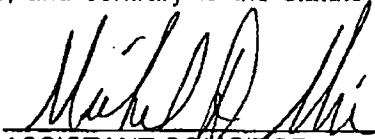
JUN 17 2011

At a Court of General Sessions, convened on _____, the Grand
 Jurors of Spartanburg County present upon their oath:

ARMED ROBBERY

That the Defendant, Chadwick Anderson, did in Spartanburg County, on or about September 3, 2010, while armed with a pistol, dirk, slingshot, metal knuckles, razor, knife or other deadly weapon or while alleging, either by actions or word, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon feloniously take from the person or presence of Lil Cricket, by means of force or intimidation goods or monies of Lil Cricket, described as follows: US currency, with intent to deprive the owner permanently of such property, in violation of Section 16-11-330 (A), Code of Laws of South Carolina (1976, as amended).

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


 ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG

STATE VS.

Chadwick Deon Anderson

AKA:

Race: BLACK Sex: M Age: 24

DOB: SS#:

Address:

City, State, Zip: Spartanburg, SC 29306

DL#: SID#:

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

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

☐ CONVICTED OF or ☒ PLEADS

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or 2nd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTORNEY:

MORIN, MICHAEL D

SC Bar# 65094

Defendant

Attorney for Defendant

SC Bar# 1207

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

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

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

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

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

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

SPECIAL CONDITIONS:

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

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

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

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

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

TOTAL \$ 133.90

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

INDICTMENT/CASE#: 2011-GS-42-4356

A/W#: M125647

Date of Offense: 9/3/2010

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

No Cantor - Referral to RK

Presiding Judge

Judge Code: 2135

Sentence Date: 7/15/11