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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Lexington County

Honorable Perry H. Gravely, Circuit Court Judge

JALON TED TAYLOR,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-000546

APPENDIX

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INDEX

INDEX	i
GUILTY PLEA TRANSCRIPT DATED MARCH 15, 2012	1
SENTENCING	30
INDICTMENTS AND SENTENCING SHEETS	33
APPLICATION FOR POST-CONVICTION RELIEF FILED APRIL 11, 2013	42
RETURN DATED SEPTEMBER 30, 2015	52
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED APRIL 18, 2016	60
TESTIMONY	
JALON TAYLOR	
Direct examination by Ms. Zmroczek	64
Cross-examination by Ms. Valenzuela	73
Redirect examination by Ms. Zmroczek	86
Recross examination by Ms. Valenzuela	89
AMANDA JAMISON	
Direct examination by Ms. Zmroczek	91
Cross examination by Ms. Valenzuela.....	94
KRISTY GOLDBERG	
Direct examination by Ms. Valenzuela.....	95
Cross examination by Ms. Zmroczek	114
Redirect examination by Ms. Valenzuela	120
APPLICANT’S EXHIBIT NO. 1 (SENTENCING SHEETS).....	124
ORDER OF DISMISSAL FILED JUNE 1, 2016.....	127
MOTION TO RECONSIDER FILED JUNE 17, 2016	135
RETURN TO MOTION TO RECONSIDER DATED DECEMBER 5, 2016	142
ORDER DENYING MOTION TO RECONSIDER FILED JANUARY 23, 2017	146

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I N D E X

WITNESSES

DIRECT

CROSS

REDIRECT

RECROSS

(There were no witnesses.)

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
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(There were no exhibits.)

1 implied. It's alleged that you fired a handgun at
2 Nelson Orteze and struck him in the hip.

3 Upon your arraignment on that charge of
4 attempted murder, it appears that you wish to enter
5 a plea of guilty to assault and battery in the first
6 degree; is that right?

7 **DEFENDANT:** Yes, sir.

8 **THE COURT:** I have another indictment that
9 charges that in Lexington County, on or about or
10 between the dates of August 19th and October the
11 27th of 2010, you received stolen goods,
12 specifically a 2004 Chevrolet Silverado, valued at
13 more than \$10,000.

14 Upon your arraignment on this charge, it
15 appears that you wish to enter a plea of guilty to
16 receiving stolen goods \$10,000 or greater in value;
17 is that correct?

18 **DEFENDANT:** Yes, sir.

19 **THE COURT:** I have an indictment that charges
20 that in Lexington County, on or about November the
21 10th, 2010, you participated in the forgery of an
22 instrument in writing. It's alleged that you had in
23 your possession 47 counterfeit 20 dollar bills.

24 Upon your arraignment on this charge, it
25 appears that you wish to enter a plea of guilty to

1 forgery less than \$10,000; is that right?

2 **DEFENDANT:** Yes, sir.

3 **THE COURT:** Ms. Goldberg, have you fully
4 explained to your client the nature and elements of
5 the offenses, the possible punishment and his
6 constitutional rights, including trial by jury?

7 **MS. GOLDBERG:** Yes, sir.

8 **THE COURT:** Are you satisfied there's a factual
9 basis for each plea?

10 **MS. GOLDBERG:** Yes, sir.

11 **THE COURT:** Do you agree with his decision to
12 enter the pleas?

13 **MS. GOLDBERG:** Yes, sir.

14 **THE COURT:** Mr. Taylor, today are you under the
15 influence of any medicine, alcohol, drug or anything
16 that affects your thinking?

17 **DEFENDANT:** No, sir.

18 **THE COURT:** Do you have physical or mental
19 problems that affect your thinking?

20 **DEFENDANT:** No, sir.

21 **THE COURT:** You're clearheaded, you know what
22 you're doing?

23 **DEFENDANT:** Yes, sir.

24 **THE COURT:** When you plead guilty, you give up
25 important rights, including your right to remain

1 silent and your right to a jury trial; do you know
2 that?

3 **DEFENDANT:** Yes, sir.

4 **THE COURT:** If you wanted a jury trial, you'd
5 be presumed innocent. The State has to prove you
6 guilty beyond a reasonable doubt to convict you.
7 And you will get to see, hear and have your lawyer
8 cross-examine every witness against you. Do you
9 know all that?

10 **DEFENDANT:** Yes, sir.

11 **THE COURT:** If you plead guilty, you give up
12 all of those rights. You give up any defenses you
13 have. You give up any challenges to evidence and
14 you admit the charge is true. Do you understand
15 that?

16 **DEFENDANT:** Yes, sir.

17 **THE COURT:** Do you want a jury trial on any of
18 these cases?

19 **DEFENDANT:** No, sir.

20 **THE COURT:** All right. Listen to the State,
21 please.

22 **MS. USRY:** Your Honor, I'm going to move
23 through these charges that he's pleading to in
24 chronological order. Lieutenant Jeff Simmons is
25 here with the Cayce Public Safety Department. And

1 I'm going to give the facts of this case and he's
2 going to add a little more to the background of this
3 case once I've completed going through the facts and
4 given that, as well as the prior criminal history.

5 The first offense occurred on August 19th of
6 2010, that's the possession of stolen goods charge,
7 Your Honor. Officers responded to a call from a
8 victim who notified that his 2004 dark gray in color
9 Chevrolet Silverado 1500 Z71 bearing license plate
10 number [REDACTED] which had been parked in his
11 driveway, had been taken. He also told officers
12 that earlier that week he had other items from the
13 car had -- the car had been rifled through and had
14 been removed from his car.

15 It was later on October 27th of 2010, that the
16 Cayce Public Safety Department was advised by
17 Richland County Sheriff's Department they'd
18 recovered the vehicle and the driver had fled on
19 foot. They were able to track down that the
20 defendant had the car in his possession through some
21 dry cleaning receipts that were found in the car.
22 The dry cleaning receipts went back to Clean Care on
23 Knox Abbott Drive.

24 When they spoke with Clean Care, they were
25 actually able to tell officers that the tickets were

1 on Jalon Taylor's account. And, subsequently, they
2 spoke with the defendant who admitted that he had
3 taken the car.

4 The next incident, Your Honor, that the
5 defendant's pleading to today is also with the Cayce
6 Department. And it occurred on November 10th of
7 2010, when they executed a search warrant at [REDACTED]
8 Hopkins Street. There were four suspects in that
9 area when the search warrant was executed. They all
10 jumped up from a dining room table where they were
11 eating and playing dominos and scattered throughout
12 the residence. Officers apprehended different
13 suspects.

14 At that location, they found drugs and other
15 items that were charges that arose from this offense
16 that we're dismissing as part of this plea deal
17 today, but the pertinent item for this particular
18 charge is the -- in the forgery charge is the fact
19 that when Officer Green apprehended the defendant,
20 he was found with \$940 worth of counterfeit 20
21 dollar bills on the defendant. That is the charge
22 he's pleading to today.

23 And then, finally, Your Honor, he's pleading to
24 assault and battery first degree, which is reduced
25 from an attempted murder. This occurred on July 26

1 of 2011, when officers responded to an emergency
2 call regarding a male victim who was shot while on
3 9th Street on Jarvis Klapman Boulevard. This is the
4 West Columbia Police Department, Your Honor.

5 Officers responded, made contact with the
6 victim who was on the ground and moaning, his right
7 hand down holding his groin area and blood on his
8 hands. They spoke to the witness who stated he and
9 the defendant [sic] were walking down the street
10 toward his house on Center Street. He explained
11 that a black male operating a gray in color Dodge
12 Neon pulled onto 9th Street from Jarvis Klapman
13 Boulevard. The male stopped and stated, quote, Who
14 y'all be? The defendant then affiliated himself as
15 a West Hill and Blood gang member. That's when the
16 defendant in the Dodge Neon pulled out a gun and
17 fired one shot striking the victim in the groin
18 area.

19 The witness was able to tell what direction the
20 subject headed in. And they found a vehicle
21 matching the defendant's car's description located
22 on Hart street, which is in Cayce's -- which was
23 located in Cayce -- excuse me -- on Middle Street
24 unoccupied. The vehicle was located on Middle
25 street unoccupied.

1 They later were able to, let's see, according
2 to -- find the car and I believe there were footwear
3 patterns that led officers to █████ Hopkins Street in
4 Cayce. They found the defendant and another person,
5 Mr. Fred Whiting, located at the residence. The
6 defendant told officers that he was asleep at that
7 residence all day since two o'clock p.m. and denied
8 knowledge of the shooting.

9 Investigators obtained a statement from the
10 vehicle owner which placed the defendant behind the
11 wheel of that Dodge Neon shortly before the
12 shooting. When confronted with this information,
13 the defendant voluntarily came to police
14 headquarters and was reinterviewed. The defendant
15 provided a written statement confessing to the
16 shooting, and cooperating with family members,
17 turned over the weapon involved in the shooting.

18 Your Honor, at present, the defendant has a
19 prior record consisting of a 2010 trafficking of
20 crack cocaine and that is the extent of his
21 convictions at the current time.

22 We have made contact, I believe, with the
23 victim in this case. It's my understanding they're
24 incarcerated, in the attempted murder case, at -- in
25 DJJ in Bennettsville, South Carolina.

1 As far as the victim on the possession of
2 stolen goods, I believe the car was returned to him.
3 And I do not see any notations in the records, this
4 is a different Solicitor's file, Your Honor, that
5 indicate that there is restitution owed in that
6 case.

7 And Lieutenant Simmons is ready to speak with
8 Your Honor when Your Honor sees fit.

9 **THE COURT:** Yes, sir.

10 **LIEUTENANT SIMMONS:** Yes, sir. I was -- and I
11 would like to -- I think that the Assistant
12 Solicitor actually mentioned that he was identified
13 by the cleaner's receipts and that he made
14 statements saying that he was actually in the
15 vehicle, but we also -- I believe it was by latent
16 prints that we identified Mr. Jalon Taylor as having
17 possession of the vehicle at the time that he fled
18 from -- in Richland County, or Columbia. I'm not
19 clear as to which one it was.

20 On November 10th of 2010, after an
21 investigation, I conducted a search warrant on the
22 house at [REDACTED] Hopkins Street and arrested Mr. Jalon
23 Taylor along with three other known gang members in
24 our area. I'd like to say that Mr. Jalon Taylor
25 represents himself as a Folk Nation gang member,

1 specifically the Hill Top Posse, that's in our city.
2 And I say represents himself as such because I've
3 been doing approximately about a year long
4 investigation into these people. He was with three
5 other of the same Hill Top Posse gang members.

6 He did have \$940 in his possession at the time
7 that we determined was counterfeit money. We
8 contacted the Secret Service. They interviewed him.
9 He admitted to having the money and indicated who he
10 obtained it from.

11 He's currently wanted by our jurisdiction
12 because he was in a car chase. He was a passenger
13 in a car in a car chase and gave us false
14 information and hindered our investigation in that.
15 So he is currently, as he stands here, wanted by our
16 jurisdiction.

17 He was also recently shot in his hip. And I
18 have information in that that -- or hip or lower --
19 shot in the leg somewhere. And I have information
20 that that occurred down in Swansea and it was due to
21 some involvement in drug dealing.

22 He had been in and around several stolen
23 vehicles, one of which was a Crown Victoria, which I
24 have pictures of it at his mother's house and had
25 seen it there before. And I went to investigate it

1 up on what they call the Hill Top in the City of
2 Cayce, the 1400 block of Poplar Street, and
3 approached the vehicle. And Mr. Taylor was probably
4 50 yards away and I knew him to be the suspect in
5 it, so I went to confront him and talk to him about
6 it, and he denied having any knowledge or
7 involvement in the theft of that vehicle. And,
8 unfortunately, I was unable to obtain any latents
9 out of that vehicle tying him to it.

10 He rep -- as I said, he represents himself as a
11 gang member. He associates with gang members and
12 known drug dealers.

13 Dale Scott, the Assistant Solicitor who was
14 initially assigned to this case, we have been trying
15 to get him back in here for a rule to show cause to
16 revoke his bond for at least since December 7th.

17 **MS. GOLDBERG:** Which he has been to court every
18 single time and it's been continued.

19 **LIEUTENANT SIMMONS:** Right. It had been
20 continued. It's an ongoing process. And during
21 this process, he continues to commit crimes. And we
22 would ask as -- that we -- the citizens of Cayce and
23 the Cayce Police Department would ask that we get
24 the maximum penalties that we can get possibly on
25 these charges.

1 **THE COURT:** Anything else from the State?

2 **MS. USRY:** Nothing further from the State, Your
3 Honor.

4 **THE COURT:** All right. Mr. Taylor, do you
5 admit you're guilty of the receiving stolen goods,
6 forgery and attempted -- excuse me -- assault and
7 battery in the first degree charges that you're
8 pleading on today?

9 **DEFENDANT:** Yes, sir.

10 **THE COURT:** Has anybody forced you, threatened
11 you, coerced you in any way to get you to plead
12 against your will?

13 **DEFENDANT:** No, sir.

14 **THE COURT:** Any plea bargains the State's made
15 with you they have to tell me about on the record in
16 open court or put it in a written plea agreement,
17 which is entered into the record, or you lose what
18 they don't tell us about. Do you understand?

19 **DEFENDANT:** Yes, sir.

20 **THE COURT:** Ms. Goldberg, is everything on the
21 record?

22 **MS. GOLDBERG:** Your Honor, I would like to add
23 for the record, you know, there's no jury here. And
24 Your Honor knows how court works and so I'm going to
25 attempt -- I'm not going to make a big deal of this,

1 but I'm a little bit outraged at the -- all of the
2 allegations that were just stated which have nothing
3 to do with the actual charges and which I've never
4 even heard of before today. I would ask that Your
5 Honor just, obviously when we get to that point,
6 sentence him for what he's here today for and the
7 actual facts of these charges.

8 But, yes, Your Honor, everything's on the
9 record. More than I even knew of before is on the
10 record.

11 **THE COURT:** Well, I was asking about the plea
12 agreements. I'm sorry.

13 **MS. GOLDBERG:** Yes, sir.

14 **MS. USRY:** Your Honor, and I vaguely mentioned
15 the charges that are being dropped. They're all
16 listed on the drop charges form, which defense
17 counsel did get to see. So I didn't put it clearly
18 on the record every single charge that's being
19 dropped, but I can read each one into the record if
20 Your Honor would like me to. I did not do that.

21 **MS. GOLDBERG:** I have seen the dismissal form,
22 so that's okay.

23 **THE COURT:** Other than what's on the record,
24 Mr. Taylor, has anyone promised you anything to get
25 you to plead?

1 **DEFENDANT:** No, sir.

2 **THE COURT:** Are you fully satisfied with your
3 attorney?

4 **DEFENDANT:** Yes, sir.

5 **THE COURT:** Is there anything else you want
6 your lawyer to do on the cases that has not been
7 done?

8 **DEFENDANT:** No, sir.

9 **THE COURT:** Do you have complaints of any kind
10 against your attorney, law enforcement officials or
11 anybody who's dealt with your case?

12 **DEFENDANT:** No, sir.

13 **THE COURT:** Have you had enough time to meet
14 with your lawyer and discuss things with her so she
15 can represent you properly?

16 **DEFENDANT:** Yes, sir.

17 **THE COURT:** Have you had enough time to make up
18 your own mind about all of this?

19 **DEFENDANT:** No, sir.

20 **THE COURT:** You have not?

21 **DEFENDANT:** No, sir.

22 **THE COURT:** Do you need more time?

23 **DEFENDANT:** Yes, sir -- no, sir. No, sir.

24 **THE COURT:** All right. I'm confused at your
25 answer. The question was, have you had enough time

1 to meet with your lawyer and discuss things with her
2 and then I asked you if you had enough time to make
3 up your own mind about all of this?

4 **DEFENDANT:** Yes, sir.

5 **THE COURT:** Are you sure?

6 **DEFENDANT:** Yes, sir.

7 **THE COURT:** Assault and battery in the first
8 degree is a felony. It carries up to ten years in
9 prison. Do you understand that?

10 **DEFENDANT:** Yes, sir.

11 **THE COURT:** Receiving stolen goods is a felony
12 that carries up to ten years in prison. Do you
13 understand that?

14 **DEFENDANT:** Yes, sir.

15 **THE COURT:** Forgery is a felony that carries up
16 to five years in prison. Do you understand that?

17 **DEFENDANT:** Yes, sir.

18 **THE COURT:** In addition to that, they tell me
19 you're on probation. Do you understand that?

20 **DEFENDANT:** Yes, sir.

21 **THE COURT:** And they're attempting to violate
22 your probation or have me revoke your probation and
23 send you to prison on that. Do you understand?

24 **DEFENDANT:** Yes, sir.

25 **THE COURT:** You'll have to provide a DNA sample

1 if you haven't already and your DNA profile will be
2 put in a central computer registry. Do you know
3 that?

4 **DEFENDANT:** Yes, sir.

5 **THE COURT:** Property crimes are graduated. If
6 you violate property laws again, you face higher
7 punishment. Do you understand that?

8 **DEFENDANT:** Yes, sir.

9 **THE COURT:** So you're facing the possibility of
10 25 years on these three charges that you're pleading
11 guilty on. In addition, it appears that there's
12 some time hanging over your head on -- three years
13 on the probation matter. Do you understand that?

14 **DEFENDANT:** Yes, sir.

15 **THE COURT:** Are you sure you want to plead
16 guilty?

17 **DEFENDANT:** Yes, sir.

18 **THE COURT:** Mr. Taylor has made a free,
19 knowing, voluntary and intelligent decision to waive
20 his rights and plead guilty. He's done so upon the
21 advice of counsel with whom he's fully satisfied.
22 There's a factual basis for his pleas.

23 All right. Mr. Taylor, they've handed me some
24 papers indicating Judge McMahon sentenced you for
25 trafficking methamphetamine ten grams or more, but

1 less than 28 grams. You were sentenced apparently
2 in July of 2010. And he gave you a sentence of
3 three years suspended with two years probation.

4 **MS. GOLDBERG:** Your Honor, if I could speak to
5 that real quick. There's just a little confusion.
6 The central index states that he was actually
7 convicted of PWID. And as you know, that
8 trafficking charge as listed has a three-year
9 mandatory minimum, that probation is ineligible. So
10 I'm a little bit confused on which of those charges,
11 but, Your Honor, it was a crack charge and the
12 sentence is correct.

13 **THE COURT:** Okay. There's a warrant apparently
14 that was issued in which it was alleged that you
15 failed to follow the advice and instructions of the
16 agent, you failed to report upon your release from
17 Richland County Detention Center on July the 7th,
18 2011, failed to notify the agent of a change in
19 address that was verified in a home visit conducted
20 by the agent on July 22nd, 2011, in which it was
21 determined that you no longer lived on Poplar Street
22 in Cayce.

23 It's alleged that you failed to notify the
24 agent of an arrest on July the 7th of 2011 for
25 driving under suspension first and second,

1 possession of marijuana and alcohol, failing to use
2 headlights and failing to stop for a blue light.

3 It's alleged that you were behind on your money.

4 It's alleged that you failed to complete substance
5 abuse counseling by being terminated for failing to
6 report to the group session on June the 4th, 2011
7 and testing positive on June 3rd, 2011 for
8 marijuana.

9 There's another warrant that was issued
10 alleging that you failed to follow the advise and
11 instruction of the agent by failing to report when
12 you were released from the Lexington County
13 Detention Center on August 1, 2011.

14 It's alleged that you were in possession of a
15 weapon as evidenced by an arrest warrant and police
16 incident report of the West Columbia Police
17 Department dated July 26, 2011, in which you were
18 charged with attempted murder in the shooting of
19 another individual. It's alleged that you failed to
20 cont -- to report that you had had contact with law
21 enforcement by being arrested July the 26th, 2011 by
22 the West Columbia Police Department.

23 They recommend a revocation in full and convert
24 any financial obligations against you to civil
25 judgments.

1 Anything else on probation?

2 **AGENT RINSE:** Judge, Agent Lyons is here and
3 she may have something.

4 **THE COURT:** Yes, ma'am.

5 **AGENT LYONS:** Those were those two warrants.
6 The only thing that I would like to add, Your Honor,
7 when the Solicitor read his charges, he did have two
8 additional convictions that were in Richland County
9 that came from July the 7th of 2011, one was a
10 possession of marijuana charge and the second was a
11 driving under suspension charge. He was convicted
12 of both of those in Richland County.

13 And the only other thing that we would like to
14 request is that our probation violation revocation
15 run consecutive to his sentence that he receives on
16 the new charges that he's pleading to.

17 **THE COURT:** Okay --

18 **AGENT LYONS:** And the only other thing -- I'm
19 sorry, Your Honor. The arrest warrant that ends in
20 0249, when we actually apprehended Mr. Taylor on
21 that, it did take several agencies to locate him.
22 He was only located after his cell phone was pinged
23 by SLED.

24 Due to the weapons and the gang affiliation, we
25 were concerned about our safety, so we did take

1 extra precautions in that apprehension. He in no
2 way offered to come into the office voluntarily.

3 And he has -- was ordered to report biweekly
4 while we were pending this since we've had several
5 continuations, which I've been aware of and that was
6 fine. The last time he reported to the office was
7 February 1st. It's not included in the violations,
8 but I just wanted to add that he stopped reporting
9 the beginning of February.

10 **THE COURT:** Ms. Goldberg.

11 **MS. GOLDBERG:** Thank you, Your Honor. May it
12 please the Court.

13 I've represented Mr. Taylor since, I believe,
14 around August. Since that time, he was at first
15 incarcerated, but then he was out on bond and on
16 probation. He has been on an ankle monitor that
17 entire time.

18 He -- as stated, he has high supervision on
19 probation where he was supposed to make biweekly
20 visits. He did not make all appointments he was
21 supposed to make, but he did make appointments. He
22 did not abscond. He was behind on payments, but he
23 did make some payments.

24 Your Honor, he was probably negligent in his
25 participation with probation, but he did not

1 abscond. And I just want to make that clear that
2 there was some effort and there was communication
3 there.

4 Your Honor, of all of the offenses he had on
5 probation, obviously the most serious is these new
6 charges that we're dealing with today. And for that
7 reason, I would ask that that -- any sentence issued
8 on the probation be concurrent to these that we're
9 dealing with today.

10 Your Honor, as to the charges, the Solicitor
11 stated that my client admitted to taking the car
12 involved in the possession of stolen vehicle, that's
13 not true. He never did. He is pleading guilty
14 today because he was in possession of that car at
15 some point in time. That's what he's admitting and
16 that's what he is pleading guilty to.

17 Your Honor, as to the attempted murder, that is
18 the biggest issue, that's the most serious. My
19 client tells me that two or three days prior to that
20 incident, he was actually robbed by someone with a
21 gun. He did not report that to the police. They
22 took about \$200 in jewelry from him.

23 At that point in time, he got a gun that he
24 found in his grandfather's tool shed or tool box and
25 started carrying it around. He saw these

1 individuals that the incident happened with with the
2 attempted murder. There were some words. And
3 Mr. Taylor admits and has admitted since early on in
4 the investigation that he did shoot at them. He
5 tells me that he did not intend to hit either of
6 them, he just shot at them, which obviously is not
7 okay, but he missed and did hit one of them in the
8 hip. He is remorseful about that, but he does tell
9 me that he was intending to miss.

10 Your Honor, we've talked about how the robbery
11 a couple days prior is not a legal defense. It does
12 not make something that happened two or three days
13 later self-defense. We've talked about how the fact
14 that he did not intend to kill them or injure them
15 is not completely a defense either. If we had gone
16 to trial on the attempted murder, we most likely
17 would have been hoping for a conviction for assault
18 and battery first degree, which is why we're
19 pleading here today. He admits that he shot that
20 individual and it was unjustified.

21 Your Honor, he has come to court every single
22 court date he's ever been asked. He's returned my
23 calls. He's been very cooperative with me.

24 Your Honor, he has actually a lot of family
25 here today. Standing with me is his godmother,

1 Louella Washington. In the gallery, we also have
2 his cousin, LaKesha Richardson; his mother, Amanda
3 Jamison; his sister, Tianna Jamison; his brother,
4 Jerrell Jamison.

5 Your Honor, I do want to emphasize Mr. Taylor's
6 age. He's only 19 years old. He does have a high
7 school graduation behind him. He has been working
8 steadily. He's worked for Gill Jones, who's a
9 family friend, who I've spoken to. And he owns
10 Muscles Concrete. And he tells me that Mr. Taylor
11 has been working steady for him and doing a very
12 good job. Mr. Taylor's also worked other places in
13 the past including First Care Plus and Mr. Bingo.

14 He has a girlfriend and a three-year-old son
15 and was intending to go to Denmark Technical College
16 for therapeutic recreation, but these charges have
17 prevented that.

18 Your Honor, as I stated before, I -- you're an
19 experienced judge and I just ask and I hope that
20 he's sentenced on the charges he's actually pleading
21 guilty to and not outside allegations and not
22 outside charges that are irrelevant to what we're
23 doing here today.

24 He, as I said, has been very nice, very
25 appropriate in all his conversations with me. He's

1 19 years old. He hasn't been to the department of
2 corrections. This is going to be a very big
3 adjustment for him and his family. It'll be a
4 learning experience and hopefully something that
5 will prevent this from happening in the future.

6 I ask that Your Honor run any and all sentences
7 you issue concur -- I mean, consecutive to each
8 other. I ask that, Your Honor --

9 **THE COURT:** You mean concurrent.

10 **MS. GOLDBERG:** I'm sorry?

11 **THE COURT:** You said consecutive.

12 **MS. GOLDBERG:** Concurrent.

13 **THE COURT:** Yes, ma'am. Go ahead.

14 **MS. GOLDBERG:** I ask that Your Honor be as
15 lenient as you can possibly be given his youth and
16 everything else discussed today.

17 I believe his godmother may want to address the
18 Court.

19 **THE COURT:** What's your name, ma'am?

20 **MS. WASHINGTON:** Louella Washington.

21 **THE COURT:** Spell your first name.

22 **MS. WASHINGTON:** L-o-u-e-l-l-a.

23 **THE COURT:** Yes, ma'am, what would you like to
24 say?

25 **MS. WASHINGTON:** Well, I've been in Jalon life

1 all of his life. I know he made mistakes, a lot of
2 them, but he got a good heart. He just loses it
3 sometimes.

4 He's a good worker and a father. He messes
5 with all my grands, which are his nephews. And I
6 don't really have problems out of Jay, you know,
7 he's not disobedient with me. When I talk to him,
8 he listens and he handles everything that I say to
9 him, but, you know, kids grow and they get out and
10 you can't tell them anything, but I know that he
11 done made a lot of mistakes. And I can't apologize
12 for him. He have to do that hisself. I just hope
13 that what you give him is not, you know, so terrible
14 that he can't come back and further his career and
15 raise his son.

16 **THE COURT:** Thank you, ma'am.

17 Anything else?

18 **MS. GOLDBERG:** Your Honor, just that obviously
19 he's willingly come off the street to admit what
20 he's done wrong and to accept sentencing. And we
21 would just ask that Your Honor be compassionate and
22 as lenient as you're willing to be.

23 **THE COURT:** Do you want to say anything,
24 Mr. Taylor?

25 **DEFENDANT:** Yes, sir. Due to the circumstance

1 of I just got shot recently two weeks ago and being
2 in the situation that I'm in, I was thinking about
3 -- I had a lot of time to think while I been laid
4 up. And somebody getting shot, that ain't -- that's
5 your life. You can't move like you want to. You
6 can't get around like you want to and it's pretty
7 hard. So I feel remorse.

8 I went talking to the family, went over,
9 brought food over, raked the yard. I can't do yard
10 work for them due to the job that I work at.

11 I just want to be there to raise my son. I
12 just want -- I want you to have consideration I got
13 a son that I really want to get back out there to,
14 that's about it.

15 **THE COURT:** Thank you, sir.

16 (Pause.)

17 **THE COURT:** Okay. Mr. Taylor, if there's
18 nothing further, I accept your plea.

19 Cuff him.

20 (Pause.)

21 **THE COURT:** Mr. Taylor, if you wish to appeal
22 anything from this proceeding, it has to be in
23 writing. You have to tell your lawyer so she can
24 file the notice of appeal. If, for some reason, you
25 cannot afford an attorney to appeal, the state can

1 appoint one for you. Do you understand all that?

2 **DEFENDANT:** Yes, sir.

3 **THE COURT:** There's a very short timeframe in
4 which to file an appeal. So you make sure you tell
5 your attorney if you want to appeal anything from
6 this.

7 The sentence of the Court on indictment
8 2011-GS-32-3506, assault and battery in the first
9 degree, is that you be committed to the South
10 Carolina Department of Corrections for ten years
11 plus costs and assessments. You're given credit for
12 jail time under section 24-13-40, that will be
13 calculated and applied by the department of
14 corrections. Restitution is deferred. Pay your
15 court costs within one year of being released from
16 maximum incarceration in prison.

17 Indictment 2011-GS-32-641, receiving stolen
18 goods, the sentence is that you be committed to the
19 South Carolina Department of Corrections for five
20 years plus costs and assessments consecutive. Court
21 costs are the same, paid in the same way as on the
22 other indictment.

23 Indictment 3399, forgery, the sentence is five
24 years consecutive. And the court costs are the same
25 as on indictment 3506 to be paid in that same

1 manner.

2 On the probation violation, I find that you
3 have willfully violated the terms and conditions of
4 probation by failing to report as directed on
5 certain occasions, failing to notify the agent of
6 contact with law enforcement and with the offenses.
7 I revoke it in full and run it consecutive. Good
8 luck to you.

9 Any financial obligations that remain on his
10 probation case are to be enrolled as civil
11 judgments.

12

13 END OF PROCEEDINGS

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C E R T I F I C A T E


STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the guilty plea of the captioned cause, relative to appeal in the Criminal Court for Lexington County, South Carolina, on the 15th of March, 2012.

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

August 17, 2012



Stacy L. Sheppard, RPR
Circuit Court Reporter

WITNESSES

Cayce Department of Public Safety
Darwin J. Weaver
Law Enforcement Case #: 1008298

AHE

ARREST WARRANT NUMBER

1203782

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 3/14/11

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2011GS3200641

The State of South Carolina
County of Lexington

COURT OF GENERAL SESSIONS

MARCH TERM 2011

THE STATE
vs.

Jalon Ted Taylor

CDR #: 3467

Indictment for

POSSESSION OF STOLEN GOODS
MORE THAN \$10,000.00

§ 16-13-0180

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON) INDICTMENT FOR
) POSSESSION OF STOLEN GOODS MORE
) THAN \$10,000.00
) § 16-13-0180

At a Court of General Sessions, convened on MARCH 2011, the Grand Jurors of Lexington County present upon their oath:

That Jalon Ted Taylor did in Lexington County, South Carolina, between the dates of August 19 and October 27, 2010, unlawfully buy, receive, or possess stolen goods, chattels, or other or other property was stolen, such property described as a 2004 Chevrolet Silverado, and having a value of ten thousand (\$10,000) dollars or more, in violation of § 16-13-0180 of the South Carolina Code of Laws of 1976, as amended.

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



ASSISTANT SOLICITOR

WITNESSES

Cayce Department of Public Safety
J Simmons
Law Enforcement Case #:

DOCKET NO. 2011GS3203399

The State of South Carolina
County of Lexington

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2011

DS
ARREST WARRANT NUMBER


1203809

THE STATE
vs.

Jalon Ted Taylor

ACTION OF GRAND JURY

TRUE BILL


Foreperson of Grand Jury
Date: 11/7/11

CDR #: 3436

Indictment for

Forgery Less than \$10,000

§ 16-13-0010(A)

VERDICT

DONALD V. MYERS, SOLICITOR

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	Forgery Less than \$10,000
COUNTY OF LEXINGTON)	
	)	§ 16-13-0010(A)

At a Court of General Sessions, convened on November 2011, the Grand Jurors of Lexington County present upon their oath:

That Jalon Ted Taylor did in Lexington County, South Carolina, on or about November 10, 2010, falsely make, forge, or counterfeit; cause or procure to be falsely made, forged, or counterfeited; or wilfully act or assist in the false making, forging, or counterfeiting of any writing or instrument of writing, with an intention to defraud any person, to wit: Jalon Taylor did have in his possession 47 counterfeit \$20 bills, such having a value of less than ten thousand (\$10,000) dollars, in violation of §16-13-0010 of the South Carolina Code of Laws of 1976, as amended

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


 ASSISTANT SOLICITOR

WITNESSES

West Columbia Police Department

Mark Jones

Law Enforcement Case #:

DS

ARREST WARRANT NUMBER

J034625

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury
Date: 11/7/11

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2011GS3203506

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2011

THE STATE

vs.

Jalon T Taylor

CDR #: 3410

Indictment for

Attempted Murder

§ 16-03-0029

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Attempted Murder

§ 16-03-0029

At a Court of General Sessions, convened on November 2011, the Grand Jurors of Lexington County present upon their oath:

That Jalon T Taylor in Lexington County, South Carolina, on or about July 26, 2011, did, with the intent to kill, attempt to kill another person with malice aforethought, either express or implied, to wit: Jalon Taylor did fire a handgun at Nelson Ortiz, striking him in the hip, in violation of §16-03-0029 of the South Carolina Code of Laws of 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

COUNTY OF Lexington
STATE VS.

Jalon Ted Taylor

AKA:

Race: Black Sex: M Age: 19

DOB: -1992 SS#:

Address: Poplar Street

City, State, Zip: Cayce, SC 29033

DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: RSG/ Receiving stolen goods, value \$10,000 or more

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS3200641

A/W#: I203782

Date of Offense: 8/19/2010

S.C. Code § : 16-13-0180(A)

CDR Code #: 3427

SENTENCE SHEET

0-10yrs not less than \$2,000

CONVICTED OF or PLEADS

in violation of § 16-13-0180(A) of the S.C. Code of Laws, bearing CDR Code # 3427

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.

ATTEST: Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

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

for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed years

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

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

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of

probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 2011-GS-32-3506 & 3399 A PROBATION

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied

by the State Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

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

Payment Terms: Obtain GED

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

Recipient: May serve W/E beginning

*Fine: Substance Abuse Counseling

§ 14-1-206 (Assessments 107.5 %) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ca \$

Proviso 90.5 (SCCJA Surcharge) \$5 \$5.00

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

TOTAL \$130

Clerk of Court/ Deputy Clerk Stacy Sheppard

Court Reporter: Stacy Sheppard

SCCA/217 (03/2011)

Presiding Judge William P. Clardy

Judge Code: 2052

Sentence Date: MARCH 15, 2012

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington)
STATE VS.)

INDICTMENT/CASE#: 2011GS3203399

Jalon Ted Taylor)

A/W#: 1203809

AKA:)

Date of Offense: 11/10/2010

Race: Black Sex: M Age: 19)

S.C. Code §: 16-13-0010(A)

DOB: -1992 SS#:)

CDR Code #: 3436

Address: Poplar Street)

SENTENCE SHEET

*0-5 yrs.
and/or fine
in discretion
of court.*

City, State, Zip: Cayce, SC 29033)

DL#: SID#:)

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Forgery / Forgery, value less than \$10,000

CONVICTED OF or PLEADS

in violation of § 16-13-0010(A) of the S.C. Code of Laws, bearing CDR Code # 3436
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

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

ATTEST: *[Signature]* 73081 *[Signature]* 72674
Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

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

for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed _____ years.

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

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

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

CONCURRENT or CONSECUTIVE to sentence on: 2011-GS-32-35064 0641 & PROBATION VIOLATION ON 2010-GS-32-2155

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

PTUP _____

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED

Set by SCDPPPS: _____

Attend Voc. Rehab. or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

*Fine: _____ \$ _____

Substance Abuse Counseling

§ 14-1-206 (Assessments 107.5%) \$ _____

Random Drug/Alcohol testing

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

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

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

pmts. of \$ _____ beginning _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

\$ _____ paid to Public Defender Fund

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

Other: pay court costs as directed on 2011-GS-32-3506

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(I) (Vehicle Assessment) \$40/ca \$ _____

Proviso 90.5 (SCCA Surcharge) \$5 \$ 5.00

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

TOTAL \$ 130

Clerk of Court/ Deputy Clerk *[Signature]*

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

Presiding Judge William P. Kinsley

Judge Code: 2050

Sentence Date: MARCH 15, 2012

Court Reporter: *[Signature]*

SCCA/217 (03/2011)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington
STATE VS.
Jalon T Taylor

INDICTMENT/CASE#: 2011GS3203506
A/W#: J034625
Date of Offense: 7/26/2011
S.C. Code § : 16-03-0029
CDR Code #: 3410

AKA:
Race: Black Sex: Age: 19
DOB: -1992 SS#:
Address: Minolta Dr
City, State, Zip: West Columbia, SC 29172-2734
DL#: SID#:

SENTENCE SHEET 0-10 yrs

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Assault / Assault & Battery 1st degree

CONVICTED OF or PLEADS

in violation of § 16-03-0600(C)(1) of the S.C. Code of Laws, bearing CDR Code # 3412
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.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Solicitor 73081 Defendant Attorney for Defendant Kristy Salberg 72674 SC Bar#

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

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

CONCURRENT or
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:

Table with 2 columns: Description and Amount. Rows include various fines and surcharges like § 14-1-206, § 14-1-211(A)(1), § 14-1-211(A)(2), § 56-5-2995, § 56-1-286, Proviso 47.9, § 14-1-212, § 14-1-213, § 50-21-114, § 56-5-2942(J), Proviso 90.5, and 3% to County.

Clerk of Court/ Deputy Clerk
Court Reporter
SCCA/217 (03/2011)

PTUP days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

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

pmts. of \$ beginning

\$ paid to Public Defender Fund

Other: Pay court costs within 1 yr. of

release from actual confinement in prison

Appointed PD or appointed other counsel,

§ 47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge

Judge Code: 2050

Sentence Date: MARCH 15, 2012

FORM 5

STATE OF SOUTH CAROLINA

County of Lexington

FILED IN THE COURT OF COMMON PLEAS

Jalen Ted Taylor #35015 2013 APR 11 3 4:37

Full name and prison number (if any) of Applicant

v.

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC

APPLICATION FOR

State of South Carolina

POST-CONVICTION RELIEF

2013 CP 3201282

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 Lee C I 490 Winchby Highway
Bishopville, South Carolina 29010
2. Name and location of Court which imposed sentence Lexington County Court of
General Sessions / 205 East Main Street / Lexington, S.C. 29072
3. Name(s) of co-defendant(s) (if any) None
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2011-GS-32-3506 / Assault and Battery First Degree
 - (b) 2011-GS-32-3399 / Forgery

A TRUE COPY

[Signature]
Lex. Co. C.C.C.P., G.S. & F.C.

(c) 2011-BS-22-1641 / Possession of Stolen Goods more than 10,000.

5. The date upon which sentence was imposed and the terms of the sentence:

(a) March 15th, 2013 / Assault and Battery First Degree: Ten Years,

(b) Receiving Stolen Goods: Five Years, Forgery: Five Years, Probation

(c) Violation: Three Years. All sentences are consecutive for a total of 23 years

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 Appeals

ii. ↓

iii. _____

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

i. I dropped Appeal

ii. ↓

iii. _____

(c) the date of each such result:

i. April 1, 2013

ii. ↓

iii. _____

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

i. Unknown

ii. _____

iii. _____

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

(a) N/A

↓

(b) _____

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2013 APR 11 P 4:37
DETHA-CANTONIA
CLERK OF COURT
SOUTH CAROLINA

(c) _____

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

(a) Ineffective Assistance of Counsel

(b) Involuntary Plea that resulted from breach of Plea

(c) Agreement

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

(a) See Page 3(a)

(b) _____

(c) _____

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

(a) any petition in a State Court under South Carolina Law? No

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No

(d) any other petitions, motions or applications in this or any other Court? No

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

(a) the specific nature thereof:

i. 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
2016 APR 11 P 4:37
FEDERAL COURTS
SOUTH CAROLINA

2013CP3201282

FILED

11. State concisely and in the same order the facts which support each ~~2013 APR 1 2 11 37~~ grounds set out in (10):

The Applicant alleges his Sixth(6th) Amendment Constitution right to effective representation of counsel was denied when his attorney failed to ensure the State adhered to the plea agreement made to him that served as an inducement for him to plead guilty. Because Applicant's Counsel did not correct the prosecutions breach of his plea agreement, his pleas are involuntary.

(Law): In Santobello v. New York, the United States Supreme Court established that state prosecutors are obligated to fulfill the promises they make to defendants when those promises serves as inducements to defendants to plead guilty 404 U.S. 257, 92 S.Ct. 495, 30 L.Ed.2d 427 (1971). Recognizing the fundamental rights that a defendant forfeits when he pleads guilty, the Supreme Court made the following statements:

This phase of the process of criminal justice, and the adjudicative element inherent in accepting a plea of guilty, must be attended by safeguards to insure the defendant what is reasonably due in the circumstances. Those circumstances will vary, but a constant factor is that when a plea rests in any significant degree on a promise or agreement of the prosecutor, so that it can be said to be part of the inducement of consideration, such promise must be fulfilled. Id. at 262, 92 S.Ct. at 499, 30 L.Ed.2d at 433.

Applicant's case is similar to the facts of Santobello insofar as the prosecution agreed to abstain from making sentencing recommendation in exchange for his plea, but breached the plea agreement by recommending the judge impose the maximum sentence allowed. See: Sentencing Sheets for all offenses Applicant plead guilty to;

also, Tr. pg. 12 line 10- pg. 14 line 25. Here, the record clearly demonstrates the State breached Applicant's plea agreement and his Counsel did nothing to correct the deviation from what was agreed upon. See: Tr. pg.15 line 20 - pg. 16 line 22; pg. 23 line 11- pg. 27 line 18. Thus, it is clearly shown Counsel's performance fell below the reasonable norms required of attorneys that is established by Strickland v. Washington, and its progeny 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1982).

PREJUDICE

The Supreme Court of South Carolina has recognized the principles espoused in Santobello, on numerous occasions. State v. Thrift, 312 S.C. 282, 440 S.E.2d 341 (1994); State v. Thompson, 278 S.C. 1, 5, 292 S.E.2d 581, 584 (1982) ([Santobello] stands for the proposition that when an accused pleads guilty upon the promise of a prosecutor, the agreement must be fulfilled.) Moreover, our Supreme Court has adopted the per se prejudice analysis of Santobello and it is held when a defendant's plea agreement has not been fulfilled, he need not show prejudice. The rule adopted from Santobello by our Supreme Court reasoned, "[w]e need not reach the question whether the sentencing judge would or would not have been influenced had he known all the details of the negotiations for the plea." Recognizing the "interests of justice" and the duties of the prosecution in relation to promises made in the negotiations of pleas would be best served by remanding the case to the state courts for one of two dispositions. The Court indicated that the state court could either (1) require specific performance of the plea agreement or (2) allow Petitioner to withdraw his guilty plea altogether and start over. See: Sprouse v. State, 585 S.E.2d 278, 280-81 (2003) (citing): Santobello Id. at 263, 92 S.Ct. 495

2013CP3201282

Applicant's State and Federal right to effective assistance of Counsel was violated when his attorney failed to ensure the prosecution adhered to the plea agreement made to him that served as an inducement for him to plead guilty. Consequently, his pleas are void and this Court must grant relief. In compliance with the holding of the Supreme Court of South Carolina, Applicant respectfully requests this Court to remand his case to the trial court with instructions to conduct specific performance of his plea agreement, or allow him to withdraw his guilty plea altogether and start over. Sprouse, Id at 281.

Respectfully Submitted,


 S. _____
 Jalon T. Taylor #350159

SETH A. CARRIGG
 CLERK OF COURT
 EXECUTION

2013 APR 11 P 4: 37

FILED

FILED the disposition thereof:

i. N/A

2013 APR 11 2 4: 37

iii. |

BETH A. CARRIGG
CLERK OF COURT
JULIAN, NJ

(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?

No

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. |

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:

FILED

2013 APR 11 5 4:31

- (a) ~~The claim regarding breach of Plea Agreement was not~~
- (b) ~~objected to so it was not preserved for Direct Appeal~~
- (c) ~~Revised. Furthermore, claims relating to ineffective assistance must be raised via PCR.~~

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

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

Na

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. Kristy B. Goldberg, Esq.
1724 Main Street Suite 301
 - ii. Columbia, S.C. 29201
Wanda H. Carter, Appellate Defender
 - iii. Post Office Box 11589
Columbia, S.C. 29211
- (b) the proceedings at which each such attorney represented you:
 - i. Kristy B. Goldberg
Arraignment and Plea / Sentencing
 - ii. Wanda H. Carter
 - iii. Appeal

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

Vacate conviction and remand for trial. Or vacate sentence and remand to Court of General Sessions with instructions to adhere to plea agreement

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

Yes Three year sentence from probation violation.

2013CP3201282

STATE OF SOUTH CAROLINA)

County of Bishopville)

VERIFICATION

BETH A. CARRIGG
CLERK OF COURT
1500 W. BROAD ST.
COLUMBIA, SC 29201

2013 APR 11 2 44:37

FILED

I, Jalon Ted Taylor 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.

[Signature]

SWORN to and subscribed before me this 10 day of April 2013.

[Signature] (L.S.)
Notary Public

My Commission Expires: 11-4-2015

BETH A. CARRIGG
CLERK OF COURT
1500 W. BROAD ST.
COLUMBIA, SC 29201

2013 APR 11 2 44:37

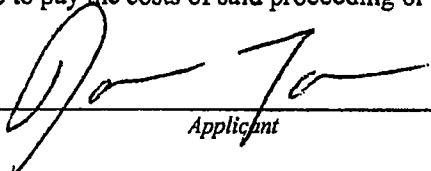
FILED

2013CP3201282

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

I, Jalen Ted Taylor, 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.



 Applicant

SWORN or affirmed to and subscribed before me this
10 day of April, 2013.



 Notary Public

My Commission Expires: 11-4-2015

FILED
 2013 APR 11 2 4:37
 BETH A. CARRIGG
 CLERK OF COURT
 1111111111

ORIGINAL

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)
)
)
)
 Jalon Ted Taylor.)
 S.C.D.C. No. 350159)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
ELEVETH JUDICIAL CIRCUIT

C.A. No. 2013-CP-32-1282

RETURN

In response to the post-conviction relief application filed April 11, 2013, Respondent would show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lexington County Clerk of Court. Applicant was indicted at the March 2011 term of the Lexington County Grand Jury for possession of stolen goods, more than \$10,000 (2011-GS-32-0641), at the November 2011 term for forgery, less than \$10,000 (2011-GS-32-3399) and attempted murder (2011-GS-32-3506). Kristy Goldberg, Esq., represented him. On March 15, 2012, Applicant pled guilty as indicted before the Honorable William P. Keesley to the charges of possession of stolen goods and forgery. Applicant also pled guilty to the lesser included offense of assault and battery of a high and aggravated nature (ABHAN). Judge Keesley sentenced him to imprisonment for a term of five (5) years for possession of stolen goods; to a term of five (5) years for forgery; and to a term of ten (10) years for ABHAN. These sentences were to be served consecutively.

A timely notice of appeal was filed and perfected on Applicant's behalf pursuant to Anders¹. Wanda H. Carter, Esq., represented Applicant on appeal. The South Carolina Court of Appeals dismissed the appeal and granted counsel's motion to be relieved. State v. Taylor, Op. No. 2013-UP-308 (S.C. Ct. App. filed July 3, 2013). The Remittitur was issued on July 22, 2013.²

Attached herewith and incorporated herein are the records of the Lexington County Clerk of Court regarding the subject convictions, Applicant's records on appeal, and Applicant's application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current application for Post-Conviction Relief, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Trial Counsel"
 - a. Counsel "failed to ensure the State adhered to the plea agreement made to him that served as an inducement for him to plea guilty."
2. "Involuntary guilty plea that resulted from breach of plea agreement"

III.

Respondent submits Applicant's allegation of ineffective assistance of plea counsel is without merit. In a PCR action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of plea counsel as a ground for relief, the applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process" that the plea

¹ Anders v. California, 386 U.S. 738 (1967).

² Applicant filed this application for PCR while his direct appeal was still pending; however, Applicant withdrew his appeal before Respondent made a motion to dismiss. Respondent now proceeds accordingly.

proceedings "cannot be relied upon as having produced a just result." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The court strongly presumes trial counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

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

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

IV.

Respondent submits Applicant's allegation his guilty plea was involuntary is also without merit. In PCR cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (2000) (citing Drayton v. Evatt, 312 S.C. 4, 430 S.E.2d 517 (1993); Hyman v. State, 278 S.C. 501, 299 S.E.2d 330 (1983); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993)). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citing Hill v. Lockhart, 474 U.S. 52; Jackson v. State, 342 S.C. 95, 535 S.E.2d 926 (2000); Thompson v. State, 340 S.C. 112, 531 S.E.2d 294 (2000); Rayford v. State, 314 S.C. 46, 443 S.E.2d 805 (1994)). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. at 56. Furthermore, "[a] guilty plea is a solemn, judicial admission of the truth of the charges" against the applicant. Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Admissions "made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements." Id. at 137-38, 654 S.E.2d at 874 (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)).

Respondent submits the record fully supports the knowing and voluntary nature of Applicant's plea. However, allegations regarding the voluntariness of the plea may raise

questions of fact the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper, 279 S.C. 264, 305 S.E.2d 247.

V

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

VI.

WHEREFORE, Respondent moves to summarily dismiss the application because it was filed after the statute of limitations had expired. In the alternative, Respondent requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

WALT WHITMIRE
Assistant Attorney General

By: _____
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

_____, 2015

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Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

PATRICK L. SCHMECKPEPER
Assistant Attorney General

By: 

ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

September 30 2015

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)
 JALON T. TAYLOR, #350159,)
)
 Applicant,)
)
 vs)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS

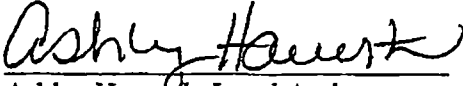
2013-CP-32-1282

AFFIDAVIT OF SERVICE BY MAIL

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

Ms. Aimee Zmroczek, Esquire
A.J.Z. Law Firm, LLC.
PO Box 11961
Columbia, SC 29211

DATED this 30TH day of September, 2015.


 Ashley Haworth, Legal Assistant
 For Respondent



CASE # 2013 CP 32-1282

**EXHIBITS
NOT
SCANNED**

STATE OF SOUTH CAROLINA)	
	)	COURT OF COMMON PLEAS
COUNTY OF LEXINGTON)	
JALON T. TAYLOR,)	
)	
Applicant,)	
v.	)	Case No. 13-CP-32-1282
)	
STATE OF SOUTH CAROLINA,)	
)	
Respondent.)	

TRANSCRIPT OF HEARING

The within Post-Conviction Relief Hearing in the above-captioned matter was held on April 18, 2016, before The Honorable Perry H. Gravely in the Court of Common Pleas for Lexington County; attended by counsel as follows:

APPEARANCES:

Johanna C. Valenzuela, Esq.
Assistant Attorney General
... appearing for State of South Carolina

Aimee Zmroczek, Esq.
... appearing for Applicant

Deborah Garrison
Circuit Court Reporter – 13th Judicial Circuit
P O Box 27145
Greenville, South Carolina 29616-7145
dgarrison@sccourts.org

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Before The Honorable Perry H. Gravely

2

INDEX

Testimony of Applicant

Direct Examination	5
Cross Examination	14
Redirect Examination	24
Recross Examination	30

Testimony of Amanda Jamison

Direct Examination	32
Cross Examination	35

Testimony of Kristy Goldberg

Direct Examination	36
Cross Examination	55
Redirect Examination	60

INDEX OF EXHIBITS

Applicant's Exhibit 1	10
Sentencing Sheets	
RULING	62
Certificate of Court Reporter	64

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Before The Honorable Perry H. Gravely

3

1 (APPLICANT PRESENT)

2 THE COURT: Good morning, Mr. Taylor.

3 APPLICANT: Good morning.

4 THE COURT: All right, I will be glad
5 to hear from you, Mr. Valenzuela.

6 MS. VALENZEULA: Yes, Your Honor. The
7 next case that we are calling is Jalon Taylor
8 versus the State of South Carolina, Case
9 Number 2013-CP-32-1282.

10 Mr. Taylor filed the current application
11 on April 11th, 2013. He is presently confined
12 in the South Carolina Department of
13 Corrections.

14 He was indicted in the March 2011 term
15 of the Lexington County Grand Jury for
16 possession of stolen goods, more than ten
17 thousand (\$10,000); Indictment Number 11-GS-
18 32-0641.

19 He was also indicted in November of 2011
20 term for forgery less than ten thousand
21 (\$10,00) under Indictment Number 11-GS-32-
22 3399; and for attempted murder, 11-GS-32-
23 3506. He was represented by Christie
24 Goldberg on those charges and on March 15th,
25 2012, he pled guilty to those charges before

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Before The Honorable Perry H. Gravely

4

1 Judge Keesley: possession of stolen goods,
2 forgery and then assault and battery first
3 under the indictment for attempted murder.

4 Your Honor, in our return I would just
5 note that we accidentally listed in the first
6 paragraph that he pled to ABHAN, assault and
7 battery of a high and aggravated nature, so
8 that correction will need to be made because
9 he actually pled to assault and battery
10 first.

11 Judge Keesley sentenced Mr. Taylor to
12 imprisonment to a term of five years for
13 possession of stolen goods, five years for
14 forgery and ten years for assault and battery
15 first. Those sentences were to be served
16 consecutively.

17 The inmate filed a timely notice of
18 appeal and was represented by Wanda Carter.
19 The South Carolina Court of Appeals dismissed
20 the appeal and the remittitur was issued on
21 July 22nd, 2013.

22 The current application before the Court,
23 the Applicant alleged that counsel failed to
24 ensure that the State adhere to the plea
25 agreement made to him, that served as an

1 inducement for him to plead guilty.

2 He is represented in this case by Aimee
3 Zmroczek, who is present in the courtroom
4 with him.

5 The return to that application was filed
6 by our office on September 30th, 2015.

7 THE COURT: All right. Ms. Zmroczek,
8 I will be glad to hear from you.

9 MS. ZMROCZEK: Thank you. Your
10 Honor, at this time we would call Jalon
11 Taylor. He's ready to move forward with his
12 application.

13 THE COURT: Mr. Taylor, please come
14 forward.

15 (WITNESS TAKES STAND)

16 JALON T. TAYLOR, having been sworn to
17 tell the truth, and nothing but the truth,
18 testified as follows:

19 DIRECT EXAMINATION

20 BY MS. ZMROCZEK:

21 Q. Mr. Taylor, how old are you?

22 A. Twenty-four.

23 Q. Twenty-four?

24 A. (Affirmative nod).

25 Q. How old were you when you were sentenced?

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Applicant - Direct Examination

6

- 1 A. Nineteen.
- 2 Q. Who was your attorney?
- 3 A. Christie Goldberg.
- 4 Q. Miss Christie Goldberg?
- 5 A. Yes, ma'am.
- 6 Q. And how many times did you meet with Ms.
- 7 Goldberg?
- 8 A. Twice.
- 9 Q. Were you detained when you met with her?
- 10 A. One time. One time and then one time
- 11 when I was on the streets.
- 12 Q. Did you bond out?
- 13 A. Yes, ma'am.
- 14 Q. The second time, when you were on the
- 15 streets, that you met with her did you meet
- 16 with anybody else or was it just the two of
- 17 you?
- 18 A. Just the two of us.
- 19 Q. Let's be clear before we go any further
- 20 what you are doing here today is asking the
- 21 judge to enforce the plea agreement that was
- 22 extended to you. Correct?
- 23 A. Yes, ma'am.
- 24 Q. Tell the judge what that plea agreement
- 25 was.

1 A. Prior to coming in the courtroom I was
2 told that I would receive no more than ten
3 years once I signed. Me, my brother, my
4 mother, we was all gathered around and we was
5 told that I would receive no more than ten
6 years.

7 I asked several times to leave the
8 courtroom or have a recess so that I could
9 speak with my family.

10 I wanted to go ahead and go through the
11 process because at the time I was still
12 young, I was nineteen at the time. I
13 understood that I'd receive no more than ten
14 years.

15 That is what the agreement was that was
16 made before I walked into this courtroom.

17 Q. So your understanding of the plea
18 agreement when you walked in was that you'd
19 receive no more than ten years?

20 A. Yes, ma'am.

21 Q. Were you expecting to receive ten years?

22 A. About eight.

23 Q. But no more than ten years?

24 A. Yes, ma'am.

25 Q. And you said that she told you no more

Jalon T. Taylor v. State of South Carolina

8

Case No. 13-CP-32-1282

Hearing of April 18, 2016

Testimony of Applicant - Direct Examination

1 than ten in front of your family members?

2 A. Yes, ma'am.

3 Q. Was Ms. Jamison one of those family
4 members?

5 A. Yes, and she is here today.

6 Q. Who was Ms. Jamison?

7 A. My mother.

8 Q. You said that Judge Keesley had allowed
9 you time to go in and out of the courtroom to
10 discuss this plea with your family?

11 A. No, ma'am. They stayed on the record.
12 If I need more time to speak with my family,
13 to think about it, I didn't even have to plea
14 that same day. If I needed more time to
15 think about it, I could have left that very
16 same day.

17 Q. And what did you decide?

18 A. I decided to go ahead being that I had --
19 with the advice of my lawyer, my attorney
20 that I would receive no more than ten years,
21 I felt like I could go ahead and get this
22 behind me and get back to my family and my
23 son.

24 Q. Do you remember when you stood in front
25 of the judge and he asked you a bunch of

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Applicant - Direct Examination

1 question if you were satisfied with your
2 attorney?

3 A. Yes, ma'am.

4 Q. Why did you answer affirmatively? Why
5 did you answer 'yes'?

6 A. I answered yes out of, I guess, being --
7 you know, I didn't know that she didn't make
8 the proper correction that she was supposed
9 to, the proper objection.

10 Q. So let me ask you that. Did he ask you
11 if you were satisfied with your attorney
12 before he told you what the sentence was?

13 A. Yes, ma'am.

14 Q. So when he was asking you those questions
15 and you were answering the affirmative, why
16 were you doing that?

17 A. I guess that it was kinda like ---

18 Q. At that point what did you think that you
19 were getting?

20 A. I still had that -- I was expecting ten,
21 no more than.

22 Q. Okay. And then you -- you did ask her to
23 file an appeal, right?

24 A. Yes, ma'am.

25 Q. You didn't have any issues with your

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Applicant - Direct Examination

10

1 appeal, right?

2 A. I dismissed it.

3 Q. The way that you explained how she -- you
4 had to sign the paperwork. Right?

5 A. Yes, ma'am.

6 Q. Show me -- show the judge the way that
7 she explained.

8 A. Well, my mother was sitting outside and
9 -- may I stand up?

10 MS. ZMROCZEK: Judge, may he show you
11 -- he has the sentencing sheets that he ---

12 THE COURT: All right. Are you going
13 to mark that? If you're going to use it as
14 an exhibit you need to mark it.

15 MS. ZMROCZEK: It is just the
16 sentencing sheets, which is in the record but
17 we can go ahead and mark it.

18 APPLICANT: Let me show it to you
19 first.

20 COURT REPORTER: Hold on one second.
21 Applicant's Exhibit 1, three pages marked
22 collectively.

23 APPLICANT: Okay.

24 THE COURT: To clarify, I've got it in
25 my packet but I've written all over mine.

1 MS. ZMROCZEK: Okay. They are part
2 of the packet, they are nothing new but we'll
3 use this so that he can show you what he was
4 explaining to me.

5 DIRECT EXAMINATION CONTINUED

6 BY MS. ZMROCZEK:

7 Q. Okay, that's been marked as Plaintiff's
8 (sic) Exhibit 1.

9 A. Okay. When I seen this, when I was
10 signing it as defendant, this was -- this was
11 not at the top. I was to not receive no more
12 than ten. I think that it was stapled. See
13 how it's stapled, got a staple right here?
14 So when the page was flipped, I never seen it
15 and I signed it. I just -- once I seen this
16 ten right here, that was what I thought we
17 were going forward with because that was our
18 negotiations. I did not know. Did not know.

19 Q. So you saw the zero to ten and then the
20 page got flipped up and you ---

21 A. Right. You can see the staple.
22 Everybody was under the impression -- my
23 mother -- I seen that zero to ten and I was
24 thinking that was the first thing that the
25 judge would see and he wouldn't give me no

Jalon T. Taylor v. State of South Carolina

12

Case No. 13-CP-32-1282

Hearing of April 18, 2016

Testimony of Applicant - Direct Examination

1 more.

2 Q. So you didn't see the other sentences
3 that were written at the top?

4 A. No, ma'am.

5 THE COURT: Let me ask you this, are
6 there three sentencing sheets?

7 APPLICANT: Yes, sir.

8 MS. ZMROCZEK: There are.

9 THE COURT: I think my package only has
10 two. Okay, it's on the back. I see that.

11 DIRECT EXAMINATION CONTINUED

12 BY MS. ZMROCZEK:

13 Q. Mr. Taylor, other than that, do you have
14 any other complaints or anything that you
15 want the court to know?

16 A. Yes, ma'am. The State's objection -- my
17 plea agreement was breached, uh, and they
18 asked that I get the maximum sentence. I was
19 under the impression that I came here with no
20 negotiations, no recommendations. Therefore
21 I was expecting no one to make
22 recommendations. When the solicitor and the
23 investigator came and said that they were
24 asking for me to get the maximum sentence and
25 making lots of accusations -- which I guess

1 was -- but I was told that I received no
2 negotiations and no recommendations for the
3 record. No negotiation... That was breached
4 when they asked that I get the maximum
5 sentence and no one objected. Me being
6 nineteen, I didn't know that I could have
7 object to them asking at I get the maximum
8 sentence. I thought that it was a deal.

9 Q. So your understanding of 'no
10 recommendation' and 'no negotiations' went
11 also to the State when they stood up and they
12 said -- and they asked or they made a
13 recommendation, or they asked for the maximum
14 sentence.

15 A. Yes. It also confused me when my lawyer
16 asked if I could get my time run consecutive
17 instead of concurrent.

18 Q. And Judge Keesley corrected her on that,
19 right?

20 A. Yes, ma'am.

21 Q. But you were confused that she'd ---

22 A. I was nervous. That was a bad point.

23 Q. Right. So it was your understanding that
24 you would be getting no more than ten years?

25 A. (Affirmative nod), no more than ten

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Applicant - Cross Examination

14

1 years.

2 Q. And that is the only reason that you
3 pled?

4 A. Yes, ma'am.

5 Q. Okay. Please answer any questions that
6 Ms. Valenzuela has for you.

7 A. Okay.

8 CROSS EXAMINATION

9 BY MS. VALENZUELA:

10 Q. Mr. Taylor, how are you?

11 A. I'm alright.

12 Q. Good. Now, Mr. Taylor, you pleaded
13 guilty to forgery, receiving stolen goods and
14 assault and battery first degree; right?

15 A. Yes, ma'am.

16 Q. You knew going into the plea that you
17 were pleading to three different charges;
18 correct?

19 A. Yes, ma'am.

20 Q. So on the sentencing sheets that you just
21 showed us, Exhibit 1, when you said that they
22 were flipped form one page to the next to the
23 third, you signed each sheet individually?

24 A. Yes, ma'am.

25 Q. Understanding that each sheet represented

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Applicant - Cross Examination

15

1 a separate charge?

2 A. I do now.

3 Q. Prior to pleading, you said that you'd
4 met with Ms. Goldberg twice?

5 A. Yes, ma'am.

6 Q. Then there was some reference in the
7 transcript to you failing to meet with
8 Probation while you were out on bond. Do you
9 remember that?

10 A. Yes, ma'am.

11 Q. And so during that time, do you know if
12 Ms. Goldberg had tried to reach you and been
13 unable to reach you?

14 A. Any time she called me, I answered. Any
15 time that she asked me to meet her somewhere,
16 I met her. There had never been a time when
17 I'd never met her.

18 Q. So during the time that you weren't able
19 to check in with your probation agent, you
20 were still able to check in with your
21 attorney?

22 A. Yes, ma'am.

23 Q. How many times did Ms. Goldberg call you?

24 A. Maybe four or five.

25 Q. So you spoke to Ms. Goldberg four or five

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Applicant - Cross Examination

16

1 times prior to pleading guilty?

2 A. (Affirmative nod).

3 Q. And those were over the phone?

4 A. Yes, ma'am.

5 Q. Were those in addition to meeting her
6 twice in person?

7 A. I only met her once in person.

8 Q. So earlier I understood you to say once
9 while you were in jail and once while you
10 were out on the street, meaning two different
11 times?

12 A. Yes, ma'am.

13 Q. Just so that I am not confused, you met
14 her twice in person?

15 A. Yes, ma'am.

16 Q. Two times in person, four to five times
17 on the phone?

18 A. Yes, ma'am.

19 Q. Now, do you recall reviewing your
20 discovery with Ms. Goldberg?

21 A. No, ma'am.

22 Q. Do you recall discussing possible
23 defenses with Ms. Goldberg?

24 A. Yes, ma'am.

25 Q. What defenses did y'all discuss?

1 A. Being that -- the defenses, I wouldn't be
2 able to say verbatim. It was several other
3 cases that -- I wouldn't know how to give it
4 to you verbatim on our defenses.

5 Q. Okay. But on several occasions you spoke
6 to Ms. Goldberg about possible defenses that
7 you might have?

8 A. Yes, ma'am.

9 Q. Do you recall discussing self defense, a
10 self-defense argument and why that wouldn't
11 work, based on the fact that even though you
12 had been robbed two days prior to you
13 shooting the victim, the delay in time was
14 just too much to use that defense in the
15 attempted murder charge?

16 A. Yes, ma'am.

17 Q. You do recall that?

18 A. Yes, ma'am.

19 Q. Okay. Great. What potential witnesses
20 did you have that you wanted Ms. Goldberg to
21 meet with that she didn't meet with?

22 A. There wasn't none.

23 Q. Okay. Now, after meeting with Ms.
24 Goldberg you agreed to plead guilty; correct?

25 A. Yes, ma'am.

Jalon T. Taylor v. State of South Carolina

18

Case No. 13-CP-32-1282

Hearing of April 18, 2016

Testimony of Applicant - Cross Examination

1 Q. And prior to the day of the plea, you had
2 agreed to plead guilty?

3 A. Yes, ma'am.

4 Q. So prior to talking to your family and
5 Ms. Goldberg out in the hallway, you had
6 already agreed to plead guilty?

7 A. Yes, ma'am. Only due to the
8 conversation that we had over the phone.

9 Q. When you pled guilty, you waived your
10 constitutional rights?

11 A. Yes, ma'am.

12 Q. Do you remember waiving your right to
13 remain silent?

14 A. Yes, ma'am.

15 Q. And waiving your right to have a jury
16 trial?

17 A. Yes, ma'am.

18 Q. And waiving the right to require the
19 State to prove you guilty beyond a reasonable
20 doubt?

21 A. Yes, ma'am.

22 Q. Okay. At your plea when the judge asked
23 if you were satisfied with your attorney, you
24 replied "yes, sir."

25 A. Yes, ma'am.

1 Q. And when asked if you wanted your
2 attorney to do anything else on the case that
3 had not been done, you replied "no, sir."

4 A. Yes, ma'am.

5 Q. And when asked if you had any complaints
6 of any kind against your attorney, you
7 replied "no, sir."

8 A. Yes, ma'am.

9 Q. And when asked if you'd had enough time
10 to meet with your attorney and discuss things
11 with her so that she could properly represent
12 you, you also indicated "yes, sir."

13 A. Yes, ma'am.

14 Q. Now you were also asked if anyone had
15 promised you anything else to get you to
16 plead?

17 A. Yes, ma'am.

18 Q. And you said no.

19 A. Yes, ma'am.

20 Q. Do you remember the judge telling you,
21 quote, "Any plea bargains the State has made
22 with you, they have to tell me about on the
23 record in open court or put it in a written
24 plea agreement or you lose what they don't
25 tell us about." Do you remember that?

Jalon T. Taylor v. State of South Carolina

20

Case No. 13-CP-32-1282

Hearing of April 18, 2016

Testimony of Applicant - Cross Examination

1 A. Yes, ma'am.

2 Q. And did the solicitor ever say on the
3 record or in writing that there was a plea
4 offer of no more than ten years?

5 A. No, ma'am.

6 Q. No?

7 A. No, ma'am.

8 Q. Now, when asked if you were actually
9 guilty of receiving stolen goods, forgery and
10 assault and battery first degree you replied
11 "yes, sir" to the court.

12 A. Yes, ma'am.

13 Q. And when you answered -- then you
14 answered "no, sir" when asked if anyone had
15 threatened, forced or coerced you in any way
16 to plead against your will.

17 A. Yes, ma'am.

18 Q. And before you answered all of those
19 questions by the judge, you had been sworn in
20 to tell the truth.

21 A. Yes, ma'am.

22 Q. Now, do you in fact want a trial on the
23 original charges of attempted murder, forgery
24 and receiving stolen goods? Is that what
25 you're asking for today?

1 A. I would like to be granted a new trial.

2 Q. Now, earlier Mr. Taylor you indicated
3 that you had an agreement of no more than ten
4 years.

5 A. Yes, ma'am.

6 Q. Who was that agreement with?

7 A. Kristie Goldberg. I guess -- me and my
8 family was -- I don't know who she -- I don't
9 if she made that with the solicitor or who
10 she spoke with but that's what came back to
11 us, that I was highly favored. It made me
12 relieved so that I could go home -- it led me
13 to believe that I could go on with the
14 process.

15 It was really to get it behind me. It
16 was -- it never crossed my mind that she'd
17 lead me or that the court didn't really say
18 that.

19 Q. You do understand that -- you believed
20 that you'd be leaving the courtroom that same
21 day?

22 A. I had the opportunity to leave,
23 (affirmative nod). They said if I needed
24 more time to think about it, that I didn't
25 have to take the plea. I could have left and

Jalon T. Taylor v. State of South Carolina

22

Case No. 13-CP-32-1282

Hearing of April 18, 2016

Testimony of Applicant - Cross Examination

1 had more time to think about it. Being that
2 she told me that I would receive no more than
3 ten -- that was my lawyer, I was nineteen
4 years old and I had no prior knowledge of the
5 law. She told me that I wouldn't receive no
6 more than ten years. I was like, 'I did the
7 crime, she know it, I know it. I'm
8 nineteen.' It seemed reasonable for the
9 situation. I'm nineteen.

10 It was never that I'd get the maximum
11 sentence. She said it was zero to ten and
12 she told me that I'd receive no more than ten
13 years. I believed her. I firmly believed
14 her.

15 Q. Just for the pronouns that we are using,
16 just to confirm, there was no representative
17 of the State in that meeting?

18 A. No, ma'am.

19 Q. It was just you, your attorney and your
20 family?

21 A. Yes, ma'am.

22 Q. And earlier you said -- that during the
23 plea there was no representative from the
24 State who ever said to the court, in writing
25 or orally, that they would be offering you a

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Applicant - Cross Examination

1 plea of no more than ten years?

2 A. Yes, ma'am. It was in writing on the
3 plea that I would receive no negotiation or
4 recommendation, and those were made.

5 Q. Those were made by Lieutenant Simmons,
6 correct?

7 A. If I can recall, (affirmative nod). I
8 think so, Ms. Simmons.

9 Q. And the prosecutor who was handling the
10 plea throughout the plea negotiations -- I'm
11 sorry -- throughout your guilty plea, did
12 that prosecutor ever say that they wanted to
13 maximum sentence?

14 A. Not on the transcript, not on the -- I
15 guess they were in cahoots, that they was
16 partners together. I don't know what was
17 said over there, who was supposed to have
18 said it or how y'all didn't know it was said.

19 Q. But it was said by a person who was
20 called up to address the plea agreement as
21 part of the -- as part of the plea.

22 A. To be honest, I don't know how the
23 investigator even got in here or knew that I
24 was taking the plea. Speaking -- making
25 false allegations. That was a tremendous

1 part of my case, having someone come speak.
2 And I had no way to -- whether or not it was
3 the solicitor or the -- it was both. He came
4 from this side of the courtroom, he didn't
5 come from my side of the courtroom.

6 Q. And that discussion by Lieutenant Simmons
7 happened before you told the court that you
8 did want to plead guilty that day. Correct?

9 A. Um-humm, (affirmative nod). Could be.
10 I'm not sure.

11 MS. VALENZUELA: Your Honor, is it okay
12 if I approach?

13 THE COURT: Yes, ma'am.

14 MS. VALENZUELA: I gave your client a
15 copy of the transcript.

16 CROSS EXAMINATION CONTINUED

17 BY MS. VALENZUELA:

18 Q. If you look at page fourteen, you see
19 Lieutenant Simmons start speaking.

20 A. Yes, ma'am.

21 Q. Okay. Then do you see how on page
22 twenty-eight, about fourteen pages later, the
23 court asks you if you want to say anything to
24 the court?

25 A. Yes, ma'am.

1 Q. Okay. Did you say at anytime during that
2 speech to the court that you have a problem
3 with what Lieutenant Simmons had said?

4 A. I had an attorney and she didn't raise
5 any objections to it. Me, having no prior
6 knowledge to the law, I didn't know that I
7 could object to what he said or even speak on
8 that behalf. I was nineteen. I had no
9 knowledge. I was in court. I didn't have no
10 lawyer. My family, we -- I was ignorant to
11 the effect that -- that's what attorneys are
12 for.

13 I was in resource classes all through
14 school. I graduated high school but I was in
15 resource classes, so certain things may take
16 me -- maybe I can't read it the first time,
17 but once I slow down I -- sometimes I can't
18 get everything out.

19 So I've got to -- that guy that was in
20 court wasn't me. Now I've got resources, I
21 give all my time to the law libraries and
22 everything. I took a plea, I didn't go to
23 trial, so I had to go through and find this.
24 I know that it wasn't right but I just had to
25 go through and find out what was what.

Jalon T. Taylor v. State of South Carolina

26

Case No. 13-CP-32-1282

Hearing of April 18, 2016

Testimony of Applicant - Redirect Examination

1 Yes, ma'am. I had no knowledge of what
2 I could do or what I couldn't do. I was
3 nineteen. It was though I was still a babe
4 -- I was still a baby boy. A baby boy. I
5 didn't know what to say. I expected her to
6 speak for me, that's what -- that's the
7 problem. I had someone who was supposed to
8 speak for me, for my life, and -- it don't
9 work like that. I have to speak for myself,
10 for my own life.

11 Q. And did you speak for yourself to Ms.
12 Goldberg by asking her to step to the side so
13 that you could let her know any concerns?

14 A. She made no objections. No, I didn't
15 understand that.

16 Q. Then when you were before the judge, do
17 you remember the judge telling you that you
18 were facing a maximum of twenty-five years
19 for the charges that you were pleading to?

20 A. Yes, ma'am.

21 Q. So you did hear the judge tell you that
22 the charges, that if they were run
23 consecutively, that it would add up to
24 twenty-five years?

25 A. Yes, ma'am.

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Applicant - Redirect Examination

27

1 Q. And you heard that before you decided to
2 plea guilty?

3 A. Yes, ma'am.

4 Q. And you in fact still pled guilty?

5 A. Yes, ma'am.

6 Q. And the judge did in fact sentence you to
7 less than the maximum? He sentenced you to
8 less than twenty years and all of the charges
9 were run consecutively?

10 A. Twenty-three.

11 Q. So less than twenty-five?

12 A. Yes, ma'am.

13 MS. VALENZUELA: Your Honor, that's all
14 that I have.

15 MS. ZMROCZEK: Just very briefly.

16 REDIRECT EXAMINATION

17 BY MS. ZMROCZEK:

18 Q. If you will turn to page seventeen, Mr.
19 Taylor, of the plea transcript.

20 A. Yes, ma'am.

21 Q. Let me know when you are there.

22 A. I'm there.

23 Q. You there?

24 A. Yes, ma'am.

25 Q. I am looking Page 17, Line 17, the Court

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Applicant - Redirect Examination

28

1 says, (reading):

2 THE COURT: Have you had enough time to
3 make up your mind about all of this?

4 DEFENDANT: No, sir.

5 THE COURT: You have not?

6 DEFENDANT: No, sir.

7 THE COURT: Do you need more time?

8 DEFENDANT: No, sir. I'm sorry.

9 Did I read that correctly?

10 A. Yes, ma'am.

11 Q. So the court was confused with your
12 answers.

13 A. Yes, ma'am.

14 Q. Is that the sort of confusion that you
15 were talking about?

16 A. Yes, ma'am. My lawyer gave this look
17 like, 'what you doing?' When I went like
18 'no, sir', she gave me a look like 'what you
19 doing.' She got me a nice deal of ten. I
20 could do my time, be at home. That's what it
21 was. That's what it was.

22 Q. And when Ms. Valenzuela asked you about
23 -- when she said no representative of the
24 State was there when they were negotiations
25 about no more than ten years, what was your

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Applicant - Redirect Examination

1 understanding about what Ms. Goldberg --
2 where she had gotten that authority?

3 A. It'd been the time, I guess when I'd come
4 in for a bond revocation or something. I
5 seen her working with -- that guy over there,
6 I think that they ---

7 Q. No, no, no.

8 A. I seen these people and I thought -- she
9 was from Richland County and this was
10 Lexington County. I thought she spoke with
11 someone over here being that got the failure
12 to stop for blue lights thrown out for me in
13 Richland County. I thought that it was some
14 type. I believe that if it would be some
15 truth that it would all be truth when she
16 speak with me.

17 Q. Okay. And on page fourteen when
18 Lieutenant -- first of all, Ms. Ushrey
19 (phonetic), who was the prosecutor, she was
20 not your original prosecutor; right?

21 A. (Affirmative nod), no, ma'am.

22 Q. It was actually Mr. Dale Scott?

23 A. Yes, ma'am.

24 Q. So when -- on page fourteen when Mr.
25 Simmons starts asking for the maximum

Jalon T. Taylor v. State of South Carolina

30

Case No. 13-CP-32-1282

Hearing of April 18, 2016

Testimony of Applicant - Recross Examination

1 penalty, he was -- when he was speaking, it
2 was your understanding, and Ms. Ushrey had
3 actually said that Mr. Simmons would be
4 speaking on behalf of the State?

5 A. The State -- it was to be on behalf of
6 the State.

7 Q. So that's why you said that the State had
8 someone present for the negotiation ---

9 A. Yes, ma'am. Yes, ma'am.

10 MS. ZMROCZEK: I don't have any
11 further questions.

12 MS. VALENZUELA: Your Honor, may I ask
13 two follow up questions?

14 RE CROSS EXAMINATION

15 BY MS. VALENZUELA:

16 Q. Mr. Taylor, did you understand that you
17 were facing up to thirty years if the State
18 had proceeded forward with this attempted
19 murder charge?

20 A. Yes, ma'am.

21 Q. And then as part of the agreement that
22 you had with the State it was that they were
23 not going to make you plead to attempted
24 murder, that they were going to allow you to
25 plead to assault and battery, first; which

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Applicant - Recross Examination

31

1 reduced the maximum charges?

2 A. With zero to ten, (affirmative nod). It
3 was never attempted murder, which is the
4 reason Ms. Goldberg never had a problem with
5 it. It was never attempted murder. If we
6 went to trial, we would not get -- it was
7 attempted murder.

8 Q. Did you ask your attorney to go to
9 trial?

10 A. Yeah. If that was the case -- we had
11 folks that was going to speak on my defenses.
12 I didn't -- I wasn't -- not in my defense,
13 but we calculated in our mind who they were
14 going to put up. I could have went to trial
15 and I would not have got attempted murder.
16 We could have went to trial and fought that.
17 The other charges that I had had been -- I
18 pled to those charges due to the fact that
19 they got me to plead to nonviolent, first
20 degree assault and battery. That's why I
21 didn't plead to attempted murder. The other
22 charges, I was never there.

23 Q. Thank you, Mr. Taylor.

24 MS. VALENZUELA: Thank you, Your Honor.

25 THE COURT: You may step down.

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Amanda Jamison - Direct Examination

32

1 (WITNESS STEPS DOWN)

2 THE COURT: Next witness.

3 MS. ZMROCZEK: Very briefly, Your
4 Honor, we call Amanda Jamison.

5 (WITNESS TAKES STAND)

6 AMANDA JAMISON, having been to tell the
7 truth, and nothing but the truth, testified
8 as follows:

9 DIRECT EXAMINATION

10 BY MS. ZMROCZEK:

11 Q. Ms. Jamison, how are you related to Jalon
12 Taylor?

13 A. That's my son.

14 Q. Your son?

15 A (Affirmative nod).

16 Q Were you present the day that he pled
17 guilty in court?

18 A. Yes, ma'am.

19 Q. What is your recollection of the -- of
20 what he was told when he pled?

21 MS. VALENZUELA: Objection, Your Honor.
22 Hearsay.

23 MS. ZMROCZEK: I'll rephrase the
24 question, Your Honor.

25 DIRECT EXAMINATION CONTINUED

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Amanda Jamison - Direct Examination

33

1 BY MS. ZMROCZEK:

2 Q. Were you present while there was a
3 conversation going on?

4 A. Yes, ma'am, it was right out there, Yes,
5 ma'am, (affirmative nod).

6 Q. And you said right out there?

7 A. We was sitting down, waiting to come into
8 court.

9 Q. So you were sitting outside the court-
10 room?

11 A. Yes, ma'am.

12 Q. And you heard Ms. Goldberg, his attorney,
13 tell ---

14 MS. VALENZUELA: Objection, Your Honor.
15 It would still be hearsay.

16 THE COURT: Sustained.

17 MS. ZMROCZEK: Your Honor, Ms.
18 Goldberg is a party to the case.

19 THE COURT: She is a witness in the
20 case.

21 MS. ZMROCZEK: Yeah, I guess so.
22 Yes. Let me rephrase.

23 DIRECT EXAMINATION CONTINUED

24 BY MS. ZMROCZEK:

25 Q. Ms. Jamison, let me ask this. What was

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Amanda Jamison - Direct Examination

34

1 your understanding, not what you heard, not
2 anything else, but what was your understand-
3 ing of what your son would be receiving in
4 this case?

5 A. Ten years.

6 Q. Okay. How many times did you meet with
7 your son and his attorney?

8 A. I never met with her until we was --
9 until the court date.

10 Q. Was he given an opportunity to discuss
11 whether or not to plea that day?

12 A. When we was out there ---

13 Q. Don't tell me what other people said.

14 A. No. When she was out there speaking it
15 was me, the lawyer, my other family members
16 and -- and I don't know about the law either.
17 I was of the -- her words was that ---

18 Q. No, no, don't tell me what her words
19 were. Just tell me what your understanding
20 was.

21 A. My understanding was that he was going to
22 get ten years.

23 Q. That's all the questions that I have for
24 you. Thank you.

25 A. Yes, ma'am.

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Amanda Jamison - Cross Examination

35

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CROSS EXAMINATION

BY MS. VALENZUELA:

Q. Hi, Ms. Jamison. How are you?

A. Nervous.

Q. Don't be nervous. Ms. Jamison, can you tell me how to spell your last name?

A. J-a-m-i-s-o-n.

Q. Okay, I spelled it right when I wrote it down. Ms. Jamison, did you hear your son testify that he had spoken to his attorney on the telephone on several occasions?

A. Yes, ma'am.

Q. Were you present when your son spoke to his attorney on the telephone on those prior occasions?

A. No, ma'am.

Q. And you just confirmed that you were never present at his other in-person meetings with his attorney?

A. Yes, ma'am.

Q. So you don't know what they discussed at those meetings?

A. (Negative gesture).

Q. So your knowledge of or your understanding of what your son was going to get was

Jalon T. Taylor v. State of South Carolina

36

Case No. 13-CP-32-1282

Hearing of April 18, 2016

Testimony of Kristy Goldberg - Direct Examination

1 limited to the few minutes prior to his
2 entering the courtroom to plead guilty?

3 A. Yes.

4 Q. And then were you present during the
5 plea?

6 A. Yes, ma'am.

7 Q. And did you ever hear the State say that
8 he was not going to get anything more than
9 ten years, to the judge?

10 A. No, I didn't.

11 Q. Thank you, Ms. Jamison.

12 MS. ZMROCZEK: No further questions.

13 THE COURT: You may step down

14 (WITNESS STEPS DOWN)

15 MS. ZMROCZEK: Those are all the
16 witness for Mr. Taylor.

17 THE COURT: Ms. Valenzuela:

18 MS. VALENZUELA: Thank you, Your Honor.

19 The State would call Kristy Goldberg.

20 (WITNESS TAKES STAND)

21 KRISTY GOLDBERG, having been sworn to
22 tell the truth, and nothing but the truth,
23 testified as follows:

24 DIRECT EXAMINATION

25 BY MS. VALENZUELA:

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Kristy Goldberg - Direct Examination

37

1 Q. How long have you been practicing?

2 A. I graduated in 2005. I guess -- so in
3 the fall of that year I began at the Richland
4 County Public Defender's Office. I've been
5 practicing law since then.

6 Q. Okay. And has your career since the Fall
7 of 2005 been focused on criminal defense?

8 A. There was a three-year period about the
9 middle of my career where I was doing some
10 civil work but, other than that, the entirety
11 of my career has been criminal and PCRs, so
12 things related to criminal defense.

13 Q. Do you remember with Mr. Taylor if you
14 were appointed or retained?

15 A. Appointed.

16 Q. And how many times do you remember
17 meeting with Mr. Taylor prior to his guilty
18 plea.

19 A. I went through and looked. I can go into
20 detail if I need to but -- six, seven, eight
21 -- I have that I met with him in person at
22 least eight times. I met with him -- the
23 first was at the jail, as he said.

24 But two or three additional times were
25 while he was at Alvin S. Glenn or at the

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Kristy Goldberg - Direct Examination

38

1 Richland County courthouse for a charge that
2 he had over there.

3 Then there was a Motion to -- it was to
4 reconsider -- a Motion to vacate his bond, I
5 think that was supposed to be here in
6 Lexington. So a couple of times it was
7 scheduled and we would meet here, then the
8 hearing got continued.

9 Then of course the day of the plea.

10 I talked to him on the phone in addition
11 to that, while he was on bond.

12 Q. About how many times do you remember
13 talking to him on the phone?

14 A. You know, sometimes I make a note or that
15 and sometimes I don't, depending on how
16 substantive it is. I know I talked to him on
17 the phone at least two or three times. I
18 believe that I talked to his mother or a
19 family member a couple of times as well.

20 Q. And you filed a Rule 5 Brady Motion for
21 Mr. Taylor?

22 A. I did.

23 Q. Did you review discovery with him?

24 A. I did. On October 17th, 2011, he was at
25 the Richland County Courthouse for another

1 case. I took the opportunity, since my
2 office is across the street, and walked over
3 and met with him in the holding cell of the
4 courthouse and reviewed all his discovery
5 materials.

6 Q. Did you discuss possible defenses with
7 Mr. Taylor?

8 A. We did.

9 Q. And what defenses did you discuss with
10 him?

11 A. He originally had mentioned the self-
12 defense issue. I talked about how legally
13 that was not going to be successful.

14 But we also talked a lot about the
15 difference between attempted murder and
16 assault and battery first degree.

17 I told him that based on what his
18 version of the events were that I thought
19 that factually that met assault and battery
20 in the first degree. So that was going to be
21 my goal, to get that charge as the plea
22 offer.

23 And if the State did not offer it, if he
24 wanted to go to trial and just argue -- not
25 that he was innocent but that he was instead

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Kristy Goldberg - Direct Examination

40

1 guilty of assault and battery first degree,
2 that we would do that. I thought that was a
3 reasonable plan for this case.

4 Q. Did you -- in discussing his
5 defenses and in reviewing discovery --
6 discuss the elements of all the charges that
7 he was facing with them?

8 A. We did. That was the biggest one,
9 I guess potential punishment-wise.

10 But then there were also several
11 potential drug charges that he did not, under
12 any circumstances, want to plead to any of
13 those. So that was a big point of
14 contention. Those ultimately did get
15 dismissed.

16 We talked about the car charge as well.
17 I think he was originally charged with
18 possession of stolen -- there was some small,
19 minor difference but basically the charge was
20 changed between what he was originally
21 arrested for and what he pled to. So he
22 really was only admitting to being in
23 possession of that car briefly. He was not
24 admitting to stealing it. So the elements of
25 that charge was discussed in trying to get

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Kristy Goldberg - Direct Examination

41

1 the right plea agreement for that charge.

2 Q. Now, can you go over for the court
3 the evidence that the State had against Mr.
4 Taylor for the attempted murder charge, the
5 forgery charge, and the receiving stolen
6 goods charge -- then additionally the drugs
7 charges that were dismissed as a part of his
8 plea?

9 A. I might miss some details. But as
10 far as the stolen vehicle, there was a
11 vehicle that had been reported stolen. Law
12 enforcement ultimately found it. There were
13 some things left in the car, including some
14 drycleaning receipts, and maybe something
15 else that I can't remember, that tied it back
16 to Mr. Taylor. I think that Mr. Taylor gave
17 a statement admitting to having been in
18 possession of the car at some point.

19 Then the forgery and the drugs, that all
20 came from what I believe was a search warrant
21 of a house -- not Mr. Taylor's house but
22 someone else's house. When they came in
23 there were drugs in different places, uh, --
24 he was very adamant that they weren't his,
25 that they belonged to other people there.

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Kristy Goldberg - Direct Examination

42

1 But the cash, that was -- money -- found on
2 his person so that's what the forgery charge
3 was.

4 Then the assault and battery, uh, there
5 was an individual walking down the street who
6 was shot, I think in the groin area.
7 Ultimately I think Mr. Taylor -- the other
8 person in the car with Mr. Taylor gave a
9 statement to the police and said that -- then
10 they reinterviewed Mr. Taylor and he gave a
11 statement saying what his involvement was.

12 Q. And when you reference the statement
13 that Mr. Taylor gave explaining what his
14 involvement was, was that involvement that he
15 admitted to shooting the gun that hit the
16 victim?

17 A. I think so, yeah. I mean, that's
18 definitely what it was in our conversations.
19 I think that in the interview statement as
20 well.

21 Q. So in summarizing the statements
22 against Mr. Taylor, there were at least two
23 separate statements where Mr. Taylor
24 confessed to having possession of a stolen
25 vehicle and admitted to shooting at or around

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Kristy Goldberg - Direct Examination

43

1 the victim, the victim being the one that was
2 actually shot in the groin area? And those
3 are the facts that arose out of the attempted
4 murder charge?

5 A. Right.

6 Q. Did you review the Applicant's
7 constitutional rights with him?

8 A. Yes.

9 Q. Did he ever tell you that he did not
10 understand something?

11 A. No.

12 Q. Did you explain the difference
13 between pleading straight up, negotiated or
14 to a recommendation?

15 A. I don't know if I discussed that
16 because there never was an offer for a
17 negotiated sentence.

18 Q. What did you discuss with him in
19 terms of explaining the offer from the State?

20 A. Okay. Looking back at my file, it
21 -- when I first -- back in 2011, when I first
22 started negotiating this case with the
23 solicitor, Mr. Scott was very adamant that
24 law enforcement did not want Mr. Taylor --
25 wanted him to do a lot of time. And, uh, at

Jalon T. Taylor v. State of South Carolina

44

Case No. 13-CP-32-1282

Hearing of April 18, 2016

Testimony of Kristy Goldberg - Direct Examination

1 the beginning, Dale Scott repeatedly said to
2 me, 'Cannot offer you anything but concurrent
3 time. I can't offer you anything but
4 concurrent time. I can't reduce the charges.
5 If you want to go to trial, that's fine but I
6 can't -- concurrent time is all that I can
7 give you.'

8 Then after multiple conversations with
9 him, and I had a very good working
10 relationship with the solicitor. I was
11 finally able to get the plea offer that we
12 had, which was -- the reduced charge of
13 assault and battery first, forgery and the
14 possession of stolen goods -- with no
15 agreement as to sentencing. That is what the
16 offer from the State was. There was no
17 agreement as to sentencing.

18 Now, when I explained all of this to Mr.
19 Taylor, I think what I must have done is that
20 I still had in my head the idea that the
21 solicitor was always talking about concurrent
22 time. So that was my impression of what the
23 sentence would be, because I didn't think the
24 solicitor had a problem with that. So I told
25 Mr. Taylor what he was pleading to, I told

1 him what the maximum sentences were on each,
2 I told him that I would be asking for
3 concurrent time, and I told him that my
4 understanding was that the State didn't have
5 a problem with that, and that I expected that
6 he would get ten years.

7 Q. Okay, there was a lot in there so I
8 am going to back this up a little bit.

9 A. Okay.

10 Q. So when you were talking about how
11 you were dealing with Mr. Scott, that Mr.
12 Scott was -- that Mr. Scott was not
13 presenting during the actual plea before
14 Judge Keesley but that he was the prosecutor
15 that you were dealing with on this case.
16 Correct?

17 A. That's right. I think that he was
18 in trial, so he just handed the file off to
19 another solicitor. I don't think he told her
20 that much about it. I think that she just
21 looked over the file and talked with the
22 investigator and other than what -- the
23 actual charges that was he was supposed to be
24 pleading to, I think that's probably all that
25 she knew.

Jalon T. Taylor v. State of South Carolina

46

Case No. 13-CP-32-1282

Hearing of April 18, 2016

Testimony of Kristy Goldberg - Direct Examination

1 Q. Okay. But when you were dealing
2 with Mr. Scott and you were talking about how
3 he told you that law enforcement felt very
4 strongly about Mr. Taylor and he was telling
5 you that he was going to be able to do
6 concurrent, that he wasn't going to be able
7 to change or reduce the charges, you were
8 still talking about attempted murder?

9 A. Correct.

10 Q. So the entire time that you are
11 negotiating with him you're trying to reduce
12 it from attempted murder to what you believed
13 was a more accurate charge of assault and
14 battery first degree?

15 A. That was my biggest goal.

16 Q. Which also came with a significant
17 reduction in the maximum penalty exposure?

18 A. Correct.

19 Q. So he -- Mr. Scott went from not
20 being -- from refusing to reduce or dismiss
21 any of the charges to agreeing to dismiss the
22 drug charges and reduce the attempted murder
23 to assault and battery first?

24 A. Right. He first reduced it to
25 assault and battery first, but then he still

1 wanted him to plea to some drug charges. So
2 the last thing that finally happened in this
3 case was that he said, 'All right, I'll
4 dismiss the drug charges. Let's just do it.'

5 Q. And when he said 'let's just doing
6 it, I'm reducing the charges', did he
7 indicate that he would ask for or recommend
8 concurrent sentences?

9 A. No. I have an e-mail that I sent to
10 him in March where I specifically said,
11 (reading): "*The guilty plea is March 15th,*
12 *9:00 a.m., assault and battery first, zero to*
13 *ten years; forgery, zero to five; possession*
14 *of stolen goods, zero to five. No agreement*
15 *as to sentencing. Am I missing anything?"*

16 He said, "That looks good. I think that
17 covers it."

18 Q. Would you have covered the offer
19 with your client in the same way?

20 A. Yes.

21 Q. And then the sentencing sheets, --
22 so Ms. Goldberg, I am handing you Exhibit 1.
23 Looking at the three charges, do you see zero
24 to ten written in the upper left-hand corner
25 of the sentencing sheet?

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Kristy Goldberg - Direct Examination

48

1 A. Yes.

2 Q. That's on assault and battery first.

3 A. Yes.

4 Q. Then flipping to the second sheet --
5 and you would have had your client sign this?

6 A. (Affirmative nod).

7 Q. Then the second sheet, the receiving
8 stolen goods it also lists zero to ten years
9 in the upper left-hand corner?

10 A. Yes.

11 Q. Then on the last sentencing sheet,
12 for forgery, dealing with the counterfeit
13 money that was found on your client, that
14 also lists zero to five years in the upper
15 left-hand corner?

16 A. Yes.

17 Q. And you would have gone through --
18 actually explain how you would have gone
19 through those sentencing sheets as you asked
20 your client to sign them?

21 A. To be fair, I don't have any
22 independent recollection of these sentencing
23 sheets as opposed to any other sentencing
24 sheets I've seen before. I have seen cases
25 where judges' law clerks will write "possible

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Kristy Goldberg - Direct Examination

49

1 sentence", so -- however, Mr. Taylor did just
2 testify that he did see the zero to ten on
3 the sentencing sheet. If that is the case,
4 they would have been written on there at the
5 time of the sentence and I would have just
6 pointed that out to Mr. Taylor in each case,
7 as well as pointing out that it was without
8 negotiation or recommendation. But he
9 already knew all that because he knew what
10 these charges carried.

11 Q. Then we were talking about how Mr.
12 Scott had another prosecutor step in to do
13 the actual plea. When that prosecutor
14 outlined the offer on behalf of the State and
15 did not recommend concurrent. Did you find
16 that to be an accurate representation of what
17 the offer from the State was?

18 A. The fact that the State wasn't
19 recommending concurrent was accurate.

20 Q. So -- okay. Now, whose decision was
21 it to plead guilty? For Mr. Taylor to plead
22 guilty?

23 A. Uh, I -- I guess it was Mr. Taylors.
24 I agreed with his decision to plead guilty.

25 Q. So he indicated that he indicated he

Jalon T. Taylor v. State of South Carolina

50

Case No. 13-CP-32-1282

Hearing of April 18, 2016

Testimony of Kristy Goldberg - Direct Examination

1 wished to plead guilty after discussing it
2 with you?

3 A. The entire time I had the case, this
4 was a case about trying to get a plea offer
5 that was fair and that represented what
6 actually happened given Mr. Taylor's version
7 of events. He never said that he was
8 completely innocent of all these charges but
9 he didn't necessarily wish to risk a trial
10 when it was unnecessary either. So as long
11 as the plea offer was appropriate to his
12 version of events, it was always going to be
13 a plea.

14 Q. If you had gone to trial you would
15 have gone to trial on the attempted murder
16 charges, correct?

17 A. Correct.

18 Q. Regardless of your and your client's
19 assumption that this was more fairly
20 characterized as assault and battery first?

21 A. If they hadn't given us that offer
22 it would have been tried as attempted murder.

23 Q. And additionally he would have faced
24 the forgery charges for the counterfeit money
25 that he had on him?

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Kristy Goldberg - Direct Examination

51

1 A. Right.

2 Q. And the receiving/possession of
3 stolen goods charge for the stolen car that
4 he was in possession of?

5 A. (Affirmative nod)

6 Q. And then, in addition, the drug
7 charges, he would have been facing those at
8 trial?

9 A. Right. My guess is that if there
10 had been a trial on the larger charge that
11 the others -- that there would have been some
12 sort of plea negotiations afterwards. But we
13 never got that far. But he would have been
14 facing all of them.

15 Q. He still would have been facing all
16 of them?

17 A. (Affirmative nod).

18 Q. Tell me what it is in your
19 discussions with Mr. Taylor that led you to
20 believe that he would be able to present to
21 the jury that it wasn't attempted murder
22 instead of assault and battery?

23 A. All I remember is that -- he was
24 charged with attempted murder, which is the
25 newer version of the statute, which very

1 clearly says that you have to intend to kill.
2 At the time of his charges there wasn't any
3 case law clarifying that. "Intend to kill"
4 means intend to kill. He very clearly told
5 police and told police that he didn't intend
6 to kill anyone.

7 So if he didn't want to plead and say
8 that he was trying to kill anyone, that's
9 perfectly fine. That's his right, to get on
10 the stand and say 'I take ownership for what
11 I did, but I didn't intend to kill anyone.'

12 You know, what the jury thinks, the jury
13 thinks. But that's his right. I would have
14 supported that if it'd came to it.

15 Q. So just to be clear, he would have
16 been telling the jury that he did in fact
17 point the gun and shoot it in the direction
18 of the victims but that he had not intended
19 to shoot the victims that he was shooting at?
20 That would have been his defense to the
21 attempted murder charge.

22 A. Yeah, and I don't remember if there
23 were any details about where the gun was
24 pointed or anything like that. But I know
25 that he said that he didn't intend to kill

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Kristy Goldberg - Direct Examination

1 anyone, so he shouldn't have been charged
2 with attempted murder.

3 Q. And then you present -- of course
4 you were present at the plea.

5 A. (Affirmative nod).

6 Q. Do you recall Judge Keesley
7 informing your client that he was facing a
8 maximum of twenty five years in addition to
9 the probation revocation charges that were
10 before the court?

11 A. I think that would be inclusive of
12 the probation violation. It looks like he
13 was facing twenty on these charges.

14 Q. I'm just going to -- just so that we
15 are all on the same page, -- I'm handing you
16 the transcript. If you will, flip to Page
17 19, Line 9. Correct me if I am wrong here
18 but the court informs your client, (reading):

19 Q. *You are facing the possibility*
20 *of twenty-five years on these three charges*
21 *that you are pleading guilty on?*

22 A. You're right.

23 Q. And, (reading): *"In addition there*
24 *is some time hanging over your head, three*
25 *years for the probation matter."*

Jalon T. Taylor v. State of South Carolina

54

Case No. 13-CP-32-1282

Hearing of April 18, 2016

Testimony of Kristy Goldberg - Direct Examination

1 A. You're right.

2 Q. So the court did inform your client
3 and then asked him immediately after if he
4 was sure that he wanted to plead guilty, and
5 your client indicated "yes."

6 A. Correct.

7 MS. VALENZUELA: Your Honor, if I could
8 just have one moment -- (review of file) --
9 Ms. Goldberg, when you advise your client
10 with what they could possible get with a plea
11 before a judge where there is not a
12 negotiated sentence, do you make any promises
13 to your client that that is for sure what
14 they are going to receive?

15 A. No. I mean, I never say the word
16 promise. I will occasionally tell clients
17 what I think that they are going to get or
18 what I expect will happen but no promises.

19 Q. And in this case you were expecting
20 ten years but you were not promising ten
21 years.

22 A. That's right.

23 Q. And the State could not promise ten
24 years?

25 A. The State definitely did not promise

1 believed that he would get ten years, as well
2 as I did. He wasn't there, so -- things
3 ended up going poorly. But to be clear, the
4 plea offer was no agreement as to sentencing.

5 Q. And you would agree with me that no
6 agreement as to sentencing would include the
7 State not asking for the maximum?

8 A. I would agree with you completely.

9 Q. And looking back on that now, is
10 that something that you would have objected
11 to?

12 A. Yes.

13 Q. Because clearly -- and I talking, on
14 -- it's clear that no fault of Ms. Ushery
15 that she had been handed this file?

16 A. Correct.

17 Q. And that she made the representation
18 to Judge Keelsey, beginning on page eleven,
19 that the victim of the attempted murder
20 reduced to assault and battery first was --
21 "BJJ for attempted murder" ---

22 A. Right, which I did not know before
23 the plea.

24 Q. Right, because -- obviously that
25 would tend to lend some credence to some sort

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Kristy Goldberg - Cross Examination

57

1 of self-defense or something. But regardless
2 of that, Ms. Ushery, as an officer of the
3 State, turned her case over to Lieutenant
4 Simmons as an officer of the State?

5 A. That's fair.

6 Q. And provided -- and he was providing
7 all kinds of information which was clearly
8 emotionally driven because they didn't like
9 Mr. Taylor?

10 A. I would agree with that.

11 Q. And in that he said some very
12 disparaging things about Mr. Taylor that
13 Judge Keesley even said -- he even commented
14 on that he was concerned about the type of
15 person that Mr. Taylor was.

16 A. The investigator made multiple
17 statements during the plea, allegations that
18 I'd never even heard before; that I couldn't
19 combat or even defend -- do anything with.
20 I was put in a position where I didn't know
21 what to do, because if we stood down I didn't
22 know if we would still have the same plea
23 offer.

24 Q. Okay. Then on page fourteen, he
25 says that "We, the citizens of Cayce, Cayce-

Jalon T. Taylor v. State of South Carolina

58

Case No. 13-CP-32-1282

Hearing of April 18, 2016

Testimony of Kristy Goldberg - Cross Examination

1 Leesburg, would ask that he get the maximum
2 penalties that he can possibly get on these
3 charges." That was him clearly asking for a
4 recommendation of the maximum.

5 A. I think so.

6 Q. And at that point -- looking back,
7 obviously things were going so far and you
8 were hearing things for the first time, but
9 looking back, would you agree that that is
10 something that you would have objected to?

11 A. Looking back, I think that I was
12 more focused on the substantive things that
13 the investigator was saying. That is what
14 was getting me kind of upset and emotionally
15 distraught at the moment -- versus what he
16 was asking for sentencing-wise. But the
17 sentence request, I think is a bigger problem
18 because I think that is a breach of the
19 State's ---

20 Q. Okay. Then on page seventeen when
21 Judge Keelsey was -- you said that you were
22 getting upset, clearly Mr. Taylor was getting
23 upset, was he not?

24 A. You know, I actually don't remember
25 whether he reacted or not. I just don't

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Kristy Goldberg - Cross Examination

59

1 remember. He definitely wasn't showing out
2 or doing anything that he shouldn't do.

3 Q. Right. Right.

4 A. I don't remember specifically.

5 Q. Do you still have the plea
6 transcript in front of you?

7 A. I do.

8 Q. On page seventeen where the judge is
9 asking him if he's had enough time to make up
10 his mind and he starts to kind of waver or
11 hesitate a little bit, could that be -- would
12 that be, to you, an indication of him being
13 confused?

14 A. Not necessarily.

15 MS. VALENZUELA: Objection. Calls for
16 speculation, Your Honor.

17 THE COURT: If you know the answer.

18 MS. ZMROCZEK: I will rephrase the
19 question.

20 THE COURT: All right.

21 CROSS EXMAINATION CONTINUED

22 BY MS. ZMROCZEK:

23 Q. What do you recall specifically when
24 he -- when the judge asked if he had enough
25 time and he said no, then the judge said,

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Kristy Goldberg - Redirect Examination

60

1 "I'm sorry?" Then obviously there is a
2 change in his answer. What is your
3 recollection of that?

4 A. I've had things like that come up in
5 pleas before. I can't say that I have any
6 independent memory of this happening.

7 Q. Okay. But it's certainly reasonable
8 that Mr. Taylor was relying on the fact that
9 he believed that he was getting a maximum of
10 ten years?

11 A. I think he believed that he was
12 getting a ten-year sentence.

13 Q. Because that's likely what you would
14 have represented to him?

15 A. That's what I thought he was
16 getting.

17 Q. And certainly you believed that the
18 State violated their agreement by allowing
19 the Lieutenant to ask for the maximum?

20 A. Yes.

21 MS. ZMROCZEK: Thank you.

22 THE COURT: Anything else?

23 MS. VALENZUELA: I have two
24 questions, Your Honor.

25 REDIRECT EXAMINATION

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
Testimony of Kristy Goldberg - Redirect Examination

61

1 BY MS. VALENZUELA:

2 Q. Ms. Goldberg, have you been present
3 at plea agreements where the State has
4 victims speak before the court?

5 A. I have.

6 Q. Can the State control what that
7 victim informs the court about?

8 A. Can they? I don't know. But I've
9 seen pleas where victims ask for something
10 other than what the State is asking for.

11 Q. You have?

12 A. (Affirmative nod).

13 Q. And in those cases did you object or
14 call off the plea?

15 THE COURT: That's three questions.

16 MS. VALENZUELA: Yes, sir.

17 THE COURT: I'll let you finish asking
18 it.

19 MS. VALENZUELA: I think my point is
20 made.

21 THE COURT: All right. You may step
22 down.

23 (WITNESS STEPS DOWN).

24 THE COURT: Anything further from the
25 State?

Jalon T. Taylor v. State of South Carolina
Case No. 13-CP-32-1282
Hearing of April 18, 2016
RULING OF THE COURT

62

1 MS. VALENZUELA: No, Your Honor.

2 THE COURT: Any response?

3 MS. ZMROCZEK: We don't have any
4 reply witnesses, Your Honor. I know I'm
5 appearing in front of you before, but I don't
6 remember -- does Your Honor prefer closing
7 arguments or would you like us to submit a
8 proposed Order or ---

9 THE COURT: The Rules are pretty clear,
10 I'm ready to rule. Mr. Taylor, I realize
11 that this is one of those situations where
12 the expectations and the reality -- I know
13 that often the attorneys are surprised when
14 the judge says consecutive versus concurrent,
15 quite frankly.

16 I have to -- in making my decision, I
17 have to go on this record, the transcript.
18 First of all, I note that Ms. Goldberg
19 objected quite strenuously to the facts
20 presented by the officer.

21 In looking at what the judge asked you
22 and whether you understood, he clearly asked
23 you if there were any promises that weren't
24 on the record. You said that there wasn't.
25 So at that point, you were pleading guilty

Jalon T. Taylor v. State of South Carolina

63

Case No. 13-CP-32-1282

Hearing of April 18, 2016

RULING OF THE COURT

1 and you'd said a document that said that
2 there weren't any negotiations or
3 recommendations -- and I've got to go on this
4 record.

5 I think you and your attorney both
6 expected less. I think the record clearly
7 shows that they weren't bound by anything.

8 So based on the record, I don't see a
9 basis for changing anything and I am going to
10 deny your petition. Thank you.

11 (HEARING CONCLUDED)

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STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington
STATE VS. Jalon T Taylor

INDICTMENT/CASE#: 2011GS3203506
A/W#: J034625
Date of Offense: 7/26/2011
S.C. Code §: 16-03-0029
CDR Code #: 3410

AKA:
Race: Black Sex: M Age: 19
DOB: -1992 SS#:
Address: Minolta Dr
City, State, Zip: West Columbia, SC 29172-2734
DL#: SID#:
*CDL Yes No CMV Yes No Hazmat Yes No

SENTENCE SHEET 0-10 yrs

In disposition of the said indictment comes now the Defendant who was TO: Assault / Assault & Battery 1st degree

CONVICTED OF or PLEADS

in violation of § 16-03-0600(C)(1) of the S.C. Code of Laws, bearing CDR Code# 3412
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentation to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Solicitor SC Bar# 73081 Defendant Attorney for Defendant SC Bar# 70674

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

month/s years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.
CONCURRENT or
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: \$
Payment Terms:
Set by SCDPPS.
Recipient:

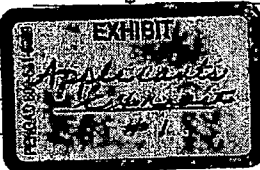


Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-71 (A) (1) (Conv. Surcharge), § 14-1-211 (A) (1) (DUI Surcharge), § 56-5-7-95 (DUI Assessment), § 56-1-205 (DUI Breath Test), Proviso 1-9 (Public Def/Prob), § 14-1-312 (Law Enforce. Funding), § 14-1-213 (Drug Court Surcharge), § 50-21-11 (DUI) (Breath Test Fee), § 56-5-2-10 (DUI) (Vehicle Assessment), Proviso 1-21 (DUI) (Surcharge), 3% to Clerk (if paid in installments), TOTAL.

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: Pay court costs within 1 yr. of
release from actual confinement in prison

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

Clerk of Court/Deputy Clerk: Beth A. Young, Inc
Court Reporter: Tracy Sheppard
SCCA/2011/0000000000

Presiding Judge: William P. Harding
Judge Code: 2050
Sentence Date: MARCH 15, 2012

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COURT OF _____ Lexington)
 STATE VS.)
 Jalon Ted Taylor)
 AKA: _____)
 Race: Black Sex: M Age: 19)
 DOB: [REDACTED] SS# [REDACTED])
 Address: [REDACTED] Poplar Street)
 City: Cayce, SC 29033)
 DL# [REDACTED] SID# [REDACTED])

INDICTMENT/CASE#: 2011GS3200641
 A/W#: I203782
 Date of Offense: 8/19/2010
 S.C. Code §: 16-13-0180(A)
 CDR Code #: 3427

SENTENCE SHEET *0-10yrs not less than \$2,000*

*CIV Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was
 TO: Receiving stolen goods, value \$10,000 or more

CONVICTED OF or PLEADS

in violation of § 16-13-0180(A) of the S.C. Code of Laws, bearing CDR Code # 3427
 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 charge is Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

Prosecutor: *[Signature]* 73081 SC Bar# Defendant: *[Signature]* Attorney for Defendant: *[Signature]* 72674 SC Bar#

Wherein the Defendant is committed to the State Department of Corrections, County Detention Center,
 for an indeterminate term of 5 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of _____; plus fees and assessments as applicable*; the balance is suspended with probation for _____

mandatory conditions of the South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation shall apply. *Attended member*
 Concurrent or CONSECUTIVE to sentence on: 2011-GS-32-3506 & 3399 & PROBATION
 Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied *Viol. a*
 by the Department of Corrections. *2012-GS: 2155*
 Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
 Pursuant to S.C. Section 11.0 it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Damage) to sell, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

PROBATION: Defendant Def. Waives Hearing Ordered PTUP _____
 Total Court Fee: 2011 fee: \$ _____ days/hours Public Service Employment

Probation Term: _____ Obtain GED
 PROBATION: _____ 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: *pay court costs as provided*
on 2011-GS-32-3506

		\$	\$
Assessments (FEE)		\$	
Probation Fee (Only, if ordered)	\$100	\$	100.00
Probation Fee (If ordered)	\$100	\$	
Probation Assessment	\$12	\$	
Probation Fee (If ordered)	\$25	\$	
Probation Fee (If ordered)	\$500	\$	
Probation Fee (If ordered)	\$25	\$	25.00
Probation Fee (If ordered)	\$150	\$	
Probation Fee (If ordered)	\$50	\$	
Probation Fee (If ordered)	\$10/ca	\$	
Probation Fee (If ordered)	\$5	\$	5.00
Probation Fee (If ordered)	\$	\$	
Probation Fee (If ordered)	\$	\$	

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

Presiding Judge: *[Signature]*
 Judge Code: 2052
 Sentence Date: MARCH 15, 2012

Clerk: *[Signature]*
[Signature]

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COURT OF: Lexington
 VS:
John Ted Taylor
 AKA:
 Race: Black Sex: M Age: 19
 DOB: 1992
 Address: Poplar Street
 City: Cava State: SC ZIP: 29333
 DL#: [REDACTED]

INDICTMENT/CASE#: 2011GS3203399
 A/W#: 1203809
 Date of Offense: 11/10/2010
 S.C. Code §: 16-13-0010(A)
 CDR. Code #: 3436

SENTENCE SHEET

0-5 yrs. and/or fine in discretion of court

*Check No Yes No Hazmat Yes No
 In the event of the seizure of the Defendant who was CONVICTED OF or PLEADS
 to the foregoing, for less than \$10,000

In the event of § 16-13-0010(A) of the S.C. Code of Laws, bearing CDR. Code # 3436
 VIOLENT AGGRAVATED SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is As In Remedy Lesser Included Offense, Defendant Waives Presentment to Grand Jury, (defendant's initials)
 The charge is Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

Sol. # 73981 SC Bar# [REDACTED] Defendant [REDACTED]
 Kristy R. Goodberg 72674 Attorney for Defendant SC Bar#

When sentenced, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a definite term of 5 years or under the Youthful Offender Act not to exceed 5 years
 and a fine of [REDACTED] payable upon the service of [REDACTED] days/months/years and/or payment
 of [REDACTED] assessments as applicable; the balance is suspended with probation for [REDACTED]

and shall be subject to the Department of Probation, Parole and Pardon Services standard conditions of
 probation. Probation Parole Pardon
 The Defendant is to be placed on PROBATION to sentence on: 2011-GS-32-3506 & 0641 & PROBATION VIOLATION ON
 The Defendant is to be placed on probation for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied ON
 by the Department of Corrections. 2010-GS-32-2153
 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 U.S.S.C. 853, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Defense) to possess, transport, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

PROBATION Parole Def. Waives Hearing Ordered PTUP [REDACTED]
 Total: [REDACTED] days/hours Public Service Employment

Obtain GED
 Attend Voc. Rehab. or Job Corp. [REDACTED]
 May serve W/E beginning [REDACTED]
 Substance Abuse Counseling
 Random Drug/Alcohol testing
 Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ [REDACTED] beginning [REDACTED]
 \$ [REDACTED] paid to Public Defender Fund

Other: pay court costs as directed on 2011-GS-32-3506

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

Presiding Judge William P. Handberg
 Judge Code: 2050
 Sentence Date: MARCH 15, 2012

Assessment	\$	
...	\$100	\$100.00
...	\$100	\$100.00
...	\$12	\$12.00
...	\$2	\$2.00
Public Defender	\$5.00	\$5.00
...	\$25	\$25.00
...	\$1.00	\$1.00
...	\$5.00	\$5.00
...	\$4.00	\$4.00
...	\$5	\$5.00

ORIGINAL

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)
 Jalon Ted Taylor,)
 S.C.D.C. No. 350159,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 ELEVENTH JUDICIAL CIRCUIT

C.A. No. 2013-CP-32-1282

ORDER OF DISMISSAL

FILED
 2016 JUN -1 P 2:13
 CLERK OF COURT
 LEXINGTON SC

FILED

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed April 11, 2013. Respondent made its return and motion to dismiss on October 1, 2015. An evidentiary hearing was held on April 18, 2016, at the Lexington County Courthouse. Applicant was present and represented by Aimee J. Zmroczek, Esquire. Johanna C. Valenzuela, Esquire, of the South Carolina Office of the Attorney General represented Respondent.

Applicant; Amanda Jamison, Applicant's mother; and Kristy Goldberg, Esquire, Applicant's plea counsel, testified at the hearing. Applicant's sentencing sheets were admitted as Plaintiff's Exhibit 1, and the Court had before it Applicant's Record on Appeal, which included the guilty plea transcript; the Lexington County Clerk of Court records; the South Carolina Department of Corrections records; the PCR application; and the Return.

PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Lexington County Clerk of Court. Applicant was indicted at the March 2011 term of the Lexington County Grand Jury for possession of stolen goods, more than

✓
b12

\$10,000 (2011-GS-32-0641), at the November 2011 term for forgery, less than \$10,000 (2011-GS-32-3399) and attempted murder (2011-GS-32-3506). Kristy Goldberg, Esq., represented him. On March 15, 2012, Applicant pleaded guilty as indicted before the Honorable William P. Keesley to the charges of possession of stolen goods and forgery. Applicant also pleaded guilty to the lesser included offense of assault and battery, first degree. Judge Keesley sentenced him to imprisonment for a term of five years for possession of stolen goods; five years for forgery; and ten years for assault and battery, first degree. These sentences were to be served consecutively.

A timely notice of appeal was filed and perfected on Applicant's behalf pursuant to Anders v. California, 386 U.S. 738 (1967). Wanda H. Carter, Esq., represented Applicant on appeal. The South Carolina Court of Appeals dismissed the appeal and granted counsel's motion to be relieved. State v. Taylor, Op. No. 2013-UP-308 (S.C. Ct. App. filed July 3, 2013). The Remittitur was issued on July 22, 2013.¹

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 and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action,

¹ Applicant filed this application for PCR while his direct appeal was still pending; however, Applicant withdrew his appeal before Respondent made a motion to dismiss. Respondent then proceeded accordingly.

"[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing SCRCP 71.1(e)).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 688, 692, 104 S. Ct. 2052, 2065, 2067 (1984) ("[T]he defendant must show that counsel's representation fell below an objective standard of reasonableness [and] . . . any deficiencies in counsel's performance must be prejudicial to the defense in order to constitute ineffective assistance under the Constitution."); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006) ("PCR applicant must prove: (1) that counsel failed to render reasonably effective assistance under prevailing professional norms; and (2) that the deficient performance prejudiced the applicant's case."). When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59, 106 S. Ct. 366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted).

In determining guilty plea issues, the PCR court should consider the guilty plea transcript as well as evidence at the PCR hearing. Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984). This Court will now address each allegation of ineffective assistance of counsel:

Applicant claimed his attorney told him he would not receive a sentence over ten years if

he pleaded guilty. Applicant also alleged his attorney made this promise in front of Applicant's family member. Applicant entered his three sentencing sheets as Plaintiff's Exhibit 1 and claimed that although the sentencing ranges were written across the top, he did not see those sentence ranges because he signed each sentencing sheet while they were stapled together and only saw the part he was asked to sign. Further, Applicant believed his attorney was inefficient for failing to object when law enforcement asked the plea judge to sentence Applicant to the maximum.

Applicant admitted he discussed possible defenses with his attorney who advised him that his version of events did not support a self-defense claim. Applicant also admitted he was aware he was pleading to three different charges, and he knew he "did the crime." Applicant also agreed during the plea he told the plea judge he did not have any complaints about counsel or need more time with her, no one made any promises to him, no one forced or threatened him, and Applicant told the plea judge he wanted to plead guilty after hearing the plea judge announce the charges carried a maximum of twenty five years.

Amanda Jamison, Applicant's mother, stated she was present at a meeting between Applicant and his attorney prior to his plea. Ms. Jamison said that after that meeting with counsel she also believed her son would be getting a ten year sentence. Ms. Jamison admitted she was not present for any of the prior phone conversations or in person meetings between Applicant and his counsel.

Plea counsel testified she met with Applicant at least eight times during her representation. She also had several telephone conversations with Applicant, and she filed discovery motions and reviewed the discovery with Applicant prior to his plea. Plea counsel also

testified that she discussed with Applicant how a self-defense claim would not work; however, she said she did explain to Applicant that he could go to trial and possibly get convicted for assault and battery, first degree, based on his claim that he did not intend to actually shoot someone when he fired the gun at the victim. Counsel summarized the State's evidence against Applicant was a dry cleaning receipt linking Applicant to the stolen vehicle, being in physical possession of counterfeit money when police apprehended him, a statement by Applicant confessing to being in possession of the stolen vehicle, and a statement by Applicant confessing to firing the gun that shot the victim. Counsel explained that originally the State refused to drop any charges; however, counsel was finally able to negotiate a deal where the State would dismiss the related drug charges and reduce the attempted murder charge to assault and battery, first degree, with no recommendation. Counsel explained there was no agreement with the State as to sentencing, including no promise of concurrent sentences; however, counsel was not expecting consecutive sentences from the plea judge. Counsel testified that if this case went to trial, she expected the State would have moved forward on all charges, including the drug charges and Attempted Murder.

Counsel was surprised and upset about law enforcement addressing the Court during the plea and believed the plea would have gone differently if the assigned prosecutor had been able to handle the plea instead of having someone step in for him. Counsel testified she did tell Applicant about the maximum sentences for each charge, but she did not remember explaining consecutive sentences to him. Finally, while counsel was expecting the sentence to be ten years and communicated that to Applicant, she never made any promises.

Initially, this Court notes Applicant confirmed to the plea judge that he wanted to plead

guilty to his charges after the plea judge informed Applicant he was facing maximum of twenty-five years imprisonment on the three charges and had three years on a probation matter (Plea transcript, p. 19). Applicant also told the plea judge that he understood the trial rights he was waiving in pleading guilty, was satisfied with counsel, and was not coerced in any way. (Plea transcript, pp. 6-7, 15-17). Applicant did not dispute the State's recitation of the facts in his case.

This Court finds Applicant failed to meet his burden of proving plea counsel was ineffective. This Court notes plea counsel made a very strong objection on the record to statements made by law enforcement, stating she was "outraged at the . . . allegations . . . which have nothing to do with the actual charges and which I've never even heard of before today. I would ask that Your Honor just, obviously when we get to that point, sentence him for what he's here today for and the actual facts of these charges." (Plea transcript, p. 16).

This Court finds Applicant understood he was facing a maximum of twenty-five years and that no promises had been placed on the record when he elected to plead guilty. While the Applicant may have been unhappy with the sentence he ultimately received, he was advised by both plea counsel and the plea judge of the sentence ranges for his charges. (Plea transcript, p. 19). See Holden v. State, 393 S.C. 565, 575-76, 713 S.E.2d 611, 617 (2011) (quoting Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 371 (1997)) ("Wishful thinking regarding sentencing does not equal a misapprehension concerning the possible range of sentences, especially where one acknowledges on the record that one knows the range of sentences and that no promises have been made."). To the extent Applicant's counsel misinformed Applicant of his possible sentence prior to the plea, the plea judge advised him of the correct maximum sentences at the plea hearing and thereby cured any misconception. Moorehead v. State, 329 S.C. 329, 333, 496

S.E.2d 415, 416-417 (1998); Knox v. State, 340 S.C. 81, 86, 530 S.E.2d 887, 889 (2000), overruled on other grounds by State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005).

This Court also finds that given the overwhelming evidence of guilt and the fact the State was reducing the charge from attempted murder to assault and battery, first degree—a charge that aligned with the anticipated trial strategy—Applicant has not met his burden of proving he would not have pleaded guilty and would have gone to trial. Applicant has therefore failed to prove prejudice. See Roscoe v. State, 345 S.C. 16, 20 n.6, 546 S.E.2d 417, 419 n.6 (2001) (“Although we have consistently held a defendant must have a full understanding of the consequences of his plea and of the charges against him, . . . the defendant must also demonstrate prejudice to be entitled to relief on PCR.” (internal citations omitted)).

Accordingly, this Court finds Applicant 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 concludes Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. This Court also finds Applicant has failed to prove the second prong of Strickland: that he was prejudiced by plea counsel’s performance.

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

CONCLUSION

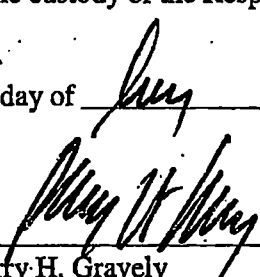
Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner and Applicant was not prejudiced by counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

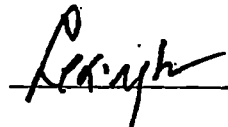
IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 31st day of July, 2016.



 Perry H. Gravely
 Presiding Judge
 Eleventh Judicial Circuit

 _____, South Carolina.

KR

ORIGINAL

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON)	ELEVENTH JUDICIAL CIRCUIT
Jalon Ted Taylor, S.C.D.C. No. 350159,	
Applicant,	C.A. No. 2013-CP-32-1282
v.	MOTION TO RECONSIDER
State of South Carolina,	
Respondent.	

2016 JUN 17 AM 10:10
BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed April 11, 2013. Respondent made its return and motion to dismiss on October 1, 2015. An evidentiary hearing was held on April 18, 2016, at the Lexington County Courthouse. Applicant was present and represented by Aimee J. Zmroczek, Esquire. Johanna C. Valenzuela, Esquire, of the South Carolina Office of the Attorney General represented Respondent.

Applicant; Amanda Jamison, Applicant's mother; and Kristy Goldberg, Esquire, Applicant's plea counsel, testified at the hearing. Applicant's sentencing sheets were admitted as Plaintiff's Exhibit 1, and the Court had before it Applicant's Record on Appeal, which included the guilty plea transcript; the Lexington County Clerk of Court records; the South Carolina Department of Corrections records; the PCR application; and the Return.

PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Lexington County Clerk of Court. Applicant was indicted at the March 2011 term of the Lexington County Grand Jury for possession of stolen goods, more than

\$10,000 (2011-GS-32-0641), at the November 2011 term for forgery, less than \$10,000 (2011-GS-32-3399) and attempted murder (2011-GS-32-3506). Kristy Goldberg, Esq., represented him. On March 15, 2012, Applicant pleaded guilty as indicted before the Honorable William P. Keesley to the charges of possession of stolen goods and forgery. Applicant also pleaded guilty to the lesser included offense of assault and battery, first degree. Judge Keesley sentenced him to imprisonment for a term of five years for possession of stolen goods; five years for forgery; and ten years for assault and battery, first degree. These sentences were to be served consecutively.

A timely notice of appeal was filed and perfected on Applicant's behalf pursuant to Anders v. California, 386 U.S. 738 (1967). Wanda H. Carter, Esq., represented Applicant on appeal. The South Carolina Court of Appeals dismissed the appeal and granted counsel's motion to be relieved. State v. Taylor, Op. No. 2013-UP-308 (S.C. Ct. App. filed July 3, 2013). The Remittitur was issued on July 22, 2013.¹ An Order of Dismissal was filed on June 1, 2016, and a filed copy received by the undersigned attorney on June 7, 2016. This timely motion to reconsider follows.

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State; 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing SCRCF 71.1(e)).

Applicant testified his attorney told him he would not receive a sentence over ten years if

¹ Applicant filed this application for PCR while his direct appeal was still pending; however, Applicant withdrew his appeal before Respondent made a motion to dismiss. Respondent then proceeded accordingly.

he pleaded guilty.

Amanda Jamison, Applicant's mother, stated she was present at a meeting between Applicant and his attorney prior to his plea. Ms. Jamison said that after that meeting with counsel she also believed her son would be getting a ten year sentence. Ms. Jamison admitted she was not present for any of the prior phone conversations or in person meetings between Applicant and his counsel.

Most importantly and telling in this case was that plea counsel testified she met with Applicant at least eight times during her representation. She also had several telephone conversations with Applicant, and she filed discovery motions and reviewed the discovery with Applicant prior to his plea.

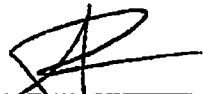
Counsel testified that she believed the client and his family relied on the statement that she believed that he would get ten years. There were issues during the plea because it was a stand-in solicitor. Counsel testified that she believed applicant was being truthful in his reliance that he would receive ten years and that she could understand why this was a benefit he relied on when entering the plea. Counsel was surprised and upset about law enforcement addressing the Court during the plea and believed the plea would have gone differently if the assigned prosecutor had been able to handle the plea instead of having someone step in for him. Counsel testified she did tell Applicant about the maximum sentences for each charge, but she did not remember explaining consecutive sentences to him. Finally, while counsel was expecting the sentence to be ten years and communicated that to Applicant, she never made any promises but it could be construed by client to be a negotiation from the solicitor and that client's reliance on it as a negotiation was understandable.

Applicant attaches to this case and incorporates in the argument, State v Smith, 413 SC 194 (2015). Applicant states that the basis for this motion to reconsider exists because there was probative evidence that applicant relied on a plea agreement.

CONCLUSION

Based on all the foregoing, applicant requests this Court to reconsider its ruling.

Respectfully Submitted,



Aimee V. Zmroczek, Esq. #77193
A.J.Z. Law Firm, LLC
2003 Lincoln Street (29201)
P.O. Box 11961
Columbia, South Carolina 29201
(t) 803.400.1918 (f) 803.403.8005
aimee@ajzlawfirm.com

Lexington, South Carolina
This 17th day of June, 2016.

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON, SC

2016 JUN 17 AM 10:10

Smith v. State, 413 S.C. 194 (2015)

775 S.E.2d 696

413 S.C. 194
Supreme Court of South Carolina.

Gerald [REDACTED], Respondent,

v.

STATE of South Carolina, Petitioner.

Appellate Case No. 2014-000951.

No. 27551.

Heard June 4, 2015.

Decided July 29, 2015.

Cases that cite this headnote

Attorneys and Law Firms

**696 Attorney General, Alan M. Wilson and Senior Assistant Attorney General, David A. Spencer, both of Columbia, for petitioner.

Appellate Defender, Robert M. Pachak, of Columbia, for respondent.

Opinion

Justice HEARN.

Synopsis

Background: Defendant convicted pursuant to a guilty plea of voluntary manslaughter filed application for postconviction relief. The Circuit Court, Richland County, L. Casey Manning, J., denied application. Defendant appealed. The Court of Appeals, 407 [REDACTED] 270, 754 S.E.2d 900, reversed and remanded. [REDACTED] petitioned for writ of certiorari.

Holding: The Supreme Court, Hearn, J., held that [REDACTED] breach of plea agreement warranted invalidation of agreement and new trial.

Affirmed.

Pleicones, J., concurred in result only.

West Headnotes (1)

[1] Criminal Law

☞ Representations, promises, or coercion; plea bargaining

[REDACTED] recommendation of the maximum sentence was breach of plea agreement with defendant, which included [REDACTED] promise to remain silent during sentencing, that warranted invalidation of plea agreement in manslaughter prosecution.

*195 Gerald [REDACTED] was indicted for murder and pled guilty to voluntary manslaughter in the killing of his oxycontin supplier. He was sentenced to twenty-four years' imprisonment after the [REDACTED] requested he receive the maximum punishment. In this post-conviction relief (PCR) action, [REDACTED] alleges his attorney was deficient for failing to object to the [REDACTED] recommendation after the [REDACTED] had previously promised to remain silent during sentencing. The PCR court denied [REDACTED] application and the court of appeals reversed. [REDACTED] v. [REDACTED], 407 [REDACTED] 270, 754 S.E.2d 900 (Ct.App.2014).

We agree with the court of appeals' excellent analysis that the [REDACTED] recommendation of the maximum sentence was a breach of its agreement with [REDACTED] even where the [REDACTED] did not get the expected benefit of its bargain, and that [REDACTED] would not have pled guilty had he known the solicitor was going to breach the agreement; therefore, plea counsel's failure to object constituted ineffective assistance of counsel. See *Thompson v. [REDACTED]*, 340 [REDACTED] 112, 531 S.E.2d 294 (2000) (holding counsel was ineffective for failing to object when the solicitor recommended the trial judge impose the maximum sentence in contravention of its agreement to stay silent); *Jordan v. [REDACTED]*, 297 [REDACTED] 52, 374 S.E.2d 683 (1988) (same).

We take this opportunity to explain the proper remedy under these circumstances. In *Jordan*, the Court reversed the PCR court's denial of relief and remanded for either a new trial or resentencing. *Id.* at 52, 374 S.E.2d at 684. In *Thompson*, the Court reversed the PCR court's denial of relief, and remanded solely for resentencing. 340 [REDACTED] at

Smith v. State, 413 S.C. 194 (2015)

775 S.E.2d 696

118, 531 S.E.2d at 297. Here, presumably following the precedent of *Thompson*, the court of appeals reversed and remanded for resentencing. We now clarify the proper remedy is a new trial.¹ Although Smith's attorney was deficient for failing to object at the sentencing hearing, the underlying question is whether Smith would have entered into the plea agreement had he known the State was going to breach the agreement. See *Jordan*, 297 S.C. at 54, 374 S.E.2d at 684 (holding a defendant alleging ineffective assistance of counsel during a guilty plea "must show 'there is a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial'" (quoting *Hill v. Lockhart*, 474 U.S. 52, 59, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985))). Therefore, the proper remedy for counsel's ineffective assistance is invalidation of the entire agreement.

Nevertheless, we affirm the court of appeals' decision reversing and remanding for resentencing because neither

party appealed from the mandate portion of the decision. The court of appeals' unappealed remand for resentencing is thus the law of the case. See *Atl. Coast Builders & Contractors, LLC v. Lewis*, 398 S.C. 323, 329, 730 S.E.2d 282, 285 (2012) ("[A]n unappealed ruling, right or wrong, is the law of the case."). Therefore, we affirm the decision of the court of appeals *in toto*.

TOAL, C.J., KITTREDGE, J., and Acting Justice JAMES E. MOORE, concur. PLEICONES, J., concurring in result only.

All Citations

413 S.C. 194, 775 S.E.2d 696

Footnotes

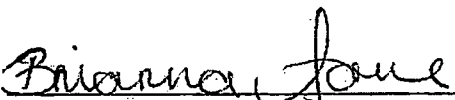
¹ We note that Smith requested only a new trial—not resentencing—during his PCR hearing.

STATE OF SOUTH CAROLINA)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON)	
	)	2013-CP-32-1282
)	
Jalon Ted Taylor, #350159)	
)	
Applicant,)	
)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
)	
STATE OF SOUTH CAROLINA,)	
)	
Respondent,)	
)	

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

Aimee Zmroczek, Esquire
A.J.Z. Law Firm, LLC
PO Box 11961
Columbia, SC 29211

DATED this the 30th day of August, 2016.


 Brianna Arnone, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)
 Jalon Ted Taylor,)
 S.C.D.C. No. 350159,)
)
 Applicant,)
)
 v.)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS
 OF THE ELEVENTH JUDICIAL CIRCUIT

2013-CP-32-01282

RETURN TO MOTION TO RECONSIDER

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed April 11, 2013. Respondent made its return on or about September 30, 2015. An evidentiary hearing was held on April 18, 2016, at the Lexington County Courthouse. Applicant was present and represented by Aimee Zmroczek, Esquire. Senior Assistant Deputy Attorney General Johanna C. Valenzuela represented Respondent. The Final Order denying Applicant’s relief was filed on August 12, 2016. Applicant made a Motion to Reconsider, which was denied by the Court in an order filed on August 17, 2016. Respondent moved to vacate the order pursuant to Rule 5 of the South Carolina Rules of Civil Procedure. In an order filed October 31, 2016, the Court rescinded its prior order, allowed time for both parties to submit memorandums, and ordered that Applicant’s renewed motion to reconsider be considered timely. Applicant filed his motion to reconsider on or about November 16, 2016, and Respondent received it on or about November 21, 2016. This Return follows.

ARGUMENT

Applicant has failed to set forth any sufficient reasons to persuade this Court to alter or amend the final order. Applicant argues State v. Smith, 413 S.C. 194, 775 S.E.2d 696 (2015), should be applied in this case and that “there was probative evidence that applicant relied on a plea agreement.” In Smith, the agreement between the State and the defendant was that the State would remain silent on sentencing. Smith, 413 S.C. at 195, 775 S.E.2d at 696. When the State asked for the maximum sentence, defense counsel did not object. Id.

In this case, the agreement with the State was to dismiss several charges, reduce the attempted murder charge to assault and battery, first degree, and plead to the remaining charges with no recommendation and no agreement on sentencing, (Order of Dismissal, p. 5), which is different than the agreement in Smith where the State agreed to remain silent on sentencing. Here, after law enforcement addressed the Court and asked for the maximum, the Court asked Applicant if “[o]ther than what’s on the record, . . . , has anyone promised you anything to get you to plead?” and Applicant answered “[n]o, sir.” (Record on Appeal, p. 16, l. 23 – p. 17, l.1.) Furthermore, unlike the defense attorney in Smith, who remained silent when the State requested the maximum sentence, plea counsel here “made a very strong objection on the record to statements made by law enforcement.” (Order of Dismissal, p. 6.)

Applicant has not set forth any sufficient grounds to persuade this Court to alter or amend the judgment. Respondent submits oral argument would not aid in the reconsideration of the original judgment as the Order of Dismissal in this case fully comports with the requirements of Rule 52(a), SCRCP.

CONCLUSION

WHEREFORE, having made its Return to Applicant's Rule 59(e) Motion to Reconsider, Respondent requests that the motion be denied and dismissed.

Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT BOLCHOZ
Chief Deputy Attorney General

JOHANNA C. VALENZUELA
Senior Assistant Deputy Attorney General

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

By: Johanna C. Valenzuela
Attorneys for the Respondent

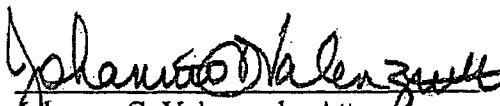
Columbia, South Carolina
5 December, 2016

STATE OF SOUTH CAROLINA,)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON)	
)	
	)	2013-CP-32-1282
JALON T. TAYLOR, #350159,)	
)	
Applicant,)	
)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL.
)	
STATE OF SOUTH CAROLINA,)	
)	
Respondent.)	

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

Aimee J. Zmroczek, Esquire
A.J.Z. Law Firm, LLC
PO Box 11961
Columbia, SC 29211

DATED this 5th day of December, 2016.


Johanna C. Valenzuela, Attorney
For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

FILED IN THE COURT OF COMMON PLEAS
Case No. 2013-CP-32-01282

2017 JAN 23 P 12:25

Jalon Ted Taylor,
S.C.D.C. #350159

Applicant,

ORIGINAL

vs.

COUNTY OF LEXINGTON
LISA M. COMER, CLERK OF COURT
LEXINGTON COUNTY JUDICIAL CENTER
205 EAST MAIN STREET
LEXINGTON, SC 29072-3494

ORDER

State of South Carolina,

Respondent.

This matter comes before the Court upon Applicant's Motion to Reconsider the Order dismissing his Post-Conviction Relief claim, filed by and through counsel on November 18, 2016. This Motion was allowed at this date pursuant to the Court's Order of October 31, 2016. The State responded with its Return to Motion to Reconsider on or about December 7, 2016.

In his Motion, Applicant has cited Smith v. South Carolina, 775 S.E.2d 696 (S.C. 2015), as authority for why the Court should reconsider its Order of June 1, 2016. However, there are factual differences between Smith and Applicant's cases that put the current matter outside of the scope of Smith.

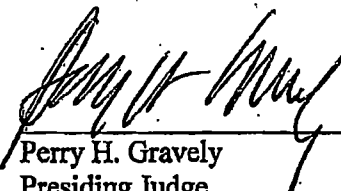
In Smith, the South Carolina Supreme Court found that Smith's counsel was ineffective for failing to object when the State had agreed to remain silent as far as a sentencing recommendation during Smith's guilty plea and instead made a recommendation to the court. In the Applicant's case, the guilty plea was also to be without negotiation or recommendation by the State. Applicant and his plea counsel had hoped for a sentence of ten years, but plea counsel made it clear to Applicant that this was not promised and reviewed the possible sentences with Applicant. At the guilty plea, the plea solicitor remained silent as to a recommendation. When the law enforcement officer involved in the case spoke, he made disparaging remarks about

DM

applicant and asked for the maximum sentence. In contrast to the facts in Smith, Applicant's plea counsel strongly objected to the officer's statements at this point in the plea. Plea counsel's objection to the officer's statements take this matter outside of the scope of ineffective assistance of counsel as set forth in Smith.

Therefore, after fully considering said Motion, this Court finds no need for oral argument in this matter, and the Motion to Reconsider is DENIED;

AND IT IS SO ORDERED!


Perry H. Gravely
Presiding Judge

Greenville, South Carolina

January 18, 2017

COUNTY OF LEXINGTON
LISA M. COMER, CLERK OF COURT
LEXINGTON COUNTY JUDICIAL CENTER
205 EAST MAIN STREET
LEXINGTON, SC 29072-3494

FILED
2017 JUN 23 P 12:28